

FROM HATE CRIMES TO ACTIVISM: RACE, SEXUALITY, AND GENDER IN
THE TEXAS ANTI-VIOLENCE MOVEMENT

A Dissertation

Presented to

The Faculty of the Department

of History

University of Houston

In Partial Fulfillment

Of the Requirements for the Degree of

Doctor of Philosophy

By

Christopher P. Haight

May 2016

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ABSTRACT

This study combines the methodologies of political and grassroots social history to explain the unique set of conditions that led to the passage of the James Byrd Jr. Hate Crimes Act in Texas. In 2001, the socially conservative Texas Legislature passed and equally conservative Republican Governor Rick Perry signed the James Byrd Jr. Hate Crimes Act, which added race, color, religion, national origin, and “sexual preference” as protected categories under state hate crime law. While it appeared that this law was in direct response to the nationally and internationally high-profile hate killing of James Byrd, Jr. in Jasper, this does not explain the controversial inclusion of sexual orientation in the final bill. This study argues that the seemingly unlikely passage of the gay-inclusive James Byrd Jr. Hate Crimes Act occurred because of sustained and sometimes overlapping gay and African American activism, spearheaded by the Lesbian/Gay Rights Lobby of Texas (LGRL) and National Association for the Advancement of Colored People (NAACP), respectively. Mainstream and “underground” (gay and African American) media outlets also helped mobilize grassroots activism and increased outside pressure for hate crime legislation through sympathetic coverage of the hate crime “epidemic” unfolding in the state and nationally. These grassroots and media efforts had a legislative impact; a coalition of gay, African American, and Mexican American hate crime law proponents in the legislature held firm in support of a comprehensive, gay-inclusive bill. By highlighting this (at times) intersectional activism, this study draws conclusions about coalition building in social movements that have implications for more contemporary civil rights activism.

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Introduction

In 1994, an unusual story appeared in the *Houston Chronicle*. The journalist wrote about a gay man named Jay Gage, who lived 200 miles away in the small city of Tyler, Texas. Mainstream reporting on gays and lesbians was not out of the ordinary, especially in the 1990s, when the press began to pay attention to hate crimes against the gay community. However, far from a story of victimhood, the article recounted Gage's victory over his gay-basher. According to the story, one night that year in a Tyler park, Gage found himself in a predator's sights. Tall and lanky, he may have presented a seemingly ideal target. But Gage, refusing to play the part of the prey, fought back against his attacker. The assailant had intended to assert his power over a gay man, but instead found himself in a bloody heap in the grass. Gage added a final insult before walking into the night unscathed: "Now, go home and tell your mama you got whupped by a faggot." The story is uncorroborated by the official record and may well be embellished, but it suggests an important point: East Texans like Gage, previously unorganized, were stirred into defiance and action by the specter of anti-gay violence. Following the incident, Gage's mother started an East Texas chapter of Parents and Friends of Lesbians and Gays (PFLAG).¹

Four years later, a different story unfolded 140 miles southeast of Tyler in the East Texas pines of Jasper. From his cell, John William King wrote to his accomplice, Lawrence Brewer, "Regardless of the outcome of this, we have made history. Death

¹ Wendy Benjaminson, "Slaying Puts Gays on Alert in Tyler Area," *Houston Chronicle*, February 13, 1994.

before dishonor. Sieg Heil!”² The crime that had resulted in their imprisonment was the murder-by-dragging of James Byrd, Jr., an African American resident of Jasper. King, Brewer, and Shawn Berry—all of whom had connections to white supremacists—chained Byrd to the back of a pickup truck and dragged him along an asphalt road. Byrd remained conscious until his body hit a culvert, detaching both his right arm and head.³ The brutal killing made national and international headlines, resulting in a spike in African American activism on the issue of hate crime. Indeed, Byrd became the *face* of hate crime—not simply in Texas, but nationwide.⁴ The murder also helped push the Texas Legislature to finally pass statewide hate crime legislation that, following the incident, bore his name.

It would be tempting to suggest that Byrd’s murder was the sole reason the conservative 77th Texas Legislature passed and Republican governor Rick Perry signed the James Byrd Jr. Hate Crimes Act in 2001. While Byrd’s death was an important catalyst, it does not fully explain the passage of the bill. The politics of hate crime in the Lone Star State were more complicated than one murder. The movement for this reform legislation predated 1998, and it took legislators three years to pass the bill after Byrd’s murder. Moreover, the final bill went much further than protecting African Americans

² “Closing Arguments Today in Texas Dragging-Death Trial,” CNN, February 22, 1999 (<http://www.cnn.com/US/9902/22/dragging.death.03/>).

³ See Joyce King, *Hate Crime: The Story of a Dragging in Jasper, Texas* (New York: Pantheon Books, 2002) and Dina Temple-Raston, *A Death in Texas: A Story of Race, Murder, and a Small Town’s Struggle for Redemption* (New York: Henry Holt and Company, 2002) for more on Byrd’s murder case.

⁴ As an example of Byrd’s national importance to hate crime law advocacy, the comprehensive federal hate crime law signed into law by President Barack Obama in 2009 was called the “James Byrd Jr. and Matthew Shepard Hate Crimes Prevention Act.”

and other racial minorities. After a decade of controversy surrounding gay inclusion in proposed hate crime legislation, Perry reluctantly signed a bill cementing sexual orientation as a protected category—although not before expressing concern that it would “create new classes of citizens.”⁵ Even State Representative Warren Chisum (R-Pampa), a prominent opponent of gay rights throughout the 1990s, voted for the final bill in exchange for a modification of language from “sexual orientation” to “sexual preference.”⁶

These Texas vignettes are more than isolated stories of hate crime and one state’s legislative response. They also provide a window into some important questions that this dissertation seeks to answer about violence and its relationship to activism and policy. How and why did minorities, long focused on state-sanctioned violence in the form of police brutality, shift their focus to the issue of hate crime in the 1990s, and how did they define “hate crime”? Why did activists embrace the criminal justice system in their demand for legislation enhancing sentences for bias-motivated crimes? Turning to Texas specifically, why did the conservative Texas Legislature pass and the equally conservative governor sign what was, in effect, a piece of gay rights legislation?⁷ Of what

⁵ “Governor of Texas Signs a Hate Crimes Bill,” *New York Times*, May 12, 2001.

⁶ *House Journal*, 76th Texas Legislature, Regular Session, April 27, 1999, 1416-1418. While this change in language did not affect the enforcement of the law as it related to gay and lesbian victims of hate crime, it was—in Chisum’s mind—an admission that being gay was a preference rather than an orientation. This concession allowed Chisum to respond to intense public pressure to vote for the bill while simultaneously claiming a victory for social conservatives.

⁷ See Robert Wuthnow, *Rough Country: How Texas Became America’s Most Powerful Bible-Belt State* (Princeton, N.J.: Princeton University Press, 2014) and Edward H. Miller, *Nut Country: Right-Wing Dallas and the Birth of the Southern Strategy* (Chicago:

importance is the Lone Star State to the larger national story of hate crime activism and the broader trajectory of civil rights? More significantly, what lessons does the successful movement in Texas hold for contemporary civil rights activism?

I argue that the seemingly unlikely passage of the gay-inclusive James Byrd Jr. Hate Crimes Act occurred because of sustained and sometimes overlapping gay and African American activism. The Lesbian/Gay Rights Lobby of Texas (LGRL) and the National Association for the Advancement of Colored People (NAACP) spearheaded the initiative, but these organizations were not the only actors. Mainstream and “underground” (gay and African American) media outlets helped mobilize grassroots activism and increased outside pressure for hate crime legislation.⁸ The LGRL led the movement in the middle part of the decade, with important surges in African American activism occurring in the early and late 1990s.⁹ These grassroots efforts had a legislative impact; a coalition of gay, African American, and Mexican American hate crime law proponents in the legislature rose and held firm in support of a comprehensive, gay-

University of Chicago Press, 2015) for more on the uniqueness and intensity of socially conservative politics in Texas.

⁸ This topic has already been explored in part by Jennifer Petersen’s *Murder, the Media, and the Politics of Public Feelings* (Bloomington: Indiana University Press, 2011), in which she finds that the media was vital in generating responses to the Byrd and Matthew Shepard murders by portraying the two men as characters with which the public could sympathize.

⁹ A similar dynamic existed on the national level. Historians have argued that the NAACP and other civil rights organizations were not at the forefront of hate crime law advocacy because African Americans considered the 1964 Civil Rights Act as a hate crime law. Indeed, African Americans saw hate crime activism as an extension of the longer civil rights movement. In this way, African Americans have been included in some kind of hate crime legislation since 1964, while gay efforts at legislative inclusion in the 1990s mirrored the earlier civil rights movement. See Christina B. Hanhardt, *Safe Space: Gay Neighborhood History and the Politics of Violence* (Durham, N.C.: Duke University Press, 2013), 156-157.

inclusive bill. When pressure intensified following Byrd's murder, legislative leaders on the issue such as African American state senator Rodney Ellis (D-Houston) refused to exclude sexual orientation from the bill, and even the Byrd family itself pushed for comprehensive language. As a result, social conservatives could not block the legislation. The bill's passage, which depended heavily on both gay and African American activism, points to the importance of intersectionality in protest movements and provides a model that can potentially be applied to contemporary civil rights and anti-violence activism. Activists and legislators from diverse backgrounds strongly believed that it was "open-season" on Texas minorities, and they viewed penalty-enhancing legislation as the best possible means to protect victims of violence. In this way, hate crime law proponents saw their struggle in a civil rights context.¹⁰

My work defines hate crime in the same way that the Texas movement defined it: as an extralegal act of violence, whether fatal or non-fatal, against a person based on real

¹⁰ There is an ongoing scholarly debate over whether hate crime laws are effective and whether this legislation should be viewed through the lens of civil rights at all considering its dependence on increasing sentences and expanding the criminal justice system. Some scholars have criticized legislative efforts at combating anti-gay violence as being fundamentally problematic. In *Hate Crimes: Criminal Law and Identity Politics* (Oxford, UK: Oxford University Press, 1998), legal scholars James B. Jacobs and Kimberly Potter argue that the media and gay advocacy organizations socially constructed the hate crime epidemic using methodologically faulty data. Legislation, according to their work, is ineffective both in terms of enforcement and as a deterrent and risks "backfir[ing] and contribut[ing] to the balkanization of American society." Historian Christina B. Hanhardt echoes some of this sentiment in *Safe Space: Gay Neighborhood History and the Politics of Violence* (Durham, N.C.: Duke University Press, 2013). Jack Levin and Jack McDevitt argue in *Hate Crimes Revisited: America's War on Those Who Are Different* (Boulder, Colo.: Westview Press, 2002), however, that hate crime laws send supportive messages to oppressed minorities and deterring messages to perpetrators of bias-motivated crimes. While there are valid points raised on either side of the debate, this dissertation does not seek to take a side on the merits of hate crime legislation. I find no reason not to view legislation proponents as good-faith actors responding to what they viewed as a hate crime epidemic with what they saw as an expansion of civil rights protections.

or perceived race, color, religion, national origin, or sexual orientation. The typical “hate crime” legal construct also includes other acts, such as arson and vandalism; while arson and vandalism *are* hate crimes and are legally treated as such, these crimes were not the focus of the movement in the Lone Star State. The Texas hate crime movement was particularly mobilized by racist and anti-gay murders. Although arson and vandalism are considered in context when relevant, my focus is on the extralegal acts of physical violence that spurred activism. It can also be argued that racist and anti-gay violence by police officers constitutes “hate crime.” While I consider activism against police brutality as a part of broader anti-violence activism in Texas, the hate crime movement on which I focus sought to specifically address and prosecute acts of bias-motivated violence by civilians. Indeed, activists saw the police as a tenuous partner in combating this particular form of violence, not because police misconduct had ended, but because combating the hate crime “epidemic” was more immediately important to activists.

This dissertation places the relatively contemporary subject of hate crime within the broader context of the history of violence, both in Texas and nationally. There is a rich historical literature on violence, primarily focused on lynching.¹¹ This historiography

¹¹ The historiography of lynching arguably begins with Jacqueline Dowd Hall’s *Revolt against Chivalry: Jessie Daniel Ames and the Women’s Campaign against Lynching* (New York: Columbia University Press, 1979), which seeks to disrupt the consensus tradition within United States historiography that had neglected lynching as a serious topic of study. Hall locates the roots of lynching in the southern “rape complex,” or extreme fear of black-on-white rape, and argues that lynching was located in “the heart . . . of American racism” and American attitudes toward women. Following Hall’s work, much of the historiography of lynching can be divided into four categories: case studies, southern statewide and local surveys, non-southern statewide surveys, and national surveys. Examples of case studies include James R. McGovern, *Anatomy of a Lynching: The Killing of Claude Neal* (Baton Rouge: Louisiana State University Press, 1982) and Stephen J. Whitfield, *A Death in the Delta: The Story of Emmett Till* (Chicago: Johns Hopkins University Press, 1988). Examples of southern statewide and local surveys

informs my work on hate crime. Of particular importance to my scholarship is historian William D. Carrigan's contention that a unique culture of violence existed in Texas because of 1) the existence of deep and permeating frontier violence in the area, 2) the experience of slavery, 3) organized resistance by racial minorities, and 4) the frequent support of lynching by the court system. In more recent years, Texas was an important focal point of the hate crime movement, with two nationally publicized hate crimes

include George C. Wright's *Racial Violence in Kentucky, 1865-1940: Lynchings, Mob Rule, and "Legal Lynchings"* (Baton Rouge: Louisiana State University Press, 1990); W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (Urbana: University of Illinois Press, 1993), and William D. Carrigan, *The Making of a Lynching Culture: Violence and Vigilantism in Central Texas, 1836-1916* (Urbana: University of Illinois Press, 2004). Examples of non-southern statewide surveys include Stephen J. Leonard, *Lynching in Colorado: 1859-1919* (Boulder: University Press of Colorado, 2002) and John D. Bessler, *Legacy of Violence: Lynch Mobs and Executions in Minnesota* (Minneapolis: University of Minnesota Press, 2003). An example of a national survey is Michael J. Pfeifer, *Rough Justice: Lynching and American Society, 1874-1947* (Urbana: University of Illinois Press, 2004). Broadly speaking, the trend of lynching historiography has been a move away from the understanding of lynching as a peculiarly southern phenomenon and toward a view that lynching was national in scope. The scholarship has located the roots of lynching in a variety of places, including the southern "rape complex," black political or economic success, tumultuous economic changes, historical memory glorifying violence, and class stratification. There have been other notable scholarly studies of lynching. Jacqueline Goldsby's *A Spectacular Secret: Lynching in American Life and Literature* (Chicago: University of Chicago Press, 2006) argues that lynching was spurred, supported, and sustained by modernity—transportation and communication networks, markets, and capitalism itself. Amy Louise Wood's *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill: University of North Carolina Press, 2009) examines how visual depictions of spectacle lynching both supported the lynching tradition by intimidating African Americans and ultimately resulted in its decline as civil rights activists used the depictions to expose the horrors of spectacle lynching. Cynthia Skove Nevels's *Lynching to Belong: Claiming Whiteness through Racial Violence* (College Station: Texas A&M University Press, 2007) examines three counties in Central Texas to show how European immigrants who were not considered "white" participated in the lynching of African Americans in order to claim whiteness. One of the most recent trends in the historiography is the treatment of ethnic Mexican lynching victims, as shown in William D. Carrigan's and Clive Webb's *Forgotten Dead: Mob Violence Against Mexicans in the United States, 1848-1928* (Oxford, UK: Oxford University Press, 2013).

occurring within its borders: Paul Broussard in Houston (1991) and Byrd's 1998 murder. I build on Carrigan's framework by illuminating contemporary examples expanding his argument for a distinctly Texan culture of violence. In this way, my work provides a bridge between lynching historiography and the sparse historiography of hate crime, two subjects that have been (in my view, somewhat artificially) divorced by historians and other scholars. This study also places the movement for hate crime legislation in the larger context of civil rights activism.¹² The story of the successful Texas hate crime movement is not merely an interesting anecdote—it locates the Lone Star State at the center of a national debate over political responses to violence throughout the 20th and into the 21st centuries. In some ways, in the wake of Sandra Bland's 2015 death in Waller County and its importance to ongoing Black Lives Matter activism, Texas *remains* at the center.

¹² For more on African American and Mexican American civil rights activism and broader race relations in Texas, see Charles Ray Chandler, "The Mexican-American Protest Movement in Texas" (Ph.D. dissertation, Tulane University, 1968); Arnoldo De Leon, *They Called Them Greasers: Anglo Attitudes Toward Mexicans in Texas, 1821-1900* (Austin: University of Texas Press, 1983); Jim Schutze, *The Accommodation: The Politics of Race in an American City* (Secaucus, N.J.: Citadel Press, 1986); Arnoldo De Leon, *Mexican Americans in Texas: A Brief History* (Arlington Heights, Ill.: Harlan Davidson, 1993); Alwyn Barr, *Black Texans: A History of African Americans in Texas, 1528-1995* (Norman: University of Oklahoma Press, 1996); David A. Williams, *Bricks Without Straw: A Comprehensive History of African Americans in Texas* (Austin, Tex.: Eakin Press, 1997); Guadalupe San Miguel, Jr., *Brown, Not White: School Integration and the Chicano Movement in Houston* (College Station: Texas A&M University Press, 2005); and David Montejano, *Quixote's Soldiers: A Local History of the Chicano Movement, 1966-1981* (Austin: University of Texas Press, 2010). For more on gay civil rights activism in Texas, see Bruce Remington, "Twelve Fighting Years: Homosexuals in Houston, 1969-1981" (Master's thesis, University of Houston, 1983) and John Goins, "Confronting Itself: The AIDS Crisis and the LGBT Community in Houston" (Ph.D. dissertation, University of Houston, 2014).

Byrd's high-profile murder provided urgency to the issue of hate crime in Texas, but hate crime legislation was not a new demand in the legislature or in the state. The proposed bill in the Lone Star State—which built on a vague 1993 law providing for sentence enhancements but not protected categories—dated back nearly a decade. Modeled after language championed on the national level by the Anti-Defamation League (ADL) and National Gay and Lesbian Task Force (NGLTF), the legislation called for penalty enhancements for bias-motivated crimes based on race, color, disability, religion, national origin, and sexual orientation.¹³ However, the bill did not exist in isolation. From the late 1980s through the 1990s, a strong grassroots movement existed both in Texas and nationally to address academic, media, and activist claims that a hate crime “epidemic” affecting gays and people of color was underway.¹⁴ The Texas movement in response to this perceived threat was informed to an extent by the larger national conversation. However, this movement was also organically Texan. Activist efforts sprung up around particular local incidents of racist and anti-gay hate crime, such as Donald Thomas in 1990, Paul Broussard in 1991, Nicholas Ray West in 1993, and Byrd in 1998. Activism on the issue of hate crime had been simmering in Texas long before comprehensive legislation was seriously on the Texas Legislature's agenda.

¹³ See Phyllis B. Gerstenfeld, *Hate Crimes: Causes, Controls, and Controversies* (Thousand Oaks, Calif.: Sage Publications, 2004) for more general information on hate crime legislation and how the language varied from state to state.

¹⁴ Scholars have called proclamations that there was a hate crime “epidemic” in the 1990s into question, citing faulty methodology in tracking the alleged surge in bias-motivated violence. See both James B. Jacobs and Kimberly Potter, *Hate Crimes: Criminal Law and Identity Politics* (Oxford, UK: Oxford University Press, 1998) and Hanhardt, *Safe Space*.

Other scholars have examined the passage of the James Byrd Jr. Hate Crimes Act, but my work builds on this scholarship by placing the bill's passage in the context of the decade-long movement against hate crime in Texas.¹⁵ I contend that this movement has roots in preceding activism against police brutality, led by gays and racial minorities (primarily African Americans and Mexican Americans). Much of this activism was centered in the perceived police violence epicenters of Houston and Dallas and saw its peak in the 1970s and early 1980s following a few particularly high-profile cases of alleged police misconduct toward minorities.¹⁶ During the 1980s, both the Dallas and

¹⁵ Other scholars have examined the topic, but have not looked at it in relation to its historical context. Jennifer Petersen's *Murder, the Media, and the Politics of Public Feelings* (Bloomington: Indiana University Press, 2011), which examines the politics of public emotion by dealing with public and policy responses to the murders of Matthew Shepard and James Byrd, Jr., includes a section on the passage of the James Byrd Jr. Hate Crimes Act and argues that victim testimony played a substantial role in swaying moderate and conservative legislators to support the bill.

¹⁶ For more on police violence in Texas (Houston specifically), see Dwight Watson, *Race and the Houston Police Department, 1930-1990: A Change Did Come* (College Station: Texas A&M University Press, 2005), which focuses on evolving relations between the Houston Police Department and racial minorities (African Americans and Mexican Americans) in the city. For a less critical and more celebratory account of policing in Houston, see Michael P. Roth and Tom Kennedy, *Houston Blue: The Story of the Houston Police Department* (Denton: University of North Texas Press, 2012). For more on policing and responses to police violence broadly, see Roger Lane, *Policing the City: Boston 1822-1885* (Cambridge, Mass.: Harvard University Press, 1967); A.F. Brandstatter and Louis A. Radalet, *Police and Community Relations: A Sourcebook* (Beverly Hills, Calif.: The Glencoe Press, 1968); Robert F. Wintersmith, *Police and the Black Community* (Lexington, Mass.: D.C. Heath and Company, 1974); Samuel Walker, *A Critical History of Police Reform: The Emergence of Professionalism* (Lexington, Mass.: D.C. Heath and Company, 1977); Eric H. Monkkonen, *Police in Urban America, 1860-1920* (Cambridge, Mass.: Cambridge University Press, 1981); William A. Geller and Hans Toch, *Police Violence: Understanding and Controlling Police Abuse of Power* (New Haven, Conn.: Yale University Press, 1996); John L. Burris and Catherine Whitney, *Blue vs. Black: Let's End the Conflict Between Cops and Minorities* (New York: St. Martin's Press, 1999); Kristian Williams, *Our Enemies in Blue: Police and Power in America* (Brooklyn, N.Y.: Soft Skull Press, 2004); and David Alan Sklansky, *Democracy and the Police* (Stanford, Calif.: Stanford University Press, 2008).

Houston police forces underwent varying degrees of reform in response to these brutality allegations. In the 1990s, when reports of a hate crime “epidemic” increased, the movement turned its attention to addressing hate crime through criminal justice channels.¹⁷ Scholars have already begun recovering the history of police violence activism, but the subject of hate crime remains historiographically neglected perhaps because of the contemporary nature of the “hate crime” legal construct itself.¹⁸ Despite its relative recentness, a small but growing interdisciplinary literature exists on the subject.¹⁹

¹⁷ Scholars have called proclamations that there was a hate crime “epidemic” in the 1990s into question, citing faulty methodology in tracking the alleged surge in bias-motivated violence. See both Jacobs and Potter, *Hate Crimes* and Hanhardt, *Safe Space*.

¹⁸ Gerstenfeld argues in *Hate Crimes* that efforts at preventing and punishing “hate crime” as a specific category of crime began with efforts in the late 1970s by the Anti-Defamation League (ADL) to track anti-Semitic incidents in the United States. After a reported spike in anti-Semitic crimes between 1978 and 1981, the ADL drafted the first legislation targeting ethnic intimidation. The proposed statute focused on institutional vandalism but also enhanced sentences for any violation of existing criminal law committed because of a victim’s (real or perceived) “group.” The ADL later modified the statute to replace “ethnic intimidation” with “bias-motivated crimes.” The ADL model language included race, color, religion, national origin, sexual orientation, and (later) gender. Allies of the ADL included the National Gay and Lesbian Task Force (NGLTF), the National Institute for Prejudice and Violence, and the Southern Poverty Law Center, all of which lobbied states to pass the proposed law.

¹⁹ The historiography on hate crime is sparse. Hanhardt is critical of the hate crime movement in *Safe Space*, in which she situates anti-violence activism within the context of bicoastal urban and gay neighborhood history and argues that the policing of gay neighborhoods following the hate crime “epidemic” reinforced urban race and class stratification. Hanhardt’s study focuses on the national hate crime movement, largely led by the NGLTF. Other work on hate crime tends to fall into the realm of journalism, criminology, or case study. Beth Loffreda’s *Losing Matt Shepard: Life and Politics in the Aftermath of Anti-Gay Murder* (New York: Columbia University Press, 2000); King’s *Hate Crime*; Temple-Raston’s *A Death in Texas*; and Stephen V. Sprinkle’s *Unfinished Lives: Reviving the Memories of LGBTQ Hate Crimes Victims* (Eugene, Ore.: Wipf and Stock, 2011) are examples of both scholarly and journalistic case studies. Criminological literature on hate crime includes Jacobs and Potter, *Hate Crimes*; Barbara Perry, *In the Name of Hate: Understanding Hate Crimes* (New York: Routledge, 2001), Jack Levin

This historiographic treatment of hate crime activism has focused on the national level.²⁰

My work adds to this literature by providing a local and state study of hate crime activism and legislation—focused not only on advocacy organizations and lobbying, but also on the motivations of grassroots activists themselves.

A few justifications must be made with regard to the parameters of my study.

Legally, other protected categories are also sometimes included in the definition of hate crime, such as gender and gender identity. Acts of violence based on gender and transgender status undoubtedly occurred and continue to occur in Texas, but the mainstream hate crime movement focused on addressing racist and anti-gay acts of violence. Transgender activists did voice concerns that gender identity was not included in proposed statute language, but movement leaders never seriously considered seeking protection for transgender people under state law—likely because they believed the inclusion of sexual orientation was controversial enough. Likewise, the hate crime movement in Texas primarily revolved around the murders of black and gay *men*. While women participated in (and, to some extent, *led*) the movement, the major hate crimes mobilizing the movement were the murders of men.

It is also necessary to explain my exclusive focus on Texas. Texas has a larger-than-life reputation for being an extremely conservative state. In this way, the Lone Star

and Jack McDevitt, *Hate Crimes Revisited: America's War on Those Who Are Different* (Boulder, Colo.: Westview Press, 2002); and Gerstenfeld, *Hate Crimes. Petersen's Murder, the Media, and the Politics of Public Feelings* explores the subject from a media studies perspective, examining the role of the media in spawning public grief and outrage, grassroots activism, and public policy in response to the murders of Matthew Shepard and James Byrd, Jr. She also details the passage of the James Byrd Jr. Hate Crimes Act in Texas, especially focusing on the weight of victim testimony.

²⁰ See Hanhardt, *Safe Space*.

State may not be representative of the rest of the country; however, this is a story worth telling *because* Texas is unrepresentative. That the gay and African American communities were able to force a conservative legislature and governor to pass and sign a civil (and especially gay) rights advance points to the strength of these communities even in times of severe adversity. In addition, there is a popular perception of the African American community as being more homophobic than the general population. The political marriage of gay and African American concerns in the Texas anti-violence movement pokes significant holes in this idea and has the potential to finally put it to rest. Texas also provides an ideal point of study due in large part to its geographical span; it is both Deep South and Southwest at once. As previously discussed, Texas possesses a culture of violence perhaps unique to the Lone Star State because of the lynching tradition of the Deep South, the violence of the frontier, and the conflict between Anglos and ethnic Mexicans throughout Texas history.²¹ This violence has been studied in detail, but anti-gay violence and hate crimes against African Americans in the recent past are other dimensions to the larger story not yet examined.

In telling the story of the Texas hate crime movement, I examine both the internal operations of “elite” institutions such as the Texas Legislature and Governor’s Mansion and the grassroots forces that moved those institutions to embrace a civil rights advance. This methodological approach allows for maximum diversity of historical actors and avoids the blinders and limitations of both traditional political history and social history. In addition to a broad array of secondary works on southern, Texas, African American, and LGBT history—as well as works on the history of violence—this study makes use of

²¹ See Carrigan, *The Making of a Lynching Culture*.

a variety of conventional government documents and archival sources. This is especially important in my examination of Texas political machinery as it concerned hate crimes legislation. “Underground” sources, including gay and African American newspapers and other documents, are also important to this work.

This dissertation consists of six chapters. The first chapter provides context on violence and civil rights activism in Texas, from the early days of the Republic of Texas through the 1960s. The second chapter examines activism against police brutality in Dallas and Houston by gays, African Americans, and Mexican Americans as a precursor to the hate crime movement. The third chapter illuminates the early years of the hate crime movement, fueled especially by the 1990 murder of Donald Thomas and the 1991 killing of gay Houstonian Paul Broussard, which led to the passage of a vague (and ineffective) hate crime law in 1993. The fourth chapter details the movement between 1993 and 1998, which was led by the LGRL and focused almost exclusively on anti-gay hate crimes. The fifth chapter covers the Byrd killing and the renewed gay and African American activist efforts at forcing the legislature to act. This chapter also deals with the murder of Matthew Shepard in Wyoming and shows how it, combined with the Byrd murder, solidified the grassroots resolve to address hate crime. The sixth chapter examines the struggle to pass the James Byrd Jr. Hate Crimes Act in the Texas Legislature, ending with the 2001 passage and signing. Finally, a conclusion will tie this regional story to more contemporary conversations about violence and social justice, focusing especially on lessons of intersectional activism to be taken from this Texas success story.

Chapter 1—“Shocking Brutality and Indescribable Barbarism”: The Culture of Violence in Texas, 1836-1960

On October 16, 1914, the newspaper serving Angleton, Texas—a small town in Brazoria County just south of Houston—triumphantly proclaimed, “Joe Durfee is no more. He is dead. Thoroughly dead. Because of it, the womanhood of Brazoria county [sic] is safer.” Noting that protecting “the purity of womanhood” was “the highest duty of strong men,” the story concluded, “We realize that justice has been done. If a trifle irregularly, nevertheless justice!”¹ The state did not execute Durfee; a lynch mob took him from his jail cell and hanged him. The alleged crime for which he died was the murder of a white woman known in newspaper accounts simply as Mrs. J.M. Seitz. In July of 1913, her body was found in an Angleton alley behind a residence known as the Masterson House. Police took Seitz’s husband and three black individuals, including Masterson House worker Durfee, into custody as suspects. In the end, all were cleared of suspicion except for Durfee. Investigators claimed to have found a dagger “fitting the wounds in the dead woman’s breast” in Durfee’s residence, in addition to evidence that Seitz’s shoes had been burned in the Masterson fireplace. The *Angleton Times* all but tried and convicted Durfee in its story on the case: “In the minds of the people generally there seems to be no very serious doubt of the negro’s guilt.”² Indeed, Durfee’s fate was sealed before he even stepped into a courtroom.

¹ “Joe Durfee Taken from Jail: Hanged by Unknown Parties,” *Angleton Times*, October 16, 1914.

² “Duffee [sic] Only Person Held,” *Angleton Times*, July 18, 1913.

The legal wheels turned slowly, but in September of the next year, Durfee faced trial, and the jury quickly convicted him of Seitz's murder. The *Angleton Times*, emphasizing his supposed inhumanity, made note that there "was no mark of fear or emotion, no sign of regret or remorse" and that he "appeared wholly unaffected." District Judge Samuel J. Styles sentenced Durfee to hang.³ However, a few days before his October 9 execution date, Governor Oscar Branch Colquitt granted a respite for 30 days and finally commuted the sentence. In the words of the Angleton newspaper, which vigorously defended the lynching, "In this case commutation meant no punishment at all. . . . This was too much. It was placing too low an estimate on the sanctity of womanhood." A mob quickly formed, forcibly removed Durfee from his jail cell, and in the celebratory words of the *Angleton Times*, "An hour later the negro's worthless body might have been seen hanging from a liveoak tree, a really, truly 'suspended sentence.'" Durfee's body swung from the tree for approximately two hours before the sheriff ordered it cut down. The newspaper story on the lynching noted that, after Durfee's "people in Houston" did not express interest in claiming the body, Angleton's "leading colored citizens" gave him a burial. The newspaper concluded, "Thus closed a criminal career. The cunning of a man, the instincts of a beast, made Joe Durfee a marked character, a danger to society and a libel upon his race. It is well that he is out of the way."⁴ With no investigation into the "unknown parties" responsible for Durfee's extralegal execution, the case ended. Years later, Seitz's husband confessed to the

³ "Joe Durfee, Convicted Negro, Sentenced to Hang at Angleton," *Angleton Times*, September 11, 1914.

⁴ "Joe Durfee Taken from Jail: Hanged by Unknown Parties."

murder, but the investigation was not reopened, and in the eyes of the law, Durfee remained responsible for the crime.⁵

Durfee's execution, which marked the 239th recorded incident of lynching in Texas history, was not unique.⁶ Indeed, Durfee's name is lost to history partly because of how commonplace such incidents were in the nineteenth and early twentieth centuries. And while his death was brutal, it was far from the most sadistic Texas lynching. Durfee's relatively unremarkable execution is notable, however, because of how well it encapsulates the practice of lynching in post-Reconstruction Texas. Lynching—defined by historian William D. Carrigan in his Texas study as “a summary execution committed by a self-appointed group without regard for established legal procedures”—was historically propped up in the Lone Star State using two primary justifications: the protection of white womanhood and the ineffectiveness of the judicial system in punishing crime.⁷ The defense of white women, especially, served as a convincing “reason” to kill black rape and murder suspects.⁸ The defenders of the Durfee lynching, the *Angleton Times* chief among them, used both of these justifications. The lynching scene, from the mob descending on the jail to the body swinging from the live oak,

⁵ “The Masterson House Saga,” *The Bulletin*, June 2003, 2.

⁶ David L. Chapman, “Lynching in Texas” (Master’s thesis: Texas Tech University, 1973), Appendix B: Chronological List of Persons Lynched in Texas, 97-114.

⁷ William D. Carrigan, *The Making of a Lynching Culture: Violence and Vigilantism in Central Texas, 1836-1916* (Urbana: University of Illinois Press, 2006); Chapman, “Lynching in Texas” 1, 7-12.

⁸ See Jacqueline Dowd Hall, *Revolt Against Chivalry: Jessie Daniel Ames and the Women’s Campaign Against Lynching* (New York: Columbia University Press, 1974) for more on the use of gender in the defense of lynching.

mirrored so many dozens of other lynchings across Texas. The “reasons” given to justify the lynching masked the underlying motivation: the preservation of white supremacy and “protect[ion of] the social and economic status quo.”⁹

However, the particular kind of violence visited upon Durfee by a bloodthirsty mob was not unique to the post-Reconstruction era, nor was it confined to African Americans. The Texas Republic was founded in 1836 upon violence—against Native Americans, ethnic Mexicans, and enslaved African Americans. Following the Texas Revolution, Anglos used violence against Mexicans to preserve and protect white supremacy. Not only did violence play a uniquely central role in the construction of the Texas Republic, but spectacle (“modern”) lynching as a southern practice began and ended in the Lone Star State. The widely reported, well-photographed, and heavily attended 1893 lynching of Henry Smith in Paris launched a period of public spectacle lynching that lasted until the massive crowd at Jesse Washington’s 1916 lynching in Waco went “too far” in the eyes of northerners and southern elites.¹⁰ Texas cannot claim the highest number of lynching victims, but it is impossible to overstate the importance of lynching in Texas history, as well as how deep the roots of violence reach in the Lone Star State. In this study of contemporary responses to hate crime in Texas, it is imperative to first consider the state’s long and troubled history of violence against minorities.

This chapter argues that Texas possesses a deep culture of violence, which has manifested itself in different ways throughout history: brutality against Native Americans, wartime violence, lynching of Mexicans, Tejanos, and African Americans,

⁹ Chapman, “Lynching in Texas,” 29-30.

¹⁰ Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill: University of North Carolina Press, 2011), 179-180.

race riots, and eventually hate crime as we understand it today. “Hate crime”—while “new” in that it was not a legal construct until the 1980s—is not a new phenomenon in Texas or elsewhere. Hate-based violence has taken many forms and runs like a thread throughout history. This culture of violence helps inform contemporary discussions of hate crime, which occur decades after the last recorded lynching. The Texas culture of violence discussed in this chapter results from at least five different sources, according to historian William D. Carrigan. First, the violence of the frontier is central to Texas history. Second, racialized slavery led to a high level of violence to control enslaved populations in the state. Third, the historical clashing between whites and racial minorities, especially Native Americans and ethnic Mexicans, contributed to this violent culture. Fourth, passive state-sanctioning of extralegal violence on the parts of law enforcement, the courts, and political figures gave energy and justification to vigilantes. Finally, historical memory has shaped acts of vigilante violence into glorified symbols of Texas pride.¹¹ The “lynching culture” that resulted from these five sources forms the foundation of the later hate crime “epidemic.”

The resistance on the part of anti-lynching advocates, in turn, provides historical background for the hate crime movement of the 1980s and 1990s, which also struggled against extrajudicial violence; anti-lynching activists sought legislation providing for the prosecution of vigilantes, and later hate crime activists also used the law to enhance sentences against perpetrators of bias-motivated violence. While lynching history has been divorced from the more contemporary phenomenon of hate crime, there are threads of continuity running through these disparate outbreaks of violence in Texas history.

¹¹ Carrigan, *The Making of a Lynching Culture*, 12-14.

There is also a degree of similarity between anti-lynching activism near the turn of the century and the hate crime activism that came in the late twentieth century.

This chapter traces the thread of violence in Texas history from the founding of the Texas Republic in 1836 until 1960, when public attention turned to police violence against minorities. It is divided into three major parts. The first section examines the founding of the Texas Republic and ensuing violence against minorities (Native Americans, ethnic Mexicans, and enslaved blacks) in the years that followed, ending with the Civil War. The second section deals with Reconstruction and the post-Reconstruction era, focusing especially on spectacle lynching as it unfolded (and, indeed, *began*) in Texas, ending with the 1916 lynching of Jesse Washington—after which racial violence went “underground.” The third and final section details the ways in which racial violence manifested in the decades following the unraveling of spectacle lynching, focusing particularly on race riots and civil rights era violence. This chapter ends in the 1960s; the next major episode of racial violence and anti-violence activism in Texas history—police brutality—merits special consideration because of its more immediate connection to the hate crime activism examined in this study.

1836 to 1865

Racist violence in Texas did not originate with post-Reconstruction lynching or even with the Texas Revolution; indeed, the construction of the Lone Star State rested upon a foundation of racism and violence. Since the early nineteenth century, when Anglo settlers first started entering what is now Texas, the relationship between whites, Tejanos, and Native Americans was fraught with tension, although major episodes of

direct violence did not manifest until the Texas Revolution. Anglos moving westward—including those moving into present-day Texas—felt moved by an urge to control the populations they viewed as “beastly,” especially in terms of vice and sexuality. They viewed their settling of Texas as a struggle to civilize and impose Christian order upon “noncivilization” by “redeeming” the land from Tejanos and Native Americans. For example, shortly after the Mexican government authorized colonization in 1821, Stephen F. Austin invoked the idea that white settlers intended “to redeem Texas from the wilderness” and “settle it with an intelligent honorable and enterprising [sic] people.” He went on to write that Texas “should be effectually, and fully, Americanized—that is—settled by a population that will harmonize with their neighbors on the *East*, in language, political principles, common origin, sympathy, and even interest.” This “settling” of Texas, in Austin’s mind, depended upon the imposition of (white) American culture.¹²

Native American and Mexican culture, in the minds of Austin and other white settlers, stood in the way of “civilization.” Anglos broadly thought of ethnic Mexicans as uncivilized heathens, since they associated the natives with stories of Aztec gods and rituals. Depravity, savagery, laziness, and immorality were at the center of white

¹² Arnoldo De Leon, *They Called Them Greasers: Anglo Attitudes Toward Mexicans in Texas, 1821-1900* (Austin: University of Texas Press, 1983), 1-3. Also see James Earnest Crisp, “Anglo-Texan Attitudes Toward the Mexican, 1821-1845” (Ph.D. dissertation, Yale University, 1976); Richard Slotkin, *Regeneration Through Violence: The Mythology of the American Frontier, 1600-1860* (Norman: University of Oklahoma Press, 1975); and Ronald Takaki, *Iron Cages: Race and Culture in 19th-Century America* (Oxford, UK: Oxford University Press, 1979) for more on attitudes expressed by Anglo settlers toward native populations in Texas. For more on Stephen F. Austin specifically, see Gregg Cantrell, *Stephen F. Austin: Empresario of Texas* (New Haven, Conn.: Yale University Press, 2001).

conceptions of those with darker skin.¹³ Tejanos, in particular, were deemed suspect because they were Catholic and racially mixed (native Mexican, Spanish, and African)—a kind of double stigma. In 1835, the *Texian and Emigrant's Guide* opined that religion and education made Mexicans inherently different than Anglos. An amalgamation of racialized ideas converged in the minds of Anglo settlers when dealing with Tejanos. On the one hand, it was a common idea that black men were sex-crazed and “savage.” On the other, there were images of Native Americans as hostile and barbaric. These racist and pseudoscientific ideas formed the basis of the racialization of the Tejano. Some scholars previously concluded that there was a period of racial tolerance in the years prior to the Texas Revolution, but more recent scholarship paints a different picture; while whites had fewer direct interactions prior with Tejanos and Native Americans prior to 1836, the racism that would infuse later violence had already found root in the early nineteenth century.¹⁴

¹³ De Leon, *They Called Them Greasers*, 4-7.

¹⁴ For more on relations between Anglos and Tejanos and the construction of Tejano identity, see James Earnest Crisp, “Anglo-Texan Attitudes Toward the Mexican, 1821-1845” (Ph.D. dissertation, Yale University, 1976); David Montejano, *Anglos and Mexicans in the Making of Texas, 1836-1986* (Austin: University of Texas Press, 1987); Robert J. Rosenbaum, *Mexicano Resistance in the Southwest: “The Sacred Right of Self-Preservation”* (Austin: University of Texas Press, 1981); David J. Weber, *The Mexican Frontier, 1821-46: The American Southwest Under Mexico* (Albuquerque: University of New Mexico Press, 1982); Gerald E. Poyo, Gilberto M. Hinojosa, and Jose Cisneros, ed., *Tejano Origins in Eighteenth-Century San Antonio* (Austin: University of Texas Press, 1995); Armando C. Alonzo, *Tejano Legacy: Rancheros and Settlers in South Texas, 1734-1900* (Albuquerque: University of New Mexico Press, 1998); Andres Resendez, *Changing National Identities at the Frontier: Texas and New Mexico, 1800-1850* (Cambridge, UK: Cambridge University Press, 2004); Monica Perales and Raul Ramos, ed., *Recovering the Hispanic History of Texas* (Houston, Tex.: Arte Publico Press, 2010); Gerald E. Poyo, ed., *Tejano Journey, 1770-1850* (Austin: University of Texas Press, 2010); Jesus F. De la Teja, ed., *Tejano Leadership in Mexican and Revolutionary Texas* (College Station: Texas A&M University Press, 2010); Raul A. Ramos, *Beyond the*

After Mexican leader General Santa Anna centralized power in the federal government and cracked down on Anglo violations of Mexican law in the mid-1830s, the independence movement took off, after which anti-Mexican sentiment grew deadlier. Following a skirmish between armed Anglo radicals and a Mexican military garrison in 1835, tensions rose and the Mexican congress dissolved the state legislatures, bringing Texas directly under the control of Santa Anna. Central to the disagreement between Anglos and Mexicans was the idea that Mexican leaders were attempting to end slavery. In 1836, white (and some Mexican) Texans formally declared independence, after which the Mexican army infamously stormed the Alamo. Under the leadership of Sam Houston, the Texas army pulled off a surprise victory against Mexican forces and secured independence at San Jacinto on April 11, 1836. By 1844, independent Texas joined the United States, with statehood following in 1845. When President James K. Polk launched what became known as the U.S.-Mexican War in 1846, many white Texans eagerly joined the cause. The successful war for Texas independence combined with the U.S. victory in the Mexican War only bolstered white Texan hatred of Mexicans and Tejanos. Historical memory cemented Mexican stereotypes and celebrated Anglo superiority.¹⁵

Wartime violence was not the only brutality visited upon Mexicans in Texas. After the wars, vigilante violence against Mexicans was not uncommon—whether by mobs or by the Texas Rangers, which were organized in 1823 by Austin both to “protect”

Alamo: Forging Mexican Ethnicity in San Antonio, 1821-1861 (Chapel Hill: University of North Carolina Press, 2010); and Arnolde De Leon, ed., *War Along the Border: The Mexican Revolution and Tejano Communities* (College Station: Texas A&M University Press, 2012).

¹⁵ Carrigan, *The Making of a Lynching Culture*, 20-23.

the frontier and Anglo settlers and to monitor Native Americans and Mexicans. The Rangers had earned a reputation for operating outside of formal law when it came to dispensing “justice.” Historian Arnaldo De Leon notes that, while documentation of such persecution is difficult to find using existing records, the Texas Rangers’ reputation in Tejano communities was built through a kind of lore passed down through the years.¹⁶ A later example of the Texas Rangers’ brutality can be found in 1915, when Mexican revolutionaries conducted a series of raids, frightening the Anglo population on the border. The Texas Rangers carried out a campaign of retaliation, massacring hundreds of Mexicans.¹⁷ Indeed, throughout the nineteenth and early twentieth centuries, Texas became infamous both to Texans and outsiders as a rough frontier inhabited by men who took the law into their own hands, particularly with Tejanos—whom the *Texas State Gazette* in Austin described as “half-negro, half-Indian greasers.”¹⁸ This conception of Tejanos as a mixture of the worst races—which had been constructed long before the Texas Revolution—only became more common after 1836. Tejanos’ perceived close relationship with Native Americans led white settlers to proclaim that Tejanos were “of mongrel blood the Aztec predominating.” One Anglo described Tejanos as “degraded creatures [who] are mere pilferers, scavengers and vagabonds downright barbarians but a

¹⁶ De Leon, *They Called Them Greasers*, 76-77.

¹⁷ See Benjamin Heber Johnson, *Revolution in Texas: How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans Into Americans* (New Haven, Conn.: Yale University Press, 2005) for more on this incident.

¹⁸ Carrigan, *The Making of a Lynching Culture*, 29.

single remove above the Digger Indians, hanging like vermin on the skirts of civilization—a complete pest to humanity.”¹⁹

This racism was not abstract, nor was it limited to written correspondence; following the Texas Revolution, it often took violent form in lynchings and other (sometimes mass) killings. Mexicans accused of relatively minor crimes such as cow-killing and horse theft were lynched before the Civil War. While crime most often served as the justification for such acts of extralegal execution, there is no doubt that mobs were motivated by post-independence racism against Mexicans. One historian notes, “Anglo Texans viewed Mexicans through the lens of the Alamo, Goliad, and the U.S.-Mexican War”—making such killings all the more justifiable in the eyes of whites.²⁰ In the immediate aftermath of the Texas Revolution, the Mexican communities of Victoria, San Patricio, La Bahia, and Refugio suffered the wrath of Anglos for the violence at the Alamo and were completely destroyed. Texans of Mexican descent in other areas of the state were also punished for the Alamo well into the late 1830s and early 1840s. In 1839, for example, over 100 Mexican families were expelled from the settlement of Nacogdoches. In San Antonio, not even Texas army war hero Juan Seguin was safe, and he fled to Mexico in 1842 as a result of murder threats. Other San Antonio Tejanos, facing a similarly hostile situation, followed in the 1840s.²¹ In the 1850s, more Mexican communities were uprooted and driven from Austin, Seguin, and Matagorda and Colorado Counties. This forcible “cleaning out” of Mexicans was accompanied by

¹⁹ De Leon, *They Called Them Greasers*, 15.

²⁰ Carrigan, *The Making of a Lynching Culture*, 23-29.

²¹ Ramos, *Beyond the Alamo*, 173-174.

property seizure and violence.²² With the end of the war, relations between Anglos and Native Americans (specifically Cherokees) also broke down because of rumors that Cherokee warriors were planning an uprising. In this way, Native Americans became a “suspect class” in the same way that Tejanos fell under suspicion following independence.²³

Anglo brutality also led to the so-called “Cortina War,” an 1859 Tejano uprising in Brownsville led by Juan N. Cortina. Angry with the expulsions, property seizures, and violence directed toward Texans of Mexican descent, he led a siege on Brownsville threatening “death to the gringos.” Three Anglos were killed in the conflict, which the Texas Rangers and federal troops finally quelled in early 1860, driving Cortina into Mexico. Following the Cortina War, white Texans along the Mexican border unleashed a wave of violence against any suspected sympathizers, burning and looting property and killing multiple Tejanos.²⁴

Mexicans were not the only racialized group targeted by Anglo vigilante mobs; Native Americans also suffered immensely at the hands of white Texans since their arrival in the region. While such violence was not called “lynching,” and while such mobs were called “volunteer Indian fighters” rather than vigilantes, Indian killing deeply shaped Texan attitudes toward extralegal violence in the nineteenth century. Such killings also bore a striking resemblance to the kind of lynching perpetrated against Mexicans at

²² Montejano, *Anglos and Mexicans in the Making of Texas, 1836-1986*, 26-29. Also see De Leon, *Mexican Americans in Texas*.

²³ Ramos, *Beyond the Alamo*, 177.

²⁴ De Leon, *Mexican Americans in Texas*, 38-39.

the time. In the early 1850s, for example, five white men in Central Texas searched for a band of Native Americans suspected of stealing horses and killing livestock that belonged to the Wilkerson family. When they found six Indians at a campfire, they opened fire. Five escaped the mob, but the white men captured one, who begged for his life before they shot him. When they returned, they celebrated their victory and framed the episode as a “battle.” The Wilkerson incident was not isolated. Indeed, “Indian fighters” were widely celebrated in Texas, and Texans routinely remembered such “battles” with a sense of pride and celebration. Indian killers were often elected to public office in Texas, in addition to being showered with newspaper praise, civic group speaking engagements, and historical markers.²⁵

In addition to Tejanos and Native Americans, there was rampant violence against African Americans long before the era of post-Reconstruction lynching. Indeed, prior to the Civil War, vigilante mobs were used to control and produce fear in slaves—and

²⁵ Carrigan, *The Making of a Lynching Culture*, 31-32. For more on relations between Anglo Texans and Native Americans, see Morris W. Foster, *Being Comanche: The Social History of an American Indian Community* (Tucson: University of Arizona Press, 1991); Thomas W. Kavanagh, *Comanche Political History: An Ethnohistorical Perspective, 1706-1875* (Lincoln: University of Nebraska Press, 1996); David La Vere, *The Caddo Chiefdoms: Caddo Economics and Politics, 700-1835* (Lincoln: University of Nebraska Press, 1998); F. Todd Smith, *The Wichita Indians: Traders of Texas and the Southern Plains, 1540-1845* (College Station: Texas A&M University Press, 2000); Gary Clayton Anderson, *The Conquest of Texas: Ethnic Cleansing in the Promised Land, 1820-1875* (Norman: University of Oklahoma Press, 2005); F. Todd Smith, *From Dominance to Disappearance: The Indians of Texas and the Near Southwest, 1786-1859* (Lincoln: University of Nebraska Press, 2006); Gary Clayton Anderson, *The Conquest of Texas: Ethnic Cleansing in the Promised Land, 1820-1875* (Norman: University of Oklahoma Press, 2006); and Andrew R. Graybill, *Policing the Great Plains: Rangers, Mounties, and the North American Frontier, 1875-1910* (Lincoln: University of Nebraska Press, 2007); Pekka Hamalainen, *The Comanche Empire* (New Haven, Conn.: Yale University Press, 2008); Gary Clayton Anderson, *The Indian Southwest: Ethnogenesis and Reinvention, 1580-1830* (Norman: University of Oklahoma Press, 2009); and Brian DeLay, *War of a Thousand Deserts: Indian Raids and the U.S.-Mexican War* (New Haven, Conn.: Yale University Press, 2009).

slavery itself is a particularly egregious form of violence. White paranoia contributed greatly to this perceived need to keep slaves in line through the threat of vigilante violence. During the summer of 1860, for example, “vigilance committees” across the state executed a number of men—both white and black—for conspiracy to start a slave rebellion. This particular episode, known as the “Texas Troubles, was the largest slave panic since 1831. The exact origins of the panic are not known, but one idea is the fact that John Brown’s raid on the Harpers Ferry armory in Virginia occurred a year earlier. While Texas is so geographically separated from present-day West Virginia that such panic seems illogical, a number of factors contributed to white paranoia regarding slave rebellion—which seems to have been sparked by alleged slave arson in North Central Texas. First, violence between whites, Native Americans, and Mexicans was still on the minds of Texans. Second, black Texans routinely resisted the institution of slavery in a variety of ways, often by simply running away. Perhaps most importantly, the vigilante violence used to keep slaves in line had been framed by whites as self-defense against slave revolts allegedly encouraged by Mexicans and northern abolitionists. These factors contributed to a general atmosphere of white paranoia in Texas and a fear among both slaveholders and non-slaveholders that a major rebellion was imminent. This led to widespread participation by whites in vigilante violence against black Texans prior to emancipation.²⁶

Taken together, episodes of extralegal violence against Native Americans, Texans of Mexican descent, and enslaved African Americans formed the foundation of lynching

²⁶ Carrigan, *The Making of a Lynching Culture*, 48-49. For more on violence within the institution of slavery in Texas, see Randolph B. Campbell, *An Empire for Slavery: The Peculiar Institution in Texas* (Baton Rouge: Louisiana State University Press, 1989).

in the late 1800s by creating a culture in Texas that celebrated men who took justice into their own hands. Indeed, Texas was built upon a tradition of racialized violence against minorities that preceded the Texas Revolution but became much more commonplace following 1836. After the Civil War, Reconstruction as it played out in Texas brought a new wave of violence that especially focused on African Americans. However, the racist roots of lynching lie not in Reconstruction policies, but rather in the culture of violence built by the white conquest of Texas.

1865 to 1916

After the end of the Civil War and the beginning of Reconstruction, the Lone Star State's deeply ingrained culture of violence gave way to a wave of lynching, mostly targeting African Americans. However, racism against Texans of Mexican descent continued well into the postbellum period, built on the same racialized constructions that existed in the early nineteenth century. Following the Civil War, any perceived attack on the white racial order was met with vengeance, and this included any Mexicans who appeared to pose a threat to white supremacy. The Texas Rangers, which had been abolished during Radical Reconstruction, reorganized in the 1870s and acted as the enforcement arm of the racial hierarchy—and, significantly, legally sanctioned as part of the Texas state government. In the two decades that followed their reorganization, the Texas Rangers executed a campaign of terrorism designed to push Mexicans out of the Rio Grande Valley. The Rangers were not the only perpetrators of racial violence; from the end of the Civil War on, bands of white vigilantes executed Mexicans for charges ranging from minor to major. In 1868, for example, whites extrajudicially killed seven

Mexicans near Boerne, citing murder charges. In 1874, a Goliad County lynch mob killed Juan Moya and his two children based on murder charges. In 1895, a calf theft in Cotulla resulted in the white rancher following the Mexicans who allegedly committed the theft, which ended in a gunfire exchange. Three of the Mexicans involved were charged with another murder in the area, remanded to jail, and then overtaken by a lynch mob. Such lynching incidents were commonplace in the late nineteenth century.²⁷

Lynching of and general violence against Mexicans continued into the twentieth century. On November 3, 1910, news broke that an “unknown Mexican” had murdered the wife of prominent Rocksprings rancher Lem Henderson. The news traveled quickly throughout Edwards and Val Verde Counties and even as far east as San Antonio, where the *Express-News* reported on the prime suspect: 20-year-old Mexican ranch hand Antonio Rodriguez. The newspaper reported that he likely shot Mrs. Henderson because she “spoke mean” to him during an argument. Henderson’s young daughter witnessed the incident, but could only say, “A Mexican shot mamma.” In West Texas vigilante fashion, Henderson began to recruit volunteers for the purpose of tracking down the shooter. When a posse was assembled, they traveled across the countryside, tracking the suspect well into the night. The nearby San Angelo *Standard Times* was not subtle in its headline as it covered the manhunt: “May be Lynched If He Is Caught By The Posses Now In Pursuit.” The newspaper coverage used familiar self-defense and battle language: “If the Mexican is crowded, it is believed he will open fire, in which case a pitched battle will result. . . . If the fugitive is overtaken he may be summarily dealt with.” Rodriguez was captured after seeking work at a nearby ranch. He was then taken to the Rocksprings jail,

²⁷ De Leon, *They Called Them Greasers*, 88-91. Also see Arnoldo De Leon, *The Tejano Community, 1836-1900* (Albuquerque: University of New Mexico Press, 1982).

where he confessed to the crime, likely under duress. A mob quickly descended on Rodriguez's jail cell. They broke into the cell, took Rodriguez into their custody, and transported him just outside of town. The mob tied him to a mesquite tree, surrounded him with piles of wood, and then doused Rodriguez in oil and lit the pyre, allowing their victim to slowly burn to death. The incident sparked widespread outrage in Mexico and even caused a brief diplomatic crisis between the United States and Mexico.²⁸

Although Mexicans such as Rodriguez were frequent targets of violence through the early twentieth century, much of the lynching violence in the Lone Star State was directed toward newly emancipated African Americans. The Civil War itself brought racial strife, disorder, and violence to the state. An estimated 4,000 Texans lost their lives in battle or from disease, and following the war, Reconstruction laws—which enfranchised newly freed African Americans and required loyalty oaths from former Confederates to the Union—contributed to a sense of disorder and lawlessness in Texas. Civil War losses and Reconstruction policy converged to fuel white anger in the years after the war. In 1868, widespread Reconstruction-era violence in Texas led Congress to conduct a special investigation into the disorder, which found that 939 people—429 African Americans—had been killed between 1865 and 1868, with only five percent of perpetrators having been convicted. Whites had committed 373 of the black murders, according to the report. The investigation also uncovered rampant nonfatal attacks by

²⁸ Travis Taylor, "Lynching on the Border: The Death of Antonio Rodriguez and the Rise of Anti-Americanism During the Mexican Revolution" (Master's thesis: Angelo State University, 2012), 37-46. The Rodriguez lynching at the hands of what Mexicans saw as Texas savages soon became a central event in the unfolding of the Mexican Revolution, as Mexicans began to blame the status quo of President Porfirio Diaz's policies treating Americans with friendliness inside of Mexico while Americans brutalized Mexicans north of the border.

whites upon African Americans in the same years. Also in 1868, the Ku Klux Klan was founded, and autonomous chapters sprung up in the Lone Star State in the years that followed, especially in East Texas.²⁹ Prior to the 1880s, whites were also caught in the crosshairs of lynch mobs, often for petty crimes or for defying pro-Confederate and pro-secessionist political will.³⁰ Blacks, on the other hand, were targeted by vigilantes for minor crime or for no reason at all other than exertion of white supremacy.³¹

At the end of the 19th century, however, racial violence more aggressively targeted black Texans and became infused with the charge of rape. The “scientific racism” that took hold during this time period lent “validity” to the notion that black Texans were not only inferior to whites, but savage, sex-crazed beasts.³² Protecting white

²⁹ Robert Wuthnow, *Rough Country: How Texas Became America's Most Powerful Bible-Belt State* (Princeton, N.J: Princeton University Press, 2014), 24-25. Also see Chapman, “Lynching in Texas.”

³⁰ Carrigan, *The Making of a Lynching Culture*, 81-82.

³¹ Carrigan, *The Making of a Lynching Culture*, 112-113. For more on violence during Reconstruction in Texas, see Allen W. Trelease, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (New York: Harper and Row, 1971); Barry A. Crouch, “A Spirit of Lawlessness: White Violence, Texas Blacks, 1865-1868,” *Journal of Social History* 18 (winter, 1984): 217-32; Donald G. Nieman, “Black Political Power and Criminal Justice: Washington County, Texas, 1868-1884,” *Journal of Southern History* 55 (Aug., 1989): 321-420; Gregg Cantrell, “Racial Violence and Reconstruction Politics in Texas, 1867-1868,” *Southwestern Historical Quarterly* 93 (Jan., 1990): 333-551; Barry A. Crouch, *The Freedmen's Bureau and Black Texans* (Austin: University of Texas Press, 1992); Randolph B. Campbell, *Grass Roots Reconstruction in Texas, 1865-1880* (Baton Rouge: Louisiana State University Press, 1997); Carl H. Moneyhon, *Texas After the Civil War: The Struggle of Reconstruction* (College Station: Texas A&M University Press, 2004); and Barry A. Crouch, *The Dance of Freedom: Texas African Americans During Reconstruction* (Austin: University of Texas Press, 2007).

³² See Paul Lawrence Farber, *Mixing Races: From Scientific Racism to Modern Evolutionary Ideas* (Baltimore: Johns Hopkins University Press, 2010) for more on scientific racism.

womanhood—and seeking “justice” outside of a court system perceived as ineffective in dealing with sexual assault against white women—formed the cornerstone of lynching in the years after Reconstruction. Indicating the increased racialization of lynching in the late nineteenth century, the number of white lynching victims steadily declined from the 1860s to the 1890s. According to Carrigan, this decline was the result of a more effective court system and a deepening perception of African Americans as more violent and criminal.³³ In the late nineteenth and early twentieth centuries, lynchings remained largely focused on rape accusations against African Americans, but also took a different turn as they assumed the form of public spectacle, drawing enormous crowds that watched black Texans undergo sadistic episodes of torture. The public spectacle of Texas lynching and the ensuing attention from outsiders, anti-lynching advocates, and national media outlets would eventually spell the end of the practice.³⁴

Public spectacle lynching was more widespread than Texas, but the Lone Star State saw both the beginning and the end of the practice in two high-profile lynching incidents that merit extended consideration. Lynching scholar Amy Louise Wood identifies the 1893 killing of Henry Smith in Paris, Texas, as the first “modern” (public spectacle) lynching. The Smith lynching drew a large crowd to watch the torture as a form of entertainment, and news of the incident traveled far and wide through

³³ Carrigan, *The Making of a Lynching Culture*, 132-133.

³⁴ Carrigan, *The Making of a Lynching Culture*, 112-113. Also see Alwyn Barr, *Black Texans: A History of African Americans in Texas, 1528-1995* (Norman: University of Oklahoma Press, 1996).

photography and media accounts.³⁵ Anti-lynching activist Ida B. Wells-Barnett described the lynching at the time as a “shocking brutality and indescribable barbarism” unsurpassed “in the history of civilization.”³⁶ While occurrences of spectacle lynching increased into the early twentieth century, the killing of Smith in the 1890s set the stage.

Smith met his fate as a result of a sexual assault and murder charge. This alleged rape was particularly shocking to Paris residents because it involved a three-year-old white girl. The body of young Myrtle Vance was found in January of 1893; local authorities alleged that there was evidence of rape before her murder, although Wells-Barnett disputed the validity of that evidence, claiming that “white people of the community made it a point to exaggerate every detail of the awful affair . . . as a matter of fact, the child was not brutally assaulted as the world has been told.” Wells-Barnett alleged that the only existing evidence was a “slight abrasion and discoloration” on the child’s neck.³⁷ In many ways, Smith was the perfect scapegoat; as a fairly recent arrival to Lamar County and a reputed drunk and troublemaker, he typified the “retrograde character” local whites attributed to newly arrived African Americans in the county, making him an easy target.³⁸ Wells-Barnett went a step further and claimed that he was a “well-known character . . . generally considered a harmless, weak-minded fellow” and an

³⁵ Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill: University of North Carolina Press, 2011), 74.

³⁶ Ida B. Wells-Barnett, *On Lynchings* (Amherst, N.Y.: Humanity Books, 2002), 76.

³⁷ Wells-Barnett, *On Lynchings*, 77.

³⁸ Brandon T. Jett, “The Bloody Red River: Lynching and Racial Violence in Northeast Texas, 1890-1930” (Master’s thesis: Texas State University-San Marcos, 2012), 27.

“imbecile” who belonged in an asylum.³⁹ Regardless of Smith’s mental state or prior record, the evidence linking him to the murder was extremely thin. As the centerpiece of their “evidence,” law enforcement officials pointed out that, months prior to the murder, Smith had a violent encounter with Vance’s father (a Paris police officer), which ended with Smith allegedly promising to exact revenge against Vance.⁴⁰

Smith, likely knowing his fate, fled Paris. The entire city came to a halt as a local posse conducted a manhunt for their suspect. Wood reports the words of one local man: “Men scarcely stopped to eat, much less sleep, women trembled and prayed, and the common heart of the whole community throbbed with a single impulse that was to compass such retribution for the damnable outrage committed among us as the full measure of justice could demand.”⁴¹ Finally, on January 31, authorities captured Smith in Hope, Arkansas. Smith never saw the inside of a courtroom, as authorities eagerly turned him over to the mob upon arrival in Paris. By that point, the mob had grown to 10,000 men, women, and children, so it is unlikely that the authorities could have stopped the lynching even if they had wanted to. Participants and spectators traveled from all over Northeast Texas and neighboring Arkansas, and in anticipation of the lynching, the railroad company increased the number of passenger trains traveling to Paris. Local Paris residents prepared a parade float box with the word “JUSTICE” painted on the front. They then paraded him through the city streets, a simultaneously jubilant and bloodthirsty parade that culminated when the mob arrived at a scaffold that had been erected in full

³⁹ Wells-Barnett, *On Lynchings*, 77, 81.

⁴⁰ Jett, “The Bloody Red River,” 27-28.

⁴¹ Wood, *Lynching and Spectacle*, 71.

view of the city center. The crowd watched as Henry Vance, his son, and two of the young girl's uncles tortured Smith to death. They placed hot irons on the soles of his feet before lighting him on fire. When his clothes burned off, he fell off of the scaffold and out of the flames, but the mob quickly tossed him back into the fire. The crowd joyfully watched and cheered until Smith's lifeless body was reduced to ashes. The *New York Herald* reported, "Thousands looked at the death struggles with evident satisfaction and many of them with demonstrations of delight."⁴²

The Paris lynching was significant not only in the sheer size of the mob or the sadistic nature of the killing, but also because of the message it sent to the rest of the country about Texas. The Smith execution represented the beginning of lynching as spectacle. Part of that spectacle involved white observers traveling from near and far to witness the grisly death of a suspected black criminal as a form of entertainment. Another part of the spectacle involved rigorous and thorough documentation, both in terms of photography and media reporting. The killing of Smith occurred at the same time that sensational newspaper reporting became popular. Newspaper headlines around the country, from Philadelphia to New Haven to Chicago, breathlessly described the lynching. "Tortured With Red-Hot Irons and Then Burned Alive," "Tortured Him to Death," and "The Texas Horror" were among the headlines that informed the country of the brutality and lawlessness taking place in the Lone Star State.⁴³ Local photographers also meticulously documented each step of the lynching, from the crowd to the torture on the scaffold. Photographs were sold, which circulated around the country. As far away as

⁴² Jett, "The Bloody Red River," 29.

⁴³ Jett, "The Bloody Red River," 30.

Seattle, an easel was reportedly set up on the street displaying pictures of the lynching. The images were accompanied by equipment that supposedly contained recordings of Smith's dying cries.⁴⁴ Such forms of perverse "entertainment" simultaneously enthralled the morbidly curious and brought raw Texas violence to the attention of outsiders. A horrified Governor James S. Hogg responded to the lynching's publicity by pressing the legislature to pass an anti-lynching law, but legislators stalled the bill.⁴⁵

By the late nineteenth century, lynching was accepted in Texas as an extralegal, but necessary, instrument to punish alleged wrongdoers. Not only was it an acceptable practice that was rarely prosecuted despite its illegality, but by the turn of the century, it had become a form of entertainment. All told, the official number of people lynched in Texas from 1882 to 1962 is 493 (likely a conservative number); Texas ranks third in the number of lynchings, surpassed only by Georgia and Mississippi.⁴⁶ These lynchings often occurred in front of crowds of people, although not usually as large as the crowd that lynched Henry Smith. Despite Governor Hogg's rhetoric against lynching, the legislature continued its inaction on the issue until 1897. That year, another public spectacle lynching occurred in Tyler, after which the Texas Legislature passed an anti-lynching law allowing for the prosecution of mob participants on murder charges. Following the law's passage, lynching deaths decreased; from 1899 to 1903, there were 39 deaths, compared

⁴⁴ Wood, *Lynching and Spectacle*, 72.

⁴⁵ Lawrence D. Rice, *The Negro in Texas: 1874-1900* (Baton Rouge: Louisiana State University Press, 1971), 253.

⁴⁶ Chapman, "Lynching in Texas," 16-17.

to 143 deaths from 1889 to 1898.⁴⁷ The incident that marked the unraveling of lynching as public spectacle also occurred in Texas: the 1916 public execution of 16-year-old (and possibly mentally disabled) Jesse Washington in Waco.⁴⁸

Carrigan calls the incident “a defining moment in the history of racial violence in the United States,” and it indeed proved to be a turning point in the trajectory of lynching in Texas.⁴⁹ On the evening of May 8, 1916, the atmosphere of the Fryer family farm in Robinson, eight miles south of Waco, was pierced by children’s screams. The children found the body of their mother, Lucy Fryer, in a pool of blood, slumped in the seed house doorway. Overhearing the commotion, a neighbor ran to another part of the 200-acre farm to notify Fryer’s husband, George. When he rushed to the seed house, he found his wife’s body and saw that her skull had been smashed to the point where brain matter had escaped. It was obvious that a blunt instrument had been used in dealing the blows that led to her death. Fryer called law enforcement, and an investigation commenced. It did not take long for law enforcement officers to eye Washington, whose family lived and worked on the farm, as their prime suspect.⁵⁰

During interrogation, Washington initially denied involvement in the murder. He later admitted to beating Fryer with a “piece of iron” before finally confessing that he killed her with a hammer. He also reportedly told the interrogators where to find the

⁴⁷ Rice, *The Negro in Texas: 1874-1900*, 253-254.

⁴⁸ Patricia Bernstein, *The First Waco Horror: The Lynching of Jesse Washington and the Rise of the NAACP* (College Station: Texas A&M University Press, 2006), 90.

⁴⁹ Carrigan, *The Making of a Lynching Culture*, 2.

⁵⁰ Bernstein, *The First Waco Horror*, 87-90.

hammer. Investigators later found the hammer, covered in blood, where Washington said he had hidden it. News of the arrest and confession traveled quickly, and law enforcement knew that a lynch mob was in the process of forming. To prevent mob “justice,” they quickly transported Washington to Dallas to stay until the trial, but this did little to quell the rumblings of the assembling lynch mob.⁵¹ Authorities, sensing the inevitable, quickly set a trial date in Waco for May 15, and conviction came easily. Prosecutors used the bloody hammer and Washington’s confession as the centerpiece of their case. For its part, the defense did nothing on Washington’s behalf in court; defenders simply asked their client if he had anything to say for himself to the jury. It took four minutes for the jury to arrive at its verdict of guilty. Washington was sentenced to death, but his legal execution would never come. As the trial unfolded in the McLennan County Courthouse, a mob had formed inside. Before officials could remove Washington, a man reportedly shouted, “Get the nigger!” The crowd inside the courtroom seized Washington and forcibly removed him from the building.⁵²

An estimated crowd of 15,000 people had gathered to watch the lynching, dwarfing even Smith’s execution. The mob first took Washington to the bridge crossing the Brazos River, where they beat and stabbed him. When they heard that a crowd had formed and a fire had been started in front of city hall, they dragged Washington to the scene. In front of city hall, the enormous crowd threw bricks and shovels at him, after which they cut one of his ears off and castrated him. When a severely bloodied Washington attempted to escape, they attached him to a chain and threw it over a tree,

⁵¹ Bernstein, *The First Waco Horror*, 92-93.

⁵² Carrigan, *The Making of a Lynching Culture*, 1.

lifting him off of the ground. In the process, his fingers became severed. The mob then slowly lowered him into the fire, raising him up only to let the spectators see his charred body, which produced jubilant cheers. The lynching ended when the mob tied the body to a horse and paraded it through the city streets. Eventually, Washington's body was hanged for public display in front of a blacksmith's shop.⁵³ In terms of sadism, the Washington lynching was unparalleled.

The Washington lynching breathed life into the anti-lynching movement, becoming—with the help of the national media—a stark symbol of white Texas brutality.⁵⁴ The NAACP immediately sent field agent Elisabeth Freeman to Waco to investigate the incident. While she compiled a list of lynch mob participant names, no formal investigation by law enforcement into the mob ensued. However, she did publish her findings in a special July supplement to *The Crisis* titled “The Waco Horror.” Based on the reception of the report, the NAACP decided to use the Washington lynching as the centerpiece of the 1916 effort to pass a federal anti-lynching bill. NAACP board of directors chair Joel E. Springarn proclaimed, “The publicity we gave Waco has roused a fighting spirit we must not let die.” The incident did indeed inspire the fighting spirit of activists in Texas and nationally.⁵⁵

The Washington lynching is significant in that it represented the moment at which, in the words of historian Amy Louise Wood, “the spectacle of lynching began to

⁵³ Carrigan, *The Making of a Lynching Culture*, 1-2.

⁵⁴ For more on anti-lynching activism, see Jacquelyn Dowd Hall, *Revolt Against Chivalry: Jessie Daniel Ames and the Women's Campaign Against Lynching* (New York: Columbia University Press, 1979).

⁵⁵ Carrigan, *The Making of a Lynching Culture*, 191.

sow the seeds of its own collapse.”⁵⁶ In 1916, Waco was widely regarded as a progressive New South city, a booming railroad town, as well as a religious and educational center. Despite Wacoan attempts at justifying the lynching, the national media coverage of the city as a center of brutality and racism embarrassed—and, more importantly, threatened the prosperity of—Wacoans. Immediately after Freeman arrived to investigate the lynching, Waco residents began the cover-up. The former mayor of the city, thinking Freeman was a journalist, asked her to “fix it up as well as you can for Waco, and make them understand that the better thinking men and women were not in it.” Many city leaders indicated to Freeman that they privately opposed the lynching. Despite Freeman’s finding that city elites were in full cooperation with the lynch mob that took Washington’s life, community leaders’ reactions after the lynching showed that the era of universal support for lynching was drawing to a close. Local pastors emphasized that the incident represented the “sins of the few,” while Baylor University faculty condemned the lynching because “the incident will evoke from the outside world reproaches unmerited by the majority of the people of our fair city and county.” The Washington lynching, which drew the unmuted horror of the nation and thoroughly embarrassed Waco city leaders, represented a turning point in the history of lynching and the beginning of the end of the practice as public spectacle.⁵⁷

⁵⁶ Wood, *Lynching and Spectacle*, 179.

⁵⁷ Wood, *Lynching and Spectacle*, 180-181.

1916-1960

After the Jesse Washington killing, lynching in Texas entered a period of erosion in terms of public support. Historian Michael J. Pfeifer argues that lynching came to an end in the South when “the integrative forces of the market led a growing southern white middle class to disavow lynching.”⁵⁸ This was undoubtedly the case in Texas, which in 1916 experienced a public shaming that caused many white elites to abandon their justification for lynch law. Texas newspapers followed (and, to some degree, led) this trend. In 1917, the *Galveston Daily News* lamented that due process had been denied its course after a local lynching: “He [the lynching victim] probably got what he deserved. . . . The public feels the offense was not against him. The offense was against the majesty of the law.” This law-and-order mentality could also be found in a 1919 *San Antonio Express-News* editorial in which the editor stated, “This newspaper’s constant denunciations of lynching and other mob violence has as its only motive the respect and safety due to the American National social and political institutions of law and order.” After a 1928 Texas lynching, which embarrassingly took place immediately before the Democratic National Convention in Houston, the *El Paso Times* proclaimed, “These criminals [the lynch mob participants] in an atrocious defiance of the law flaunt the good name of the city of Houston and the state of Texas to a scoffing world. . . . There is no sympathy for such criminals in Houston or anywhere else in Texas.”⁵⁹

⁵⁸ Michael J. Pfeifer, *Rough Justice: Lynching and American Society, 1874-1947* (Urbana: University of Illinois Press, 2004), 123.

⁵⁹ Chapman, “Lynching in Texas,” 59-61.

However, lynching did not end with the 1916 Washington execution, nor did racial violence subside. Indeed, racial conflict in the Lone Star State continued unabated in the form of Jim Crow and race riots. In 1917, a confrontation between Houston police and African American military police at Camp Logan resulted in a full-scale riot that killed seventeen people. Nineteen people were executed for participating in the riot.⁶⁰ But the stage of racial violence in the early to mid-twentieth century was set in 1919 during what was dubbed the “Red Summer,” in which multiple race riots broke out nationwide in the midst of racist, nativist, and anti-communist unrest.

In 1919, one of the largest of the nation’s race riots broke out in Longview—a small city in Northeast Texas with a substantial (but minority) black population. As was the case in other racial incidents in the early twentieth century, the roots of the riot can be found in times of economic turmoil, during which racial minorities serve as convenient scapegoats for white angst. Samuel L. Jones and Dr. Calvin P. Davis, black leaders in Longview, pressured local black farmers to circumvent white cotton brokers. With racial tensions already high, some local white men whipped a Longview black man, Lemuel Walters, for making indecent advances toward their unnamed sister; he was later arrested and then lynched by a mob. A *Chicago Defender* article then claimed that the allegedly assaulted white woman had actually been in love with Walters and was distraught over his death. This confluence of events pushed Longview whites over the edge and resulted in an explosion of racial violence in the city.⁶¹

⁶⁰ Wuthnow, *Rough Country*, 187. See C. Calvin Smith, “The Houston Riot of 1917, Revisited,” *Houston Review* 13 (1991): 85-102 for more on the Camp Logan riot.

⁶¹ See Kenneth R. Durham, “The Longview Race Riot of 1919,” *East Texas Historical Journal* 18 (fall, 1980): 13-24.

In searching for the source of the *Chicago Defender* story, Longview whites pinpointed Jones, who was a correspondent for the newspaper. The woman's brothers found Jones and beat him, the news of which inflamed anger in the city. Another mob of white men went to Jones's house, and gunfire was exchanged. A larger white mob invaded the black section of Longview, setting multiple houses—including Jones's and Davis's—on fire. The unrest escalated to such an extent that Governor William P. Hobby ordered Texas Rangers and Texas National Guard units to Longview and the surrounding East Texas area. After the shooting death of Davis's father-in-law, Hobby dispatched more National Guard troops, placed the county under martial law, and carried out a mass gun confiscation in Longview. Although dozens of white and black citizens were arrested for the rioting, nobody was ever tried. The Longview riot set the stage for similar episodes of racial unrest that unfolded later in the following decades, during which racial and economic tensions were often intertwined.⁶²

In the midst of these racial tensions, civil rights organizing was difficult in Texas. Nevertheless, the NAACP attracted over 7,000 members in the Lone Star State between 1915 and 1918 and started thirty-one offices in the state.⁶³ Just after the Longview riot, NAACP national secretary John Shillady traveled to Texas to investigate and was beaten.

⁶² See Wuthnow, *Rough Country*; William Tuttle, "Violence in a 'Heathen' Land: The Longview Race Riot of 1919," *Phylon* 33 (winter, 1972): 324-33; Greg Ohler, "Background Causes of the Longview Race Riot of July 10, 1919," *Journal of the American Studies Association of Texas* 12 (1981): 46-54; and Durham, "The Longview Race Riot of 1919," 13-24 for more on the Longview race riot.

⁶³ Wuthnow, *Rough Country*, 187. For more on the NAACP in Texas, see Michael L. Gillette, "The Rise of the NAACP in Texas," *Southwestern Historical Quarterly* 81 (Apr., 1978): 393-416 and Neil Sapper, "The Fall of the NAACP in Texas," *Houston Review* 7 (summer, 1985): 53-68.

Following the incident, the NAACP found it difficult to stay open in Texas, and even the state government played a role in suppressing the group by denying charter requests.

Other civil rights groups existed in these conditions as well, including the Texas Commission on Inter-Racial Cooperation, led by anti-lynching activist Jessie Daniel Ames.⁶⁴

As the twentieth century progressed, African American activists in Texas began to reflect the demands of the broader Civil Rights Movement by focusing on ending the state's all-white primary, gaining equal education, and ending segregation and Jim Crow laws.⁶⁵ Racial violence, however, continued—primarily underground, but occasionally bubbling to the surface in the form of rioting. During the Great Depression, racial violence and economic turmoil were often intertwined. In 1930 in Sherman—which had been hit particularly hard by the Great Depression, igniting tensions between white tenant farmers and African Americans in the area—a black farm hand named George Hughes stood accused of raping a local white woman. On his trial date, a mob descended on the courthouse and threw stones at the building. After Hughes pled guilty, the mob entered the courtroom and authorities took Hughes into custody. The mob continued its assault on

⁶⁴ Wuthnow, *Rough Country*, 186-187. For more on Jessie Daniel Ames and the anti-lynching campaign, see Dowd Hall, *Revolt Against Chivalry*.

⁶⁵ Robert A. Calvert, "The Civil Rights Movement in Texas," in *Texas Heritage*, ed. Ben Procter and Archie P. McDonald (St. Louis: Forum, 1980), 226. For more on the Civil Rights Movement as it unfolded in Texas, see David A. Williams, ed., *Bricks Without Straw: A Comprehensive History of African Americans in Texas* (Austin, Tex.: Eakin Press, 1997); William S. Clayton, *Freedom Is Not Enough: The War on Poverty and the Civil Rights Movement in Texas* (Austin: University of Texas Press, 2010); and Brian D. Behnken, *Fighting Their Own Battles: Mexican Americans, African Americans, and the Struggle for Civil Rights in Texas* (Chapel Hill: University of North Carolina Press, 2011).

the courthouse in an attempt to apprehend Hughes, resulting in an armed conflict between the mob and the Texas National Guard.⁶⁶

Racial violence continued into the mid-twentieth century. In 1943 in Beaumont—an East Texas shipbuilding center—racial tensions resulted in violence. World War II demands led to a sudden increase in African American workers in Beaumont shipyards. The job competition that resulted increased tension between white and black workers, and when a local white woman claimed that an African American worker raped her, a white mob was activated. Approximately 4,000 people participated in the rioting, breaking into stores and private homes and destroying property in African American sections of Beaumont—assaulting black citizens along the way. The rioting was only quelled through martial law and the use of the Texas National Guard.⁶⁷ The violent riots of the 1930s and 1940s underscored the racial tensions that still existed after the decline of spectacle lynching. Following the 1940s, while racial violence did by no means disappear, such public displays of violence became less common. However, high-profile incidents did occur. For example, in 1960, four whites attacked and whipped African American Felton Turner in Houston, cutting “KKK” into his chest and stomach. Houston-based Ku Klux Klan chapters remained active and, as late as 1971, published lists of individuals who were deemed to be “niggerlovers.”⁶⁸

⁶⁶ Edward Hake Phillips, “The Sherman Courthouse Riot of 1930,” *East Texas Historical Journal* 25 (fall, 1987): 12-19.

⁶⁷ See James S. Olson and Sharon Phair, “The Anatomy of a Race Riot: Beaumont, Texas, 1943,” *Texana* II (Jan., 1973): 64-72.

⁶⁸ Barr, *Black Texans*, 189.

Lynching, while dead as public spectacle, did continue after the 1916 Washington execution; however, it existed “underground” rather than in front of large crowds. A 1940 NAACP report titled “Lynching Goes Underground” noted, “Countless Negroes are lynched yearly, but their disappearance is shrouded in mystery, for they are dispatched quietly and without general knowledge. . . . This is the new and dangerous method, devised by those who seek to rule by terror and intimidation.” This change in the practice of lynching was the result of the work of the NAACP and anti-lynching activists such as Ida B. Wells and Jessie Daniel Ames. This anti-lynching campaign utilized the Washington lynching and other incidents to paint a picture of a brutal and sadistic southern institution, beginning in the court of public opinion and ending in Congress. The NAACP set its sights on a federal anti-lynching bill, which southern lawmakers—including Senator Tom Connally (D) of Texas—blocked, arguing that the number of lynchings was statistically small. The bill failed, and lynching continued to be an issue well into the twentieth century.⁶⁹

In some ways, however, the focal point of racial violence shifted between the 1940s and 1960s from vigilantism to relations between police and minorities. In 1958, for example, a jury in East Texas acquitted a police chief of murder based on his claim that the black man he killed had a knife. Other police violence incidents arose in Houston in 1966, when a Houston police officer killed a black man accused of stealing a loaf of bread. In 1971, Texas highway patrolmen claimed self-defense for their attack on a black

⁶⁹ Nancy Beck Young, *Why We Fight: Congress and the Politics of World War II* (Lawrence: University Press of Kansas, 2013), 165-173.

family near Shiner.⁷⁰ In the years following the Civil Rights Movement, police violence became one of the dominant issues on the minds of African American (and Mexican American) activists. Racial violence never disappeared in Texas; it merely shifted in form.

Conclusion

Racial violence runs like a thread throughout Texas history. By the twentieth century, a culture of violence had developed in Texas. This culture had deep roots in the historical memory of the Texas independence movement. The celebration of violence in the founding of the Texas Republic, infused with racial animosity toward Native Americans, Mexicans, and African Americans, led to a deadly scourge of lynching in the late nineteenth and early twentieth centuries, which gave way to simmering racial tensions that sometimes bubbled over in the mid-twentieth century in the form of riots. While lynching as public spectacle effectively came to an end by the 1920s, the culture of violence that allowed the practice to flourish lived on, and much of the violence continued underground. While lynching is often viewed as a relic of the past, one purpose of this study is to show the continuity between lynching and contemporary hate crime, which can be seen as a form of “underground” lynching. But before the organized hate crime movement of the 1990s, the focus of activists in the Lone Star State with regard to racial violence turned toward police brutality in the 1960s.

⁷⁰ Barr, *Black Texans*, 189-190. For more on racialized police violence in Texas (Houston specifically), see Dwight Watson, *Race and the Houston Police Department, 1930-1990: A Change Did Come* (College Station: Texas A&M University Press, 2005) and Michael P. Roth and Tom Kennedy, *Houston Blue: The Story of the Houston Police Department* (Denton: University of North Texas Press, 2012).

Chapter 2—“Bridges Over Troubled Waters”: Anti-Violence Activism and Police Reform, 1960-1990

On March 16, 1988, the Dallas Gay Alliance (DGA) joined fifty other groups and organizations at Dallas City Hall for a press conference. The purpose of the gathering was to announce the formation of a coalition comprised of white Dallasites who shared concerns with African and Mexican Americans about police violence. Specifically, these activists supported a recently passed civilian review board with subpoena power to investigate allegations of Dallas Police Department (DPD) misconduct. The controversial review board was the subject of a ballot repeal effort organized by the Dallas Police Association (DPA). The spokesperson for the newly formed “white coalition” read a prepared statement declaring solidarity with black and Hispanic communities in support of a fairer and more equitable DPD, in addition to opposition to any attempt to weaken or eliminate the police reform.¹ This press conference demonstrated that, by the late 1980s, a diverse coalition of minorities—primarily gays and lesbians, African Americans, and Mexican Americans—recognized the shared burden of police violence that they believed plagued their communities. Dallas was not unique in this regard; anti-violence activists in Texas targeted police brutality from the 1960s through the 1980s as one of the primary threats to minorities’ safety. Before hate crime dominated the headlines, high-profile incidents of police brutality unfolded in urban Texas newspapers.

Gays and racial minorities in and out of Dallas remained on largely separate tracks of anti-violence activism, which by the 1960s had coalesced around reining in police brutality. The 1988 press conference, however, signified a united front of Dallas

¹ “Keeping Police Reform Intact,” *This Week in Texas*, March 25-31, 1988, 15.

minorities in favor of police reform. By the end of the 1980s, following a series of high-profile police brutality incidents, the gay, African American, and Mexican American communities of Dallas were united behind efforts to reform the DPD—which they saw as the primary perpetrator of violence against minorities in the city. Even after police reform passed, distrust continued to simmer between the police and minorities in Dallas, and the existence of a strong civilian review board long advocated by activists did not bring about any kind of substantial improvement in trust. But in Dallas and elsewhere in Texas, as minority attention turned to the perceived hate crime “epidemic” of the 1990s, the police became a tenuous partner in combating hate crime. Police reform efforts such as those undertaken in Dallas were crucial to the building of bridges between minority communities and the police. As the hate crime “epidemic” began to dominate media coverage in the 1990s, anti-violence activism in the Lone Star State morphed from a campaign against police abuse into a fight against hate crime perpetrated by civilians. Police violence did not end in the 1980s, but the perceived urgency of hate crime forced activists to turn to the criminal justice system for protection; reform secured in the 1980s in the Lone Star State’s major urban centers made this shift in focus possible.

This chapter argues that, prior to the hate crime “epidemic” of the 1990s, anti-violence activism in Texas centered on securing police reform in the state’s largest urban areas. This police reform, in turn, paved the way for the (albeit tepid) cooperation between minority communities and law enforcement that became necessary in the 1990s. Violent incidents involving the police in the 1970s and early 1980s fueled minority anger toward urban police departments, and activists fought to tame what they saw as a police force that could brutalize minorities without consequence. Dallas and Houston, in

particular, saw intense efforts in both gay and racial minority communities to reform the police, which followed long histories of police abuse in each city. This chapter focuses specifically on Dallas and Houston both because of the depth of the efforts to reform law enforcement in these cities and because they were perceived in the 1970s and 1980s as hotbeds of police misconduct. In 1981, for example, reports broke that Dallas had the most violent police force per capita in the United States.² Historian Dwight D. Watson uncovers the uniquely deep level of discord between racial minorities and the Houston Police Department (HPD).³ Police violence certainly existed elsewhere in Texas, but police reform efforts were largely centered in the state's two largest urban areas, which saw a few particularly egregious examples of police misconduct that reverberated across the state. These two cities also saw large, politically organized gay communities that proved crucial to the success of these reform efforts. Finally, the police brutality movements in Dallas and Houston are success stories in that activists were able to force substantive reforms; as such, the activist efforts in these particular cities deserve special consideration.

Throughout the 1970s, gays and lesbians in Dallas and Houston found themselves the targets of the DPD and HPD in seemingly indiscriminate raids, which sometimes ended in mass arrests. In Houston, this harassment culminated with the shooting of gay activist Fred Paez by an off-duty HPD officer. The shooting and the officer's subsequent acquittal only confirmed in the eyes of many gay citizens that anti-gay violence was officially sanctioned by the city. The 1970s also saw the high-profile killings of 12-year-

² "Dallas Police Kill the Most," *This Week in Texas*, February 6-12, 1981, 10-11.

³ See Dwight Watson, *Race and the Houston Police Department, 1930-1990: A Change Did Come* (College Station: Texas A&M University Press, 2005).

old Santos Rodriguez in Dallas and Jose Campos Torres in Houston, which ignited Mexican American activism and underscored in the minds of racial minorities that the police could murder without consequence. In the 1980s, in response to these and other incidents, both Dallas and Houston underwent reform in the area of policing. The Dallas City Council created review boards of varying strength in 1980, 1981, and 1988. Beginning in the early 1980s, Houston's first African American police chief, Lee P. Brown, introduced a community-policing model focused on immersing police officers in the communities they served. These reforms were a direct result of anti-violence activism. While not ending police violence or distrust between minorities and the police, the reforms did mark a tepid improvement in relations and a substantive victory for anti-violence activists. By the 1990s, minorities worked more closely with law enforcement to fight the particular threat posed by hate crime. This shift occurred especially in the gay community, which sought protection from the police in the gay neighborhoods of Oak Lawn and Montrose in Dallas and Houston, respectively. Police-centered anti-violence efforts in Texas evolved by the 1990s into activism focused on fighting hate crime; police brutality left the media spotlight, giving way to a wave of hate crime coverage. However, the thrust of this anti-violence activism—to hold murderers accountable in a criminal justice system that seemed deaf to minority concerns—remained the same.

This chapter is not intended to be a comprehensive overview of police violence in Texas, or even in Dallas or Houston. Instead, this chapter examines the precursor to the Texas hate crime movement by focusing on particular flashpoints that fueled minority anger toward the police and that marked Dallas and Houston as centers of police violence. This chapter is divided into three parts. The first and second parts reflect the

mostly separate tracks followed by gay and racial minority communities. The first section discusses the activism that came out of the Santos Rodriguez and Jose Campos Torres killings, in addition to giving background on relations between the police and communities of color in Dallas and Houston. The second examines the widespread police harassment of the Dallas and Houston gay communities, focusing on both bar raids and police brutality. It also discusses the killing of Fred Paez and the gay activism that arose in Houston as a direct result of that shooting. The third part details the concrete reforms that came out of minority activism surrounding these police brutality incidents. There is a growing literature on the relations between police and racial minorities, but this chapter seeks to add gay activism to this discussion in addition to situating the movement for police reform in the larger context of anti-violence activism in Texas.⁴

⁴ For more on police violence in Texas (Houston specifically), see Watson, *Race and the Houston Police Department, 1930-1990*, which focuses on evolving relations between the Houston Police Department and racial minorities (African Americans and Mexican Americans) in the city. For a less critical and more celebratory account of policing in Houston, see Michael P. Roth and Tom Kennedy, *Houston Blue: The Story of the Houston Police Department* (Denton: University of North Texas Press, 2012). For more on policing and responses to police violence broadly, see Roger Lane, *Policing the City: Boston 1822-1885* (Cambridge, Mass.: Harvard University Press, 1967); A.F. Brandstatter and Louis A. Radalet, *Police and Community Relations: A Sourcebook* (Beverly Hills, Calif.: The Glencoe Press, 1968); Robert F. Wintersmith, *Police and the Black Community* (Lexington, Mass.: D.C. Heath and Company, 1974); Samuel Walker, *A Critical History of Police Reform: The Emergence of Professionalism* (Lexington, Mass.: D.C. Heath and Company, 1977); Eric H. Monkkonen, *Police in Urban America, 1860-1920* (Cambridge, Mass.: Cambridge University Press, 1981); William A. Geller and Hans Toch, *Police Violence: Understanding and Controlling Police Abuse of Power* (New Haven, Conn.: Yale University Press, 1996); John L. Burris and Catherine Whitney, *Blue vs. Black: Let's End the Conflict Between Cops and Minorities* (New York: St. Martin's Press, 1999); Kristian Williams, *Our Enemies in Blue: Police and Power in America* (Brooklyn, N.Y.: Soft Skull Press, 2004); and David Alan Sklansky, *Democracy and the Police* (Stanford, Calif.: Stanford University Press, 2008).

African and Mexican American Activism

By the 1960s and 1970s, racial tensions in the Lone Star State continued to simmer in the wake of the Civil Rights Movement. Although de jure segregation had ended, full integration remained elusive. Meanwhile, a majority of white Texans opposed the federal civil rights measures passed in the 1960s. Following the legislative successes of 1964 and 1965, however, the focus of racial tension in Texas shifted to the criminal justice system generally and law enforcement specifically. The DPD and HPD, in particular, were overwhelmingly white and had notorious reputations for brutality. In 1971, Dallas ranked last in ratio of African American police officers to total population at 2 percent; the HPD stood at fewer than 4 percent. Texas courts were widely viewed as hostile to racial minorities, with all-white juries and sentence disparities being common features.⁵ This hostile environment also extended to Mexican Americans—the memory of the Texas Rangers and the long history of state-sanctioned violence against Tejanos shaped Mexican American fear of the police. Mexican Americans remained disproportionately impoverished, segregated in education, and subject to racist violence by Anglos.⁶ This general racial climate faced by African and Mexican Americans in Texas formed the backdrop for the anti-violence activist efforts during this period, which primarily targeted the criminal justice system.⁷

⁵ Alwyn Barr, *Black Texans: A History of African Americans in Texas, 1528-1995* (Norman: University of Oklahoma Press, 1996), 187-190.

⁶ Arnolando De Leon, *Mexican Americans in Texas: A Brief History* (Arlington Heights, Ill.: Harlan Davidson, 1993), 123.

⁷ For more on race relations and civil rights in Texas, see De Leon, *Mexican Americans in Texas*; Barr, *Black Texans*; David A. Williams, *Bricks Without Straw: A Comprehensive History of African Americans in Texas* (Austin, Tex.: Eakin Press, 1997);

In the 1970s, a series of high-profile police brutality incidents in Dallas and Houston provided fuel to a growing distrust between racial minorities and the police. While gays and lesbians in these urban centers faced both similar forms of state-sanctioned violence, these two groups remained on separate tracks, perhaps because of the fundamental difference in the nature of violence faced by each community. Anti-gay police harassment and brutality tended to occur in gay bars and bathhouses, whereas violence against African Americans could occur anywhere. Indeed, as ubiquitous as police harassment against gays and lesbians had become in Dallas and Houston, mainstream media coverage at the time revolved around racial unrest. Dallas saw such racial animosity in the 1970s, sparking a wave of both African and Mexican American activism. This police brutality activism intersected in a major way with the Black Power and Chicano movements of the late 1960s and 1970s as they unfolded in the Lone Star State.⁸

and Robert A. Calvert, "The Civil Rights Movement in Texas," in Ben Procter and Archie P. McDonald, ed., *The Texas Heritage* (Wheeling, Ill.: Harlan Davidson, 2000).⁸ For more on Black Power in general, see Jeffrey O.G. Ogbar, *Black Power: Radical Politics and African American Identity* (Baltimore, Md.: Johns Hopkins University Press, 2005) and Peniel E. Joseph, *Waiting 'Til the Midnight Hour: A Narrative History of Black Power in America* (New York: Henry Holt and Company, 2007). For more on the Chicano movement in general, see Ernesto Chavez, "*Mi Raza Primero!*": *Nationalism, Identity, and Insurgency in the Chicano Movement in Los Angeles, 1966-1978* (Berkeley: University of California Press, 2002); Lorena Oropeza, *Raza Si! Guerra No!: Chicano Protest and Patriotism During the Viet Nam War Era* (Berkeley: University of California Press, 2005); Yolanda Alaniz and Megan Cornish, *Viva La Raza: A History of Chicano Identity and Resistance* (Seattle, Wash.: Red Letter Press, 2008); and Cynthia E. Orozco, *No Mexicans, Women, or Dogs Allowed: The Rise of the Mexican American Civil Rights Movement* (Austin: University of Texas Press, 2009). For more on the Chicano movement as it played out in Texas specifically, see Guadalupe San Miguel, *Brown, Not White: School Integration and the Chicano Movement in Houston* (College Station: Texas A&M University Press, 2005) and David Montejano, *Quixote's Soldiers: A Local History of the Chicano Movement, 1966-1981* (Austin: University of Texas Press, 2010). For more on the intersection between the Black Power and Chicano movements, see Neil

A string of African and Mexican American deaths at the hands of DPD officers rocked Dallas in the early 1970s. On April 20, 1970, DPD Patrolmen Darrell L. Cain and Jeffrey Kirksey shot Michael Morehead, an 18-year-old African American, following a burglary attempt. Morehead later died in surgery. Two young witnesses, including Morehead's 26-year-old brother, came forward to the Southern Christian Leadership Conference (SCLC) charging that the officers shot and killed Morehead as he lay wounded on the ground, pleading for his life. The shooting sparked a protest march on DPD headquarters the following Saturday, led by the SCLC's regional leader, Rev. Peter Johnson. Citing DPD Internal Affairs Division (IAD) findings clearing the officers of wrongdoing, as well as the failure of the Dallas County grand jury to uncover new evidence showing DPD misconduct, DPD Chief Frank Dyson publicly disputed the youths' allegations. Dyson also cited a polygraph test administered to Morehead's brother, which he claimed discredited the brother's statement following the shooting.⁹ The independent Greater Dallas Community Relations Commission (CRC) later issued a report in nearly complete agreement with the IAD findings that the officers were only acting in the line of duty. However, recognizing the anger the shooting had provoked in the African American community, the CRC recommended that the DPD "reexamine and

Foley, *Quest for Equality: The Failed Promise of Black-Brown Solidarity* (Cambridge, Mass.: Harvard University Press, 2010). For more on the intersection between the Black Power and Chicano movements in Texas, see Robert Wuthnow, *Rough Country: How Texas Became America's Most Powerful Bible-Belt State* (Princeton, N.J.: Princeton University Press, 2014).

⁹ James Ewell, "Dyson Disputes Youths' Statements," *Dallas Morning News*, May 27, 1970.

re-evaluate” its policy regarding the use of firearms in African and Mexican American neighborhoods.¹⁰

African American activists demanded that Cain and Kirksey be transferred out of the predominantly black South Dallas neighborhood in which the shooting took place, arguing that their presence “poses a threat to the black community.” Delegates delivered a petition stating this demand to the DPD, which read, “The [African American] community feels that the police used excessive force in apprehending Michael Morehead regardless of whether the police were legally justified in their actions. The incident along with the publicity surrounding it . . . has aroused fear, mistrust, and resentment.” The petition went on to warn that an “eruption” was imminent in the Dallas African American community if the conditions were not met by the DPD.¹¹ In response, residents of the predominantly white Southeast Dallas neighborhood of Pleasant Grove collected signatures on a petition requesting that the two officers be shifted to their neighborhood if DPD chose to transfer them.¹² The petition for the officers to be transferred was successful; the DPD relocated both Cain and Kirksey to other areas.¹³

The Morehead shooting set the stage for a decade of tension between racial minorities and the DPD, which only escalated throughout the 1970s. On October 13, 1972, DPD officers shot 23-year-old James Charles Brown, the second African American

¹⁰ Henry Tatum, “Commission Says Officers Acted in Line of Duty,” *Dallas Morning News*, May 28, 1970.

¹¹ James Ewell, “Police Promise Negroes Answer,” *Dallas Morning News*, June 10, 1970.

¹² “Transfer of Officers Talk Topic,” *Dallas Morning News*, June 11, 1970.

¹³ Robert Finklea, “Officer Suspended, Charged,” *Dallas Morning News*, July 25, 1973.

killed by police action in a two-day period and the ninth killed that year. The Brown shooting brought SCLC leaders and Black Power activists alike together on October 21 in the largest civil rights demonstration in Dallas history. Participants marched from South Dallas to City Hall singing the familiar civil rights song “We Shall Overcome” and raising clenched fists, a symbolic solidarity between old-guard civil rights activism and Black Power. SCLC head Rev. Ralph Abernathy proclaimed on the steps of City Hall, “We’ve got to organize this black community and get out and take political power. Get rid of the Uncle Toms who sell out the black community for a pat of the back. . . . I oppose with all the power within me any type of senseless and useless violence.” Abernathy’s denunciation of “Uncle Toms” referred to general tensions in the black community over how to confront racial discrimination and signaled a brief and temporary moment of unity around the issue of police violence.¹⁴

In response to the spike in police killings, the CRC opened an investigation shortly after the march into the shooting of three African Americans by DPD officers. With the beginning of the investigation, the commission expanded to include three representatives each from the DPD and the SCLC, and CRC chairman Sidney Stahl invited DPA president Preston Parks to attend the hearings as an observer. In response, the DPA publicly advised DPD officers not to testify before or otherwise cooperate with any CRC hearings, claiming that the commission was a forerunner to a civilian review board. Parks argued that the CRC did not have a legal right to conduct the investigation

¹⁴ Robert Wuthnow, *Rough Country: How Texas Became America’s Most Powerful Bible-Belt State* (Princeton, N.J.: Princeton University Press, 2014), 303-304.

and warned Dyson “that morale has gone down considerably [among DPD officers].”¹⁵ In solidarity, University Park (an inner northern suburb of Dallas) Chief of Police Forrest E. Keene wrote to the *Dallas Morning News* supporting the decision of police officers not to participate in CRC proceedings, citing a unanimous adoption of a resolution by the Texas Police Chiefs Association “opposing the creation of a civilian review board or any group in disguise whose purpose could be harassment and the further reduction of effectiveness of law enforcement.”¹⁶

The events of 1972, including the DPD’s noncooperation with the independent CRC investigation, stoked African American concerns that the DPD was “dealing out two kinds of justice.” In December, a local Channel 13 television show illuminated the grievances of many black Dallasites by hosting a panel exploring the possibility of creating a civilian review board to independently investigate allegations of police misconduct. African American state legislator Eddie Bernice Johnson and unsuccessful 1970 mayoral candidate and black activist Albert Lipscomb both criticized the grand jury for not returning indictments in any of the shooting cases—criticisms that Judge Jerome Chamberlain tried to defend against on the program. The show turned into a forum for South Dallasites to air their vehement criticisms of the criminal justice system, from the grand jury’s perceived cover-ups of police misconduct to the selection of jurors, which Johnson claimed involved a credit check performed by the DPD. Local American Civil Liberties Union (ACLU) members furthered the attack on the grand jury process, citing a

¹⁵ James Ewell, “DPA Advising Policemen Not to Testify in Shootings,” *Dallas Morning News*, October 26, 1972.

¹⁶ Forrest E. Keene, “Civilian Review Boards Are Opposed,” *Dallas Morning News*, November 22, 1972.

recent study that claimed grand juries were “an almost incestuous situation.” At the end of the program, viewers voted 208 to 135 against the idea of a civilian review board.¹⁷ However, the Channel 13 show did bring to the surface the deep anger many African Americans in Dallas felt toward the DPD and the broader criminal justice system.

In 1973, the powder keg of race relations in Dallas exploded with a high-profile police killing of a Mexican American child. This shooting both solidified minority distrust of the DPD and brought Mexican American concerns to the fore of the increasingly public police brutality conversation. In the early morning hours of July 24, DPD officers Darrell L. Cain (who had been involved in the Morehead shooting) and Roy R. Arnold arrested 12-year-old Santos Rodriguez and his 13-year-old brother David at their grandparents’ home in Dallas’s Little Mexico neighborhood. A nearby service station had been burglarized; unknown parties had broken a rear window and robbed a vending machine. The Rodriguez brothers—who had juvenile records for shoplifting—were suspects in the crime. After receiving permission from the boys’ grandfather to transport them to the crime scene, Cain and Arnold apprehended the two boys. When the officers arrived at the scene with the brothers, Cain sat in the back seat with David, with Santos sitting in the front seat, both in handcuffs. In an effort to frighten the boys into admitting guilt, Cain pointed his large-caliber pistol at Santos’s head.¹⁸ David later testified in court that Cain pulled the trigger once and the gun clicked. According to

¹⁷ Tom Stephenson, “Blacks Continue Criticism of City Police Department,” *Dallas Morning News*, December 7, 1972.

¹⁸ Finklea, “Officer Suspended, Charged.”

David, he then said, “This time it’s got a bullet in it, so tell [Arnold] the truth.”¹⁹ In court testimony, Cain corroborated that version of events, but he defended himself by claiming that he did not think there was actually a bullet in the gun.²⁰ Regardless of whether or not the shooting was truly an accident, the pistol did fire into Santos’s head when Cain pulled the trigger a second time, killing the boy instantly. Two days after the shooting, crime scene fingerprints proved the innocence of both Rodriguez brothers.²¹

Early media coverage focused on Rodriguez’s troubled home life. The *Dallas Morning News* found significance in the fact that their mother, Bessie Garcia Rodriguez, was serving a five-year sentence in Huntsville State Prison for murder, while his father was estranged and probably living in Mexico. The newspaper quoted Rodriguez’s math teacher: “We kept feeling all along that something terrible was going to happen to those two boys.” The article did highlight the boy’s good qualities, but it focused on his juvenile record and tendency to be “led astray” and lose direction. An unidentified teacher said of Rodriguez, “The trouble was that anybody was able to influence Santos; others could lead him easily.”²² The investigation clearing both Rodriguez boys, which the newspaper reported the day after the “troubled home life” narrative, should have

¹⁹ George Proctor, “Rodriguez Testifies Cain Used Gun for Pressure,” *Dallas Morning News*, November 24, 1973.

²⁰ George Proctor, “Thought Pistol Was Unloaded, Cain Tells Jury,” *Dallas Morning News*, November 11, 1973.

²¹ Robert Finklea, “Fingerprints Don’t Match,” *Dallas Morning News*, July 26, 1973.

²² Jim Lewis, “Santos’ Troubles Blamed on Home Problems,” *Dallas Morning News*, July 25, 1973.

rendered such speculation irrelevant, but Rodriguez’s mother and upbringing came up throughout the case.

Rodriguez’s mother received a three-day reprieve from prison to attend her son’s very public funeral, where “shocked” members of the Dallas Mexican American community gathered to mourn in a high-profile display of solidarity.²³ In the meantime, the DPD quickly suspended Cain and pursued a charge of “murder with malice.” Dyson stated without reservation, “We feel that the action on [Cain’s] part was completely uncalled for . . . unjustified . . . and illegal.” Cain was arraigned in Municipal Court and released after posting the bond of \$5,000—an amount that the *Dallas Morning News* called “relatively low.”²⁴ Indeed, Justice of the Peace Tom Naylor deemed the bond set by the Municipal Court to be insufficient and increased it to \$50,000, which put Cain back in jail after failing to post the new bond.²⁵ The low initial bond provoked such an outrage inside and outside of the Mexican American community that the Dallas City Council Municipal Courts Committee issued a recommendation just days later that the bond-setting powers of municipal court judges be temporarily removed in felony cases involving city employees.²⁶

From the beginning of the case, a cooperation existed between the DPD and prosecutors—who could not defend Cain’s actions—and the Mexican American

²³ Lynna Williams, “Friends, Family Prepare for Burial,” *Dallas Morning News*, July 26, 1973.

²⁴ Finklea, “Officer Suspended, Charged.”

²⁵ George Proctor and Don Mason, “Cain Put Behind Bars,” July 27, 1973.

²⁶ Henry Tatum, “Panel Dislikes Bond-Setting Powers,” *Dallas Morning News*, July 27, 1973.

community that did not exist in previous race-related cases. Prior to pursuing murder charges, District Attorney Henry Wade reportedly met with Rodriguez's grandfather and Rev. Rudy Sanchez, Rodriguez's preacher and Dallas Mexican American leader.²⁷ After DPD investigation results were released, Wade formally took the murder charges to a Dallas County grand jury, which took only one day before it handed down an indictment. Notably, it was the first indictment of a police officer for a shooting that occurred in the line of duty in Dallas history. In the meantime, in a display of black-brown solidarity on the issue of police violence in Dallas, representatives of the SCLC and Brown Berets held a joint meeting demanding that Arnold also be charged with murder and that a civilian representative be included in the DPD IAD.²⁸ Arnold was never charged, but he was later fired from the DPD for failure to file a full report on the Rodriguez shooting.²⁹

Anger in the Dallas Mexican American community ran high in the days and weeks following the shooting. The residents of Little Mexico even appeared to be boycotting the service station at which Rodriguez had been shot. This boycott confused the owner, who claimed to have known and liked Rodriguez: "I don't understand why they're boycotting me. I used to live right back there on Pearl Street. People can come in here and get cigarettes for 45 cents and cold drinks for a dime. Nobody has said they're boycotting me, but I can tell the way things are going." At a restaurant four blocks from the station, a waitress reported that tensions were high enough that a drunk Mexican

²⁷ George Proctor, "Wade Awaits Police Data on Cain in Death," *Dallas Morning News*, July 27, 1973.

²⁸ George Proctor, "Policeman Indicted," *Dallas Morning News*, July 28, 1973.

²⁹ James Ewell, "Police Disclose Arnold Removal," *Dallas Morning News*, August 4, 1973.

American man spat on two white customers. Following the funeral, which nearly emptied the streets of Little Mexico, Chicano leader Rene Martinez and black activist Al Lipscomb publicly condemned Dyson for not attending the funeral; Dyson responded that Rev. Sanchez had requested that police not attend. The anger—both rational and irrational—extended beyond the confines of Dallas communities of color. The *Dallas Morning News* reported that many DPD officers were furious with Cain, and one unidentified officer lamented that the shooting reflected poorly on the entire department and would make it more difficult for police to perform their regular duties.³⁰ For his part, after an hour-long meeting with Mexican American leaders, Dyson publicly acknowledged, “Dual standards do exist [in Dallas law enforcement]”. He further promised “to do whatever is possible to eliminate” the dual standards within minority communities.³¹

On Saturday, July 28, minority anger over the Rodriguez shooting finally boiled over in downtown Dallas. A crowd of 1,000 people, both Mexican and African American, held a march on City Hall in Rodriguez’s memory. Both organizers and the DPD were optimistic about keeping the march peaceful, especially after a meeting between Mexican American leaders and Dyson held early that morning. However, the peaceful march quickly turned into a riot. The *Dallas Morning News* reported that participants assaulted police officers while breaking and looting display windows in downtown stores. At City Hall, demonstrators reportedly threw debris and bottles at

³⁰ Tom Stephenson, “Clouds Blacker Since Shooting,” *Dallas Morning News*, July 29, 1973.

³¹ Henry Tatum, “Dyson Hits Dual Standard,” *Dallas Morning News*, July 29, 1973.

officers, provoking riot squad action.³² In the midst of the chaos, City Councilman Pedro Acuirre attempted to calm the crowd with a loudspeaker, but an African American woman took the microphone and exclaimed to the crowd that the DPD “shot my baby boy. They got my old man in the jailhouse . . . I think they’re gonna kill him, too.” She was arrested an hour later for throwing a can at a Neiman-Marcus display window.³³ Five DPD officers were injured in the disturbance, and 48 businesses reported glass breakage. In the end, officers arrested 38 participants—23 Mexican Americans and 13 African Americans—and charged many of them with inciting to riot, simple and aggravated assault, possession of a bomb, resisting arrest, carrying a prohibited weapon, and arson. In the wake of the riot, thousands of curious Dallasites drove through downtown to gaze at the damage, a peculiar form of “tourism” that congested the streets.³⁴ This downtown traffic turned the riot into a kind of public spectacle, which simultaneously disturbed and enthralled white Dallasites. City officials, including City Manager George Schrader, lamented the downtown rioting. However, he did express optimism that, despite the violence, there was “a very good exchange of information” between city government and the Mexican American community.³⁵

As the criminal justice system processed the Cain case, the Dallas City Council also responded to the Rodriguez shooting. On July 30, Mexican American community representatives were invited to speak before the City Council on their concerns regarding

³² Charlie Bates, “Downtown Area Guarded,” *Dallas Morning News*, July 30, 1973.

³³ Mitch Lobrovich, “Police Taunted by Crowd,” *Dallas Morning News*, July 29, 1973.

³⁴ Bates, “Downtown Area Guarded.”

³⁵ “Schrader Expresses Dismay,” *Dallas Morning News*, July 29, 1973.

police treatment.³⁶ Following the testimony, the City Council voted unanimously to conduct a formal inquiry into the “flagrant violation” of Rodriguez’s constitutional rights, while also empowering the City Council Public Safety Committee to ensure the full investigation of all future alleged racial bias incidents involving the DPD. Mayor Wes Wise, who was out of town during the weekend tumult, expressed an optimism that relations between minorities and the police could be fully repaired: “When I was a reporter, I can recall covering events at Pike’s Park sponsored by the Dallas Police Association for the young Mexican-American children. It’s my hope that feeling can some day be restored.”³⁷ Responding to criticism that the City Council was making itself a “civilian review” board by investigating dual standards in law enforcement, Wise backed the council’s actions: “I don’t think this should be looked at as making our public safety committee a review board. But the City Council has the power to review all phases of city government including the police department.”³⁸ In response to demands by the newly formed Pike’s Park Committee—created in response to the Rodriguez shooting and headed by Rev. Sanchez—Dyson also unveiled a plan to increase “minority awareness” in the DPD, aimed at training officers to be sensitive to “unique subcultures” in Dallas.³⁹

³⁶ Doug Domeier, “Ethnic Group to Address City Council,” *Dallas Morning News*, July 30, 1973.

³⁷ Henry Tatum, “Council to Study Death of Santos,” *Dallas Morning News*, July 31, 1973.

³⁸ Henry Tatum, “Wise Denies Review Board Role,” *Dallas Morning News*, August 1, 1973.

³⁹ Henry Tatum, “Minority Awareness Plan Aired,” *Dallas Morning News*, September 5, 1973.

Cain's trial, which presiding Judge Ed Gossett moved to Austin because of the publicity in Dallas, began on November 12.⁴⁰ The chosen jury contained no Mexican or African Americans. The threat of demonstrations at the courthouse was high, prompting Travis County Sheriff Raymond Frank to station 15 to 20 deputies around the courtroom. In the end, only between two and seven demonstrators affiliated with the Austin chapter of the Brown Berets actually protested, carrying signs with slogans such as "Cain is a murderer. Minorities need protection too!" Those demonstrating feared that Cain would be found guilty of a lesser charge, such as "murder without malice" or "accidental homicide."⁴¹ It only took until November 15 for the jury to find Cain guilty of murder, pushing the decision of whether or not to find malice to the punishment deliberations.⁴² The jury went on to find Cain guilty of the higher "murder with malice" charge, but jurors opted for the low end of the sentencing range, handing down a five-year prison sentence. The sentence immediately sparked widespread outrage in the Dallas Mexican American community, which saw five years as "lenient." Trinidad Garza, a representative of the Mexican-American Coalition Council, called the sentence "another example of what has existed for many years and what the Dallas City Council termed 'dual justice.'" Calling for city government to take on the "dual standards" of law enforcement in the DPD, Garza continued: "It must be obvious to everyone aware of this

⁴⁰ "Trial of Cain Ready to Start," *Dallas Morning News*, November 11, 1973.

⁴¹ George Proctor, "Jury Seated in Cain Trial," *Dallas Morning News*, November 13, 1973.

⁴² George Proctor, "Jury Finds Cain Guilty of Murder," *Dallas Morning News*, November 16, 1973.

situation that a change must come about if our children are to continue believing that ours is a country of laws and that justice prevails if we uphold and respect those laws.”⁴³

Appeals in the case dragged on throughout the 1970s, and activists called for the Department of Justice (DOJ) to file federal civil rights charges against Cain. The case finally came to a formal close in 1978 when President Jimmy Carter—whose comments about the “particularly disturbing” nature of the shooting initially sparked hopes that a federal case was imminent—sided with the DOJ’s ultimate decision not to intervene.⁴⁴ However, the fallout from the Cain trial spurred calls from activists and supportive city council members in 1974 to establish an independent “appeals board” in Dallas. This proposed appeals board was a kind of middle ground between the status quo and a full civilian review board with limited authority to probe citizen allegations of police misconduct. City Councilman Charles Terrell, who served as the head of the CRC three years prior, championed the idea in the City Council while insisting that he was opposed to a full civilian review board.⁴⁵ The proposed appeals board did not materialize in the 1970s, but activists and local lawmakers laid the groundwork for police reform that would eventually pass in the 1980s.

The 1970s were also a flashpoint for Houston, which saw another high-profile police killing of a Mexican American. Much like Dallas, Houston suffered from simmering racial tensions during this period. In the late 1960s, African Americans raised

⁴³ Henry Tatum, “Council Hears Warning,” *Dallas Morning News*, November 20, 1973.

⁴⁴ Barbara Strong and Bonnie Bradshaw, “President ‘Closes’ Rodriguez Issue,” *Dallas Morning News*, July 21, 1978.

⁴⁵ Henry Tatum, “Appeals Board Urged for Citizen Complaints,” *Dallas Morning News*, March 12, 1974.

concerns about deteriorating relations between police officers and neighborhoods of color. In 1966, Mayor Louie Welch responded to growing criticisms of the HPD by meeting with African American leaders, after which the attending Rev. D. Leon Everett II, head of the Metropolitan Council of the NAACP, expressed optimism that city leaders were starting to understand that “there could be another [Los Angeles] Watts [Riot]” in Houston.⁴⁶

Any optimism for improved relations was stamped out in 1967, when Black Power activists at the historically black Texas Southern University (TSU) in the predominantly African American Third Ward and HPD officers violently clashed. What the HPD came to term the “TSU Riot” began with a youth demonstration protesting the perceived rigidity and authoritarian nature of the TSU administration, which was headed by President J.A. Pierce. Pierce was a forceful leader of an older African American generation who viewed protest activity at TSU as being harmful to white-black relations in the city. For example, the TSU administration refused to formally recognize a campus Friends of SNCC chapter. The TSU Friends of SNCC, which met publicly despite the lack of formal recognition, organized a mass meeting in March near the campus to protest “Police Brutality Throughout the State of Texas.” The demonstration was sparked by reports that state highway patrol officers had beaten four gospel singers, with one trooper allegedly remarking “that he had killed one Nigger and was dying to kill two more Niggers.” The TSU administration responded to the scheduled demonstration by barring the group from using university property and then firing its faculty adviser

⁴⁶ Watson, *Race and the Houston Police Department, 1930-1990*, 73-75.

“due to budget reductions.” Student activists responded by boycotting TSU classes and lying in the middle of Wheeler Avenue, blocking traffic.⁴⁷

Confrontations between black youth activists and the TSU administration continued throughout April and May. The HPD, which had been conducting surveillance on the group’s activities, increased its presence in the vicinity of TSU, which only made matters worse. On May 12, SNCC leader Stokeley Carmichael spoke to an angry crowd at TSU. Indeed, in their relatively celebratory history of the HPD, Michael P. Roth and Tom Kennedy contended, “Black leaders from outside generated an atmosphere of racial unrest.”⁴⁸ Watson’s study refutes this argument; he argues that Carmichael and “black leaders from outside” had little to do with the simmering anger on the TSU campus.⁴⁹

On May 16, HPD officers arrested TSU students at two separate protest sites, reportedly getting “rough” with the protesters. Those reports fueled anger at the university, where students stepped up protest activity in response. The HPD sent troops in full riot gear to the campus, and students threw debris and watermelon rinds at the arriving police cars. Police charged toward a dormitory where previously jailed youth protesters were set to speak and reportedly “started shooting before [students] went in.” In the ensuing shots, HPD officer Ronald Kuba was killed and another was wounded; no student was seriously injured. Enraged HPD officers launched an assault on the dormitory, reportedly destroying students’ personal property. F.D. Kirkpatrick, a Friends

⁴⁷ Watson, *Race and the Houston Police Department, 1930-1990*, 77-82.

⁴⁸ Roth and Kennedy, *Houston Blue*, 208.

⁴⁹ Watson, *Race and the Houston Police Department, 1930-1990*, 83.

of SNCC leader, told the *Houston Chronicle* that the HPD “did the right thing, the only thing that they could do,” which was contradicted by multiple eyewitnesses.⁵⁰

The “TSU Riot” collapsed any hopes of easing tensions between police and minorities and, in the end, only heightened hostility. Five TSU students, dubbed the “T.S.U. Five,” were arrested for inciting a riot and charged under a Texas law allowing those who incited a riot to be held responsible for any crimes that took place in the process (such as the death of Kuba). None of the charged TSU Five served prison time, and the only trial to proceed ended in a mistrial in 1968. However, the clash between the HPD and students at TSU underscored in the minds of African Americans that the police were not on their side. At the same time, many Houston whites felt that this HPD conduct was appropriate and necessary to ensure safer streets. The HPD responded to this polarization, as well as its own feeling that all African Americans hated officers, by stepping up enforcement in minority communities such as the Third Ward. Other incidents in the late 1960s, such as the beating of 20-year-old African American Johnny Coward in 1968 and the sentencing of TSU student leader Lee Otis Johnson to 30 years in prison for marijuana possession in 1969, only further deteriorated relations between Houstonians of color and the HPD.⁵¹

These incidents led to the boosted appeal of black nationalism among African Americans, which drew even more heavy-handedness from the HPD. On July 27, 1971, HPD officers killed Peoples Party Number II (Houston’s Black Panther Party) chairman Carl Bernard Hampton in what was dubbed the “Dowling Street shootout.” Targeting

⁵⁰ Watson, *Race and the Houston Police Department, 1930-1990*, 82-85.

⁵¹ Watson, *Race and the Houston Police Department, 1930-1990*, 86-89.

Hampton and other perceived radicals, police fired from the Third Ward's St. John's Baptist Church after late Sunday church services. Aside from Hampton, four others were shot and 52 (mainly onlookers) were arrested. Houston blacks only became more politicized in the wake of these incidents, sending African American Judson Robinson, Jr. to the City Council in 1971. Welch, fearing that he had lost black support, did not seek reelection in 1972, and HPD Chief Herman Short resigned in 1973 after the resulting mayoral election of liberal Fred Hofheinz.⁵²

Distrust between the HPD and racial minorities in Houston continued to deepen in the 1970s, culminating with the high-profile 1977 arrest, beating, and drowning of Mexican American Vietnam veteran Jose Campos Torres. Torres's death brought Hispanic concerns about police brutality to the fore, just as the Rodriguez case had done for the Dallas Mexican American community. Torres became a martyr and symbol of police brutality, and the case led to a statement from Hofheinz that "something is loose in the city that is an illness, that has infected the police." The Houston barrios, like the Third Ward, bore the brunt of a highly aggressive HPD. Anti-Mexican sentiment ran deep in the department. For example, during a murder and robbery rate increase in the 1970s, then-HPD Chief Harry Caldwell pointed the finger at Mexican nationals.⁵³ Mexican American anger toward the oppressiveness of the HPD in their neighborhoods came to a head when Torres met his end in Buffalo Bayou.

⁵² Barr, *Black Texans*, 194; Watson, *Race and the Houston Police Department, 1930-1990*, 88-93.

⁵³ Watson, *Race and the Houston Police Department, 1930-1990*, 110-112.

The Torres case began with a drinking binge. On the night of May 5, 1977, Torres had been drinking at a bar near the Houston ship channel. When he had a drunken fight with the bar manager, he was asked to leave the establishment and somebody called the police. After HPD officers arrived, Torres still refused to leave the bar. It took three officers to overpower and arrest him. Before they placed Torres in the patrol car, HPD officer Joseph James Janish had suggested that they should teach Torres a lesson. Officers Stephen Orlando and Carless Eugene Elliot transported Torres to the police station, but first they stopped in a secluded police “hideout,” where they met officers Janish, Terry Wayne Denson, Louis Kinney, and Glenn Lee Brinkmeyer. The officers then beat Torres. They put him back in the car and made their way to the city jail.⁵⁴ Torres had been beaten to such a degree that the duty sergeant refused to take him as a prisoner until a doctor could perform a check, a procedure established in direct response to allegations of HPD brutality. He ordered the officers to take Torres to Ben Taub Hospital.⁵⁵

The officers, however, did not intend to sit all night at the hospital with Torres. Instead, they drove him to Buffalo Bayou and decided to give him another lesson. In their minds, it was better to deal justice themselves rather than let the criminal justice system punish him with, at best, misdemeanors. When they arrived at the bayou, they released Torres from his handcuffs and whipped him. They then told their prisoner that he was free, as long as he could swim his “wet-backed ass” across Buffalo Bayou. Denson forced Torres, who was still drunk and badly beaten, into the bayou, after which the officers left

⁵⁴ Watson, *Race and the Houston Police Department, 1930-1990*, 112-113.

⁵⁵ “Nation: End of the Rope,” *Time*, April 17, 1978.

the scene. Later that night, Elliot's conscience led him back to the scene, where he looked for Torres but did not find him. The officers involved upheld a code of silence regarding the incident, even as the Torres family called the HPD to report a missing person. Three days later, Torres's body was finally found floating face-up in the bayou. Torres's aunt heard the report and called the morgue, and his body was eventually identified through fingerprint analysis.⁵⁶

After the Harris County medical examiner declared Torres's death to be a homicide, the web of lies spun by the officers involved began to unravel, and community reaction was swift.⁵⁷ For the HPD's part, Chief Pappy Bond fired five of the six officers involved, allowing Elliot to remain on paid leave.⁵⁸ In the meantime, the unfolding case provided enormous political momentum for the Houston Mexican American community. Activists called for the immediate prosecution of the officers, and community leaders called for DOJ intervention. Just as the Rodriguez case accomplished in Dallas, there was a moment of unity between the old and new generations in Houston that brought the League of United Latin American Citizens (LULAC) and Chicano groups together in a call for justice. The outrage in the wake of the case also caused the political downfall of Hofheinz, who waffled between support and denunciation of the HPD, losing police and conservative support; he decided not to run for reelection in 1978. Bond was another casualty of the Torres case, submitting his resignation in November 1977.⁵⁹

⁵⁶ Watson, *Race and the Houston Police Department, 1930-1990*, 114-115.

⁵⁷ Watson, *Race and the Houston Police Department, 1930-1990*, 116.

⁵⁸ Roth and Kennedy, *Houston Blue*, 278.

⁵⁹ Watson, *Race and the Houston Police Department, 1930-1990*, 116-118.

A Houston grand jury indicted Denson and Orlando on murder charges, while Brinkmeyer, Kinney, and Janish were charged with misdemeanors. Elliot escaped prosecution and went back to patrol duty. Because of the publicity surrounding the case, attorneys representing the officers secured the move of the trial from Houston to Huntsville. The trial's move to the conservative home of the Texas Department of Corrections led activists to believe that the process was being rigged in favor of the officers. The trial started in September and ended on October 4, 1977. On October 7, the jury convicted the officers of misdemeanor negligent homicide.⁶⁰ The judge sentenced them to probation and fined them each one dollar. Perceived in Houston's Mexican American community as a grave injustice, the lenient sentence led to a protest of approximately 300 activists in downtown Houston.⁶¹ The sentence also resulted in federal authorities bringing civil rights charges against the officers in 1978. On February 8, a jury found them guilty of two out of the four federal charges: 1) conspiracy to violate Torres's civil rights resulting in his death and 2) the assault of Torres. On March 28, Judge Ross N. Sterling sentenced Denson, Orlando, and Janish to one year in prison for the assault and also handed down a 10-year suspended sentence, probated over five years, for conspiracy to violate Torres's civil rights. Activists saw Sterling's sentence as yet another miscarriage of justice by a system that failed to provide substantive consequences for police misconduct.⁶²

⁶⁰ Mark Seibel, "Mexican Americans Angered," *Dallas Morning News*, October 7, 1977.

⁶¹ Kent Biffle, "300 Protest Drowning of Prisoner," *Dallas Morning News*, October 16, 1977.

⁶² Watson, *Race and the Houston Police Department, 1930-1990*, 118-122.

Tensions between minorities and the HPD remained high in the aftermath of the federal trial, culminating with a violent outburst on May 7, 1978. Approximately 1,500 people, predominantly Mexican Americans, gathered in Houston's Moody Park to celebrate Cinco de Mayo. The celebration was also intended to keep Torres's memory alive and reflect on the light sentences handed down by the courts. HPD surveillance of the gathering sparked a confrontation between officers and angry Chicano youths. The clash began with insults and then became physical. The demonstrators moved into the downtown streets, damaging cars and looting businesses. What became known as the "Moody Park riot" ultimately resulted in several million dollars in damages to the city's business district.⁶³

Following the riot, the DOJ asked that the U.S. Fifth Circuit Court of Appeals review and overturn the suspended sentence, reinstating the full ten-year felony sentence.⁶⁴ In October 1979, the Fifth Circuit did rule that Judge Sterling's light sentencing was in error, but did not find grounds to actually overturn the sentences. The Torres case thus came to a formal end. However, the political momentum resulting from the case in Houston's minority communities continued into the 1980s.⁶⁵ When the high-profile police shooting of gay activist Fred Paez caused Houston's growing gay community to join the fight against HPD brutality, the momentum for police reform was an unstoppable force.

⁶³ "Nation: End of the Rope"; Robinson Block, "Moody Park: From the Riots to the Future for the Northside Community," *Houston History Magazine* Vol. 9 No. 3: 20-24.

⁶⁴ "Torres Case Sentences Challenged," *Dallas Morning News*, November 9, 1978.

⁶⁵ Watson, *Race and the Houston Police Department, 1930-1990*, 123-124.

Gay and Lesbian Activism

Relations between gay Texans and the police were not as widely covered by the mainstream media as racial tension, but gay activists and organizations did fight against police brutality, making the issue a centerpiece of their gay rights agenda. This anti-violence activism, like the struggle against racist police abuse, was centered in the Dallas and Houston urban areas. In Texas, gay sex was a special target of the “sodomy” ban found in Section 21.06 of the Texas Penal Code, adding an extra layer of criminality to the struggle for gay rights and likely fueling tensions between the gay community and the police.⁶⁶ By the mid-1970s, in the context of the national gay liberation movement, activists in the large, well developed, and politically organized gay communities of Houston and Dallas began to assert their right to exist free of police harassment and violence.⁶⁷

In 1976, police raided nearby Galveston’s Kon Tiki bathhouse. The raid resulted in the arrest of 39 gay Galvestonians and Houstonians and the eventual trial of 30 on indecent exposure charges. Gay activists claimed that this was just another in a series of police harassment episodes targeting gay establishments. Houston gay leader Ray Hill called for the gay communities of Houston, Galveston, and Dallas (also a perceived hotbed of anti-gay police harassment) to finally stand up against this wave of police

⁶⁶ See Dale Carpenter, *Flagrant Conduct: The Story of Lawrence v. Texas* (New York: W.W. Norton and Company, 2013) for more on Section 21.06 and the long legal fight for its repeal.

⁶⁷ See David Carter, *Stonewall: The Riots That Sparked the Gay Revolution* (New York: St. Martin’s Press, 2004) and David Eisenbach, *Gay Power: An American Revolution* (New York: Carroll and Graf Publishers, 2006) for more national context on the gay liberation movement.

brutality: “The vast majority of us have been silent, and some gays have even voiced support of these clear abuses of police power. . . . But my concern is not with police homophobia. I always knew it was there. What bothers me is gay apathy.”⁶⁸ Hill also placed the struggle against police harassment in the context of integrationist civil rights activism: “The gay community is not now, and I hope will never be a separatist society. . . . We, as gays, should strive to join mainstream society, not separate from it. We want to have the same rights and opportunities that everyone else enjoys.”⁶⁹ To Hill and other activists, the ability to join “mainstream society” hinged on the struggle for mere existence in Texas urban centers free of the constant burden of police oppression.

Houston and Dallas gay newspaper headlines related to police harassment and brutality were voluminous throughout the 1970s and early 1980s. Police raids of gay establishments were perhaps the most documented of alleged police violence cases. In addition to the Galveston raid, which directly affected gay Houstonians, the end of 1976 saw a raid by HPD vice officers on an after-hours party at Levi’s, a popular Houston gay bar. The raid resulted in 40 arrests for consuming liquor “after hours.” While seeming to admit that liquor laws were indeed violated, the gay publication *This Week in Texas* (*TWT*) wondered “if the raid can be considered completely coincidental.”⁷⁰ The Houston Gay Political Caucus (GPC) published a call for police brutality victims during the

⁶⁸ “Kon Tiki Bath Raid,” *This Week in Texas*, July 17-23, 1976, 9-10; “Ray Hill Speaks Out,” *This Week in Texas*, August 7-13, 1976, 36.

⁶⁹ “Ray Hill Speaks Out,” *This Week in Texas*, August 7-13, 1976, 41.

⁷⁰ “Police Raid After Hours Party,” *This Week in Texas*, December 25-31, 1976, 9.

Galveston raid to come forward with information.⁷¹ On February 25, 1977, HPD vice officers raided six adult bookstores and arrested 10 employees as a part of an anti-pornography campaign.⁷² While the raids targeted pornography in general, Hill placed the action in the context of anti-gay harassment by the HPD and “red neck lunatic homophobes.”⁷³ A GPC progress report in 1976, while optimistic about its efforts to improve relations with the HPD, urged individuals who felt “hassled” by the police to contact the organization to provide “more raw information” on the problem.⁷⁴ Despite the GPC’s optimism, Hill and a coalition of gay business owners concerned about HPD harassment founded the Houston Human Rights League (HHRL) in 1977 “to combat official abuses of power aimed at gay people and gay businesses,” citing bookstore raids and a recent beating of a gay bookstore customer by HPD officers.⁷⁵

In Dallas, a similar coalition of gay business owners and managers formed the Dallas Alliance for Individual Rights (DAIR) in 1976, citing “continuous and unprovoked police harassment of gays in the Dallas area.”⁷⁶ As in Houston, the DPD engaged in a series of bookstore and adult theatre raids in the mid-1970s. *TWT* also reported a “constant vigil” by the DPD in the Oak Lawn area, where officers “randomly

⁷¹ “GPC’s Policy Statement in Response to Raid on Levi’s,” *This Week in Texas*, December 25-31, 1976, 41-42.

⁷² “The Book Store Hassle,” *This Week in Texas*, March 5-11, 1976, 7.

⁷³ Ray Hill, Untitled, *This Week in Texas*, March 19-25, 1977, 47.

⁷⁴ Mort Schwab, Untitled, *This Week in Texas*, August 28-September 3, 1976, 25, 38.

⁷⁵ “Human Rights League Formed,” *This Week in Texas*, May 28-June 3, 1977, 7.

⁷⁶ “DAIR to Be Seen & Heard!,” *This Week in Texas*, November 13-19, 1976, 6.

[shook] down lone males,” in addition to entering gay bars and “hassl[ing] customers.” DAIR staged a public rally against police brutality on November 8, 1976, which drew 450 people and featured Metropolitan Community Church founder Rev. Troy Perry and an ACLU attorney as speakers. Both *TWT* and the Dallas Gay Political Caucus urged “gay Texans in Dallas and throughout the state to join forces to end discrimination and police oppression.”⁷⁷ Although police departments were using laws that were actually on the books to carry out these raids, their actions were widely perceived by the gay community as an overreach and an expression of anti-gay hostility. Officers were also often accused of using more force than necessary in carrying out raids.

This focus by gay activists on ending perceived police harassment did not completely exclude more general forms of violence against the gay communities of Oak Lawn and Montrose. In Houston, the Montrose Patrol existed as an unarmed, nonviolent group “able to use as much force as necessary to stop an assailant from assaulting someone” in Montrose. While the patrol’s stated purpose was to act as the “eyes and ears” of the HPD, “who have cooperated with us completely in this matter,” its existence also underscored the deep distrust that existed between the HPD and the gay community.⁷⁸ Indeed, in Hill’s eyes, reported increases in violence against gays in Montrose and anti-gay HPD attitudes were intertwined; he argued, “Since the police are contributing to the problem, we can anticipate that they are not going to be much help with the solution.”⁷⁹ While anti-gay violence was a problem, activists eyed police abuse

⁷⁷ “DAIR to Be Seen & Heard!,” *This Week in Texas*, November 13-19, 1976, 7.

⁷⁸ Mark Gartner, Untitled, *This Week in Texas*, August 19-25, 1978, 21.

⁷⁹ Ray Hill, Untitled, *This Week in Texas*, November 6-12, 1976, 22.

as the fundamental civil rights issue of the 1970s. By 1980, similar efforts to establish a patrol were underway in Oak Lawn by the Dallas Gay Political Caucus.⁸⁰

In the late 1970s, gay activism against police brutality intensified. This was especially true in Houston, where the DOJ Civil Rights Commission had opened an investigation in 1979 in response to civil rights abuse allegations by racial minorities following the Torres case and other incidents. The GPC announced in February 1979 that it was going to become involved in the DOJ hearings by testifying about anti-gay police harassment allegations. The organization launched “Operation: Documentation” in order to gather information about specific police harassment and brutality incidents in Houston’s gay community.⁸¹ In April, gay leaders organized a rally in front of Houston City Hall to protest “numerous incidents of harassment and abuse” carried out by the HPD.⁸² The rally became more intersectional, drawing over 1,000 people from various Houston minority communities concerned about police violence, as well as representatives from the Hispanic Coalition and Democratic U.S. Representative Mickey Leland’s office.⁸³ In June, news that GPC president Steve Shifflet had been subpoenaed to testify before a DOJ hearing dovetailed with the findings of Operation: Documentation, which uncovered over 100 cases of reported verbal and physical

⁸⁰ Blue Carter, “Yolk Not Funny,” *This Week in Texas*, May 23-29, 1980, 19.

⁸¹ “Gay Political Caucus Operation: Documentation,” *This Week in Texas*, February 17-23, 1979, 7, 54.

⁸² “A Spring Rally,” *This Week in Texas*, April 6-12, 1979, 7.

⁸³ “This Week,” *This Week in Texas*, April 13-19, 1979, 7.

brutality, murder cover-ups, and prejudiced testimony by the HPD.⁸⁴ Shortly after the police abuse rally in Houston, Operation: Documentation moved to Dallas through the efforts of DAIR, with the purpose of sending a report on DPD police harassment to the DOJ Civil Rights Commission and Congress.⁸⁵

In 1980, relations between police and the gay community reached a nadir, centering on a series of violent incidents in Houston. On June 20, immediately before the city's Gay Pride Week celebrations, the HPD carried out a major raid on Mary's, a popular gay bar. HPD officers arrested 61 people in the raid, with reports that "the vice [officers] were shoving people against the wall" and "select[ing] at random all those people who looked different, those without shirts or in leather." Highlighting gay impatience with HPD harassment, one of those arrested said, "Next time, it'll be a Stonewall."⁸⁶ While there was no "Stonewall" moment following a police raid in Houston, the Mary's raid provided an ominous backdrop for the Houston gay community's Pride celebration. It also foreshadowed the complete collapse of trust between the gay community and the police.

The flashpoint in the troubled relations between gay Houstonians and the HPD came just eight days after the Mary's raid, when off-duty police officer K.M. McCoy shot and killed GPC secretary, HHRL co-founder, and self-taught police procedure expert Fred Paez. Many details of the case remain unknown, including how the shooting

⁸⁴ "Shiflett Subpoenaed," *This Week in Texas*, June 8-14, 1979, 7; "Operation Documentation," *This Week in Texas*, June 15-21, 1979, 7.

⁸⁵ "Operation Documentation Comes to Dallas," *This Week in Texas*, May 18-24, 1979, 7.

⁸⁶ "61 Arrested at Mary's," *This Week in Texas*, June 27-July 3, 1980, 9.

occurred, why a gun appeared in the first place, and the possible motive. Regardless of the circumstances, the Houston gay community saw Paez's killing as the ultimate manifestation of anti-gay HPD abuse. Both mainstream and gay news sources reported that Paez died of a gunshot wound in a warehouse parking lot during a "struggle" resulting from an attempt to arrest Paez for "public lewdness." The official press release by the HPD the morning after the shooting reported that Paez "engaged the Officers [McCoy and S.A. Cain] in conversation," suggested that the officers follow him to the side of the building, and then "touched [McCoy] between his legs." According to the official HPD statement, after McCoy attempted to arrest him, Paez "reached back [over his head] and grabbed [McCoy's .45 automatic] gun and after a short struggle the pistol discharged striking the arrested subject in the upper portion of the rear of his head on the left side." Paez died shortly after the shooting. McCoy was immediately removed from the line of duty and given an "inside job," which the HPD described as "standard procedure when an officer's action results in a fatality."⁸⁷

From the outset, gay leaders expressed dissatisfaction with the HPD's official story. The gay community also had allies at the city, state, and federal levels: City Council Member Lance Lalor, who said the "community deserves to have the facts," State Representative Debra Danburg (D), and Rep. Leland. Danburg even joined a formal committee formed by gay leadership, eventually named the Fred Paez Task Force, to investigate the incident. The committee included newly elected GPC president Lee Harrington and Hill, among others. The stated purpose of the task force was to determine

⁸⁷ "GPC Secretary Fred Paez Shot and Killed," *This Week in Texas*, July 4-10, 1980, 11-13.

the accuracy or inaccuracy of the police report. As leaflets distributed at the June 29 Gay Pride Parade put it: “We demand a thorough investigation of this ‘accident.’ If the facts point to the guilt of Officer McCoy, we demand a sentence in accordance with the crime.”⁸⁸ In addition to the work of the Fred Paez Task Force, Charles Bryden of the National Gay Task Force and former GPC president Steve Shifflet indicated that they would demand a complete investigation by the DOJ.⁸⁹ The gay community’s skepticism of the police report only escalated after Arthur B. Alphin, the Fred Paez Task Force’s “firearms expert,” stated that the pistol could not have fired accidentally in the way the HPD claimed.⁹⁰ By July 1, the FBI had begun a “preliminary investigation,” in addition to the investigative work being performed by the HPD’s Internal Affairs Division and the District Attorney’s Office.⁹¹ The investigation took a surprising turn when the Fred Paez Task Force determined there was “strong evidence” to suggest McCoy and Cain had both been drinking beer when Paez was shot—evidence including blood-stained fingerprints on discarded beer cans in the area.⁹²

The gay community’s anger culminated with a “March for Justice” from City Hall to the HPD headquarters, which the GPC organized for the night of July 22, 1980. While claiming to protest “a history of injustice to the homosexual community,” the march was

⁸⁸ “Investigation Probes Paez Death,” *This Week in Texas*, July 4-10, 1980, 13-14.

⁸⁹ “Investigation Probes Paez Death,” 13-14.

⁹⁰ Barbara Canetti, “Gun That Killed Paez Couldn’t Have Discharged Accidentally, Expert Says,” *Houston Post*, July 2, 1980.

⁹¹ “FBI begins probe of Paez death,” *Houston Post*, July 1, 1980.

⁹² “Paez Death Investigated,” *This Week in Texas*, July 11-17, 1980, 9-11.

especially geared toward responding to the Paez shooting by demanding justice for his death. An estimated 1,000 people participated in the march and held candles, flags, banners, and signs reading “STOP COP MURDER.”⁹³ While standing in front of the HPD headquarters with lit candles, the crowd sang songs such as “We Are Not Afraid.”⁹⁴ This march came at a price to some gays and lesbians. One gay Houstonian, John Paine, wrote to *TWT* and claimed that he chose to march, only to be fired from his job the next day “because I was seen on TV.”⁹⁵

In October, a grand jury finally indicted McCoy on the charge of criminally negligent homicide, a class “C” misdemeanor. This was a landmark event, since, as Harrington put it, “in Houston it is not popular to rule against the police.”⁹⁶ However, any rejoicing on the part of the gay community was premature. Eventually, McCoy was acquitted at trial, as many predicted. The Paez case came to a close without any semblance of “justice” for the gay community, and the anger felt by gay Houstonians toward the HPD continued to simmer in the early 1980s.

But even after the march and the trial, Paez remained a symbol of police brutality for the community. In 1981, his death was commemorated with “Fred Paez Memorial

⁹³ Barbara Canetti, “1,000 Protest: March Notes Injustice to Homosexuals, Memorializes Member Slain by Police,” *Houston Post*, July 23, 1980.

⁹⁴ Canetti, “1,000 Protest: March Notes Injustice to Homosexuals, Memorializes Member Slain by Police.”

⁹⁵ “March for Justice...Is This Justice?,” *This Week in Texas*, August 1-7, 1980, 21.

⁹⁶ “Policeman Indicted in Paez Killing,” *This Week in Texas*, October 24-30, 1980, 13.

Day,” on which a “Fred Paez Memorial Concert” took place.⁹⁷ This event continued to exist until at least 1982, when another memorial concert occurred.⁹⁸ Paez’s work also lived on through the HHRL, which he had cofounded with Hill. The HHRL found a home in the newly built Fred Paez Community Center.⁹⁹ The memory of Paez, according to an HHRL pamphlet, served to “continually remind [the gay community] of the obligation and responsibility each of us must bear to end the prejudice and bigotry that breeds the violence that caused the senseless murder of Fred Paez.”¹⁰⁰ Interestingly, in a fundraising attempt, the HHRL named a kind of gay-bashing insurance plan “FRED” (Fast Release Emergency Defense). Those contributing funds to the organization could receive various protections, including up to \$800 bail bond, up to \$175 per week for hospital stays, and legal services.¹⁰¹

Police harassment and brutality continued to dominate the agenda of Houston and Dallas gay activists in the early 1980s. However, activists became increasingly concerned

⁹⁷ “Calendar of Upcoming Events,” 1981, Gay Political Caucus papers, file labeled “Houston Gay Political Caucus 1981,” Charles V. Botts Library and Resurrection Archives, Houston, TX.

⁹⁸ “Fred Paez Memorial Concert” flyer, 1982, Houston Human Rights League papers, Charles V. Botts Library and Resurrection Archives, Houston, TX.

⁹⁹ Normal E. Wilson, “Treasurer’s Report,” Houston Human Rights League papers, Charles V. Botts Library and Resurrection Archives, Houston, TX.

¹⁰⁰ Informational pamphlet, Houston Human Rights League papers, Charles V. Botts Library and Resurrection Archives, Houston, TX.

¹⁰¹ “FRED Plan” pamphlet, Houston Human Rights League papers, Charles V. Botts Library and Resurrection Archives, Houston, TX.

that general anti-gay violence was on the rise.¹⁰² During the 1980s, in response to gay, African American, and Mexican American pressure, both Houston and Dallas underwent a series of police reforms seeking to make the HPD and DPD both more accountable and more responsive to the needs and issues of minority communities. As these reforms unfolded, attention placed on police violence—which did not completely subside as a result of the reforms—morphed into a focus on general violence levels, which activists believed were reaching “epidemic” proportions.

Police Reform

By the late 1970s and early 1980s, police-centered anti-violence activism in Texas had real momentum. Activists in Houston and Dallas, the perceived “bellies of the beast” in terms of police misconduct, seized on the high-profile Paez, Torres, and Rodriguez killings to demand reform of the HPD and DPD. This movement did not end police brutality, but it did force concrete reforms of the police in the Lone Star State’s most problematic urban centers. While these reforms did not eliminate distrust between minorities and the police, they did pave the way for the hate crime activists of the 1990s to turn to the police as tenuous partners in fighting the hate crime “epidemic.”

In Houston, African and Mexican American political clout increased in the late 1970s, and community leaders sought to overturn white political control. As Watson argues, police oppression became a “lightning rod” for local political activism.¹⁰³

¹⁰² “Crime, Violence, and Harassment,” *This Week in Texas*, December 28, 1979-January 6, 1980, 11-12; “Harassment and Violence,” *This Week in Texas*, December 26, 1980-January 1, 1981, 9-11.

¹⁰³ Watson, *Race and the Houston Police Department, 1930-1990*, 126.

Minority activists in Houston targeted not only the HPD, but also the city's at-large voting system for local offices. This system, in the eyes of activists, greatly limited African and Mexican American political power. The DOJ's 1979 investigation of alleged civil rights abuses in Houston resulted in a ruling that led to a substantial political reorganization. In August 1979, Houstonians voted on a 9-5-1 plan for City Council, which created nine single-member districts (favoring minority communities), five at-large seats, and a citywide elected mayor. The plan passed, spelling trouble for the HPD status quo; with newly elected minority city council members, police misconduct moved further into the spotlight, and ideas such as a civilian review board became serious proposals in city government. The early 1980s brought the promise of substantive HPD reform. Seeing the proverbial writing on the wall, HPD Chief Caldwell resigned in 1980.¹⁰⁴

In 1981, the liberal—and, according to the Houston Police Officers Union, anti-police—Kathy Whitmire won the mayoral race with the backing of racial minorities and the gay community. Disaffection among minorities with the city establishment, especially the HPD, helped fuel Whitmire's progressive campaign. In her 1982 inaugural address, she took direct aim at the HPD and asserted, "There is . . . need for substantial improvement in the police department."¹⁰⁵ Immediately after Whitmire's election, recently appointed HPD Chief Bradley K. Johnson stepped down, explaining, "I couldn't see myself working for the present administration in the capacity of an appointed

¹⁰⁴ Watson, *Race and the Houston Police Department, 1930-1990*, 126-127.

¹⁰⁵ Watson, *Race and the Houston Police Department, 1930-1990*, 137.

official.”¹⁰⁶ Johnson’s resignation presented an opportunity for Whitmire to name a successor. Over the objections of the police and with the backing of gay and racial minority community leaders, she appointed Lee Brown, the African American then-police chief of Atlanta. Despite an attempt by conservatives in City Council to block his appointment, the Whitmire administration prevailed, and Brown took office on April 19, 1982.¹⁰⁷ Houston minorities were optimistic about his appointment. On behalf of the gay community, *TWT* proclaimed, “If Brown is able to deal with police problems such as recruiting, racism, morality, brutality and corruption, then he is worthy of our support.”¹⁰⁸

Indeed, Houston’s first African American police chief proved to be a progressive reformer, although his reforms came in increments. Brown was a pioneer in community policing, and the centerpiece of his efforts to improve the HPD was an attempt to make HPD officers more responsive to the individual communities they served. In an article titled “Bridges Over Troubled Waters,” Brown wrote that abuses against minorities “are built into the police system.” He argued that, despite police resistance to the idea of getting to know the community in which they served, such an effort was necessary if trust between the HPD and minorities was ever to be restored.¹⁰⁹ During his time in office, Brown moved the department toward a community-policing model. He also improved training of HPD officers and increased diversity within the department. Watson argues that Brown’s tenure marked a turning point for the HPD and a “bureaucratic

¹⁰⁶ Watson, *Race and the Houston Police Department, 1930-1990*, 139.

¹⁰⁷ Watson, *Race and the Houston Police Department, 1930-1990*, 140-142.

¹⁰⁸ “Atlanta’s Brown New HPD Chief,” *This Week in Texas*, March 12-18, 1982, 11.

¹⁰⁹ Watson, *Race and the Houston Police Department, 1930-1990*, 144.

transformation” of the department.¹¹⁰ Throughout the 1980s, the HPD’s turn toward community policing helped improve relations between law enforcement and minorities. After Brown’s departure in 1990, his successor, Elizabeth Watson, furthered his legacy by supporting community policing.¹¹¹

Relations with the gay community, in particular, were remarkably improved during Brown’s tenure. Many of Brown’s actions as chief directly impacted the gay community, such as the abolition of HPD polygraph questions regarding sexual orientation, the establishment of a Lesbian/Gay Task Force, and improved HPD training on dealing with gays and lesbians. Brown also issued an order not to arrest citizens on Class “C” misdemeanors, which often provided cover for anti-gay police harassment.¹¹² In 1985, with the support of gay business leaders in Montrose, Brown’s community-policing model brought an HPD substation to the neighborhood, which provided officers to patrol the streets over the weekend, when gay-bashings were often reported.¹¹³ These improved relations would be important in the 1990s, when the largely gay-led hate crime movement increasingly relied on the police to protect neighborhoods and prosecute anti-gay assaults and murders. By the 1990s, the HPD, even with its flaws, was a different institution.

In Dallas, reform came not from within the DPD, but from City Council. The push for an independent appeals board immediately following the Rodriguez case was not

¹¹⁰ Watson, *Race and the Houston Police Department, 1930-1990*, 145-149.

¹¹¹ Watson, *Race and the Houston Police Department, 1930-1990*, 151-152.

¹¹² “HPD Chief Brown Big First Year,” *This Week in Texas*, May 6-12, 1983, 13.

¹¹³ “New Police Station on Westheimer,” *This Week in Texas*, April 5-11, 1985, 13.

successful. But brief progress on this front did occur in 1975, when local Black Panther leader Fred Bell filed a lawsuit against the city, arguing that a provision of the city charter forced the Dallas Civil Service Board to investigate charges against any municipal employee if four citizens filed a complaint. The court sided with Bell, a decision that the City Council appealed.¹¹⁴ In the next election, Dallas voters eliminated that section of the city charter. With continued reports of DPD brutality in the spotlight in the latter half of the 1970s, the early 1980s saw a renewed push within City Council to reform the police department—this time in the form of a civilian review board.

In April 1980, citing recent DPD shooting incidents, African American City Councilman and Deputy Mayor Pro Tem Fred Blair introduced a proposal for an independent civilian review board: “The community just does not believe that the police department can make an independent investigation of itself. I think the number of shooting incidents that have occurred make it important for us to establish an outside board to make sure that any investigation is completely independent.” However, reaction to this idea within the City Council was “cool.”¹¹⁵ Indeed, the idea of an independent review board was extremely polarizing in Dallas. The *Dallas Morning News* condemned Blair’s proposal, arguing that civilian review boards had not worked in other cities and had instead become “political forums for activists, with oversight of law-enforcement officers becoming an almost secondary concern.”¹¹⁶ The City Council pushed the debate

¹¹⁴ “Council to Appeal Decision,” *Dallas Morning News*, December 16, 1975.

¹¹⁵ Henry Tatum, “Citizen Panel to Investigate Police Sought,” *Dallas Morning News*, April 17, 1980.

¹¹⁶ “It’s Just a Bad Idea,” *Dallas Morning News*, April 21, 1980.

into May, with members attempting to forge a compromise. Citing a recent Miami riot, Blair warned, “I feel that if something is not done [in terms of police reform], a degree of violence on the level of what happened in Dade County could happen here.” The Dallas NAACP and the Brown Berets both backed Blair’s proposal.¹¹⁷ But when it became clear that the City Council was on the verge of rejecting the idea entirely, a black-brown coalition of leaders convinced council members to delay the vote for 30 days while both sides tried to hammer out a compromise.¹¹⁸

In the meantime, the DPD vigorously fought Blair’s proposal. DPD Chief Glen D. King strongly opposed the idea, arguing that such a board would be “unhealthy” for the police department.¹¹⁹ The DPA ran ads in both Dallas daily newspapers urging Dallasites to tell the City Council to reject a civilian review board. DPA president Dick Hickman defended this ad campaign by claiming that the City Council was not hearing from “law-abiding, tax-paying citizens” on the issue; rather, it was hearing from “vocal radicals. You might call them the minority of the minorities.” Brown Berets leader Juan Perez responded angrily: “I get the impression the police are telling us they won’t protect us any longer if the council approves a review board.”¹²⁰

¹¹⁷ Henry Tatum, “Panel Seeks Compromise on Police Review,” *Dallas Morning News*, May 20, 1980.

¹¹⁸ Henry Tatum, “Group Convinces Council to Delay Police Decision,” *Dallas Morning News*, May 22, 1980.

¹¹⁹ Chris Kelley, “Citizen Probes Opposed,” *Dallas Morning News*, June 5, 1980.

¹²⁰ Henry Tatum, “Police Appeal to ‘Tax-Paying Citizens,’” *Dallas Morning News*, June 24, 1980.

The 1980 review board debate ended in what was perceived as a loss for Blair and minority leaders. City Council rejected the civilian review board proposal and instead created a police advisory committee with no subpoena power and therefore no teeth to conduct independent investigations. A coalition of black and gay activists responded by attempting to attain the required 37,935 signatures to force the issue to a referendum vote, concentrating on the high-minority areas of South Dallas and Oak Lawn. The petition drive failed, temporarily stalling the civilian review board proposal.¹²¹ However, by 1981, members of the newly established Dallas Police Advisory Committee—complaining about the committee’s lack of teeth—began to propose independence from the DPD in order to gain credibility.¹²² They approached the City Council and requested that their panel be renamed the Dallas Citizens/Police Relations Board; with the name change would also come authority to independently review complaints of police harassment and civil rights violations.¹²³ In a compromise, the City Council approved the name change and gave the panel the authority to review a complaint about a police officer after it had been reviewed by the DPD chief. City Council also voted to expand the panel from five to nine members.¹²⁴ The compromise panel, decried by reform

¹²¹ Henry Tatum, “Review Board Petition Effort Falls Short,” *Dallas Morning News*, September 23, 1980.

¹²² Henry Tatum, “Police Advisory Panel Seeks Policy Changes,” *Dallas Morning News*, June 3, 1981.

¹²³ Henry Tatum, “Police Advisory Panel Seeks New Name,” *Dallas Morning News*, July 1, 1981.

¹²⁴ Henry Tatum, “Plan to Boost Power of Police Panel OK’d,” *Dallas Morning News*, October 1, 1981.

advocates and minority leaders in 1980, turned out to be a stepping-stone to more substantive reforms.

Throughout the 1980s, the proposal for a full civilian review board did not die, much to the consternation of its detractors—the *Dallas Morning News* among them, which exasperatingly called it a “worn-out issue.”¹²⁵ But a civilian review board would not come from a fresh proposal; instead, it would come from further reforms to the existing Dallas Citizens/Police Relations Board. In 1988, in the midst of renewed racial tensions sparked by the shooting of a white DPD officer by a black, mentally ill homeless man, the City Council passed a package of reforms, including new investigatory and subpoena power for the newly named Dallas Citizens Police Review Board. What was once a toothless “police advisory committee” was now, in effect, a full civilian review board.¹²⁶ Dallas minority communities applauded the police reform package, but the DPD and DPA were furious. The DPA launched a petition drive to abolish the review board, which was ultimately unsuccessful in rolling back the reforms. By the late 1980s, Dallas racial minorities had formed a strong coalition in favor of the civilian review board. The gay community and white allies, in the form of the “white coalition” that met in March on the steps of City Hall, joined this coalition. This broad coalition of police reform advocates staved off the DPA attempt to abolish the review board, and the board became a permanent part of city government.

¹²⁵ “A Worn-Out Issue,” *Dallas Morning News*, July 13, 1983.

¹²⁶ Paul Weingarten, “Smoldering Race Tension Grips Dallas,” *Chicago Tribune*, March 20, 1988.

Conclusion

Texas anti-violence activism from the 1960s through the 1980s was ultimately successful in forcing substantial police reforms in Houston and Dallas. This activism also served as a prelude to the hate crime movement of the 1990s, when hate violence by civilians took the place of police brutality as Texas minorities' most pressing issue. The major reforms secured in Houston and Dallas, while certainly not bringing an end to police violence or distrust, did help to alleviate some of the tension between law enforcement and minority communities. When utilizing the criminal justice system to prosecute hate crimes became central to anti-violence strategy in the 1990s, the bridges built by the police reform movement were vital.

While the police brutality and hate crime movements seem different on the surface, there were many shared concerns between them. At the center of each movement was a strong belief that the criminal justice system did not work in favor of Texas minorities. Ensuring that violators of civil rights faced justice guided anti-violence activists from the 1970s through the 1990s. In the 1970s and 1980s, these activists focused on a police force that was perceived as out of control; in the 1990s, activists' attention turned to hate crimes committed by civilian vigilantes. The police reforms accomplished by the first phase of the anti-violence movement laid important groundwork for cooperation between minorities and the police, and by the 1990s, activists saw the police and broader criminal justice system as an essential, albeit tenuous, partner in fighting the hate crime "epidemic."

Chapter 3—“Wringing Good Out of Evil”: Early Hate Crime Activism in Texas, 1988-1993

On October 23, 1988, Buddy Sears walked onto David Williams’s property in the East Texas city of Jasper with a small log in his hands and made his intentions clear: “I’ve come to kill you, you goddamn faggot.” He then beat Williams with the log and wrecked the trailer home, its furnishings, and the cars on the lot. Before leaving, he killed a dog belonging to a gay friend visiting at the time. While Sears did not follow through with his promise to kill Williams, the damage was done. Jasper County District Attorney Guy James Grey, however, only brought charges of burglary, criminal mischief, public intoxication, and disorderly conduct against Sears. Williams reported he was treated rudely by Grey’s office and not offered counseling on victim assistance. Meanwhile, when news of the beating traveled through the small town, Williams’s employer—the wife of a local Baptist minister—fired him. In its story on the “faggot-bashing” and its fallout, the state’s major gay publication *This Week in Texas (TWT)* included an address to send money to Williams, who was devastated in the assault’s aftermath. Representing Williams, Houston attorney and transgender activist Phyllis Randolph Frye encouraged a letter writing campaign to Grey and other state officials to “stir up the ants a bit and get the law applied fairly.”¹

After Sears confessed to beating Williams, a grand jury indicted him on criminal mischief and aggravated assault charges, amounting to a measure of justice in the eyes of Frye and activists.² At first glance, Williams gained a level of vindication from his

¹ “East Texas Faggot-Bashing,” *This Week in Texas*, November 11-17, 1988, 22-23.

² “East Texas ‘Faggot Basher’ Indicted,” *This Week in Texas*, March 24-30, 1989, 29-31.

perpetrator's indictment. Yet, focus solely on this endpoint obscures challenges victims of anti-gay and racist acts of violence faced in the late 1980s. Most centrally, the Texas gay community recognized the subtext of homophobia and neglect underlying Grey's initial failure to charge Sears with aggravated assault. Longstanding tensions between minorities and the criminal justice system escalated in Texas in the 1970s and 1980s along race and sex lines, thereby deepening the feeling among members of the gay and racial minority communities that violent hate crimes would largely go unpunished. According to historian Dwight D. Watson, the hostility caused by decades of police harassment and brutality in African and Mexican American communities created "an insurmountable wall of anger and mistrust" between racial minorities and police officers.³ A similar level of distrust existed between the gay community and police after years of bar raids and police brutality incidents, including the high-profile 1980 Fred Paez shooting discussed in the previous chapter. Illustrating this tension, a 1987 *TWT* letter to the editor recalled a Houston anti-gay assault and lamented that the HPD did not care to investigate; the writer took justice into his own hands: "I am going to have to carry a knife from now on, as it's clear to me that to our 'AIDS-infested' community the hoodlums and fuzz are the same."⁴

Many members of Texas minority communities shared this letter writer's sentiment, but a current of activists were far less acquiescent. This chapter spotlights these ardent reformers in the African American and gay communities and their campaign

³ Dwight D. Watson, *Race and the Houston Police Department, 1930-1990: A Change Did Come* (College Station, Tex.: A&M University Press, 2005), 130.

⁴ M.J. Hill, "I'm Carrying a Knife," *This Week in Texas*, June 19-25, 1987, 24.

that effectively turned the tide toward greater acknowledgement and prosecution of hate crimes. While hostility between minorities and the police still ran rampant at the end of the 1980s, police reforms in Houston and Dallas helped ease tensions between police and community leaders. Police departments had still not established trust between officers and minorities, but the reforms were enough to remove police brutality from the media spotlight. Having made tangible progress on police relations, minority communities began to depend upon the police as a tenuous partner by the end of the decade to control crime in their neighborhoods. Indeed, gays in Houston's Montrose launched the successful "Keep Our Police Station" (KOPS) project in 1988 to raise money and retain the Montrose sub station amid budget cuts—a clear departure from the anti-police anger of the early 1980s.⁵ In short, minorities shifted from fighting "the system" to *using* the system to combat oppressive acts of violence. This change in tone and strategy did not occur because police violence came to an end, but rather because minority communities in Texas and nationwide faced what they believed were "epidemic" levels of hate crime in the late 1980s and 1990s. Protection of their communities from vigilantes suddenly took priority over police reform.

This chapter argues that, beginning in the late 1980s, anti-violence activism in the Texas gay and racial minority (especially African American) communities took aim at hate crime, a legal category originating in the early 1980s. The parameters of this legal construct varied from state to state, but activists in Texas defined it as a crime committed based on real or perceived race, color, religion, national origin, or sexual orientation. In particular, activists targeted light sentencing of perpetrators, which they saw as a kind of

⁵ "Police Station Remains Open," *This Week in Texas*, April 8-14, 1988, 25-26.

state sanctioning of hate crime. Efforts to pass a hate crime law enhancing sentences for bias-motivated crimes developed later in Texas compared to attempts nationally and in other states.⁶ In Texas, activists focused in on a few highly publicized hate crime cases that the gay and racial minority communities used to paint the criminal justice system as corrupt. Ultimately, both gay and African American activists rallied behind a hate crime law for Texas, but evidence indicates a minimal level of intersectional cooperation at the grassroots level. Imagined racial animosity between a gay community seen as white and an African American community perceived as homophobic foreclosed the possibility of sustained coalitional activism in the early 1990s.⁷ Scholars have noted that gay and

⁶ From 1981 to 1993 (the year Texas passed its first hate crime law), 30 other states had passed some form of hate crime legislation. Ten of those states passed laws in the first half of the 1980s, with 14 following suit in the latter half. See Valerie Jenness and Ryken Grattet, *Making Hate a Crime: From Social Movement to Law Enforcement* (New York: Russell Sage Foundation, 2001), 74.

⁷ There is a significant literature on the difficulty whites and people of color had working together. This strained relationship is not limited to gay whites and people of color, but has rather been found in other social movement contexts as well. Benita Roth's *Separate Roads to Feminism: Black, Chicana, and White Feminist Movements in America's Second Wave* (Cambridge, UK: Cambridge University Press, 2004) and Winifred Breines's *The Trouble Between Us: An Uneasy History of White and Black Women in the Feminist Movement* (Oxford, UK: Oxford University Press, 2006) both examine the inability to form an effective intersectional feminist movement between white women and women of color because of white racism within the movement and the disparity in life experiences. Audre Lorde's "Age, Race, Class, and Sex: Women Redefining Difference" [Beverly Guy-Sheftal, ed., *Words of Fire: An Anthology of African American Feminist Thought* (New York: The New Press, 1995), 284-291] discusses the difficulty black lesbians have both in identifying with white lesbians and identifying as a lesbian within the African American community. E. Patrick Johnson's *Sweet Tea: Black Gay Men of the South* (Chapel Hill: University of North Carolina Press, 2008) also addresses racism within the white gay community that has not helped to ease tensions. My own research in *This Week in Texas* uncovers a great deal of hostility between white gays and African Americans in Texas. In the July 6-12, 1979, edition of *TWT*, a white gay man wrote a letter to the editor titled "Proud to Be White," in which he argues that African Americans are not treated badly in gay society and that they are the perpetrators in most violent crime, in addition to voting solidly anti-gay. The widespread nature of the notion

lesbian organizations were at the forefront of the national effort to pass hate crime legislation, a trend that also played out in Texas as the increasingly organized hate crime movement took on a distinctly gay character throughout the 1990s.⁸ However, it was ultimately the high-profile skinhead killing of African American Donald Thomas that resulted in the 1993 passage of the first hate crime law in the Lone Star State. The passage of the law, which did not include sexual orientation or any other explicit protected category, underscores the lack of clout the Texas gay community had on the legislative level in the early 1990s. It also illuminates the disparity in comfort Texas legislators had confronting issues of race versus sexuality.

This chapter demonstrates the escalating activism and the eventual passage of a hate crime law through five compelling cases. The first case, in which Richard Bednarski received a notably light sentence from Republican Judge Jack Hampton for the 1988 murder of two gay men in Dallas, marked the beginning of the organized push for statewide hate crime legislation. Two later incidents, Paul Broussard in Houston and Donald Thomas in Arlington, were well publicized and resulted in tangible, albeit piecemeal, reforms. In addition, the murder of 15-year-old Hung Truong and the resulting Asian American activism in Houston highlights the ways in which a brutal hate crime could mobilize even the least politically outspoken communities. Finally, one hate crime,

that African Americans are overwhelmingly homophobic is indicated in an article in the January 18-24, 1985, edition titled “Not All Blacks Favor Referendum” (referring to a 1985 Houston referendum attempting to revoke gay job protections in city employment) in which the author attempts to dispel the idea that African Americans are automatically against gay rights.

⁸ Christina B. Hanhardt, *Safe Space: Gay Neighborhood History and the Politics of Violence* (Durham, N.C.: Duke University Press, 2013), 156-158.

Thanh Nguyen in Dallas, was not widely publicized and did not directly result in significant reform. The murder did, however, spur Hugh Callaway—Nguyen’s lover and a survivor of the assault—to take personal action against hate crime. The Nguyen case also raises important questions about the intersectional nature of hate crimes and the racialized ways in which we remember such cases. As a collective, these cases reveal the organic, locally driven nature of the early Texas hate crime movement.

Judge Jack Hampton

By the late 1980s, in addition to the neighborhood crime patrols discussed in the previous chapter, hate crime activism within the gay community primarily took the form of documentation in order to prove claims of “epidemic” hate crime levels in Texas. These efforts closely mirrored documentation efforts in other areas of the United States, including nationally by the NGLTF, which focused large amounts of energy on taking hate crime reports through surveys and hotlines.⁹ In Houston, for example, the Gay Political Caucus (HGPC) launched its Operation Documentation project in 1987, creating panels to hear citizen complaints of anti-gay harassment and violence. An HGPC board member explained, “This project can go a long way toward benefiting those who strive for dignity, fairness, and human rights by compiling statistics about discrimination and acts of violence.”¹⁰ The Dallas Gay Alliance (DGA) conducted similar efforts,

⁹ Hanhardt, *Safe Space*, 160-161.

¹⁰ “HGPC Operation Documentation in High Gear,” *This Week in Texas*, April 24-30, 1987, 20.

distributing a survey to assess anti-gay violence and discrimination in 1987.¹¹ These activist efforts were an attempt to justify with statistics the frequent claim made each year that anti-gay violence had hit a “new high.”¹²

As the organized Texas hate crime movement began to increase in intensity, one case in particular drove activists more than any other. It began, as many gay-bashing cases did, in Dallas’s Reverchon Park, a 41-acre park in the heavily gay Oak Lawn neighborhood well known as a “cruising” ground for men looking for anonymous sex with other men. However, there is no evidence that 27-year-old John Griffin and 34-year-old Tommy Trimble, the victims of the double murder that opened a statewide debate over hate crime sentencing, were even looking for sex on the evening of May 14, 1988. Griffin and Trimble were best friends who had both moved to Dallas from West Texas to find a place to fit in—aside from being gay, Griffin was overweight and Trimble was black. According to their families, they found a life of acceptance in Dallas. On this particular evening, they made a familiar decision to drive to a gay bar in Oak Lawn.¹³

Meanwhile, a group of youths from the eastern suburb of Mesquite had the same idea, but for different reasons. Wayne “Rusty” McDaniel, Richard Bednarski, and a group of friends made a routine out of drunken trips to Oak Lawn to harass gay people. “We’d look and we’d laugh. . . . We would mimic a homosexual walk and stuff like that.

¹¹ “Dallas Gay Alliance Conducts Survey on Violence, Activism, Discrimination,” *This Week in Texas*, June 26-July 2, 1987, 30-35.

¹² “Violence in Gay Community Hits New High,” *This Week in Texas*, December 26, 1986-January 1, 1987, 17-21.

¹³ Lori Montgomery and Jeff Collins, “Prejudice and Presumption: Views of Victims’ Lifestyle Blur Truth in Gay-Bashing Case,” *Dallas Times Herald*, January 8, 1989.

. . . They got the idea pretty quick we weren't gay," recalled one group member. Sometimes, they grew violent and threw beer bottles and eggs from the back of their vehicle. A 19-year-old group member's wife later testified, "It was just a guy thing to do, just macho. They would never do it when they were sober." This statement highlights a gender dimension found in many hate crime cases in which men beat and kill other men who step outside prescribed gender norms.¹⁴

On the evening of May 14, already buzzed on Coors Light, the group decided to make their familiar drive to Oak Lawn. What began as a typical night of harassing Oak Lawn pedestrians ended in gunfire and bloodshed, but the specifics the incident are still murky. After passing by the group several times, Griffin and Trimble allegedly pulled up to them and asked if they wanted to smoke marijuana. Agreeing, Bednarski and another group member entered the car while the rest of the group followed in their own vehicle. Bednarski, who had expressed an interest in robbing the men, told Griffin and Trimble he wanted to take them to Reverchon Park. He also (falsely) told the men he was a Marine home on leave, and he brought his gun on the trip to the park.¹⁵ While in the park, whatever the group had planned spiraled out of control. Bednarski later claimed the incident was the result of a drug deal gone awry and not a robbery or a gay-bashing.¹⁶

The exact motive remains unknown. According to McDaniel and the other group

¹⁴ For example, in *Losing Matt Shepard: Life and Politics in the Aftermath of Anti-Gay Murder* (New York: Columbia University Press, 2000), Beth Loffreda suggests that anti-gay violence and murder can partially be explained by tensions resulting from gay men's subversion of the gender order and "threat" to masculinity.

¹⁵ Montgomery and Collins, "Prejudice and Presumption."

¹⁶ Lori Montgomery, "Judge Outcry Growing," *Dallas Times Herald*, December 21, 1988.

members, Bednarski pulled the gun on the men and shot them after Trimble cried for help. Bednarski argued McDaniel was the one who pulled the trigger. However the shooting occurred, Trimble died immediately and Griffin died days later in the hospital. Bednarski, McDaniel, and the rest of the group fled back to Mesquite.¹⁷

Faced with few leads, the Dallas Police Department (DPD) closed in on the group after two anonymous phone calls. According to the tips, Bednarski had been overheard bragging about the shooting at a party McDaniel hosted, saying he put the gun in the black man's mouth, shot him, and shot the fat, white man as he tried to escape. "I blew those faggots' fucking heads off," a group member later testified Bednarski had boasted. DPD officers arrested Bednarski at North Mesquite High School, which he attended as a student, after which he failed a polygraph test, signed a confession, and was arrested for capital murder. However, as the *Dallas Times Herald* put it in its coverage of the case, "Bednarski was a sympathetic 18-year-old kid with a clean record. The victims, on the other hand, were two homosexuals nobody knew much about." Indeed, assumptions multiplied while the case unfolded, and many concluded that Trimble and Griffin had been engaging in sexual activity in the popular cruising ground before the shooting. This line of thinking was bolstered when an autopsy revealed that Trimble was HIV-positive.¹⁸ For many, including the judge in the end, it was difficult to believe that two gay men could have been completely innocent victims.

The victims' families felt that this anti-gay bias extended to the prosecutors arguing the case, which landed in Republican District Judge Jack Hampton's court after a

¹⁷ Montgomery and Collins, "Prejudice and Presumption."

¹⁸ Montgomery and Collins, "Prejudice and Presumption."

grand jury rejected capital murder and indicted Bednarski on murder charges. Verna Trimble, Tommy's sister, complained, "No one ever asked us what kind of people [Trimble and Griffin] were. That hurt me the most, sitting and listening to [prosecutors] talk about them like they were nobody." Nevertheless, prosecutors pushed for the maximum sentence of life in prison. On November 18, the jury found Bednarski guilty of the lower charge of murder, leaving it to the judge to select the punishment. Hampton handed down a sentence of two 30-year prison terms, to be served concurrently, with the possibility of parole after seven and a half years, a notably lenient sentence for a double murder in the Texas criminal justice system.¹⁹

This may have been controversial enough, considering the average Dallas County judge's murder sentence in 1988 was 56.3 years, pulled from a sample of mostly single murders.²⁰ But Hampton fueled the controversy by explaining the logic behind his sentencing to the *Dallas Times Herald*, invoking familiar accusations against Griffin and Trimble that were never substantiated by evidence in court: "I don't much care for queers cruising the streets picking up teenage boys." He added, "I put prostitutes and gays at about the same level. And I'd be hard put to give somebody life for killing a prostitute."²¹ He later apologized, claiming his comments had been "distorted" and explaining that the victims' behavior—and not their sexual orientation—influenced his decision. He clarified, again using claims about Griffin's and Trimble's conduct not backed by

¹⁹ Montgomery and Collins, "Prejudice and Presumption."

²⁰ David Jackson, "How Judge's Sentencing Measures Up," *Dallas Morning News*, December 21, 1988.

²¹ "Public Outcry Demands Judge Resign," *Dallas Peace Times*, January 1989.

evidence: “The only statement I intended to make was about the conduct of the victims in the case. . . . They were out there cruising the streets picking up teenage boys. I don’t approve of that.”²²

Hampton’s attempt at an apology did not do much to quell outrage, which came not only from the gay community but also state and national organizations and officials. The comments received immediate criticism from the Human Rights Campaign Fund, National Gay and Lesbian Task Force, Dallas Civil Liberties Union, AFL-CIO Communication Workers of America, Texas State AFL-CIO, 15 Southern Methodist University law professors, Senator Ted Kennedy (D-Massachusetts), and State Treasurer Ann Richards (D). The DGA led a candlelight protest at City Hall, where its president William Waybourn called for Hampton’s immediate investigation and suspension for judicial misconduct. In a demonstration of how much police relations in Dallas had shifted, DPD Sergeant Earl Newsome also spoke, promising the best police service regardless of race, creed, or sexual orientation. State Representative Fred Blair (D) of Dallas also made an appearance and warned, “Injustice anywhere is a threat to justice everywhere.”²³

Hampton also faced formal complaints. The DGA organized 14 local attorneys to file an official request to remove him from office, citing a provision of the Texas Constitution allowing the State Supreme Court to remove judges in the case of

²² Lori Montgomery, “Judge Apologizes, Won’t Step Down,” *Dallas Times Herald*, December 23, 1988.

²³ “Antigay Remarks of Dallas Judge Spark Outrage,” *This Week in Texas*, January 6-12, 1989, 18-21.

misconduct.²⁴ In addition, the State Commission on Judicial Conduct opened an inquiry into the case to determine whether or not Hampton had acted improperly.²⁵ In the end, the Supreme Court rejected the petition to remove Hampton.²⁶ Months later, after an extensive review process, Hampton was cleared of all charges by Judge Robert Murray, who served as master of the review.²⁷ The State Commission on Judicial Conduct superseded Murray and handed down a harsh public censure of Hampton's comments. However, Hampton remained in office and survived future attempts to unseat him.²⁸

The legacy of the Hampton case was not a strong rebuke of judicial misconduct or "justice" for Griffin and Trimble, but rather the beginning of a very public discussion—led by gay activists but drawing in many others from across the state and country—on unjust sentencing in bias-motivated murders. While some supported Hampton and identified with his comments, many others were led to reflect on anti-gay bias and racism within the criminal justice system. One man wrote to the *Dallas Times Herald* and argued Hampton was "the prime example of the problem with the Texas judicial system. . . . How many other minority-murderers have received a slap on the wrist from him?"²⁹

²⁴ Dennis Vercher, "Attorneys Ask Supreme Court to Remove Judge," *Dallas Voice*, February 10, 1989, 3.

²⁵ Siva Vaidhyathan, "Hampton Inquiry Begins," *Dallas Morning News*, January 14, 1989.

²⁶ "Judge Hampton Case Falter," *This Week in Texas*, May 19-25, 1989, 23.

²⁷ "Judge Hampton Is Cleared of All Bias," *This Week in Texas*, November 10-16, 1989, 28.

²⁸ "State Commission on Judicial Conduct Censures Hampton," *This Week in Texas*, December 8-14, 1989, 34-37.

²⁹ John E. Webb, "Biased Justice," *Dallas Times Herald*, January 8, 1989.

Another wrote to *TWT* and made a similar assessment: “Judge Hampton’s actions and comments are symptomatic of the underlying bigotry that has dominated the Texas justice system for far too long. . . . Bigotry practiced in a black robe is more insidious than that practiced in a white sheet.”³⁰ Also appearing in *TWT* following the Hampton case was an article written by Houston gay community leader Ray Hill contrasting the Bednarski sentencing with an HIV-positive Texas inmate who received life in prison for spitting at a prison guard. Hill concluded, “[The inmate] has nothing left to lose. If they keep on pushing the rest of us to the wall, perhaps having nothing left to lose is our most powerful weapon.”³¹

The Hampton case made clearer than ever to the gay community that such sentencing disparities had to be corrected. It began with a campaign to oust Hampton, but when that failed, activists were left to find another strategy for more permanent solutions. By the 1990s, this strategy would take the form of a campaign for a hate crime law in Texas enhancing sentences for bias-motivated crimes. The Lesbian/Gay Rights Lobby of Texas (LGRL) led this effort, and in its 1989 March on Austin for Lesbian/Gay Equal Rights held four months after the Hampton controversy, the passage of a hate crime bill “to end violence and harassment based on prejudice and hatred, especially as it applies to lesbians and gays” could be found in the list of march goals.³² African Americans would

³⁰ Michael V. Wedman, “Purge Judge Hampton,” *This Week in Texas*, January 6-12, 1989, 23.

³¹ Ray Hill, “Justice or the Lack Thereof,” *This Week in Texas*, November 17-23, 1989, 31.

³² “Goals of the March on Austin for Lesbian/Gay Equal Rights,” *This Week in Texas*, April 28-May 4, 1989, 35.

follow a similar strategy in combating lenient sentencing for racist violence, but as implied in the 1989 LGRL goals, black and gay activists would not intersect immediately following the Hampton case. In a way, a letter writer to *TWT* foreshadowed this lack of intersectional activism by asking his fellow gays and lesbians, “How can we return the favor [of racial minorities standing up against Hampton]? . . . If it had been two blacks killed and the comment made about ‘niggers’ rather than ‘queers,’ how many gay organizations or gay brothers and sisters would have shown up at the Dallas City Hall rally?”³³

Paul Broussard

The Hampton case brought to light the injustice that awaited victims of bias-motivated crimes without hate crime legislation on the books. In the early 1990s, another major case further drove home the hate crime issue and became a statewide and national symbol of anti-gay violence. On July 4, 1991, a gang of 10 youths from the master-planned exurb The Woodlands, located approximately 30 miles north of Houston—later dubbed “The Woodlands Ten”—savagely beat Paul Broussard, a gay banker, and left him to die on a Montrose street. That the attack occurred on the Fourth of July was, to some members of the gay community, the greatest irony of all. Houston local Salbert Lopez expressed dismay at the timing of the murder in a letter to the editor for *TWT*, claiming the holiday in 1991 was little more than a celebration of “flag-waving, fag-hating

³³ Bart Winslow, “More Hampton Outrage,” *This Week in Texas*, January 13-19, 1989, 33.

America.”³⁴ Houston gay leader Toni Knight displayed similar cynicism in an article titled “Liberty, Justice for All of Us?”³⁵ In some ways, as underscored by the Hampton case, this pessimism was well founded.

On the night of the murder, Broussard and two of his friends were clubbing in Montrose. They had just left a nightclub when two vehicles containing a large group of youths pulled up to the group of friends. One of the youths asked Broussard and his friends for the directions to Heaven, a popular gay club. When the men indicated they knew the way to the club, the youths emerged from the vehicles, and a foot chase ensued. Broussard’s two friends escaped unscathed; Broussard was not so fortunate. The youths reportedly beat him with nail-studded boards and left him for dead. Suffering multiple stab wounds, he died shortly after arriving at the hospital.³⁶

The Houston mainstream press covered the killing and its aftermath in great detail. From the beginning, the Houston press viewed the crime as being motivated by anti-gay bias. The *Houston Chronicle* quoted homicide detective Ken Vachris as stating the murder was most likely anti-gay in nature.³⁷ Very quickly, the *Chronicle* began blatantly describing Broussard’s murder as a “gay-bashing incident” without a trace of doubt. The newspaper also reported on the gay community’s perceived vulnerability and

³⁴ Salbert Lopez, “Death Must Not Be Forgotten nor Forgiven by Any of Us,” *This Week in Texas*, July 19-25, 1991, 33.

³⁵ Toni Knight, “Liberty, Justice for All of Us?,” *This Week in Texas*, July 19-25, 1991, 30.

³⁶ Sheri Cohen Darbonne, “Murder Sparks Calls for Action from Activists, Officials,” *The New Voice*, Issue 559, July 12-18, 1991.

³⁷ Catherine Chriss and Eric Hanson, “Fatal Bashing has City Gays Alarmed,” *Houston Chronicle*, July 6, 1991.

the HPD's failure to comply with the recently passed federal Hate Crime Statistics Act requiring the compilation of anti-gay hate crime statistics by local police departments.³⁸ A week later, the *Chronicle* published an article covering what it dubbed a "climate of fear" permeating Montrose in the wake of Broussard's death.³⁹ Notably, the national mainstream press also picked up the story, and Broussard's name made its way into the *New York Times*.⁴⁰ This coverage only supplemented the thorough coverage in the gay press. In addition to the local gay media, the national gay publication *The Advocate* also picked up the story.⁴¹ The combined local, national, gay, and mainstream media coverage reached and moved many people, in addition to educating the public about the broader issue of hate crime.

Many members of the local and broader gay communities reported feeling awakened and stirred to action following the murder. A look at the letters to the editor in *TWT* reveals the deep level of grief and anger felt throughout the community. Gay Houstonian Steve Karnia called on his fellow gays and lesbians to "come out of your closet" rather than "sit back and maybe read of a friend or lover being the next victim."⁴² Steve Trolinger, who claimed to be Broussard's ex-boyfriend, expressed remorse that

³⁸ Chriss and Hanson, "Fatal Bashing has City Gays Alarmed."

³⁹ Catherine Chriss, "Gays in Montrose Live in Fear of Attack on the Streets," *Houston Chronicle*, July 14, 1991.

⁴⁰ "Houston Police Set Trap to Quell Tide of Violence Against Homosexuals," *New York Times*, August 9, 1991.

⁴¹ John Bourgault, "Murder Mobilizes Houston Community," *The Advocate*, September 24, 1991, 52-53.

⁴² Steve Karnia, "Come Out, Fight Hate," *This Week in Texas*, July 19-25, 1991, 29.

“the death of a loved one had to be the event that would shake me into action.”⁴³ Larry Loera argued, “[I]t’s about time we said something and stopped looking for someone to take care of us.”⁴⁴ Another letter connected the Broussard murder to the broader history of gay activism: “We did it back in 1969 for our rights and we will continue to do it from 1991 until our neighborhoods are safe again from ignorant minds.”⁴⁵ The level of anger in gay Houston was enough to launch a local movement against anti-gay violence, the ferocity of which had not been seen before in the state. In addition, the gay community joined forces with the Houston police, some of which posed as gay couples in an anti-violence sting operation. One such police officer reportedly suffered an anti-gay beating during the operation.⁴⁶ This was a notable shift in police relations since the early 1980s and before.

The gay community also took its anger into the streets, led most prominently by Queer Nation. On July 13, less than ten days after Broussard’s death, Queer Nation activists led the Take Back the Streets Rally in Montrose. The organizers of the rally demanded the formal classification of the Broussard murder as a hate crime and sought to bring wider attention to the issue of anti-gay violence. Gay leaders expected 800 to 900 people to participate, but the rally drew over 2,000 people holding signs reading “No More Hate” and “Support Planned Parenthood in the Woodlands” (a reference to aborting

⁴³ Steve Trolinger, “Speak Up, Take Action,” *This Week in Texas*, July 19-25, 1991, 29.

⁴⁴ Larry Loera, “We Can’t Remain Silent,” *This Week in Texas*, August 16-22, 1991, 31.

⁴⁵ “Proud of Houstonians,” *This Week in Texas*, August 9-15, 1991, 33.

⁴⁶ Stephen Johnson and R.A. Dyer, “Police Officer Posing as Gay Is Beaten,” *Houston Chronicle*, August 7, 1991.

would-be gay-bashers). Chants ranged from “Hey, hey, ho, ho, homophobia’s got to go” to “We’re here, we’re queer, we will not live in fear” to “Where’s Kathy?” (referring to Mayor Kathy Whitmire). After the demonstration, representatives of Queer Nation read a list of demands, all of which indicated the gay community’s desire to work with and reform the criminal justice system in combating violence. The demands included the proper classification by the HPD of hate crimes, gay-inclusive sensitivity training for HPD officers, the hiring of gay and lesbian police officers, and a promise to treat hate crime victims with confidentiality.⁴⁷ The stated purpose of this rally was to end the underreporting of hate crimes by victims who feared publicity and discrimination at the hands of the HPD.⁴⁸

Queer Nation held another protest march on July 27, this time in The Woodlands. The march attracted 150 people who held signs reading “Queers Unite” and “Some of Your Kids are Gay.” The march was intended to be silent, and leaders urged participants not to chant or respond to hecklers. Indeed, anti-gay protesters were present and told the marchers to “[g]o back to Montrose,” expressing hope that “you all die of AIDS, you freaks!”⁴⁹ The stated purpose of this march, in addition to bringing attention to hate crimes, was to urge parents in The Woodlands to teach their children tolerance and respect for human dignity. Queer Nation activist Diane Williams offered a message to the

⁴⁷ Sheri Cohen Darbonne, “Unexpectedly Large Crowd Turns Out for “Take Back the Streets” Rally,” *The New Voice*, Issue 560, July 19-25, 1991.

⁴⁸ “Queer Nation to Hold Anti-Violence March in Montrose,” *The New Voice*, Issue 559, July 12-18, 1991.

⁴⁹ Sheri Cohen Darbonne, “Queer Nation Holds Silent Protest March in The Woodlands,” *The New Voice*, Issue 562, August 2-8, 1991.

parents of The Woodlands: “Today we challenge you to find ways to teach your children a better way. They must be taught tolerance and respect for human life and human diversity.”⁵⁰ The Woodlands Community Association, for its part, responded with shock to Paul Broussard’s death and urged protesters and others “not [to] judge our community and its residents by this tragic episode.”⁵¹ While organizers branded this march as a lesson in parenting, it was, like other Queer Nation events, most instrumental in bringing even more media attention to Broussard’s murder.

By mid-August, a grand jury indicted all of The Woodlands Ten.⁵² None of the youths walked free, receiving sentences ranging from 15 to 45 years. However, gay activists considered the sentences too light.⁵³ Aside from the sentencing, the incident forced some local action and reform. Houston’s city council unanimously passed a resolution calling on the legislature to pass gay-inclusive hate crime legislation. In addition, State Representatives Paul Colbert (D) and Debra Danburg (D), both of Houston, introduced HB 52, a gay-inclusive hate crime law, in the Legislature’s July special session.⁵⁴ The law did not gain much traction, however. Important changes also came about within the HPD. On September 10, 1991, the commissioner of the HPD

⁵⁰ Cohen Darbonne, “Queer Nation Holds Silent Protest March in The Woodlands.”

⁵¹ Cohen Darbonne, “Queer Nation Holds Silent Protest March in The Woodlands.”

⁵² “Grand Jury Indicts Ten Suspects in Broussard Killing,” *This Week in Texas*, August 9-15, 1991, 19.

⁵³ “Lesbian and Gay Activists Protest Sentences in Paul Broussard Murder Case,” *The New Voice*, Issue 639, January 22-28, 1993.

⁵⁴ Sheri Cohen Darbonne, “City, State Officials, Others Want Tough Hate Crimes Laws,” *The New Voice*, Issue 561, July 26-August 1, 1991.

issued an order mandating that hate crimes be viewed as “major, possible organized criminal acts [that] will be given the highest investigative priority.” Significantly, the order added sexual orientation to the list of biases motivating a hate crime.⁵⁵

Today, there are new doubts as to whether or not the Broussard murder was a black-and-white hate crime. However, Broussard’s mother and other activists continued to actively fight Buice’s parole, and he remained in prison until 2015 despite coming up for review a total of eight times throughout his imprisonment⁵⁶ He was finally released on parole in December 2015.⁵⁷ Whether The Woodlands Ten were actually homophobes or simply misunderstood troublemakers, the Broussard murder was seen as an anti-gay hate crime by the gay community in the 1990s and played a large role in uniting the community behind hate crime legislation.

The Broussard killing did not mark the first time the gay community demanded legal protection against hate crimes. However, it did mark the beginning of a sustained movement to force legislators in Austin to pass a law specifically granting protected status to gays and lesbians. This movement was distinctly gay in character, and gay leaders did not seek to gain allies in the African American or other racial minority communities, which remained on a separate track of activism. However, the extremely high profile nature of the crime did increase attention on anti-gay violence. In the years

⁵⁵ Earnest L. Perry, “HPD Puts Hate Crimes High on Priority List,” *Houston Chronicle*, September 11, 1991.

⁵⁶ “Jon Buice Denied Parole in Gay Houston Man’s 1991 Murder,” *Dallas Voice*, October 17, 2013.

⁵⁷ Allan Turner, “Man Convicted in Montrose Gay Murder Freed on Parole,” *Houston Chronicle*, December 31, 2015.

before gay Wyoming college student Matthew Shepard's murder, Broussard became the face of anti-gay hate crime, across the country and certainly across Texas.⁵⁸ The Broussard case and its aftermath laid significant groundwork for the organized hate crime movement in Texas. Ironically, however, it would not play a major role in shaping early hate crime legislation in Texas.

Thanh Nguyen

While the Broussard case dominated headlines and spurred piecemeal local reform, a lower profile 1991 case merits attention both because of the activism it inspired in its survivor and because of the intersection of race and sexuality inherent in the crime. In the early morning hours of October 25, Hugh Callaway and his lover Thanh "Tom" Nguyen, a Vietnamese immigrant, were attacked and robbed in Dallas' Reverchon Park by three African American men. The attackers shot both of the victims and only Callaway survived. The loss of his lover and his own brutal treatment inspired Callaway—already a gay activist with the Dallas Lesbian and Gay Alliance (DLGA) at the time of the incident—to focus his activism on ending hate crime and keeping gay-bashers behind bars. Despite receiving much less coverage than the Paul Broussard killing, the Nguyen murder raises important questions about race and underscores the intensely personal nature of hate crime activism. While certainly aware of national conversations on hate crime, Callaway was most driven by the traumatic loss of a loved one. His extremely determined, almost obsessive crusade against parole for convicted gay-bashers also highlights the law-and-order turn the organized hate crime movement

⁵⁸ "Gays Murdered in Texas," Lesbian/Gay Rights Lobby of Texas, date unknown, Charles V. Botts Library and Resurrection Archives, Houston, TX.

took in 1990s as it focused almost exclusively on enhancing sentences for bias-motivated crimes.

The violence perpetrated against Callaway and Nguyen, as in the Griffin and Trimble case, was preceded by a night on the town in Oak Lawn. After spending the evening drinking and dancing, Callaway and Nguyen decided to buy hamburgers at McDonald's to eat in nearby Reverchon Park. Shortly after sitting down, three African American men approached the couple and demanded money. They then began to beat the couple while simultaneously eating their food.⁵⁹ According to Callaway's journal entry on the subject, which he wrote from his hospital bed, he and Nguyen "were called fag, queer, and in Tom's case called gook, and then we were forced to pull our pants down, stood against a wall and shot."⁶⁰ Callaway recalled that one of the attackers said, "Go ahead and shoot them—it is not that hard to do." After being shot, Nguyen fled in an attempt to find help, but he did not make it and died 50 yards away, possibly after being further injured by the attackers.⁶¹ Nguyen was pronounced dead on the scene and Callaway was transported to the hospital, where he spent several weeks with a gunshot

⁵⁹ Kris Mullen, "Neighbors Aim to Close Gate on After-Hours Park Activity," *Dallas Times Herald*, November 21, 1991.

⁶⁰ Hugh Callaway, Journal 1, October 29, 1991, Box 499, Folder 79, Hugh Callaway Collection, LGBT Resource Center Collection, University of North Texas Libraries, Denton, TX.

⁶¹ Hugh Callaway, Document, March 13, 1992, Box 499, Folder 25, Hugh Callaway Collection, LGBT Resource Center Collection, University of North Texas Libraries, Denton, TX.

wound to his leg. “I just sit here in my bed and cry about it,” he told the *Dallas Times Herald*. “Three worthless scumbags killed Tom. For what?”⁶²

According to Callaway, he faced continued mistreatment after the attack, including the failure of the DPD to classify the incident as a hate crime under the Hate Crime Statistics Act until pressured by the DLGA. In addition, he claimed discrimination by the funeral home after employees did not provide a tent to the family during a downpour of rain, allowing Nguyen’s unsealed casket to float in water. Invoking the Hampton case as encouraging anti-gay violence and discrimination, he proclaimed: “With its beautiful modern, glass, and steel skyscrapers, [Dallas] appears to be a city of the future, but at her core she is still a place of the past where those who are different can expect a lower and much different standard of treatment.”⁶³

Despite Callaway’s claims of homophobia on the part the Dallas authorities, they quickly tracked down 19-year-old Corey Burley after he tried to sell Nguyen’s jewelry to a pawnshop. Police arrested Burley, who was indicted on capital and attempted murder charges.⁶⁴ In 1992, a jury found him guilty of capital murder and sentenced him to life in prison with the possibility of parole after 35 years. Satisfied that justice had been served, Callaway called the sentence “a message to anyone who would go out and kill somebody for who they are. Maybe Dallas is stepping out into the modern times on this issue.”⁶⁵

⁶² Kris Mullen, “Neighbors Aim to Close Gate on After-Hours Park Activity,” *Dallas Times Herald*, November 21, 1991.

⁶³ Callaway, Document.

⁶⁴ “Man Indicted in Killing,” *Dallas Times Herald*, November 20, 1991.

⁶⁵ Dan R. Barber, “Victim Recalls Slain Friend,” *Dallas Morning News*, April 17, 1992.

Later, police also arrested Frederick Kirby in connection to the crime. He faced aggravated robbery charges and was ultimately sentenced to 20 years in prison.⁶⁶

Whether or not the race of the attackers influenced the steep sentences handed down by the court—Burley and Kirby were not upstanding white youths from the Dallas suburbs—obtaining what Callaway considered “justice” in terms of sentencing was not difficult. Callaway was deeply involved in the case from the beginning, contacting openly gay State Representative Glen Maxey (D) and convincing him to write to the District Attorney urging vigorous prosecution of the “obvious” hate crime and reminding the D.A. to “keep specifically in mind the memories of the insentient and callous opinions and statements of Judge Jack Hampton.”⁶⁷ Years after the Hampton case, the judge’s anti-gay remarks continued to reverberate in discussions regarding justice for bias-motivated violence.

In the aftermath of the case, Callaway became more devoted than ever to the cause of ensuring justice for hate crimes—especially anti-gay incidents, although his personal papers demonstrate a knowledge of racist hate crimes, including the Donald Thomas murder. In 1992, the NGLTF invited Callaway to speak about his experience at a nationally reported press conference on the subject of hate crime, after which he continued to spend much of his time and energy on hate crime efforts.⁶⁸ His activism

⁶⁶ Hugh Callaway to Texas Board of Pardons and Paroles, Date Unknown, Box 500, Folder 6, Hugh Callaway Collection, LGBT Resource Center Collection, University of North Texas Libraries.

⁶⁷ Glen Maxey to John Vance, December 11, 1991, Box 499, Folder 80, Hugh Callaway Collection, LGBT Resource Center Collection, University of North Texas Libraries.

⁶⁸ “Group Reports Surge in Anti-Gay Violence,” *Associated Press*, March 20, 1992.

seems to have been largely driven by lingering rage at what happened to Nguyen in Reverchon Park. This anger can be detected in the letters he wrote to convicted gay-bashers in prison, including one he wrote to Burley in which he asked, “What gave you, you worthless, yellow, low life, scum bag, that you are, the right to decide we should die? . . . And now I will drink a toast to your living a long, long, life behind bars.”⁶⁹

Callaway focused most of his attention on serving the DLGA Social Justice Committee, writing for *TWT*, and writing letters to the Texas Board of Pardons and Paroles protesting the early release of convicted gay-bashers, including Burley and Kirby. In his time on the DLGA Social Justice Committee, he authored a “Hate Crime Survivors’ Manual,” in which he provided detailed instructions on how to deal with every aspect of a hate crime, including reporting, trial, and “keeping the gay basher locked up.”⁷⁰ He also wrote freelance articles for *TWT*, in which he encouraged readers to pay attention to parole developments and petition the Texas Board of Pardons and Paroles to keep gay-bashers in prison: “Do it for the victims, their friends and families. What if someone you loved were sadistically and brutally struck down for sport simply because of who or what they were?”⁷¹

⁶⁹ Hugh Callaway to Corey Burley, February 3, 1994, Box 499, Folder 16, Hugh Callaway Collection, LGBT Resource Center Collection, University of North Texas Libraries.

⁷⁰ Hugh Callaway, “Hate Crime Survivors’ Manual,” July 1993, Box 499, Folder 3, Hugh Callaway Collection, LGBT Resource Center Collection, University of North Texas Libraries.

⁷¹ Hugh Callaway, “Make Gay-Bashers Pay—Keep Them Behind Bars,” *This Week in Texas*, April 2-8, 1993.

Callaway continued his activism through the middle of the 1990s. In 1999, he was sentenced to Hutchins State Jail for aggravated assault and failure to stop and render aid, where he remained incarcerated until 2004.⁷² Although he fell from grace, his particular brand of activism signaled a shift in gay activist strategy toward an embrace of harsher sentencing as a long-term remedy to the hate crime “epidemic.” The Nguyen case and its aftermath also highlight the ways in which race and sexuality can intersect in an act of bias-motivated violence. The Vietnamese Nguyen’s relative obscurity compared to the white Broussard’s continued notoriety raises racially charged questions about how hate crimes are covered and remembered. In addition, the swift, steep sentences handed down to the African American perpetrators in the Nguyen case, when compared with the more lenient sentence given to Bednarski, raise further questions about the role of race in this case (and many other cases). Although an apt example of the ways in which race and sexuality intersect, the Nguyen case did not bring about intersectional activism between gay and racial minority communities. As seen in the following cases, African Americans and other racial minorities remained on a separate but parallel track as they struggled for justice against hate crime perpetrators.

Hung Truong and Donald Thomas

While the media mostly covered anti-gay hate crimes in the early 1990s, lending a gay character to the early hate crime movement, racial minorities in Texas forged their own responses to bias-motivated violence. The roots of white supremacy and lynching in the Lone Star State are deep. By the 1990s, informed by both a long history of entrenched

⁷² Daniel A. Kusner, “17 Years After Deadly Shooting in Reverchon Park, Victim All But Forgotten,” *Dallas Voice*, January 30, 2008.

racism and a new conversation about hate crime, African Americans and other minority communities sought solutions. A series of high-profile hate crimes in the Houston and Dallas-Fort Worth areas—including the murder of Vietnamese teenager Hung Truong in Houston and African American Donald Thomas in Arlington—spurred minority leaders and activists, especially African Americans, to respond with a push for reform. As other scholars have noted, hate crime legislation was not at the top of the priority list for the National Association for the Advancement of Colored People (NAACP) in the same way that it topped the agendas of gay and lesbian organizations.⁷³ However, especially after the highly publicized skinhead murder of Donald Thomas and the resulting lenient sentence by an all-white Tarrant County jury, African Americans in Texas played a central role in passing the state’s first hate crime law in 1993. In this way, although Texas gay activists had been pushing since 1989 for a hate crime law, it was only with African American support and pressure that a law passed in the socially conservative legislature.

In Texas, a few particularly high-profile racist hate crimes committed in the state’s largest urban centers dominated news headlines in the early 1990s. Each of the cases, in contrast with the seemingly random nature of anti-gay violence, involved skinheads associated with white supremacist organizations. One particularly shocking and well-covered case in 1990 was the beating of 15-year-old Vietnamese Huong Trong outside of a southwest Houston apartment complex. While Truong walked with four white companions on August 9, a group of youths with clubs randomly targeted the boy. After a chase ensued, they beat Truong viciously with their hands and feet. Hours after refusing medical help from paramedics, the boy died of internal head injuries. The fact

⁷³ Hanhardt, *Safe Space*, 156-158.

that paramedics let Truong's teenage friends take him into their custody incited allegations of misconduct and failure to render aid. Police charged two 18-year-old skinheads, Derek Ian Hilla and Kevin M. Allison, with what an HPD homicide detective described as a killing that "can't be anything but a racial crime." District Attorney Larry Standley agreed and charged the youths with murder, adding, "It's a racially motivated killing. It's just a senseless killing. They ought to be hung out to dry."⁷⁴ According to the principal of Hilla's high school, he had previously clashed with Asians after shots were fired at his house from a moving car and he blamed Vietnamese teenagers with whom he had fought. "He's real prejudiced," added a former neighbor. "He would talk about black people and call them niggers."⁷⁵

The murder sparked a rally of approximately 50 Houstonians of Asian descent in front of City Hall where participants called for an end to racism and violence—which was seen as a departure for an Asian American community that was seldom vocally activist. Prominent local African American leaders joined them at the rally.⁷⁶ More significantly, the U.S. Justice Department initiated a forum in the wake of the killing to ease racial tensions in the city. School representatives, city council members, and approximately 40 Asian, Hispanic, Jewish, and African American leaders met to discuss their responses to racist hate crime. African American City Council Member Sheila

⁷⁴ Eric Hanson and Tara Parker Pope, "Skinheads Charged in Teen's Death," *Houston Chronicle*, August 11, 1990.

⁷⁵ Catherine Chriss and Stefanie Asin, "One of Viet Teen's Accused Killers Had Clashed with Asians," *Houston Chronicle*, August 12, 1990.

⁷⁶ Lydia Lum, "Asians Rally to Demand Ethnic Peace," *Houston Chronicle*, August 26, 1990.

Jackson Lee (D) indicated interest in writing a hate crime ordinance. Houston Asian American leader Glenda Joe said, “It’s a sad, sad thing, but Truong’s death may be the single thing to fight racism as a whole in this city. Who would have ever thought a 15-year-old Asian boy could make that difference?”⁷⁷ In the end, a jury convicted Hilla and Allison of murder and involuntary manslaughter, respectively; Hilla received a sentence of 45 years in prison, with the possibility of parole after a fourth of the sentence had been completed, and Allison received 10 years. Truong’s father said he was satisfied with the outcome of the trial.⁷⁸ Although justice had been served in the eyes of the family, the Truong murder sparked a public discussion in Texas’s largest city about how to effectively respond to racist hate crime. Interracial cooperation existed on the issue, but gay leaders were absent from the discussion, indicating a clear divide in the early 1990s between hate crime activists in the gay and racial minority communities.

In 1991, only a year following the Truong killing, a series of hate crimes rocked the Dallas-Fort Worth metroplex—especially the city of Arlington, wedged between Dallas and Fort Worth in Tarrant County. These incidents, far from being random, were mostly the work of individuals associated with white supremacist groups. The hate crimes took place within the national context of reported epidemic levels of racist violence, a rate that the hate group-tracking Southern Poverty Law Center’s *Klanwatch Intelligence Report* called “nothing less than cataclysmic” and “a blaze of American

⁷⁷ Lydia Lum, “Minority Leaders Stress Will to Fight ‘Hate Crime,’” *Houston Chronicle*, August 24, 1990.

⁷⁸ Rad Sallee, “Skinheads Get Prison, Fines in Killing,” *Houston Chronicle*, January 25, 1991.

bigotry.”⁷⁹ Whether or not there was actually an “epidemic” of violence, hate crime certainly received a great deal of attention in Dallas and Tarrant Counties. On June 22, African American Arlington resident Norman Alford and his family awoke to find a cross burning in their front lawn and a swastika carved into their van. Nearby, vandals defaced a black woman’s apartment with neo-Nazi graffiti. Synagogues closer to Dallas fell victim to vandals. In the previous year, 17 indictments were issued charging five white supremacists with harassing racial minorities in the metroplex. Much of the attention focused on Arlington, which seemed to be an epicenter of racist harassment and violence, in spite of African American City Council Member Elzie Odom’s claim that race relations were good and Arlington “[has] a reputation as the best place in the world to live.” Roy Carter, the president of the Arlington chapter of the NAACP, organized a seminar on community responses to hate crime in the area in the wake of increased racial violence, proclaiming, “Hate crimes are a cancer that can fuel our [country]’s fall. Our world is too fragile for us to teach our children to hate, for if we do, we have condemned them to death.”⁸⁰

One Tarrant County hate crime in particular fueled African American outrage and activism: the murder of Donald Thomas, a black warehouse worker in Arlington. On June 7, 1991, three teenagers—Christopher Brosky, William George “Trey” Roberts III, and Joshua Everette Hendry—began the night with a drinking game. The three youths were associated with the Confederate Hammerskins, the Confederate White Vikings, and The

⁷⁹ “1990: A Year of WAR in the Courtroom and Young Brutality in the Streets,” *Klanwatch Intelligence Report*, February 1991, 1.

⁸⁰ Craig Wilson, “Series of Hate Crimes Shakes Communities in Dallas Area,” *Associated Press*, July 13, 1991.

Strike Force, all white supremacist groups. At some point in the early morning hours, one of the youths suggested doing a drive-by shooting, and Hendry said he could probably find a black person in his old neighborhood. The youths drove to the Arlington neighborhood with Roberts's sawed-off shotgun. When they saw Thomas in a front yard with a group of white men, Roberts decided to shoot both Thomas and a white man associating with him. In the end, he only had time to shoot Thomas before the group drove away. Thomas died after one shot. Despite the attempted getaway, one of Thomas's friends was able to record the license plate number of the vehicle. Police tracked down Hendry the next day, who was with Brosky and Roberts at the time. Police linked Roberts's gun to the shooting and took the youths into custody. Brosky claimed he remembered little from the night, as he had consumed 19 beers before they drove to Thomas's neighborhood.⁸¹

As senseless as the shooting was, the real controversy came in 1993, when the youths were convicted and sentenced. Once at trial, prosecutors cut deals with both Hendry (who they did not believe pulled the trigger because he was driving) and Roberts in exchange for confessions. Hendry ended up receiving a 15-year sentence in a juvenile facility and Roberts negotiated for a 40-year sentence in a federal prison with the possibility of parole in 10 years. However, after hearing tearful testimony from his mother, the all-white jury sentenced Brosky to 10 years of probation.⁸² Some jurors cited confusing sentencing forms that did not allow for a mixed sentence of both jail and

⁸¹ Jaime Aron, "Anatomy of a Hate Crime," *Associated Press*, April 18, 1993.

⁸² Aron, "Anatomy of a Hate Crime."

probation.⁸³ In 1993, prosecutors used organized crime charges to try Brosky again, after which he received a 40-year sentence.⁸⁴ However, the damage was done, and African Americans had already seized on the case to demand a legislative solution.

The NAACP and other African American activists were quick to respond to the Brosky sentencing. The media quoted one member of the NAACP as saying, “Only when something like this happens in your own back yard can you understand what happened in Los Angeles in the [Rodney] King trial.” Arlington NAACP president Carter added, “The message is that it’s open season on African Americans in the Dallas-Fort Worth area.” Black Dallas County Commissioner John Wiley Price summarized what many African Americans in the area felt: “Black folks’ lives still ain’t worth a damn in Texas. I’m mad as hell. Until black folks start taking to the streets, nothing is going to happen.” The ADL joined with African Americans and expressed disappointment with the sentence.⁸⁵ However, in a moment that could have been ripe for intersectional activism given what had occurred in Judge Jack Hampton’s courtroom five years prior, Texas gay organizations and activists, in addition to the gay media, were all but silent on the issue. Gay activists were more concerned with gay and lesbian issues, but the Donald Thomas case and its similarity to the infamous Bednarski trial offered an opportunity for intersectional activism. This apparent tunnel vision that separated anti-gay and racist hate crimes was a mainstay of early hate crime activism.

⁸³ “Jury Forms Revised After Confusion Over Supremacist’s Sentence,” *Associated Press*, April 25, 1993.

⁸⁴ Kevin Moran, “Skinhead Receives 40 Years,” *Houston Chronicle*, November 12, 1993.

⁸⁵ “Skinhead Gets Probation in ’91 Dallas Hate Slaying,” *Houston Chronicle*, March 24, 1993.

Price's comments foreshadowed the ensuing activism in Tarrant County after the sentencing. Black activists and allies literally took to the streets in a "death march" organized by the Coalition of African American Ministers on March 28, which drew over 6,000 participants in a display of "mourning for justice."⁸⁶ The massive march came on the heels of another protest march earlier in the week in which hundreds of black and white citizens protested in front of the Tarrant County Justice Center in Fort Worth. In addition to street activism, the NAACP called for an investigation by the U.S. Department of Justice.⁸⁷ These calls led to U.S. Senator Bob Krueger (D) and Dallas-area lawmakers writing to Attorney General Janet Reno to demand a federal investigation.⁸⁸

African American activists also turned their eyes toward a statewide hate crime law they hoped would prevent similar sentences in the future. In the wake of widespread outrage over the Brosky sentence, the bill—which had languished in the legislature for years—faced little significant opposition. Sponsored by black State Senator Rodney Ellis (D), the bill flew through the Senate on a fast track. When the Senate Criminal Justice Committee considered the law only weeks after the controversy, over 200 people from Tarrant County were bused into Austin to confront the committee with signs reading "There Is No Place for Hate Crime in Texas" and "Texas—End Plantation Mentality." Marylyn Miles, the organizer of the group African American Summit, said, "It is up to our elected officials to pass laws that will make Texas safe. We hold them accountable

⁸⁶ "'Death Marchers' Protest Supremacist's Sentence," *Associated Press*, March 29, 1993.

⁸⁷ Jay Jorden, "Hundreds Object to Sentence," *Associated Press*, March 25, 1993.

⁸⁸ "'Death Marchers' Protest Supremacist's Sentence"

for their actions. We don't want any death to be in vain." The committee approved the bill in a 6-0 vote.⁸⁹ Key testimony also came from Carolyn Thomas, Thomas' widow. The full Senate approved the bill, which included race, religion, and sexual orientation, in early April.⁹⁰ After threatening to significantly weaken the bill's sentence-enhancing provisions, the House passed what was seen as a fairly strong bill in late May, despite opposition from the House's Conservative Coalition.⁹¹ However, controversy over which protected categories would be included in the bill—centering on sexual orientation—resulted in the removal of all protected categories from the language. The Senate gave final approval and sent the bill to a supportive Governor Ann Richards' desk.⁹² The final bill enhanced sentences for hate crimes but left out explicit categories and inserted generic "bias or prejudice" language in their place.⁹³

It was not a complete win, but activists saw the law as a major step forward. At the signing ceremony, Richards indicated that the Thomas killing played the largest role in forcing passage of the bill. Indeed, she chose to sign the law on Juneteenth, the day celebrating slave emancipation, and at the signing ceremony she drew a direct connection from the Civil Rights Movement to the hate crime law: "Dr. [Martin Luther] King [Jr.]

⁸⁹ Chip Brown, "Senate Panel Acts to Boost Hate-Crime Penalties," *Associated Press*, March 31, 1993.

⁹⁰ Clay Robison, "Senate Passes Tougher Law on Hate Crimes," *Houston Chronicle*, April 8, 1993.

⁹¹ Laura A. Keeton, "House Hate-Crimes Bill Tougher as It Passes," *Houston Chronicle*, May 26, 1993.

⁹² Clay Robison, "Senate OKs Criminal Justice Reforms," *Houston Chronicle*, May 28, 1993.

⁹³ Keeton, "House Hate-Crimes Bill Tougher as It Passes."

wrote, ‘Hate multiplies hate, violence multiplies violence . . . darkness cannot drive out darkness; only light can do that.’ Today, we are here to shine a light into the darkness of hate and discrimination.” After recognizing the work of African American legislators, the murder of Donald Thomas, and the testimony of his widow Carolyn, she returned to King: “[King] said, ‘God has a way of wringing good out of evil.’ And this bill . . . is an assertion of the good that is in this society, a statement about our refusal to tolerate any act of violence.” In addition to members of the Black and Hispanic Caucuses in the legislature, Texas NAACP president Gary Bledsoe and representatives of the Mexican American Chamber of Commerce, League of United Latin American Citizens, and Urban League were present. Aside from Glen Maxey, gay leaders were absent from the signing ceremony.⁹⁴

While anti-gay hate crime dominated news headlines and gay activists successfully drew public attention to the issue, it took a high-profile miscarriage of justice in a racist hate crime case to spur the socially conservative legislature to action. This is not to suggest that Texas legislators were, as a whole, overly concerned with racist violence. However, the 1993 passage of the vaguely worded hate crime law does suggest that the legislature was more open to addressing racist than anti-gay violence in the early 1990s, when homophobia still hung as a cloud over much of the United States and Texas.

⁹⁴ Ann Richards, Governor’s Statement on the Signing of S.B. 456, June 19, 1993, Box 95-019/972, Ann Richards Papers, Briscoe Center for American History, University of Texas at Austin, Austin, TX.

Conclusion

By the late 1980s and early 1990s, the gay and African American communities turned much of their attention from police violence to hate crimes committed by both organized white supremacists and random bigots. Painting a picture of a hate crime “epidemic” and a criminal justice system that favored white heterosexuals, Texan gay and black activists organized and took aim at bias-motivated violence. They seized on a few high-profile cases, such as the miscarriages of justice in the Bednarski and Brosky trials and the murder of Paul Broussard. Locally, activists were also driven by cases close to them, demonstrated by Hugh Callaway’s activism following Thanh Nguyen’s murder. By the 1990s, gay and African American activists embraced a sentence-enhancing hate crime law as a solution to the “epidemic,” which they finally won in 1993.

However, this victory did not come about as a result of intersectional activism. In the end, the bill passed the legislature in response to the Brosky sentencing, and explicit protected categories—which, in the eyes of activists, were necessary to force local law enforcement officers statewide to prosecute hate crimes against gays and lesbians—were absent from the final legislation. Despite the intersectional nature of some hate crimes, such as the Nguyen murder, and despite the similarity and overlapping of grievances in regarding hate crime prosecutions, both communities missed opportunities to work together to advance legislation important to their shared cause.

In 1995, following the high-profile deaths of several gay Texas men, the Austin-based Lesbian/Gay Rights Lobby of Texas (LGRL) organized a “Stop the Violence Rally” at the State Capitol. Drawing over 5,000 people, the purpose of the rally was to push for the passage of a bill adding protected categories, including sexual orientation, to the hate crime law passed in 1993. From the demonstrators’ perspective, the vague law—which was the product of severe compromise—was difficult to enforce and possibly unconstitutional. Although the activists pushed for protesting multiple concerns, including race, the focus of the march was on ending anti-gay violence. LuJack Tyler, a board member of the LGRL, defined the march from the podium: “This is not a ‘pride’ march. This is a ‘we want you to stop hitting us’ march!”¹ The LGRL and march participants believed it would take a statewide law explicitly including sexual orientation to ensure hate crime prosecution at the local level and keep gay-bashers from “hitting” with impunity.

While the theme of gay inclusion dominated the LGRL-led march, the demonstrators and speakers clearly understood that racially motivated violence was also a major issue. However, the largely gay crowd saw anti-gay hate crime as the most pressing crisis by the middle of the decade. They perceived Texas as a particularly dangerous place to be gay. Openly gay Democratic State Representative Glen Maxey of Austin, a major proponent of a comprehensive hate crime bill in the House, agreed. He

¹ “Thousands Converge on Austin for March and Lobbying,” *This Week in Texas*, April 7-13, 1995, 75.

took the podium and invoked the state's torrid racial history, drawing a parallel between the lynching tradition to gay-bashing: "Some 70 years ago, the Ku Klux Klan roamed the Piney Woods and North Texas Plains beating, robbing, and murdering Texans simply because of the color of their skin. In the nineties, it is gay men and lesbians who are the victims of the new Saturday-night pastime: fag bashing."² While Maxey was correct in his assessment of the Lone Star State's violently racist history, his placement of gays and lesbians at the center of the 1990s hate crime "epidemic" framed anti-gay violence as a relatively new phenomenon and racist lynchings as a memory from "70 years ago."³ As Texans saw in the 1991 skinhead shooting of Donald Thomas and subsequent sentencing controversy, racially motivated murders and miscarriages of justice were not relics of history. However, Maxey's words spoke volumes about the state of the Texas hate crime movement in the mid-1990s. His proclamation about the "new" version of lynching symbolized the mentality of the broader, gay-led hate crime movement in Texas that saw violence against gay Texans as a peculiar problem reaching epidemic levels. With such a mindset, intersectional activism between gay and racial minority activists became difficult.

This focus on anti-gay hate crime is not a surprise given the attention paid to the issue by the media. In Texas, the media—both mainstream and gay—played a central

² Stefanie Scott, "5,000 gays, lesbians urge putting an end to 'bashing,'" *San Antonio Express-News*, April 3, 1995.

³ See William D. Carrigan's *The Making of a Lynching Culture: Violence and Vigilantism in Central Texas, 1836-1916* (Urbana: University of Illinois Press, 2006) for more on the culture of racist violence within Texas.

role in painting the Lone Star State's version of the "epidemic" as a primarily gay issue.⁴ Racist hate crimes certainly occurred between 1993 and 1998; for example, newspapers in 1994 reported a racially motivated drive-by shooting in the East Texas town of Winnsboro that, while not resulting in death, eerily mirrored the Donald Thomas murder.⁵ Activists did not deny the existence of such crimes. However, racist hate crimes did not dominate the headlines of Texas newspapers in the same way that anti-gay incidents did, perhaps because open discussion of homosexuality in the media was still a somewhat new phenomenon. Gay leaders themselves acknowledged the role the media played in painting hate crime as a specifically gay issue. While racism clearly did not disappear in the mid-1990s, race-related hate crime stories comprised only a small portion of Texas headlines.

In the same way, incidents of racist violence in the mid-1990s did not result in any kind of mass African American activism in support of stronger hate crime legislation. Historians have argued that the National Association for the Advancement of Colored People (NAACP) and other civil rights organizations were not at the forefront of hate crime advocacy because African Americans considered the 1964 Civil Rights Act an early kind of hate crime law. African Americans therefore saw hate crime activist efforts as an extension of the longer Civil Rights Movement. In this way, African Americans have been included in some kind of hate crime legislation since 1964, and the issue was

⁴ This was also true on the national level. See James B. Jacobs and Kimberly Potter, *Hate Crime: Criminal Law and Identity Politics* (New York: Oxford University Press, 1998), 50-52. Jacobs and Potter argue that the media played a key role in constructing the nationwide hate crime "epidemic" of the 1990s through its sensationalist reporting.

⁵ John McFarland, "Shooting Breaks Peace of Small Town," *Associated Press*, August 27, 1994.

far from new in the 1990s to black activists.⁶ In addition, the 1994 Violent Crime Control and Law Enforcement Act increased penalties for hate crimes based on race, giving African Americans a federal option gay and lesbian victims did not have in the mid-1990s; the Winnsboro shooting resulted in discussion of prosecuting the perpetrators under federal hate crime law.⁷ Finally, as evidenced by the legislature's willingness to immediately pass a law in the aftermath of the Donald Thomas case, the inclusion of race in hate crime legislation was never seriously contested, while gay inclusion sparked enough controversy that legislators stripped the law of all categories rather than include sexual orientation. In a broader sense, the proposed hate crime bill was the gay community's first major attempt at recognition in state law, making the hate crime struggle as much about gaining legitimacy from the legislature as it was about ending anti-gay violence. The stakes of the hate crime debate were quite high indeed for gay activists in Texas. Taken together, these explanations help make sense of how racist hate crimes in Texas flew largely under the radar in the mid-1990s while anti-gay murders dominated headlines and spurred a statewide movement.

This chapter argues that the Texas gay community, represented by the LGRL, led the movement for a statewide comprehensive hate crime law between 1993 and 1998,

⁶ Christina B. Hanhardt, *Safe Space: Gay Neighborhood History and the Politics of Violence* (Durham, N.C.: Duke University Press, 2013), 156-157. For more on African American activism surrounding the issue of hate crime, see Christopher Waldrep, *African Americans Confront Lynching: Strategies of Resistance from the Civil War to the Civil Rights Era* (Lanham, Md.: Rowman and Littlefield, 2008); Mamie Till-Mobley and Christopher Benson, *Death of Innocence: The Story of the Hate Crime That Changed America* (New York: Random House, 2011); and Ely Aaronson, *From Slave Abuse to Hate Crime: The Criminalization of Racial Violence in American History* (Cambridge, UK: Cambridge University Press, 2014).

⁷ John McFarland, "Shooting Breaks Peace of Small Town," *Associated Press*, August 27, 1994.

energized largely by intensive media coverage of anti-gay murders. By the mid-1990s, passing a hate crime bill inclusive of sexual orientation became one of the LGRL's top priorities. The LGRL, headed since the early 1990s by Austin-based Latina lesbian activist Dianne Hardy-Garcia, was well positioned to take on this effort as the state's largest and most legislation-focused gay organization. As anti-gay murders—both urban and rural, but mostly male—continued to dot the Texas headlines, the LGRL and local gay organizations such as Houston's Queer Nation and Tyler's East Texas Lesbian/Gay Alliance ramped up pressure on local and state government to protect gay and lesbian Texans from the perceived wave of violence. These efforts included, most visibly and symbolically, marches for justice that took place in Austin and various other localities. In addition to organizing marches for publicity, the LGRL focused its efforts on lobbying—and encouraging ordinary Texans to lobby—the legislature in support of a strong hate crime bill. The LGRL also spearheaded a “Pledge Project” in the mid-1990s urging Texans to pledge to do everything they could to stop hate crime, including urging their legislators to support the proposed bill.⁸

While this chapter finds that anti-gay violence was the primary concern of the Texas hate crime movement in the 1990s, it does not suggest that gay activists were unaware of racist hate crime or that racial minorities did not play any role in pushing for legislation. After the LGRL's legislative defeat in 1995, the gay-led hate crime movement focused more attention on bringing gay Texans and racial minorities together on the issue of hate crime. Indeed, the LGRL's 1997 “March in March” in Austin, which

⁸ “Lesbian/Gay Rights Lobby Launches ‘Pledge Project’ Against Hate Crime,” *This Week in Texas*, September 29-October 5, 1995, 77.

again pushed for hate crime legislation, was notably more intersectional than the 1995 Stop the Violence Rally, although it was still largely gay-centered. Far from a gay-exclusive event, the march drew the sponsorship of such organizations as the NAACP of Texas, the Texas National Organization for Women (NOW), the Mexican American Legal Defense Fund, and the American Jewish Congress.⁹ Gary Bledsoe, the president of the Texas NAACP, was one of the speakers. After the march, Hardy-Garcia beamed about the message it sent, in addition to noting the role the media played in constructing the hate crime movement as gay-centered: “I’m so pleased. Our message was clear on how hate crimes are bad and hurt so many people, and I’m pleased the media made the connections. They covered it not as a gay-only issue, although of course hate crimes do affect us strongly.”¹⁰ By 1998, when the nation and world were shocked by the brutal dragging death of African American James Byrd, Jr. in Jasper, racist hate crimes once again took center stage in Texas. However, even before the Byrd murder, Hardy-Garcia and other hate crime activists realized the limited potential a gay-led movement possessed in such a socially conservative environment.

This chapter focuses on the ways in which gay and lesbian Texans marched for justice, both literally and figuratively, between the passage of the state’s first hate crime law in 1993 to 1998, the year of the Byrd murder and a major turning point in the hate crime movement. It considers the anti-gay hate crimes that made the most headlines and spurred the most activism: Nicholas Ray West in Tyler, Tommy Musick in Midland, and

⁹ “‘March in March’ Brings Broad Coalition to Austin Seeking Better Hate Crimes Law,” *This Week in Texas*, March 7-13, 1997, 31-33.

¹⁰ “Thousands March on Capitol in Push for Hate Crime Law,” *This Week in Texas*, March 28-April 3, 1997, 68-69.

Michael Burzinski and Fred Mangione in Houston. This chapter also shows that hate crime activism in Texas was largely organic and locally driven, even when the LGRL took the helm of the statewide movement. Additionally, this chapter illuminates the different ways in which the LGRL and other hate crime activists seized on these high-profile murders to push for comprehensive hate crime legislation, including the 1995 and 1997 marches and lobbying efforts. Finally, the chapter considers the state's transgender community and its relationship with—and exclusion from—the Texas hate crime movement, raising further questions about the inclusivity of the gay and lesbian anti-violence movement.

Nicholas Ray West, Tommy Musick, and Michael Burzinski

Far from ending the hate crime “epidemic,” the passage of the 1993 hate crime law was followed by two years of violence and murder in Texas. While, as noted above, racist murders did occur in the state during this period, the incidents that captured media headlines and spurred the greatest amount of activism were anti-gay in nature. Two particular rural acts of violence perpetrated against gay men were especially important in shaping the movement for hate crime legislation: the murders of Tommy Musick in Midland and Nicholas Ray West in Tyler. In addition to organizing rallies in these communities and attempting to build local movements where none had existed before, the LGRL folded these rural murders into a broader discussion of hate crime statewide and built the case that anti-gay murders were spiraling out of control in Texas. The Midland and Tyler crimes were strikingly similar, as were the movements that rose to challenge homophobia in the memory of these two men. In addition, the high-profile Michael

Burzinski murder in Houston, which occurred after the West and Musick incidents, echoed earlier events in the city by reminding gay Houstonians of the Paul Broussard killing. The gay responses to the Musick, West, and Burzinski murders helped crystallize an already active movement against hate crime in Texas as it drew increasing attention to the perceived injustice of the Texas criminal justice system. The LGRL seized on each of these hate crimes from 1993 until 1994 to build its case for a comprehensive, gay-inclusive hate crime law in Texas.

On April 14, 1993, teenagers Michael Scott Thomas and Ramsey Blake Harrell called 48-year-old gay Midland hairdresser Tommy Musick asking for a ride home from a campground. Thomas knew Musick because he had occasionally used his swimming pool. How exactly the murder unfolded remains murky, but there are some known facts. During the drive from the campground, Harrell, who was sitting in the back seat, shot Musick in the back of the head four times with a .22-caliber gun. The boys drove Musick's body to an isolated area and dumped it. They then left his car near the city airport and immediately went to Musick's house, where they told his partner of twenty years that Musick had never arrived at the campground. It did not take much investigation on the part of the local police department before authorities arrested Thomas and Harrell for Musick's killing. They later stood trial on charges of capital murder.¹¹

Convicting the teenagers was no easy task for the prosecution. Harrell and Thomas made a familiar "gay panic" defense, claiming Musick aggressively made a pass at Thomas, immediately after which Harrell became temporarily irrational and shot

¹¹ Garry Boulard, "The Anti-Twinkie Defense," *The Advocate*, June 14, 1994, 33.

Musick in the back of the head. Even though Thomas confessed on tape that Musick did not sexually assault him, that evidence was ruled inadmissible. The attention of the court shifted to Musick's personal life. The defense presented him as a promiscuous gay man, and his HIV-positive status entered the court transcript. The defense even went so far as to enter Musick's thong bathing suit into evidence, apparently in an attempt to show he was not normal.¹² The strategy worked; in February of 1994, the jury convicted Harrell of murder instead of capital murder, meaning he would serve up to 12 years in prison with the possibility of parole in three years.¹³ The conviction inspired a small protest movement in Midland that echoed across the state.

The same year as Musick's murder, a similar killing occurred across the state in Tyler. On the evening of November 7, 1993, Nicholas Ray West, an openly gay 23-year-old Hispanic man, left to run an errand and never returned. Teenagers found his body two days later facedown in a sandpit. He had been shot nine times with a shotgun and two .357-caliber Magnum pistols, in addition to being struck with both a fist and a gun. His pants, wallet, and truck had been stolen. Chief sheriff's deputy Johnny Beddingfield called the murder a "sick, sadistic crime," adding that he would "prosecute someone who treated a dog like this, much less a human being."¹⁴ Because local police and prosecutors treated the savage murder as a hate crime, the case became the first test of the 1993 hate crime law.

¹² Garry Boulard, "The Anti-Twinkie Defense," *The Advocate*, June 14, 1994, 34.

¹³ Kay Longcope, "Verdict Questioned in Trial of Gay's Killer," *Texas Triangle*, February 23, 1994.

¹⁴ Kay Longcope, "Death of a Texan," *The Advocate*, February 22, 1994, 46.

Linking the case to a previous anti-gay assault, police officers arrested three adults and two juveniles in connection with West's murder. Three of the men—Donald Aldrich, David McMillan, and Henry Dunn—confessed on video to murdering West. Not only did they admit to the killing, but they also boasted that, under Aldrich's leadership, they had targeted members of the gay community to assault and rob for months. Police connected the gang with a string of Tyler robberies and arsons in previous months.¹⁵ Unlike in other Texas cities—and interestingly, given East Texas's reputation—gay activists never had a complaint about law enforcement's handling of the case or the trial. Using the 1993 law, police treated the murder as a hate crime from the beginning. The three men faced capital murder charges, and Aldrich was sentenced to death in 1994.

West's murder spurred a movement against anti-gay violence in rural East Texas that was impressive considering the gay community was not organized in the area. In conjunction with the LGRL, Tyler and Dallas area gays and lesbians came together to plan a "Stop the Hate" rally in Tyler a little over a month after West's death. Wesley Beard, a 21-year-old who became something of a gay leader in East Texas after the killing and played a role in organizing the rally, estimated that 200 people would attend the event.¹⁶ Beard noted that the rally was not meant as a protest, but rather as a showing of support for both law enforcement and the local gay community, again marking a shift in tone as the gay community began to focus on working within the criminal justice system. Organizers booked two state representatives, including Glen Maxey, to speak out

¹⁵ "Gay-Hating Gang Linked to Slaying and Assaults," *Associated Press*, January 7, 1994.

¹⁶ Frank Trejo, "Many Set to Attend Rally in Gay's Death," *Dallas Morning News*, January 8, 1994.

against homophobia, in addition to gay minister and author Rev. Mel White.¹⁷ In part because of the organizing work of the LGRL, gays and lesbians traveled to the rally from Austin, San Antonio, and elsewhere in the state.¹⁸

In the end, at least 1,000 people showed up in Tyler to rally against violence. Rally participants gathered in Bergfield Park and persisted as cars reportedly circled the park and passengers shouted, “Faggots!” and “Kill ‘em! Kill ‘em all!” Anti-gay counter-protesters also made their presence known, many of them holding signs with Bible verses against homosexuality. No violence ensued in the park in spite of the large crowds on both sides of the issue.¹⁹ Although it was only one event, the gays and lesbians of Tyler made their presence known with hundreds of their comrades from around the state. The LGRL-led movement underscored the looming threat of violence as a common, universalizing element linking gay men and lesbians across the state. The notion that simply being openly gay meant living under the threat of violence, which became widespread in the 1990s, played a large role in the LGRL’s call for urban and rural activists to unite. Hate crime, in other words, was not simply a distant news headline to Texas gays and lesbians; it was a looming threat to their own personal safety.²⁰

¹⁷ “Activists from Around State to Rally in Tyler Saturday,” *This Week in Texas*, January 7-13, 1994, 53.

¹⁸ Christopher Anderson, “SA Supporters Plan to Go to Rally,” *San Antonio Express-News*, date unknown.

¹⁹ Phil Johnson, “On the Edge of the Tyler Rally,” *This Week in Texas*, January 14-20, 1994, 27-29.

²⁰ For more on the universalizing of hate crime as a shared perceived threat among all gays and lesbians, see Hanhardt, *Safe Space*.

In addition to sparking a rally, the murder galvanized gay East Texans to organize. Under the leadership of Beard, who had known West, East Texas gays organized for the first time, calling their organization the East Texas Gay and Lesbian Alliance.²¹ Although there exists no record of this organization surviving past the mid-1990s, the fact that East Texas gays and lesbians were mobilized enough to organize it in the first place demonstrates the community building the West murder inspired. Also, an East Texas chapter of Parents, Families and Friends of Lesbians and Gays (PFLAG) sprung up shortly after the killing.²² A local movement, albeit a nascent one, arose in rural East Texas, supported by the LGRL and gay activists from around the state. The energy generated by the murder added rural activists to what had previously been a mostly urban movement against hate crime.

A similarly sized movement arose in the aftermath of Tommy Musick's murder trial. However, this West Texas movement possessed a vastly different tone than the rallying in East Texas: one of anger and protest. After the judge handed down the sentence in the trial, members of the small Midland gay community expressed frustration and outrage over what they perceived as another in a line of "judicial gay-bashings." The LGRL used the opportunity to call for a Midland rally. Linking the Musick case to both the Resendez and Broussard killings, LGRL executive director Dianne Hardy-Garcia noted that the cases "illustrate that not only are lesbians and gays victims of violence in

²¹ Trejo, "Many Set to Attend Rally in Gay's Death."

²² Wendy Benjaminson, "Slaying Puts Gays on Alert in Tyler Area," *Houston Chronicle*, February 13, 1994.

Texas, but lesbians and gays are also not being treated fairly by the judicial system.”²³

Organizers planned the rally for April 9, 1994, and Hardy-Garcia expressed hope that gays and lesbians from around the state would fold the Midland community into the broader statewide movement.²⁴

On April 9, at least 500 people gathered in Midland for the region’s first-ever gay event. Speakers included not only gay leaders, but also local African American and Mexican American leaders, including representatives from the NAACP and the League of United Latin American Citizens (LULAC). African American Tony Belcher and Mexican American Jose Chavez spoke at the rally about their daughters, who had been killed in separate racially motivated incidents in Midland, their killers still free. NAACP representative Gene Collins called for unity in the wake of the murder: “What we don’t understand, we fear. We need to open up our minds and educate this society so that we can all live together.” Hardy-Garcia proclaimed from the podium, “We know that all you have to do to get off for murdering a fag in Texas is to allege that he made a pass at you.”²⁵ The overarching theme of the rally was the need to break the silence and stand up to be counted. No formal organization arose in West Texas, but the LGRL-organized rally connected the Midland gay community with the larger statewide anti-violence movement.

²³ “Lobby Demands Justice in Texas Gay Murders,” *San Antonio Marquise*, March 10-23, 1994, 8.

²⁴ “Rally Planned to Protest Sentence Given to Killer of Gay Midland Man,” *This Week in Texas*, February 25-March 3, 1994, 68.

²⁵ Brad Williams, “West Texas Rally Demands ‘Justice for All,’” *Texas Triangle*, April 13, 1994.

In the same year, another high-profile incident of violence struck the Houston area gay community. On July 30, 1994, close to the date on which Donald Aldrich received the death sentence, a 1988 Mazda was found, abandoned and burned, in Harris County north of Houston. Nearby, car owner and gay Houstonian Michael Burzinski's body was discovered, shot once execution-style in the back of the head and possibly beaten. While the Harris County Sheriff's Department did not know the motive for the killing, the fact that 29-year-old Burzinski had last been seen alive earlier that morning in Montrose gay bars led detectives to investigate the incident as a possible hate crime. Sergeant Danny Billingsley spoke about the case to the *Houston Voice*, the city's gay newspaper: "No one knew of anyone who had anything against him, who might want him dead, and the way he was killed isn't the way someone is shot during a robbery." In addition, robbery was all but ruled out initially because, as Billingsley put it, Burzinski "was not the kind of guy who carried a lot of cash or wore flashy jewelry. His car wasn't new, it was an '88." In the days after the body's discovery, Burzinski's family in Toledo, Ohio, held a press conference to offer a \$5,000 reward for information leading to the arrest and conviction of the killers. Burzinski's mother affirmed the family's support for the victim's sexual orientation and added, "If indeed it was a hate crime, then that's an atrocity."²⁶

To many in Houston, the crime was eerily similar to the brutal death of Paul Broussard in Montrose only three years prior to Burzinski's murder. The similarities increased when, following a CrimeStoppers tip, police arrested four teenagers from

²⁶ Sheri Cohen Darbonne, "Hate Crime Suspected in Slaying of Gay Man; Few Leads in Case," *Houston Voice*, August 12, 1994.

Aldine, north of Houston. Described as all-American “well-adjusted athletes” from the suburbs, one of which was about to enter college on a football scholarship, the youths prodded memories not only of The Woodlands Ten, but also the Mesquite youths charged with killing John Griffin and Tommy Lee Trimble and the Midland youths in the Tommy Musick case.²⁷ Indeed, Hardy-Garcia later claimed, “I started to see very clearly there is a pattern. The teenage-boy syndrome.”²⁸ Activists began to paint a picture of gay neighborhoods under siege by homophobic suburban youths with too much time on their hands. In their confessions to the police, however, it became clear that robbery was at least one of their motives that night. The suspects told police that they wanted to find somebody to rob to obtain money for school clothes, but they added that they had heard “homosexuals had money and were easy targets.” According to 19-year-old DeMarco McCullum, who was identified as the shooter, he “felt like a judge” after pulling the trigger.²⁹ Police also questioned the youths in connection with a string of brutal robberies in Harris County, including one murder.³⁰

Although none of the other cases appeared to involve anti-gay bias, the youths’ confessions and McCullum’s comments gave the impression that Burzinski’s sexual orientation played a significant role in his targeting and death. According to the

²⁷ Sheri Cohen Darbonne, “Four Aldine High Students Arrested, Confess to Killing Gay Man July 30,” *Houston Voice*, August 19, 1994.

²⁸ Buzz Bissinger, “The Killing Trail,” *Vanity Fair*, February 1995.

²⁹ Cohen Darbonne, “Four Aldine High Students Arrested, Confess to Killing Gay Man July 30.”

³⁰ Sheri Cohen Darbonne, “Suspects in Burzinski Murder Tied to Several Other Recent Crimes,” *Houston Voice*, August 26, 1994.

teenagers' confessions, the group selected Burzinski based on the idea that white gay men are affluent. They targeted Burzinski as he left a Montrose gay club and abducted him, forcing him to drive to a convenience store. There, they used his ATM card to steal \$400 from his bank account. They then drove him to north Harris County, where McCullum shot him execution-style, and burned his car.³¹ In the eyes of many, justice was eventually served in the case, and McCullum joined Aldrich on death row in December of 1995. Despite the brutality of the crime and the youths' easily obtained confessions, the Burzinski murder did not inspire protesting on the level of the Broussard case. This is perhaps because of the Harris County Sheriff's Department's handling of the case as a possible hate crime from the beginning. Indeed, Houston Gay and Lesbian Political Caucus president Terri Richardson said early on, "I applaud the Harris County Sheriff's Department for raising the hate crime issue on its own, without pressure from the [gay] community."³²

However, the LGRL took note of the Burzinski case, and his name continued to be used throughout the 1990s alongside Broussard's, West's, and Musick's in the push for stronger hate crime protections. The murders of West, Musick, and Burzinski were not the only Texas anti-gay hate crimes reported in the 1990s. However, they were the cases that received the most coverage and rallied activists in support of gay-inclusive hate crime legislation. Burzinski's murder built on the anger already simmering in Houston after the 1991 Broussard killing. The West and Musick murders, on the other hand, built

³¹ "Four Youths Arrested in Death of Houston Gay Man," *This Week in Texas*, August 19-25, 1994, 68.

³² Cohen Darbonne, "Hate Crime Suspected in Slaying of Gay Man."

new local movements in East and West Texas, further universalizing the threat of hate crime among gay and lesbian Texans.

1995 Activism

By 1995, activists and the mainstream and gay media had painted a picture of a Lone Star State reeling from an anti-gay violence wave. At the beginning of the year, a *This Week in Texas (TWT)* article on the spate of gay murders in 1993 and 1994 ominously warned that recent events “should make everyone in the community think both about their own safety and about such crimes as a continuing societal problem.”³³ The “epidemic” rhetoric did not simply serve as a warning to the gay community; mainstream media outlets picked up on the high-profile murder stories and painted the crisis, to some degree, as a Texas problem created by an oppressively homophobic culture and power structure.

In February of 1995, *Vanity Fair* published a lengthy article titled “The Killing Trail” detailing the early-1990s deaths of several gay men, including Texans Thanh Nguyen, Paul Broussard, Nicholas Ray West, Tommy Musick, and Michael Burzinski. To help make sense of the brutality visited upon gay men in the state, the article quoted Rev. Mel White: “We molest, we recruit, we eat shit, we’re not fit to be in the military. All this rhetoric goes on and they wonder why kids are beating the shit out of us.” Feeding into the notion of, as Hardy-Garcia put it, the “teenage-boy syndrome,” the article then posed the question: “In such a climate . . . is it any surprise that certain

³³ “Hate Crimes Pose Continuing Threat to Gay and Lesbian Texans,” *This Week in Texas*, December 30, 1994-January 5, 1995, 77.

teenagers feel the comfortable womb of church and state support when killing gays?”³⁴ Even in the years before the murder of James Byrd, Jr., the eyes of the nation were upon what many saw as a hateful climate in Texas that bred teenaged murderers, even in the midst of a hate crime “epidemic” nationwide. Later events in 1994 only reinforced this image, such as the incident in which a Dallas bailiff remarked to the defense attorney of a lesbian’s accused rapist, “If it was me [on the jury], I’d only give him 30 days for raping a lesbian.”³⁵ State Representative Glen Maxey also reported receiving death threats by phone, which he used to underscore “why there’s a need for hate-crime legislation and for constant police action.”³⁶

In the weeks after the publication of the *Vanity Fair* article, East Texas Lesbian/Gay Alliance founder Wesley Beard organized a second “Stop the Hate” rally in Tyler’s Bergfield Park. Scheduled for February 18, the rally was meant to build on the momentum gathered after the West murder and respond to a recent hate crime incident in which two gay brothers, Olan and Edward Tubb, were beaten and shot in the nearby East Texas city of Longview. Speakers included Hardy-Garcia, the executive director of the Texas Human Rights Foundation, and Rev. Mel White.³⁷ In total, about 250 people attended the rally, which only saw one counterdemonstrator, who walked around the

³⁴ Bissinger, “The Killing Trail.”

³⁵ “Dallas Groups Protest Remark by Sheriff’s Bailiff,” *This Week in Texas*, August 26-September 1, 1994, 76.

³⁶ “State Legislator Reports Receiving Death Threats,” *This Week in Texas*, October 14-20, 1994, 68-69.

³⁷ “2nd ‘Stop the Hate’ Rally Planned for Tyler,” *This Week in Texas*, February 10-16, 1995, 69.

perimeter of the park carrying religiously themed anti-gay placards. According to Beard, the march was a success at drumming up attention to the issue of Texas hate crime, but it was also a reminder that the gay community remained vulnerable in the Lone Star State: “The rally was really a call to end the violence and hate. Here in Tyler where I live, I think it’s been an open season on gays and lesbians. It’s not a question of when it’s going to stop . . . it’s a question of who’s next.”³⁸

While East Texans planned their local rally, which was geared toward a general condemnation of violence and call for the local community to support gay and lesbian East Texans, the LGRL seized on the local, state, and national media coverage of hate crime in Texas and planned for a much larger rally in April. Dubbed the “Stop the Violence Rally,” the LGRL-organized march on the State Capitol had a specific goal in mind: the passage of a strong, gay-inclusive hate crime bill, which had become one of the LGRL’s top priorities by 1995. The march was to be followed by a Lobby Day in which ordinary gay and lesbian Texans could take the opportunity to discuss the hate crime bill with their legislators’ offices. An LGRL representative told *TWT*, “We’re going to be marching to support a hate crimes bill, and anybody who’s interested in helping pass this bill and getting what’s right for Texas should show up and is welcome to march.”³⁹

In all, at least 5,000 people participated in the march according to the Texas Department of Public Safety; the LGRL reported over 7,000 people attended. According

³⁸ “Activists Condemn Hate Crime at Tyler Rally,” *This Week in Texas*, February 24-March 2, 1995, 78-79.

³⁹ “Thousands Expected to Converge on Austin This Weekend for March Against Hate Crimes, Texas Lesbian Conference and Other Community Events,” *This Week in Texas*, March 31-April 6, 1995, 37-39.

to the LGRL, the march was meant to revolve around the eight gay Texas men who were murdered in 1994 and who were not avenged by the vague 1993 hate crime law.⁴⁰ Many wore tee-shirts reading, “You can stand up to hatred or you can take it lying down.” While some were undoubtedly moved by the “epidemic” reported by the media and LGRL, others attended to march in honor of a slain loved one. One such person, Jim Fielding, traveled from New York to march in memory of his friend, Jose Treveno, a gay man killed in El Paso; he carried a sign reading, “Strangled. Bludgeoned to Death. Murdered in El Paso. March 3, 1994.”⁴¹ Daniel Saldana, the father of a man killed in Austin, told the crowd he wanted to protect other families from losing loved ones to violence. Bill Hogan of Lubbock, the brother of a man who committed suicide after being outed in a newspaper, added, “I want to give gays and lesbians equal rights. . . . Not special rights, just equal rights so that they won’t be harmed.”⁴² While gay advocacy organizations and the media often spoke in abstract terms about a hate crime “epidemic,” individual marchers and activists were moved by personal experiences in their own families and localities. A long line of speakers, including Hardy-Garcia, Glen Maxey, and LGRL board member LuJack Tyler, urged the Texas Legislature to immediately pass a bill strengthening hate crime protections in the state.

The day following the march, the LGRL coordinated a Lobby Day, in which approximately 100 people took part. Hardy-Garcia said of the Lobby Day, “It was

⁴⁰ “Thousands Converge on Austin for March and Lobbying,” *This Week in Texas*, April 7-13, 1995, 75.

⁴¹ Kay Longcope and Rick Brown, “5,000 March for Civil Rights,” *Texas Triangle*, April 6, 1995.

⁴² “Austin Rally for Gay Rights Draws 5,000,” *Dallas Morning News*, April 3, 1995.

extremely successful. We had a lot of people who stayed around to lobby. . . . That made us feel real good.” The ordinary gay and lesbian lobbyists targeted the “most difficult” legislators’ offices, where—in addition to advocating for the passage of a hate crime bill—they distributed triangle-shaped cookies (a riff on the ACT UP logo), videos on anti-gay hate crime, and “Erase Homophobia” erasers.⁴³ This kind of mundane, tireless lobbying in the Texas Legislature was indicative of the kind of behind-the-scenes hate crime campaign the LGRL ran in the mid-1990s, in addition to the more visible aspects such as marching.

The 1995 march symbolized something greater: the coming together of the politically active gay and lesbian community in Texas around the goal of a comprehensive hate crime bill. By 1995, the LGRL cited hate crime legislation as a top priority and a necessary response to the spate of anti-gay murder and miscarriages of justice in Texas.⁴⁴ However, this movement was not in sync with racial minority concerns about violence. Although racist hate crimes continued to occur after the highly publicized murder of Donald Thomas, there was no significant intersectional cooperation between gay and lesbian Texans and racial minorities with regard to the proposed hate crime bill. African American and other civil rights organizations, while certainly supportive of additional hate crime legislation, did not rally with the LGRL in support of a stronger bill. As noted previously, racial minority hate crime victims had federal options by 1995. In addition, as shown by the rapid passage of a hate crime law following the Donald Thomas case, the inclusion of race in hate crime law was not contested in Texas. Gay and

⁴³ “Thousands Converge on Austin for March and Lobbying,” 75.

⁴⁴ “Hate Crimes Pose Continuing Threat to Gay and Lesbian Texans,” 77.

lesbian inclusion, however, was still hotly debated in the mid-1990s. As a result, sustained hate crime efforts in the middle of the decade centered on gay inclusion in legislation that was already understood to include racial minorities.

Racial minorities were not the only groups visibly missing from the hate crime movement in the mid-1990s. By the middle of the decade, transgender Texans were struggling to be included in the state's gay and lesbian community. This debate could be found initially on the local level, where transgender activists attempted to force urban gay and lesbian organizations to change their names to include transgender people. For example, Texas transgender activist Phyllis Randolph Frye wrote in 1994 to *TWT* applauding the San Antonio Lesbian and Gay Political Caucus for changing its name to the San Antonio Equal Rights Political Caucus for Lesbians, Gays, Bisexuals, and the Transgendered. She asked, "Will Houston's [Political Caucus] ever inclusify [sic] its name?"⁴⁵

This transgender debate also extended to the state level, perhaps most visibly in the hate crime movement. The 1995 march, in particular, became a lightning rod. One San Antonio transgender writer excoriated the LGRL in 1995 for using the headline "Lesbians and Gays March on Austin." She rhetorically asked, "Excuse me, LGRL, but don't you want transgender people to join with you in the march? . . . The great LGRL gaffe drives a wedge of exclusion and isolationism of the lesbian/gay equal rights movement from all others." The hate crime bill itself, as transgender activists reminded the LGRL, did not include gender identity as a protected category, which Hardy-Garcia

⁴⁵ Phyllis Frye, "Call for Inclusiveness," *This Week in Texas*, September 30-October 6, 1994, 53.

denied, asserting that most transgender people would be covered in the bill as written since transgender people are often confused for gay or lesbian.⁴⁶

Despite transgender objections to their exclusion from the bill and broader hate crime movement, the gay and lesbian movement marched on under the leadership of the LGRL in support of a gay-inclusive, transgender-exclusive hate crime bill. However, the 1995 march did not result in the passage of the comprehensive bill. Although the bill passed out of the Senate, it died in the House. In the end, the legislature changed one word in the 1993 hate crime law; it deleted the word “person” and instead specified that hate crimes are committed against a “group,” a move that legislators hoped would enable police officers and prosecutors to more effectively target hate crime perpetrators.

Republican Governor George W. Bush, a socially conservative hate crime law opponent, signed the measure into law. Hardy-Garcia, clearly disappointed in the compromise, indicated that the LGRL would not give up its efforts: “We still have our current law. . . . I feel very convinced we must continue to work on the whole issue of hate-related violence.”⁴⁷

Indeed, the LGRL did not give up its efforts in the face of defeat. In September, the organization announced that it would continue to pressure the legislature to pass a comprehensive bill by launching what it called the “Pledge Project.” Hardy-Garcia explained that it was an attempt to gain allies for a hate crime bill outside of the gay community: “The Pledge is designed to go beyond the gay community. We really want to

⁴⁶ Tere Frederickson, “The Great LGRL Gaffe,” *San Antonio Marquise*, March 1995, 14.

⁴⁷ “One-Word Change Made to State’s Old Hate Crime Law,” *This Week in Texas*, June 2-8, 1995, 68.

educate people; we can't abandon this issue. This is so basic to lesbian and gay rights, nothing is more important than being able to live free of fear." The project consisted of convincing Texans to fill out large pledge cards promising "to help end hate crime in Texas." The card listed three reasons to sign: "Because too many Texans have experienced violence due to hate; because hate crimes terrorize whole groups of people simply because of who they are; because I believe in having respect for all people regardless of how different they are from me." It also listed the ways in which the signee could help in the fight against hate crime, which included lobbying legislators to pass a comprehensive hate crime bill. The LGRL's goal was to obtain at least 50,000 pledges before the next legislative session.⁴⁸ At least partially succeeding in their attempt to grow the base of support for hate crime legislation, the LGRL secured endorsement from the project from such diverse groups as the AFL-CIO of Texas, the NAACP, Texas NOW, and Mexican American Democrats of Texas.⁴⁹ While the LGRL was ultimately not successful in gaining passage of a gay-inclusive hate crime bill in the 1990s, its tireless efforts and broad support in the gay community showed the centrality of hate crime legislation to the Texas gay rights movement in 1995.

Fred Mangione

As indicated by the Pledge Project, the LGRL's hate crime activism did not end after its disappointing legislative defeat in 1995. However, the continuation of the hate

⁴⁸ "Lesbian/Gay Rights Lobby Launches 'Pledge Project' Against Hate Crime," 77.

⁴⁹ Bruce Williams, "Hate Crimes Remain High-Priority Issue for the Lesbian/Gay Rights Lobby of Texas as the 75th Legislative Session Approaches," *This Week in Texas*, October 4-10, 1996, 18.

crime struggle hinged on further media coverage of bias-motivated murders that seemed to prove the LGRL's point that a strong legislative response was needed. One particularly important hate crime that fueled both local activists and statewide lobbying efforts was the 1996 killing of 46-year-old Fred Mangione by neo-Nazis in Katy, a small suburban city located on the western side of metropolitan Houston. The Mangione murder ignited a protest movement the likes of which had not been seen since the 1991 killing of Paul Broussard. It also marked the beginning of a sustained attempt by gay activists to unite all racial and sexual minorities against the perceived wave of violence Mangione's death seemed, in their minds, to confirm.

Mangione and his partner of 16 years, Kenneth Stern, celebrated the New Year in 1996 at Dolly's Place, a bar in Katy. In the *Houston Voice* article on the murder, the writer remarked that the couple had been "basking in the hope and promises of an idyllic, American Dream-world lifestyle" in suburban Katy. Whatever feelings Mangione and Stern had regarding their "American Dream" were certainly shattered on New Year's Day. Half-brothers Daniel Christopher Bean and Ronald Henry Gauthier, 19 and 21, respectively, lived in Montana but were in Katy visiting their mother at the time of the incident. Mangione and Stern crossed their paths in Dolly's Place, and the night ended in a brutal attack outside the bar. Stern was severely beaten, but the worst was reserved for Mangione, whom the half-brothers stabbed at least 35 times. Stern survived the assault, but Mangione died at the scene.⁵⁰

The case, from the outset, seemed as open-and-shut as a hate crime case could be, with Harris County Sheriff Tommy Thomas stating confidently, "This was definitely a

⁵⁰ Sheri Cohen Darbonne, "Fatal Intolerance," *Houston Voice*, January 12, 1996.

hate crime.”⁵¹ Bean and Gauthier were not simply random assailants; they were self-professed members of the German Peace Corps, a California-based neo-Nazi hate group. Numerous witnesses in the bar recalled hearing the pair boast of their plans to “get a fag” that night. The half-brothers were quickly identified, arrested, charged in the slaying, and held without bond.⁵² From the beginning, activists had no substantive complaint about the police handling of the case, and it was understood to be a hate crime by all relevant authorities. Bean was easily convicted of murder and sentenced to the maximum of life in prison.⁵³ However, nearly a year later, Gauthier was convicted and sentenced only to 10 years of probation because jurors felt the prosecution did not prove his active role in the murder.⁵⁴ This relatively light sentence did not, however, seem unjust enough to spark protests in 1997.

Despite the swift response of police and prosecutors, the brutal nature of the murder and the obvious role that anti-gay hate played in the crime mobilized the gay community in the Houston area. Houston’s Queer Nation chapter, which had recently rebooted after disbanding, immediately took to the streets in a way reminiscent of its role in the Broussard case. Queer Nation’s activism following the murder was the first major direct action of the restarted organization. The group organized a march in Montrose that

⁵¹ “Gay Man Slain in Hate Killing Near Houston,” *This Week in Texas*, January 12-18, 1996, 53.

⁵² Cohen Darbonne, “Fatal Intolerance.”

⁵³ “Neo-Nazi Guilty of Murder in Death of Houston-Area Gay Man,” *This Week in Texas*, September 6-12, 1996, 60.

⁵⁴ “Second Defendant Convicted in Murder of Gay Man Near Houston,” *This Week in Texas*, July 4-10, 1996, 70.

it called (again reminiscent of the street protests after the Broussard murder) “Take Back the Streets Four: A Candlelight March in Memory of Fred Mangione” on January 20. Queer Nation planned for the march to begin on the corner of West Drew Street and Montrose Boulevard, the site at which Broussard was stabbed. The group clearly saw the Mangione murder as just the latest in a series of gay-bashings that plagued Houston.⁵⁵

The march’s goals were different than those of the march following the Broussard murder, however. Whereas the Broussard rally focused on uniting members of the gay community and demanding gay inclusion in hate crime protections, the Mangione march set its sights on uniting all minorities in Houston affected by hate violence. According to Queer Nation organizer Scott Lewis, the dual purpose of the march was: “One, to unite the voice of Houston’s gay and lesbian community against the violence that targets them and two, to unite all of Houston’s minority communities against hate motivated violence.” In addition to the march, activists announced a joint effort with the Houston Gay and Lesbian Political Caucus, PFLAG, and the LGRL to build a countywide coalition of gays and lesbians and other minorities on the receiving end of hate crime.⁵⁶ What local and state hate crime activists began to realize in the wake of their 1995 legislative defeat was that, to attain any meaningful reform, the coalition against hate crime had to be broad-based and inclusive not only of gay and lesbian Texans, but also straight allies, African Americans, and other minorities dealing with hate violence in their own communities. The small attempt at intersectional activism following the Mangione murder showed these new dynamics at play on the local level in Houston.

⁵⁵ “March, Meetings Set in Response to Hate Crime,” *Houston Voice*, January 12, 1996.

⁵⁶ “March, Meetings Set in Response to Hate Crime.”

While only a few dozen people attended the January 20 march, the effects of the Mangione murder stretched beyond street protests. Locally, Queer Nation set its sights on forcing Mayor Bob Lanier and the City Council—who had been relatively quiet on the case—to break their silence and pass a resolution calling for a statewide hate crime law. The group also demanded that the city lobbyist for the Texas Legislature make a priority of pushing for hate crime legislation. In addition, in spite of acceptable police handling of the case, activists urged the City Council to mandate that the Houston Police Department (HPD) develop a program to train officers on the subject of recognizing and dealing with hate crime. Queer Nation urged gay and lesbian Houstonians to attend a City Council public comment session on February 6 to make their voices heard. According to group representative Michael Crawford: “The purpose is to condemn Mayor Bob Lanier and the City Council members for their silence in the wake of the recent wave of hate crimes, including the gay-bashing murder of Fred Mangione on January 4.”⁵⁷ Despite swift handling by the Harris County Sheriff’s Department, local gay activists saw Houston government officials and the HPD as complicit in their silence following the brutal murder in Katy.

In addition to local activism, the Mangione murder fueled statewide lobbying efforts by providing yet another stark example of Texas hate for the LGRL to seize upon in convincing Texans and legislators to take action. Hardy-Garcia remarked immediately after the killing, “These murders are tragic reminders of all the work that still needs to be done to ensure dignity and safety for all of us—regardless of sexual orientation. Stopping

⁵⁷ “Queer Nation Houston to Push City Council on Hate Crimes,” *This Week in Texas*, February 2-8, 1996, 65.

hate-related violence will continue to be one of our top priorities in Texas.” She also announced an effort to bolster the Pledge Project that would include holding meetings with activists and concerned citizens across the state “to train people on how to speak out against hate-related violence in their communities.”⁵⁸ As the broad coalition-building effort in Houston following the Mangione murder showed, the LGRL and other activists from around the state began after 1995 to realize the practical problems, given the socially conservative legislature, with a gay-dominated hate crime movement. In the months leading up to the 1998 murder of James Byrd, Jr., which would once again launch racist hate crime to the forefront of the debate, the LGRL attempted to grow the hate crime coalition in Texas beyond the gay community.

The 1997 “March in March”

Toward the end of 1996, Hardy-Garcia laid out the LGRL’s vision for a change in the state’s hate crime law in an interview with *TWT*: “We’re trying for three specific things. One is penalty enhancement. . . . Second, we want to create civil penalties for hate crimes, give people the opportunity to sue for damages. . . . Third, we need more training for police officers.” Following the high-profile deaths of Mangione and several other gay Texas men, activists’ resolve for a legislative solution to the problem only hardened. At the time of the *TWT* interview, approximately 10,000 people had signed up with the Pledge Project. The LGRL, in conjunction with local groups, also introduced the Pledge and a hate crime resolution at precinct and county conventions across the state over the

⁵⁸ “Gay Man Slain in Hate Killing Near Houston,” *This Week in Texas*, January 12-18, 1996, 53.

summer of 1996.⁵⁹ All of this local and statewide mobilization on the issue of hate crime led to the LGRL's next rally in Austin, scheduled for March of 1997 and dubbed the "March in March."

The march was set to take place nearly two years after the 1995 Stop the Violence Rally that failed to produce any significant legislative action, and the 1997 event came with a heightened sense of urgency in the wake of more hate crimes across the state. As *TWT* put it, "Now it's two years later, the stakes are much higher and the awareness and support seems greater. On the other hand, the Legislature is even more conservative," referring to the newly divided state government. Planned as a three-day event complete with a Lobby Day, the March in March set its sights on the passage of the gay-inclusive Senate Bill 80 and House Bill 1116, sponsored by State Senator Rodney Ellis (D-Houston) and State Representative Sylvester Turner (D-Houston), respectively. Hardy-Garcia underscored the urgency of the bill's passage and the broad-based support the LGRL hoped to generate: "A lot of the emphasis this year is on what the people want. The March is a chance to support ending hate crimes by passing stronger laws, which will make punishments greater and thus hopefully deter persons to think twice before they do something hateful and illegal."⁶⁰ A letter to the editor of the statewide gay newspaper the *Texas Triangle* agreed, citing the long line of hate crimes in Texas from Paul Broussard to Nicholas Ray West to Fred Mangione: "The message is clear enough: the lives of gay

⁵⁹ Williams, "Hate Crimes Remain High-Priority Issue for the Lesbian/Gay Rights Lobby of Texas as the 75th Legislative Session Approaches," 16-18.

⁶⁰ "'March in March' Brings Broad Coalition to Austin Seeking Better Hate Crimes Law," *This Week in Texas*, March 7-13, 1997, 31.

people don't matter to too many people. Join the March on Austin. . . . Show that the lives of gay and lesbian Texans matter."⁶¹

The March in March, which took place on March 23, drew approximately 5,000 people, mirroring the conservative Stop the Violence Rally estimate. The event included people from San Antonio, Dallas, Denton, Waco, and Southwest Texas. The following day, approximately 300 people took part in the Lobby Day to personally urge their legislators to support the hate crime bill.⁶² Many march participants felt pessimism regarding the legislature and the proposed hate crime bill, but they were united in believing the march to be the right thing to do in terms of community unification. One gay Texan, Patrick Pink, said, "I came to march just to show my support. It's just nice, wonderful to see such numbers of us together. The community aspect of it is what I really get out of it." Still others came because they or a person they loved had been a victim of a hate crime, including Eric Bellucci of Dallas, who remarked, "I had a friend walking through Oak Lawn in Dallas and a couple of guys beat the shit out of him. . . . They didn't rob him. They just beat the shit out of him." Bellucci and others believed that legislative action was at least a partial solution to this kind of random violence: "The legislation will eventually meet the needs of that. But it's a slow process."⁶³ While the LGRL organized the march and the gay community was clearly heavily represented, Hardy-Garcia stressed after the march that the direct action in Austin showed that hate

⁶¹ Dan Quinn, "March for Justice on March 23," *Texas Triangle*, March 6, 1997.

⁶² "Thousands March on Capitol in Push for Hate Crime Law," 68.

⁶³ James E. Garcia, "Thousands March to Stop the Hate," *Texas Triangle*, March 27, 1997.

crime was not “a gay-only issue.” She added, “I felt good about the way everybody came together; I feel they were really into it, and showed the cross-section of people that this issue is important to.”⁶⁴

Indeed, reflecting changing LGRL strategy, the march was more intersectional, including not only Maxey and White as speakers, but also Texas NAACP president Gary Bledsoe and Texas LULAC president Rosa Rosales.⁶⁵ Bledsoe spoke from the podium to the assembled activists: “This fight involving hate crimes involves all good people of good will. When you sit by idly and do not do a thing, you are just as responsible for the hate. We must stand up wherever we are and speak up, or we become part of the problem.” African American State Representative Garnet Coleman (D-Houston) also offered an intersectional message: “Some people want to tell us what . . . freedom means. I want it to be freedom from violence. . . . Even if this bill doesn’t pass, we’re going to hold our heads up high. . . . I will remind my colleagues that they have an obligation to represent all Texans. This is not an urban issue. It’s an issue of all the people.”⁶⁶ The LGRL and march participants realized by 1997 that a broad-based coalition consisting of gay and lesbian Texans and racial minorities was needed to fight the uphill battle in the Texas Legislature.

⁶⁴ “Thousands March on Capitol in Push for Hate Crime Law,” 68.

⁶⁵ James E. Garcia, “Thousands March to Stop the Hate,” *Texas Triangle*, March 27, 1997.

⁶⁶ “Thousands March on Capitol in Push for Hate Crime Law,” 68.

Public pressure resulted in the passage of the hate crime bill in the Senate Criminal Justice Committee, but it later died in the legislature.⁶⁷ However, the hate crime movement did not die with the bill. The LGRL continued to lead the charge for a comprehensive hate crime law in Texas, but activists began to realize the difficulty of passing a law without a broad coalition of support. Although the March on March represented an attempt at intersectional activism, the organized hate crime movement was still gay-dominated by 1997. It would not be until the murder of James Byrd, Jr., in Jasper the following year that race would once again take center stage in the Texas hate crime debate.

Conclusion

From the passage of the first Texas hate crime law in 1993 to 1998, the state's gay community led the hate crime movement in Texas, and the LGRL spearheaded the lobbying effort for a comprehensive hate crime bill. Racist hate crimes still occurred, but African American activists did not play a central role in the organized hate crime movement. Instead, the movement was fed by the media's coverage of high-profile anti-gay hate crimes such as the murders of Nicholas Ray West, Tommy Musick, Michael Burzinski, and Fred Mangione. The LGRL attempted to mobilize the gay community to push the legislature to respond in 1995 in the form of the Stop the Violence Rally and the Pledge Project, but the socially conservative legislature remained unconvinced of the need for a bill with explicit protected categories and outright opposed to the inclusion of sexual orientation.

⁶⁷ "Hate Crime Bill Passes Committee of State Senate," *This Week in Texas*, April 18-24, 1997, 77-78.

By the 1997 March in March, the LGRL and other gay activists began to understand the need for a broader base of support including racial minorities. While the March in March was a noble attempt at intersectional organizing with the support of the NAACP and LULAC, the hate crime movement retained its gay character. The hate crime bill died once again in the legislature, marking the second major failure of the LGRL to force passage of hate crime legislation. The gay dominance of the hate crime movement in Texas continued until the murder of James Byrd, Jr. forced race into the spotlight.

Chapter 5—United in Hope: James Byrd and Matthew Shepard, the Media, and the Texas Hate Crime Movement, 1998-2001

On June 7, 1998, white supremacists in Jasper, Texas, brutally chained and dragged African American James Byrd, Jr. behind their truck. Byrd was conscious throughout most of the ordeal, attempting to keep his head above the pavement until his body hit the edge of a culvert, decapitating him and severing his right arm. The East Texas hate crime, dubbed a modern-day lynching, captured the attention of the United States and world. Like the Donald Thomas case—but on a much more massive scale—the Byrd murder inspired widespread African American activism in support of hate crime legislation, and it was the primary impetus behind the passage of the James Byrd Jr. Hate Crimes Act in Texas.

The push for hate crime bill in the aftermath of the Byrd murder was not limited to the Lone Star State. Nationally, the media provided extensive coverage of the hate crime issue following Byrd's death. Newspapers such as the *New York Times* reported on an East Texas drenched in white supremacy and racist violence, in turn pressuring the Texas Legislature to act.¹ Byrd's name and legacy can also be found in the federal Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, which President Barack Obama signed into law in 2009 after a decade of congressional roadblocks. Indeed, both Byrd and Matthew Shepard—a gay college student also killed in 1998 in a widely publicized hate crime in Laramie, Wyoming—left an enormous mark on hate

¹ Carol Marie Cropper, "Black Man Fatally Dragged in a Possibly Racial Killing," *New York Times*, June 10, 1998.

crime activism nationwide and became martyrs for the African American and gay movements, in large part because of overwhelmingly sympathetic media coverage.²

The imprint of Byrd and Shepard can also be found in the Texas hate crime movement in the late 1990s. Byrd's death, in particular, changed the course of the movement for hate crime legislation, which up to 1998 had been focused primarily on anti-gay violence. In October of 1998, a diverse array of activists came together for a moment of unity to urge the Texas legislature to act on the hate crime issue. In a "Run for Hope" sponsored by organizations as diverse as the LGRL, Texas National Association for the Advancement of Colored People (NAACP), Texas National Organization for Women (NOW), Texas Civil Rights Project, and Anti-Defamation League, participants ran relay-style, carrying a torch of "hope" from Jasper to the State Capitol steps in Austin. The four-day event, although just one example of intersectionality between gay and racial minority activists, indicated something deeper: a change in tone, rhetoric, and strategy among hate crime activists, especially those from the gay community, and a move toward coalitional activism in support of hate crime legislation.³

This change in tone came from the top down in the organized hate crime movement, beginning with activist leaders. Dianne Hardy-Garcia of the Lesbian/Gay Rights Lobby of Texas (LGRL) remarked after the event, "The Run for Hope highlighted our united efforts to end hate crimes—I hope this effort will serve as a fitting tribute to

² See Jennifer Petersen, *Murder, the Media, and the Politics of Public Feelings: Remembering Matthew Shepard and James Byrd Jr.* (Bloomington: Indiana University Press, 2012). Petersen argues that the outrage and public memory surrounding the murders of Shepard and Byrd, constructed in large part by the media, played an invaluable role in generating public support for hate crime legislation.

³ "'Run for Hope' to Remember James Byrd," *This Week in Texas*, November 27-December 3, 1998, 61-62.

James Byrd.” Gary Bledsoe, the president of the Texas NAACP, added, “Bringing the torch from Jasper to Austin showed people all over the country that we are committed to ending Texas’s legacy of hate crimes. Hate crimes have terrorized and intimidated whole groups of people for far too long.” Hanna Riddering of Texas NOW echoed this rhetorical unity: “Participating in the Run for Hope is symbolic of our vision for the future of Texas—a future that is free of the violence that seeks to divide us on a basis of race, ethnicity, sexual orientation, disability, gender and religion.” In its reporting on the event, *This Week in Texas* emphasized that the murders of Byrd and Shepard both offered “a terrible and poignant reminder to all gay Texans . . . of the need for appropriate and immediate hate crimes legislation.”⁴ The Texas hate crime movement, which was gay-dominated in the middle part of the 1990s, saw an unprecedented attempt at intersectional organizing in the wake of the Byrd and Shepard murders. The killing of Byrd, in particular, sparked a level of overlapping activism that the Donald Thomas murder did not. Race, once again, was at the forefront of the public hate crime conversation in Texas. However, whereas African American and gay activists worked in their respective vacuums following the Donald Thomas case, the Byrd murder inspired coalitional activism in which both black and gay Texans played integral roles.

This chapter argues that the Byrd and Shepard murders in 1998 altered the course of the Texas hate crime movement in two ways: First, the media coverage after these particularly high-profile hate crimes forced anti-gay and racist violence into the national and statewide spotlight in a way that generated public outrage and sympathy for multiple minority communities. Second, both murders—but especially the Byrd killing—placed

⁴ “‘Run for Hope’ to Remember James Byrd,” 61-62.

unprecedented pressure on the Texas Legislature to improve the state's perceived racist and homophobic environment. This pressure came from activists, the media, and emotion-laden victim testimony before the legislature (examined in detail in the next chapter). Indeed, the Byrd family and other hate crime victims became a vital part of the hate crime movement and its attempt to persuade conservative legislators to support its cause. As was the case after the Donald Thomas murder, Texas legislators took racially motivated violence more seriously, and the primary controversy from 1998 up to the passage of the James Byrd Jr. Hate Crimes Act revolved around the inclusion of sexual orientation, which social conservatives inside and outside of the legislature vociferously opposed. The combined pressure from victims' families, activists, and national and international audiences, however, was ultimately too much for even socially conservative Texas politicians to bear, and a reluctant Republican Governor Rick Perry signed the gay-inclusive bill into law in 2001.

In short, this chapter argues that the combination of sympathetic martyrs, intense media coverage and public pressure, emotion, and coalitional politics accomplished a comprehensive civil rights advance that had long seemed impossible in Texas. The inclusion of sexual orientation in the 2001 bill, in particular, proved controversial throughout the 1990s, and it appeared unlikely that the socially conservative legislature and governor would allow such a measure to become law. The "perfect storm" of events following the significant year of 1998 created conditions in which a strong, largely gay-led movement on the ground and a supportive legislative coalition could achieve this unlikely feat. This chapter focuses on the grassroots movement as it responded to the

watershed murders of Byrd and Shepard; the next chapter picks up this story on the legislative level.

Much has been written on the Matthew Shepard and James Byrd, Jr. cases, both scholarly and journalistically.⁵ Although this chapter is concerned with the details of the cases, its purpose is not to delve into the particulars of the murder trials in the way that journalists have. Instead, it is focused on how these cases initially unfolded and inspired activists to shape the movement for hate crime legislation in the Lone Star State. It is particularly concerned with the ways in which the cases inspired unity and intersectional activism between gays and racial minorities in the late 1990s and early 2000s. Much of this chapter comes from a reading of secondary sources, with archival material serving to show the ways in which the nationally publicized cases influenced the hate crime movement as it played out in Texas. Rather than being a chapter about Matthew Shepard and James Byrd, Jr., this chapter is about the Texas grassroots activism that sprung from these murders and eventually forced the passage of the controversial James Byrd Jr. Hate Crimes Act. In addition, this chapter is not about the wrangling in the Texas Legislature to gain passage of the bill, a topic that will be briefly discussed here and covered in more detail in the next chapter.

Although activists on the ground remained focused on the hate crimes and acts of injustice facing their own communities, the Texas hate crime movement clearly became more intersectional after 1998. The movement gained momentum and strength from a

⁵ See Petersen, *Murder, the Media, and the Politics of Public Feelings*; Beth Loffreda, *Losing Matt Shepard: Life and Politics in the Aftermath of Anti-Gay Murder* (New York: Columbia University Press, 2000); Joyce King, *Hate Crime: The Story of a Dragging in Jasper, Texas* (New York: Pantheon Books, 2002); and Dina Temple-Raston, *A Death in Texas: A Story of Race, Murder, and a Small Town's Struggle for Redemption* (New York: Henry Holt and Company, 2002).

united front of gays and lesbians and racial minorities, even if in some cases the unity was only perceived based on the rhetoric of movement leaders. It was only with this broad coalition of support that the socially conservative Texas government finally protected specific minority groups in hate crime legislation and, for the first time, recognized sexual orientation in state law. At the very least, the Byrd and Shepard murders brought more attention to the need for overlap between the gay and African American communities in what both saw as the major Texas civil rights battle of the 1990s. While a truly intersectional hate crime movement never existed in Texas, only a broadly based coalition of activists could have forced consideration of legislation as comprehensive and inclusive as the James Byrd Jr. Hate Crimes Act. At the same time, this coalition was not broad enough to include transgender people, who—on the fringe of the fringe in Texas society—remained left out of both the hate crime movement and the James Byrd Jr. Hate Crimes Act.

James Byrd, Jr.

In 1998, the eyes of the nation fell upon Texas in the wake of one of the most horrific hate crimes in modern history. Brutal, racially motivated murders were anything but new to the Lone Star State; indeed, a long and bloody history of lynching preceded the murder of James Byrd, Jr.⁶ The 1916 Jesse Washington lynching, for example,

⁶ See William D. Carrigan, *The Making of a Lynching Culture: Violence and Vigilantism in Central Texas, 1836-1916* (Urbana: University of Illinois Press, 2004) for more on the culture of violence cultivated in Texas before, during, and after Reconstruction.

became a rallying point for the African American community in Texas and nationwide.⁷ While Texas had a history of savage race killings, many Texans and other Americans viewed the lynching tradition—and the horrors that came with it—as a relic of the past, if they remembered it at all.⁸ Immediately after the Byrd murder reached major news outlets, anchor Tom Brokaw opened with the line: “In Texas tonight, the shocking echoes of a time that many Americans believed was behind us.”⁹ Byrd’s modern-day lynching-by-dragging brought Texas and the rest of the United States face to face not only with violent white supremacy thought by many to have been left in the early twentieth century, but also with the seemingly inescapable conclusion that the law was not doing enough to protect minorities in Texas. Just as the lynching of Jesse Washington gave impetus to the anti-lynching campaign, the dragging of James Byrd, Jr. crystallized an already existing, but largely gay-dominated, hate crime movement in Texas.

On June 6, 1998, 49-year-old African American James Byrd, Jr. attended a friend’s anniversary party in the small East Texas town of Jasper. Byrd, a divorced former vacuum salesman, was well known in Jasper simultaneously as a family man (he was a father and grandfather) and an alcoholic. But he was popular in the small town, and that he enjoyed a party immediately before his death did not come as a surprise. On this particular night, he became drunk. After the party, as he had many times before, Byrd

⁷ See Carrigan, *The Making of a Lynching Culture* and Patricia Bernstein, *The First Waco Horror: The Lynching of Jesse Washington and the Rise of the NAACP* (College Station: Texas A&M University Press, 2006) for more on the lynching of Jesse Washington and its aftermath.

⁸ See Ashraf H.A. Rushdy, *The End of American Lynching* (New Brunswick, N.J.: Rutgers University Press, 2012) for more on the collective American “amnesia” regarding the history of lynching.

⁹ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 92.

stumbled down Martin Luther King Boulevard toward his house. At nearly the same time, three white men—John William King, Lawrence Russell Brewer, and Shawn Allen Berry—decided to search for a party to pick up women. They climbed into Berry’s gray pickup truck, but their pursuit for women ended in failure. In a chilling prelude to the murder they were about to commit, they chose to entertain themselves by tying a chain around a mailbox and dragging it behind the truck. Shortly after they destroyed the mailbox, they found Byrd walking along Martin Luther King Boulevard.¹⁰

Berry pulled up to Byrd and asked if he needed a ride. After being asked twice, Byrd acquiesced and climbed into the back of the truck, where he was offered a beer. King, an avid white supremacist, was infuriated by the situation. He allegedly said to Berry, “That’s some ho-ass shit, picking up a fucking nigger.” Nevertheless, after making a stop at a convenience store, King and Brewer—both unabashed racists—gave up their seats in the cab and traded places with Byrd. Berry continued to drive, turning onto an old logging road that had the drunken Byrd wondering aloud where they were going. In a secluded, out-of-the-way area surrounded by East Texas thicket, King pounded on the top of the truck and told Berry to stop. King and Brewer both jumped from the back of the truck, opened the passenger door, and violently pulled Byrd out. Berry claimed to have attempted to stop the attack, but was unsuccessful. What supposedly began as an attempt to “scare the shit” out of Byrd ended with King saying, “Fuck it, let’s kill this nigger.”¹¹

As the heavily intoxicated and arthritic Byrd fought for his life, the assailants brutally beat and kicked him. Brewer sprayed him in the face with black paint. After a

¹⁰ King, *Hate Crime*, 15-23.

¹¹ King, *Hate Crime*, 23-25.

kick to the head, Byrd finally stopped struggling. The assailants then pulled his pants and underwear down as King explained that the same thing happened in years past to “niggers who messed with white women.” They then took the rusty log chain and wrapped one end around the truck’s hitch and the other around Byrd’s ankles. The three men climbed into the truck and dragged Byrd along the dirt road, stopping only when Byrd slipped loose. They reattached him and continued to drive. Byrd tried to keep his head up as the truck turned onto the asphalt Huff Creek Road. Finally, his body hit a culvert, and he was immediately decapitated. The men continued to drag Byrd’s headless body for another mile, leaving his head—which was partially attached to his shoulder and had clear drag marks on it—behind. They unchained Byrd’s body and left it next to a black cemetery, not far from an African American church. This brought the three-mile nightmare to an end, but the men left the blood and body parts for parishioners to see the next morning on their way to church.¹²

It did not take long for law enforcement, which quickly included the FBI, to follow the grisly murder trail back to Berry, King, and Brewer. The assailants left more than enough evidence at the scene, including a lighter inscribed with “Possum” (King’s nickname in high school) and a wrench with Berry’s name on it. By the following evening, Berry was arrested for several traffic violations, and his truck was impounded, on which investigators found more evidence, including blood splatter, red clay, and vegetation linking the truck to the dragging. Jasper County Sheriff Billy Rowles initially denied that race played a role in the murder. He publicly claimed, “We have no organized KKK or Aryan Brotherhood groups here in Jasper County,” a statement that drew

¹² King, *Hate Crime*, 25-28.

mocking whoops from black Jasper residents. However, investigators were quickly able to tie the men to the Aryan Brotherhood and the KKK, both of which the three men had become “enamoured” with, according to early reporting. The *Houston Chronicle* added that the men had “a fetish for white supremacy,” bringing racism in East Texas to the forefront of the Byrd murder coverage.¹³

The murder immediately attracted widespread media attention, and as the investigation wore on, Byrd’s funeral became a national event. African American basketball star and Texas native Dennis Rodman paid for the funeral and donated \$25,000 to Byrd’s three children. The Jasper church in which the funeral occurred attracted such visitors as Jesse Jackson, Al Sharpton, NAACP president Kweisi Mfume, U.S. Representative Maxine Waters and U.S. Senator Kay Bailey Hutchinson, several Texas legislators, and Transportation Secretary Rodney Slater, who was sent to represent President Bill Clinton. The funeral also brought the Dallas-based New Black Panthers, who marched in paramilitary fashion with rifles in order to protect and “wake up” Jasper blacks. This led to the KKK holding a rally two weeks later, sparking an armed showdown between white supremacists and black nationalists in a town already rife with racial tension. Amid what seemed like a looming race war in Jasper, the town captured national attention and forced an uncomfortable conversation about racism nationwide.¹⁴

Much of this conversation played out in the local, state, and national media, with Jasper coming to symbolize white supremacy writ large in Texas. One early *Houston*

¹³ Richard Stewart, “FBI Joins in Probe of Murder,” *Houston Chronicle*, June 9, 1998; Richard Stewart, “Trio Charged in Jasper Slaying,” *Houston Chronicle*, June 10, 1998.

¹⁴ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 95.

Chronicle headline read, “Racial Hate Crimes Sordid Part of State History.” The article went on to connect Byrd’s murder to a host of recent racist hate crimes throughout the state. It also tied modern-day hate crimes to the Lone Star State’s torrid history of lynching and noted, “Texas’s violent history dates to the late 19th century when it was among the South’s most lynch-prone states. . . . Laws outlawing mob and less lethal hate crimes have since been passed, but incidents with possible racial components have continued to occur.”¹⁵ However, there was still a sense among many that the Byrd slaying stood apart and was a rare resurgence of a violent white supremacist history long since forgotten. Another *Houston Chronicle* article proclaimed, “The gruesome murder of James Byrd . . . could not have been more heinous and shocking. Fortunately, such hateful and sadistic crimes are rare, or they would begin to lose their power to shock the entire nation.”¹⁶ For many others, the Byrd murder was simply representative of deep racial hatred in Texas that had been simmering just below the surface. Speaking to the *New York Times*, Texas NAACP president Gary Bledsoe tied the murder to organized East Texas white supremacy, referring specifically to a 1993 incident in nearby Vidor where the KKK attempted to drive off the town’s first black residents.¹⁷

¹⁵ Allan Turner, “Racial Hate Crimes Sordid Part of State History,” *Houston Chronicle*, June 10, 1998.

¹⁶ “Shocking Jasper Slaying Stands Apart for Its Cruelty,” *Houston Chronicle*, June 11, 1998.

¹⁷ Cropper, “Black Man Fatally Dragged In a Possible Racial Killing.” In 1993, the small East Texas town of Vidor (which was a notorious hotbed of white supremacist activity) made national headlines after the integration of a local federally funded housing project. John DecQuir was the first African American to agree to live in Vidor, which launched a controversy so intense that the *New York Times* reported on the story. For example, a Waco-based Ku Klux Klan branch staged a public rally protesting the integration of

Indeed, it was difficult for many to deny that Byrd's murder signified deeper racial problems in Texas, and following the funeral the public conversation quickly turned to how state law had failed racial minorities. Mylinda Washington, Byrd's sister, attended a joint state-city hearing on hate crime organized by Houston City Council Member Jew Don Boney and State Senator Rodney Ellis and urged passage of a stronger hate crime law: "What happened to my brother James in Jasper could have happened anywhere. It could have happened in Houston, Dallas, San Antonio, anywhere in this state. That's why we ask your help in passing a stronger law that tells those like the men who killed my brother that their evil will not be tolerated and will not go unpunished." Ellis added, "When a tragedy occurs, we have a responsibility . . . to do more than just shed tears and say how awful we feel and how shocked we are. We have a responsibility . . . to do things legislatively and to make a difference." While Ellis noted Texas Department of Public Safety reports that over 2,000 hate crimes had been recorded since 1992, the intense media coverage following the Byrd murder clearly energized hate crime law advocates and drew widespread support for tougher legislation.¹⁸ Even Republican Governor George W. Bush, a hate crime law opponent, agreed that Texas had a problem with race relations. However, noting his belief that "all crime is hate," he made clear that "government can't make people love one another."¹⁹

Vidor. See Sam Howe Verhovek, "One Man's Arrival in Town Exposes a Racial Fault Line," *New York Times*, February 27, 1993.

¹⁸ Ed Asher, "Tougher Hate-Crime Law Sought," *Houston Chronicle*, July 10, 1998.

¹⁹ Clay Robison, "Jasper Pulled Into the National Spotlight," *Houston Chronicle*, June 11, 1998.

The impact of the Byrd murder on legislative efforts was not limited to Texas. With U.S. Senator Ted Kennedy (D-Massachusetts) leading the charge, the Hate Crimes Prevention Act was introduced in Congress, which aimed to make it easier to prosecute hate crimes based on race, religion, gender, and sexual orientation. U.S. Representative Charles Schumer (D-New York), the measure's chief House sponsor, invoked the Byrd murder as he introduced the legislation: "The dragging death of James Byrd is a vivid and shocking reminder that even in a civilized society there are those motivated by blinding hate. For those in Congress who believe that hate crimes are overblown . . . let the brutal torture and murder of this innocent man be a wake-up call." He added, "We have to seize the moment and pass a tougher law, or else the brutal death of James Byrd will have been in vain."²⁰ Hate crime law advocates and politicians (primarily Democrats, both in Texas and nationally) latched onto the movement for tougher legislation with an urgency that had not been seen prior to Byrd's death.

This public conversation about the need to strengthen hate crime legislation was not new, but in Texas, it began to shift. The Texas gay community, led by the LGRL, had dominated the hate crime movement in the middle part of the 1990s, energized by increased media coverage of homophobic hate crimes. However, the Byrd murder once again took anti-gay violence out of the spotlight and turned Texans' attention back to the familiar problem of white supremacy. Immediately following the murder, the *Houston Chronicle* was quick to note Texas Department of Public Safety statistics that showed race easily overshadowed sexual orientation as the primary driver of hate crimes.

²⁰ Steve Lash, "Proposal Made to Broaden Law on Hate Crimes," *Houston Chronicle*, June 17, 1998.

According to the figures, 72 percent of hate crimes reported in Texas were racially motivated, “compared with crimes against homosexuals and other groups.”²¹

In Byrd, the media found a new martyr: a disabled father and grandfather and an innocent victim of vile East Texas racism who easily garnered sympathy.²² In the immediate aftermath of the killing, the focus of the Byrd family and African American community was on securing justice for Byrd himself. That justice was attained, in their eyes, when all three assailants were convicted of capital murder, with Berry receiving a life sentence for his lesser role and King and Brewer both receiving the death penalty.²³ However, in short time, talk about avenging Byrd’s death turned into a renewed public discussion about the need for broader justice for African Americans and other minorities in the form of a hate crime law. Ultimately, this shift to race benefited the Texas hate crime movement, because—as gay and lesbian hate crime law advocates such as Dianne Hardy-Garcia recognized—many Texas legislators were more afraid of being called racist than homophobic.²⁴ As was demonstrated after the Donald Thomas case, Texas legislators were much more likely to act in the wake of racist murder, as politically powerful social conservatives did not take issue with race-inclusive legislation. With the

²¹ Turner, “Racial Hate Crimes Sordid Part of State History.” Analysis of the Texas Department of Public Safety crime reports in the years following 1998 show that officially reported race-related hate crimes continued to dwarf anti-gay incidents. In 1999, race exceeded sexual orientation 58.7 percent to 22 percent; in 2000, 56.4 percent to 17.3 percent; and in 2001, 44.6 percent to 12.5 percent. “The Texas Crime Report,” Texas Department of Public Safety, 1998-2001, http://dps.texas.gov/administration/crime_records/pages/crimestatistics.htm.

²² Petersen, *Murder, the Media, and the Politics of Public Feelings*, 102-103.

²³ See King, *Hate Crime* and Temple-Raston, *A Death in Texas* for more on the specifics of the Byrd murder trials.

²⁴ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 139.

high-profile death of James Byrd, Jr., what had once been a gay-led movement transformed into a broadly based coalition of organizations supporting hate crime law reform, including the LGRL, NAACP, American Civil Liberties Union (ACLU), Texas Civil Rights Project, and American Jewish Congress. The construction of this coalition, in addition to sympathetic media coverage, eventually led to the passage of the James Byrd Jr. Hate Crimes Act.

Matthew Shepard

Although the hate crime debate in Texas shifted to race after Byrd's death, sexual orientation certainly did not disappear from the conversation. Indeed, just months after the Jasper killing, a Wyoming anti-gay hate crime swept the media and captured unprecedented national attention, the effects of which trickled down to Texas politics. Prior to 1998, the most highly publicized anti-gay murder was that of Paul Broussard in Houston. But the brutal torture and murder of 21-year-old gay college student Matthew Shepard sent ripples throughout the country that even the Broussard killing did not. Perhaps it was the symbolism of a young, white "boy next door" hanging from a Wyoming fencepost in almost Christ-like fashion that caused the national outpouring of outrage and sympathy, or perhaps it was the sheer brutality of the murder in such close proximity to the dragging of Byrd. Whatever the reason, Shepard was quickly adopted as a gay martyr and remains the face of anti-gay hate crime. The media played a vital role in constructing an image of a sympathetic young man every parent in America could relate

to.²⁵ Combined with the Byrd murder, Shepard's killing had an incalculable impact on the movement for hate crime legislation nationwide. And while Byrd clearly had the most direct impact, Shepard's imprint can also be found in the Texas struggle for hate crime legislation as activists and legislators alike connected the Wyoming murder to more familiar killings in the Lone Star State to create a sense of urgency for a stronger hate crime law. Shepard was not a Texan, and therefore the impact of his death was not as direct as the Broussard murder in 1991; however, as Shepard became a national hate crime martyr alongside Byrd, his killing contributed an energy to the nationwide hate crime movement, which did impact Texas activists.

While the media made much out of such a savage hate crime occurring in conservative Laramie, Wyoming, to call Laramie—a relatively liberal college town of about 30,000 in the southern part of Wyoming—"conservative" probably misses the mark.²⁶ However, it was well acknowledged that it was not easy to be openly gay, even in Laramie, the home of the University of Wyoming. According to one gay resident, the atmosphere in Laramie was "more like, you don't tell us you're gay, and we won't exile or hurt you."²⁷ Indeed, some in Laramie stopped just short of blaming Shepard for his own death, including one gay man from Cheyenne, who proclaimed, "If you don't admit that Matthew made a mistake in that bar that night, you can't understand the big picture of being gay in Wyoming. There was no place for Matt to go and be gay, be out, be

²⁵ See Petersen, *Murder, the Media, and the Politics of Public Feelings*, which argues that the media's coverage of Matthew Shepard created a sympathetic "boy next door" character that created a wave of support for hate crime legislation.

²⁶ Loffreda, *Losing Matt Shepard*, 34.

²⁷ Loffreda, *Losing Matt Shepard*, 64.

comfortable.”²⁸ Shepard, who was open about his sexual orientation during his time at the University of Wyoming, seemed to prove to some with his grisly death that Wyoming was no place to be openly gay.

On the evening of October 6, 1998, Shepard enjoyed a drink at the Fireside Lounge in Laramie. What exactly transpired in the bar remains unknown, but he somehow met Russell Henderson and Aaron McKinney, two young, white men also from Laramie. The three men left the bar together. In an eerie echo of the Byrd murder, the two men drove Shepard to the edge of Laramie and ended up on a lonely dirt road. They stole his wallet and shoes, tied him to a fencepost in the middle of a field, and mercilessly beat and pistol-whipped him. By the end of the attack, he was unrecognizable. The men left Shepard to hang on the fencepost, where he stayed conscious for 18 hours before a mountain biker found him, famously mistaking him at first for a scarecrow. He was quickly transported to a hospital Fort Collins, Colorado, but he died almost a week after his beating, on October 12.²⁹

Shepard’s torture and ultimate death immediately sent ripples throughout the town and region, and in short time the entire country. In Laramie itself, the University of Wyoming homecoming parade carried a message against anti-gay bigotry and violence. In addition, university sports teams wore green and yellow uniforms, the colors found in LGBT protest banners. Not all of the local and regional response was positive, however. Anti-gay preacher and activist Fred Phelps led his Kansas-based Westboro Baptist Church congregation in picketing Shepard’s funeral, holding signs informing onlookers

²⁸ Loffreda, *Losing Matt Shepard*, 68.

²⁹ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 24.

that Shepard was in hell. In nearby Fort Collins, where Shepard took his last breath, a fraternity float in a university homecoming parade featured a scarecrow (invoking imagery of Shepard's fencepost hanging) spray-painted to read "I'm gay." A Fort Collins LGBT resource center also received email expressing glee over Shepard's murder.³⁰ In death, Shepard became both a symbol of the cost of anti-gay bigotry and a lightning rod in the broader culture war taking place in the 1990s over gay rights. In rural southern Wyoming and northern Colorado, not previously known to be centers of debate over homosexuality, the culture war was in full force following Shepard's murder.

Nationally, the outpouring of grief and sympathy—and homophobia—came at an unprecedented level following seemingly nonstop media coverage. As scholar Jennifer Petersen finds in her study of the media reporting after the Shepard murder, much of the coverage centered on the mourning of a relatable "boy next door" that all Americans knew. Media outlets framed Shepard's death not simply as a murder in distant Laramie, Wyoming, but as a national loss of young, innocent life. As Petersen notes, Shepard's life and death were "narrativized, mediated, and textualized in ways that made him a compelling victim, one that many people felt for."³¹ Indeed, televised dramatizations appeared on NBC, HBO, and MTV. In addition to being a story of national grief, the media also connected the Shepard murder to the wider hate crime "epidemic" thought to be in full force in the 1990s. *Time* magazine published a special issue titled "The War over Gays" that reported on the socially conservative politics that were thought to have laid the groundwork for such a brutal hate crime. *Newsweek* and *U.S. News & World*

³⁰ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 24-25.

³¹ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 28.

Report both reported extensively on the social conditions that could have led to Shepard's death.³² Because of this widespread media coverage, Shepard's murder extended and took on meaning far beyond Shepard himself. The murder came to be seen simultaneously as a tragic story of a young man whose life was lost far too soon and—as in the James Byrd coverage—a symbol of a deeper societal prejudice that needed to be addressed.

The way to address that prejudice, in the eyes of activists and many politicians, was through hate crime legislation. Henderson and McKinney were both convicted of the murder and sentenced to two consecutive life terms each, but as with the Byrd case, activists sought justice for the wider community through legislative means.³³ In Laramie, activists secured the passage of a “bias crimes” ordinance, which the city council approved in 2000.³⁴ An attempt was made at a hate crime law in the Wyoming legislature, but it failed in a tie of 30-30. Nationally, President Bill Clinton invoked the Shepard murder in a renewed call for Congress to pass the gay-inclusive Hate Crimes Prevention Act.³⁵ In these ways, gay activists and (mostly Democratic) politicians locally, statewide, and nationally made an attempt at—as Petersen puts it—“translating feelings into law.”³⁶

³² Petersen, *Murder, the Media, and the Politics of Public Feelings*, 24-25.

³³ See Loffreda, *Losing Matt Shepard* for more on the specifics of the Shepard murder trials.

³⁴ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 61.

³⁵ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 67-68.

³⁶ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 61.

Even in Texas, the effects of Shepard's murder could be felt in the statewide push for the James Byrd Jr. Hate Crimes Act. Just two days after Shepard's death in Fort Collins, the *Houston Chronicle* ran a story comparing the murder to the 1991 Broussard case. The article also covered the murder in the context of the hate crime "epidemic" unfolding in Houston, reporting that 33 hate crimes had been investigated by the Houston Police Department (HPD) that year, compared to 31 in 1997 (indicating a slight uptick). Mayor Lee Brown was moved enough by the Laramie murder to hold a press conference denouncing the hate crime and comparing it to a recent incident in which a gay man was attacked in Montrose. He also announced the establishment of a Hate Crime Hotline and a Hate Crime Coordinator position at the HPD. Brown proceeded to call on Houstonians to adopt a zero-tolerance attitude toward prejudice: "The road to justice and equity is a long one. And we still have a way to go. But it takes one step at a time where we all work together."³⁷ In a *Houston Chronicle* editorial published the same day, the newspaper staff connected the Shepard and Byrd murders, but also expressed skepticism that legislation could solve the deeper issues the killings exposed: "Like the Byrd story, Shepard's death has gained national and international sympathy and condemnation—as well it should. . . . The sad reality is, no law can prevent those who hate from committing crimes against those whose skin color and/or sexual preference is different from their own."³⁸

Nevertheless, hate crime legislation remained the primary goal of the Texas gay community, and that struggle only intensified following the Shepard murder. Many

³⁷ Matt Schwartz, "Gay Student's Slaying Rekindles Pain of 1991 Houston Case," *Houston Chronicle*, October 14, 1998.

³⁸ "Inhumane Death of Gay Wyoming Man Should Outrage Us All," *Houston Chronicle*, October 14, 1998.

politicians came to support the cause of gay-inclusive hate crime legislation, both in Texas and nationally. Months after the Shepard killing, U.S. Representative Sheila Jackson Lee (D) held a roundtable discussion on hate crime at the Metropolitan Community Church of the Resurrection in Houston.³⁹ U.S. Representative Richard Gephardt, the Democratic Minority Leader in the House, wrote to *This Week in Texas* on the need for strong federal hate crime legislation in the wake of Shepard's death: "We need to take action in Congress to pass tough hate crimes legislation to help stop these acts, and at least say with a clear voice that violence against gay men and lesbians is wrong, it's unacceptable, and it will be punished."⁴⁰ Openly lesbian Houston City Council Member Annise Parker (D) issued a statement urging Houstonians and Texans to lobby in support of the James Byrd Jr. Hate Crimes Act at the state level. *This Week in Texas* reported on the effects of the Shepard murder felt nationwide and especially in Texas: "From Washington to Brownsville and from sea to shining sea, outraged, guilt and remorse-driven grassroots organizers have jumped on the bandwagon of change—and where it will lead is anyone's guess. One can only hope that the history of hate that has claimed Paul Broussard of Houston, James Byrd of Jasper, and countless unnamed others will end with its latest martyr, Matthew Shepard."⁴¹ Hate crime activists and minorities in Texas clearly did not view the Shepard murder as a distant problem in Wyoming. Instead,

³⁹ Rev. J. Dwayne Johnson, "Hate Crimes Roundtable Meeting," *This Week in Texas*, August 28-September 3, 1998, 49.

⁴⁰ Richard A. Gephardt, "Gephardt on Shepard," *This Week in Texas*, October 30-November 5, 1998, 67.

⁴¹ "Matthew Shepard Murder," *This Week in Texas*, January 1-7, 1999, 38.

they connected it to events unfolding during the 1990s in the Lone Star State, intensifying their call for the Texas legislature to act.

The Texas Hate Crime Movement, 1998-2001

In 1998, hate crime legislation went from being mainly a priority item for the LGRL and the politically active Texas gay community to becoming a broadly supported measure that enjoyed the advocacy and support of a variety of organizations. After the dragging death of James Byrd, Jr., the African American community lobbied heavily for a strengthened hate crime bill, similar to the flurry of black activism following the Donald Thomas case. However, unlike in 1993, the Texas NAACP and LGRL—along with a variety of other organizations, including the Texas Civil Rights Project, the ACLU, and the American Jewish Congress—presented a united front in the struggle for the passage of the James Byrd Jr. Hate Crimes Act. While activists on the ground were clearly most concerned with the violence perpetrated against their own communities, the advocacy organizations lobbying on their behalf saw the legislative fight as intersectional. Perhaps because of its leading role in hate crime lobbying throughout the mid-1990s, the gay community did not lose its voice in the legislative wrangling that occurred after the Byrd murder as it did in 1993. While the movement did not see success in the legislature in the 1999 session, it held strong and eventually forced passage in 2001. A combination of coalitional activism, media coverage, emotion-laden victim testimony, and public sympathy and pressure following the Byrd (and, to a lesser extent, Shepard) murder made such a civil rights victory possible, even in the socially conservative Texas legislature.

There were signs almost immediately after the Byrd murder that a new hate crime coalition was forming that recognized the links between racist and homophobic violence. One prominent sign was the “Run for Hope” held in Jasper. The purpose of the event, in addition to honoring the memory of Byrd, was to raise awareness and support for a stronger hate crime law in Texas. Participants ran relay-style from Jasper to the steps of the State Capitol in Austin, carrying a torch for “hope” that the legislature would act to strengthen the state’s vague 1993 hate crime law. A *This Week in Texas* article on the event signaled a serious change in tone for the once gay-dominated hate crime movement by calling the Byrd murder a “terrible and poignant reminder to gay Texans” of the urgent need for hate crime legislation. The article went on to connect the murder to the Shepard killing in Wyoming and then to similar murders in Texas: “The brutal murder of Matthew Shepard in Wyoming only served to refresh our collective memory of the shocking Broussard case in Houston, the hate killing of Nicholas West in Tyler, and the countless other crimes, both reported and unreported, committed against minorities on a daily basis.”⁴² Whereas gay publications such as *This Week in Texas* had previously only covered the hate crime “epidemic” as it unfolded in the gay community, the language in this article that referred generally to “minorities” was a subtle sign that the Byrd killing had begun to change the tone of the movement.

LGRL executive director Dianne Hardy-Garcia also began talking about the “united efforts to end hate crimes” in reference to the Run for Hope. Speaking in general language encompassing all minorities, Texas NAACP president Gary Bledsoe agreed that the event was a “call to action” to address “hate crimes [that] have terrorized and

⁴² “‘Run for Hope’ to Remember James Byrd,” 61.

intimidated whole groups of people for far too long.” Sponsors of the event included a veritable hodgepodge of issue advocacy organizations, including the LGRL, Texas NAACP, Texas NOW, AFL-CIO, Jewish Federation, Texas Civil Rights Project, American Jewish Congress, Texas Faiths United, Anti-Defamation League, Texas Freedom Network/Texas Faith Network, and Austin Latino/a Lesbian Gay Organization.⁴³ Far from overshadowing anti-gay hate crime, the Byrd murder—as evidenced by the Run for Hope—brought activists from very different walks of life and diverse advocacy organizations together to fight for one cause. The high-profile nature of the Byrd murder made strengthened hate crime legislation a top priority of civil rights organizations writ large in Texas. In many ways, this coming together of activists and the very public hate crime debate following the Byrd murder can be attributed to gay activism in the mid-1990s. Hardy-Garcia noted that, by the 1998 murder, the public “had a name for it,” and Jennifer Petersen agrees that gay activists in Texas played an instrumental role in “provid[ing] language and a structural framework for understanding this violence as political.”⁴⁴

Indeed, by 1998, hate crime was incredibly politicized, and multiple issue groups were politically mobilized into a loose but broadly based hate crime coalition. The peak of this Byrd-inspired coalitional activism was during the 1999 legislative session. According to Petersen’s analysis of the hate crime debate as it played out in the Texas legislature, 1999 was also the year in which the James Byrd Jr. Hate Crimes Act “gained the momentum, support, and legitimacy” it needed to pass in the Texas House of

⁴³ “‘Run for Hope’ to Remember James Byrd,” 62.

⁴⁴ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 135.

Representatives, which had been the socially conservative roadblock for hate crime activists since legislation was first introduced.⁴⁵ Although the bill ultimately failed in the Senate that year, the support it gained in the legislative session ensured fairly smooth passage, following a more technical than ideological debate, in 2001. The legislative action on the hate crime law during this period will be examined thoroughly in the next chapter, but 1999 was also a year of intensified grassroots activism leading up to the legislative debate. It was only through this increased activism and lobbying that the roadblock in the House was cleared, ensuring passage in 2001.

The Texas gay community, led by the LGRL, still played a leading role in the hate crime movement following the Byrd murder, galvanized even more by the Shepard killing. In 1999, the gay community had to play defense in addition to pushing for the hate crime bill. State Representatives Warren Chisum (R-Pampa) and Robert Talton (R-Pasadena) introduced legislation in the 1999 session that would prevent gay and lesbian Texans from adopting or providing foster care; this meant that the hate crime bill became wrapped in a broader gay rights agenda in Austin. On March 21, the LGRL held a “March for Our Families” rally at the State Capitol. In addition to lobbying against the adoption bill, a Lobby Day was held during which participants encouraged passage of the James Byrd Jr. Hate Crimes Act.⁴⁶ LGRL lobbying continued to be a central part of hate crime activism in Texas, even after race reentered the debate in a substantive way.

The legislature did not only face pressure from gay activists, however; the Byrd family played a prominent role in lobbying legislators to push the bill through and indeed

⁴⁵ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 123.

⁴⁶ “March on Austin,” *This Week in Texas*, March 19-25, 1999, 33.

became an integral part of the hate crime movement.⁴⁷ Stella Byrd, Byrd’s mother, was especially important in providing a “badge of legitimacy” to the bill, writing to legislators and asking them “to pass the act in the name of our son.”⁴⁸ According to Petersen, the most effective form of lobbying was victim testimony during legislative hearings, especially the testimony of family members such as the Byrds. In 1999, a variety of victim testimony took place in the legislature in support of the James Byrd Jr. Hate Crimes Act, and legislators appeared to be most moved by families’ emotional response to hate crimes. Petersen also suggests that heterosexual family member testimony about anti-gay hate crime played an important role in swaying social conservatives to support a gay-inclusive bill.⁴⁹

The media attention paid to the legislative debate also placed unprecedented public pressure on legislators to act in 1999. The Byrd murder was still fresh in the public memory, and the act that bore Byrd’s name dominated Texas political coverage. The presence of the media at hearings heightened legislators’ awareness of the need to “perform properly,” especially with regard to discussing race. Staunch hate crime law opponent Warren Chisum recalls, “I think [legislators] were most careful of what they said and indeed those of us that are Caucasian were most aware that anything that you try to say in opposition was taken as anti-minority.” This desire not to appear racist in front of the media played a key role in pushing some legislators to support the legislation. In the end, even Chisum—who had been one of the primary opponents of gay-inclusive

⁴⁷ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 125.

⁴⁸ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 130.

⁴⁹ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 133-134.

legislation—supported the bill, in exchange for “sexual orientation” language being swapped for the term “sexual preference,” the latter language implying that being gay was a conscious choice rather than an innate orientation.⁵⁰

In what Dianne Hardy-Garcia described as an example of solidarity between black, Latino, and gay lawmakers and interest groups, the James Byrd Jr. Hate Crimes Act passed out of the House in the 1999 session for the first time in its history by a vote of 83-61. The coalition of gay and racial minority advocacy organizations, in addition to moving victim testimony and media pressure following the Byrd murder, accomplished what had long seemed impossible. The bill ultimately died in the Senate Criminal Justice Committee, which some observers speculated was because of pressure from Governor George W. Bush, who ran for president and needed social conservative support for his campaign; this is a rumor that, while seemingly logical, is difficult to prove.⁵¹ Despite the defeat, activists had overcome a significant hurdle by forcing passage in the House. Unfortunately for activists, the bill would not receive another hearing until 2001.

Activists continued to press the hate crime issue in the meantime, and new hate crimes continued to receive media coverage. In 2000, for example, there was a publicized rash of anti-gay hate crime reports in the small Central Texas city of Brownwood, including the kidnapping and execution-style shooting of a local gay man and the rape of a lesbian during which the rapist reportedly told her that she “won’t be a dyke when I’m through with you.” Brown County Sheriff Glen Smith outraged local and state gay activists when he echoed Governor Bush by claiming that “all crimes are hate crimes”

⁵⁰ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 144-145.

⁵¹ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 126, 128.

and, more shockingly, “We don’t really have any hate crimes in Brown County.” In the minds of activists, this perceived local law enforcement unresponsiveness to hate crime underscored the need for toughened statewide legislation.⁵²

In 2001, demonstrating the continued importance of gay leadership, the LGRL held a final march in support of the James Byrd Jr. Act in Austin. The two-hour rally and following Lobby Day drew over 1,000 people from all over Texas to urge passage of the bill.⁵³ A month later, the Texas House again passed the legislation.⁵⁴ While it appeared that the legislation might be killed in a Senate committee again, a high-profile act of vandalism against a black church in Dallas put enough pressure on the body to pass the bill. By a vote of 20-10, the Senate passed the James Byrd Jr. Hate Crimes Act, sexual orientation inclusion still intact, and Governor Rick Perry signed the bill into law on May 10—but not before lamenting that it would “create new classes of citizens,” referring to the explicit categories protected under the law⁵⁵ While sexual orientation was included in the final bill, gender identity was never seriously considered as a feasible addition in the late 1990s and early 2000s, and to this day transgender people remain unaddressed and unprotected by Texas state law.

The highly publicized Byrd and Shepard murders, the ensuing coalitional activism between gay and racial minority organizations, and a media captivated by hate crime in

⁵² Matt Lum, “Brown County: ‘We Don’t Have Hate Crimes,’” *Texas Triangle*, October 20, 2000.

⁵³ Matt Lum, “Did You March Against Hate?,” *Texas Triangle*, March 23, 2001.

⁵⁴ Matt Lum, “Hate Crimes Legislation Passes in Texas House,” *Texas Triangle*, April 27, 2001.

⁵⁵ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 127; “Governor of Texas Signs a Hate Crimes Bill,” *New York Times*, May 12, 2001.

the wake of sensationalized murder combined to form a unique political environment in the Lone Star State. These conditions paved the way for a gay-inclusive piece of civil rights legislation to pass through a socially conservative Texas legislature and governor, which did not seem possible prior to 1998. Building on the groundwork laid by the gay hate crime movement in the mid-1990s, the broad coalition of activists driven by the Byrd and Shepard murders accomplished what many saw as a nearly impossible civil rights victory in Texas.

Conclusion

The year 1998 represented a major turning point for the Texas hate crime movement. Whereas during the preceding years, the LGRL dominated hate crime lobbying in the Lone Star State and hate crime legislation was seen as a primarily gay issue, the brutal and extremely high-profile murder of James Byrd, Jr. once again brought race to the fore. The murder of Matthew Shepard helped ensure that sexual orientation was not lost in the debate. A coalition of gay and racial minority—especially African American—activists formed around the hate crime issue after 1998, presenting a united front to a socially conservative legislature that had long been opposed to any bill establishing sexual orientation as a protected category. Although the LGRL remained integral to the leadership of this movement, it took a broadly based coalition of minorities to gain the serious consideration of a Texas Legislature largely indifferent to anti-gay violence.

Victim testimony before the legislature and intense media coverage also contributed to the ultimate victory of the Texas hate crime movement. Without victim

testimony and the watchful eye of the media to sway skeptical and even outright hostile legislators, the James Byrd Jr. Hate Crimes Act would have likely seen the same failure it had seen throughout the middle part of the 1990s. Sympathetic martyrs, media coverage, emotion, and coalitional activism converged to force a socially conservative Texas Legislature and governor to pass a major civil rights bill and, for the first time, recognize and legitimize sexual orientation as a protected category in state law. These two shocking murders also forced a level of intersectionality in the Texas hate crime movement that had never been seen before.

Chapter 6—Justice Delayed: Coalitional Politics and the Legislative Struggle for the James Byrd Jr. Hate Crimes Act, 1998-2001

“The Empire Strikes Back,” proclaimed the *Texas Triangle*, an Austin-based gay publication, following the failure to enact the James Byrd Jr. Hate Crimes Act in the 76th legislative session. The lengthy article framed the debate over hate crime in the Texas Legislature in *Star Wars* terms that pitted “rebel Democrats” against Republicans intent on “constructing a legislative Death Star to defend the ‘moral’ empire they still hope to build.” That the bill died as a result of Religious Right influence on Governor George W. Bush’s presidential campaign (the widely circulated rumor) was, in the writer’s eyes, a reality “even a blind Jawa can see.” In the estimation of the *Texas Triangle* and other observers, including Joel Brooks of the Dallas American Jewish Congress, the inclusion of sexual orientation in the legislation was still a bridge too far for Texas Republicans unfriendly to gay rights and for a governor seeking the approval of conservative voters. Not even the dragging death of James Byrd, Jr. could pierce the homophobia of the Texas Republican Party. The article continued, “So, instead of doing what is best for Texas, like prosecuting criminals who commit hate crimes against communities, the Republicans did what was best for George, even though it seems very possible he will be long gone in nineteen months.”¹

History proved the *Texas Triangle* wrong in two ways: Bush was not “long gone in nineteen months,” and the Byrd Act—though delayed—was not dead. In 2001, lawmakers passed the bill in both chambers and found reluctant support in new Republican Governor Rick Perry, who signed the bill on Mother’s Day with Byrd’s

¹ Stephen R. Underwood, “The Empire Strikes Back: Senate Republicans Halt House Advance on Hate-Crimes Bill,” *Texas Triangle*, May 21, 1999.

mother standing by his side. Indeed, while the *Texas Triangle*'s cynicism was valid considering Texas legislative history on hate crimes, the article glossed over the most important takeaway from the 76th session: the Byrd Act passed in the House. In her examination of the legislative debate over hate crimes in Texas, Jennifer Petersen calls that brief but momentous victory for Byrd Act supporters “the biggest hurdle,” further arguing that it was in the 76th session that the bill gained the legitimacy and support it needed to pass two years later. Although the Texas House had been in Democratic hands and remained under the control of Democrats in 1999 amid Republican ascendancy in the state, the chamber also contained the most intense social conservative opposition to a hate crime bill inclusive of sexual orientation.² In the end, even State Representative Warren Chisum (R-Pampa), the most vocal opponent of gay-inclusive hate crime legislation in the House, voted in favor of the Byrd Act.³ The bill's passage and the erosion of social conservative opposition in the House all but guaranteed the eventual passage of the Byrd Act. In this way, the 76th session—dismissed as a failure by the *Texas Triangle* and other hate crime law supporters—was a key moment and turning point in the Byrd Act's journey from bill to law.

² Jennifer Petersen, *Murder, the Media, and the Politics of Public Feelings: Remembering Matthew Shepard and James Byrd Jr.* (Bloomington: Indiana University Press, 2011), 123. For more on conservatism and Republican ascendancy in Texas, see David O'Donald Cullen and Kyle G. Wilkison, ed., *The Texas Right: The Radical Roots of Lone Star Conservatism* (College Station: Texas A&M University Press, 2014); Robert Wuthnow, *Rough Country: How Texas Became America's Most Powerful Bible-Belt State* (Princeton, N.J.: Princeton University Press, 2014); and Wayne Thorburn, *Red State: An Insider's Story of How the GOP Came to Dominate Texas Politics* (Austin: University of Texas Press, 2014).

³ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 145.

To understand how that happened requires thoughtful explication of the 76th legislative session. During that session in 1999, the legislative coalition was constructed that would eventually force passage of the Byrd Act. The activist coalition—gay and other civil rights groups from the LGRL to the NAACP, in addition to the Byrd family—placed vital pressure on the state government, but the legislative wrangling in Austin also merits substantive consideration. This chapter is also concerned with this outside pressure in support of the Byrd Act; however, it is most focused on the legislative leadership and negotiating that ultimately resulted in the bill’s passage. It pays particular attention to the alliance of white, black, Hispanic, gay, and heterosexual Democrats (and some Republicans) that came together to push the bill through the legislature—and the strategy they employed in the process. This chapter is also concerned with how and why moderate and conservative legislators changed their minds on the hate crime issue and cast their votes in favor of the Byrd Act. While most of this analysis is focused on the dynamics of the 76th session, the 77th session and the political differences in 2001 that made final passage of the Byrd Act possible will also be examined.

This chapter builds on previous findings regarding the importance of the media and coalitional activism in the passage of the Byrd Act. Byrd’s death galvanized a statewide coalition of activists in support of a comprehensive hate crime law. However, it also changed the political dynamics surrounding the subject of hate crime in the Texas Legislature. I argue that Byrd’s high-profile murder and the public sympathy and outrage it garnered presented a unique political opportunity. A diverse coalition of hate crime law supporters in the legislature took advantage of these conditions and forced passage of a comprehensive law, even over the objection of social conservatives who opposed the

inclusion of sexual orientation. Through emotional victim testimony and moral appeals, the bill's supporters successfully changed the terms of the debate to make the Byrd Act's passage about securing justice for the Byrd family and hate crime victims writ large, deemphasizing homosexuality. This made it very difficult for some previously skeptical and opposed legislators to block the bill. The urgency to pass a legislative response to the Byrd murder, in turn, allowed the bill's coalition of supporters to insist on the inclusion of race, gender, and sexual orientation. The intersectionality substantively missing in the broader hate crime movement could be found much more clearly in the Texas Legislature, where black State Representative Senfronia Thompson (D-Houston) and black State Senator Rodney Ellis (D-Houston) spoke freely and movingly about the urgent need for gay inclusion. Coalitional pressure from minority lawmakers and an emotional appeal to securing justice for hate crime victims forced enough moderate and conservative votes that passage was ensured in the 77th session, even though presidential politics caused the bill to fail in 1999.⁴

Other scholarship has examined the role of emotional victim testimony in the passage of the Byrd Act.⁵ I am also interested in the victim testimony component of the debate and the role that emotion played. However, I build on this existing work by placing the legislative debate in the context of both the Texas hate crime movement and

⁴ Petersen, *Murder, the Media, and the Politics of Public Feelings*, 128.

⁵ See Petersen, *Murder, the Media, and the Politics of Public Feelings*. Petersen credits victim testimony and coalitional politics with pushing the Byrd Act through the Texas Legislature. Petersen's work is the only existing scholarly study of this particular legislative struggle in Texas. In her examination of the 76th legislative session, she focuses primarily on emotional victim testimony and how it pushed legislators to support the bill. Her chapter on the Byrd Act is one part of her larger study examining the impact of public grief and the media's use of emotion following hate crimes.

the history of hate crime legislation in the Lone Star State. This chapter approaches the Byrd Act debate in the legislature from a variety of perspectives and is informed by the legislative record, newspaper accounts, and the testimony of supporters and opponents. It draws many of the same conclusions reached by Petersen's study—particularly the argument that emotional victim testimony simultaneously pushed conservative legislators and provided them cover to vote for the bill.

A deep examination of the legislative fight over the Byrd Act is necessary to understanding the post-Byrd politics of hate crime in the Lone Star State. The passage of the Byrd Act was the culmination of a decade of activist and legislative struggle for a policy response to hate crime in Texas. But it was the coalition of hate crime law advocates in the legislature that ultimately secured the bill's passage; the coalitional politics uniting minority African American, Hispanic, and gay lawmakers in support of the Byrd Act merits special consideration. The intersectionality found in the legislative struggle for the bill is both an extension of and a divergence from the broader hate crime movement, which was rhetorically intersectional in its push for a comprehensive bill but, in practice, divided along race and sexual orientation lines. Determined minority Texas legislators succeeded in presenting a united front in support of comprehensive legislation, crossing racial and sexual orientation lines and resisting any political temptation to exclude gay people from the law. In this way, the coalition of legislators behind the bill became a part of the larger Texas hate crime movement. The passage of the Byrd Act is a case study in what an intersectional movement for social justice can accomplish, even in a conservative political environment.

Background

The flurry of activist efforts, still led largely by the Lesbian/Gay Rights Lobby of Texas (LGRL), following the 1998 Byrd murder very soon spilled into the 76th Texas Legislature. On January 26, 1999, two leading African American voices in the legislature—Thompson and Ellis—introduced HB 938 and SB 275, respectively. Signaling a legislative strategy of humanizing the issue of hate crime and building on the activist momentum following the Byrd murder, they called the bill the James Byrd Jr. Hate Crimes Act and labeled it “a comprehensive approach to fighting hate crimes.” LGRL executive director Dianne Hardy-Garcia immediately endorsed the bill and echoed the need for inclusion of all vulnerable classes of victims. She also foreshadowed the strategy for passing the bill in the legislature by calling the legislation the only way to honor Byrd: “I am extremely pleased with the Act. I believe that a comprehensive approach to ending hate crime is the best way to honor James Byrd and other victims of hate-related violence.”⁶

Activists and supportive legislators alike underscored the sheer urgency of passing a strong, inclusive hate crime law. They specifically argued that the 1993 compromise hate crime legislation, which listed no explicitly protected categories, was too vague to enforce properly.⁷ In the eyes of hate crime law advocates, no case proved the ineffectiveness of the current law more clearly than the Byrd murder. The law was so vague and unenforceable that Texas NAACP president Gary Bledsoe called for

⁶ “James Byrd Hate Crimes Act Filed,” *The Texas Triangle*, January 29, 1999.

⁷ Matthew A. Hennie, “Supporters Rally for Tougher Hate Crime Law,” *Houston Voice*, February 5, 1999.

prosecutors to add not hate crime charges, but rather kidnapping charges to make the crime a capital offense, a strategy that officials eventually pursued.⁸ Ellis later used this argument—that the 1993 law, which he helped shepherd into existence, was so weak that it could not even be used to prosecute a hate crime as clear-cut as the Byrd dragging—during Senate committee hearings.⁹ Although conservatives, including Republican Governor George W. Bush, maintained that they wanted to see existing law enforced, supporters of the law questioned the efficacy of its enforcement.¹⁰

The James Byrd Jr. Hate Crimes Act, as proposed in the 76th legislative session, was the comprehensive, enforceable bill for which hate crime law advocates had long been fighting. The proposed law consisted of four major parts: civil remedies for victims; enhanced penalties for offenders; police training on identifying, reporting, and handling hate crime cases; and the creation of a special officer position in the Attorney General’s office to prosecute hate crimes.¹¹ The bill mandated that a person found guilty by a judge or jury of a hate crime would receive the punishment for the next highest category of offense, except in cases of a Class A misdemeanor (in which case the defendant would receive a minimum of 180 days of confinement) or a first degree (capital) felony.¹² The

⁸ Carol Marie Cropper, “Black Man Fatally Dragged In a Possible Racial Killing,” *New York Times*, June 10, 1998.

⁹ Texas Senate Criminal Justice Committee, Hearing on SB 275, 76th Texas Legislature, May 6, 1999, transcribed by author.

¹⁰ Matthew A. Hennie, “Supporters Rally for Tougher Hate Crime Law,” *Houston Voice*, February 5, 1999.

¹¹ “James Byrd Hate Crimes Act Filed.”

¹² *James Byrd Jr. Hate Crimes Act*, HB 938, 76th Texas Legislature, Section 1.01, Sec. 12.47.

most contentious part of the legislation—throughout the bill’s troubled history in the 1990s, and again in the 76th session—was the definition of “bias or prejudice.” More specifically, much of the controversy centered on which categories (if any) should be included in hate crime legislation. The Byrd Act, as initially introduced, defined “bias or prejudice” as offenses against a person or property based on the victim’s “race, color, disability, religion, national origin or ancestry, or sexual orientation.”¹³ Neither gender nor gender identity were included in the initial legislation; gender would eventually be added, but gender identity was never seriously considered—by legislators or by activists in the hate crime movement who were not specifically focused on transgender issues. For Hardy-Garcia and other advocates, the Byrd Act was the strong, comprehensive bill they had been pushing for throughout the 1990s.

Byrd Act supporters were under no delusion regarding the climb they faced in the legislature. Similar legislation had failed throughout the decade, and while determined, advocates were not naïve about their chances. Hardy-Garcia lamented, “That is obscene that we will have to fight so hard for it. We are against an uphill battle. It is time the Texas Legislature act on hate crimes. We need it.” However, she also recognized that—as a result of sustained activism throughout the 1990s that had educated lawmakers on the issue, in addition to the urgency produced by the Byrd murder—the 76th session provided a stronger chance of success than any previous legislative session. She said, “I don’t have to beg for [legislators’] support. It is not the same old hate crime bill.” Nor were Byrd Act advocates in the legislature naïve about the prospects; openly gay State Representative Glen Maxey (D-Austin) warned that the rising legislative coalition would

¹³ *James Byrd Jr. Hate Crimes Act*, HB 938.

crumble in the face of conservative pressure if activists did not intensely lobby the legislature. However, he remained hopeful: “As more people see the violence, the coalition expands. I am hoping my colleagues are getting that message. We have to get people over their fears of the religious right base that helped defeat this.” As bill supporters saw it, the primary obstacle to overcome was convincing Republicans that their constituents supported the Byrd Act and that it would not successfully be used as fodder against them in future elections. Hardy-Garcia argued, “This does not kill Republicans. This bill doesn’t. We have to hold [Bush’s] feet to the fire and convince him that there are really powerful Republicans that are for it, and Republicans support it.”¹⁴

Indeed, Republican support was key to the Byrd Act’s chances. The 1990s was a decade of Republican ascendancy in Texas, a state long controlled by Democrats. In 1994, Bush ran against incumbent Democratic Governor Ann Richards and secured a comfortable win. In 1996, Republicans took control of the Texas Senate with 17 seats to 14 for the Democrats. In 1998, Republicans further cemented their majority-party status when Bush was reelected as governor, Rick Perry became lieutenant governor, and Republicans swept all statewide offices.¹⁵ During the 76th session, the House remained under Democratic control, but to compound the problems posed by the social conservative bloc in the House, Democrats very narrowly held the chamber, 78 to 72. African and Mexican Americans also remained underrepresented in the Texas

¹⁴ Matthew A. Hennie, “Supporters Rally for Tougher Hate Crime Law.”

¹⁵ Cal Jillson, *Texas Politics: Governing the Lone Star State* (London, UK: Routledge, 2011), 121.

Legislature—14 African Americans (9 percent), 28 Hispanics (19 percent), and 108 whites (72 percent) in the House, and two African Americans (7 percent), seven Hispanics (22 percent), and 22 whites (71 percent) in the Senate.¹⁶ Neither Democrats nor the rising coalition of minority legislators had the political power to pass the Byrd Act on their own. The bill’s supporters understood this and used the unique opportunity presented by the Byrd murder to their political advantage by naming the bill after him and inundating their colleagues with heartfelt, humanizing victim testimony. The struggle for the Byrd Act in the 76th session, in short, became not simply a fight for hate crime penalty enhancements, but a struggle for justice for the Byrd family and other victims of hate.

76th Legislative Session

As the 76th legislative session dawned, hate crime law supporters in the Texas Legislature were determined to make the Byrd Act’s fate different than that of the other comprehensive hate crime bills that had failed throughout the 1990s. Simply naming the bill after Byrd showed that the passage of HB 938 and SB 275 hinged on translating sympathy for Byrd and his surviving family members into legislative action. Indeed, to a degree, both sides of the hate crime issue sought to use the Byrd family in their bid to either pass or sink the bill. In this way, legislators sought to personalize and humanize the bill, and even opponents saw the Byrd family’s support or non-support as key.

¹⁶ Membership Statistics for the 76th Legislature, Legislative Reference Library of Texas, <http://www.lrl.state.tx.us/legeLeaders/members/memberStatistics.cfm>. By comparison, the broader Texas population in 1998 included 12 percent African Americans and 28 percent Hispanics. Population Tables 1990-1999, Texas Department of State Health Services, <https://www.dshs.state.tx.us/chs/popdat/ST1999.shtm>.

This dynamic was evident as early as February, when Byrd Act opponent State Representative Wayne Christian (R)—whose district included Jasper—reportedly threatened to issue a statement that the Byrd family opposed the bill. The *Austin Chronicle*, citing “Capitol sources,” reported on this alleged plot, which Christian ultimately denied. However, House bill sponsor Senfronia Thompson corroborated the story and claimed that Christian had told her, “I’ve got something that will kill your bill,” allegedly referring to the Byrd family statement. When Senate sponsor Rodney Ellis heard of Christian’s plan, he became so incensed that he cornered Christian outside of a committee room and said, “I heard you’re messin’ with my bill,” a confrontation that Christian confirmed to the *Chronicle*. Ellis then told him that the Byrd family had not heard from anybody named Christian. When Republican Senator Drew Nixon, another opponent of the bill, saw the exchange, he walked over and—together with Christian—tried to reassure Ellis that they would support the bill if it did not “cover the sinners,” referring to gays and lesbians. At this point, Ellis was reportedly “fuming,” and demonstrating the strong inclusivity of the Byrd Act supporter coalition, he retorted, “You’re so holy. You’re really holy, all right.”¹⁷ For her part, Thompson immediately went to the media and interviewed Stella Byrd herself, making sure to ask Byrd if she had ever talked to Christian, which she denied several times.¹⁸ Early in the session, it was clear that the battle for the Byrd family’s endorsement was on, even though their support for the Byrd Act legislation was never seriously in question.

¹⁷ “On the Lege: Christian Sabotage?,” *Austin Chronicle*, February 26, 1999.

¹⁸ Stephen R. Underwood and Matt Lum, “Hate-Crimes Bill Passes House, Moves to Battle in Senate,” *The Texas Triangle*, April 30, 1999.

The Byrd Act's first test—although, considering the makeup of the committee, its passage was all but certain—was in the House Judicial Affairs Committee on March 18. Because the committee was chaired by Thompson and comprised of seven Democrats and two Republicans, the passage of the legislation by the committee was never in doubt. Indeed, one gay Republican lobbyist told the *Texas Triangle* that the bill was “greased” to pass easily out of the committee. The real test, it appeared, was on the House floor, where comprehensive hate crime legislation had always stalled because of social conservative opposition to the inclusion of sexual orientation. In effect, consideration and passage in the Judicial Affairs Committee was a foregone conclusion, with success in the committee serving more as a vehicle to give the bill the “legislative velocity” to come to a vote on the House floor.¹⁹

However, the Judicial Affairs Committee served another vital purpose: building a record of victim testimony that could be used to reinforce existing support and erode opposition. Not taking the inclusion of sexual orientation for granted, bill supporters and the LGRL ensured that gay victims of hate crime and family members of deceased gay victims were especially visible during the committee hearings.²⁰ As Petersen notes in her study, because the coalition of Byrd Act supporters in the legislature were unwilling to exclude sexual orientation, they needed to convince moderates and conservatives to support the inclusive language. They also needed to avoid making the entire bill about sexual orientation for fear that it would yet again result in failure on the House floor. The

¹⁹ Stephen R. Underwood, “Hate Crime Vote Sails Through House,” *The Texas Triangle*, March 19, 1999.

²⁰ Underwood, “Hate Crime Vote Sails Through House.”

strategy Thompson utilized in the House emphasized victims of anti-gay hate crime in the Judicial Affairs Committee hearings while focusing primarily on racist hate crime in House floor debate.²¹ Committee testimony, then, was the vehicle by which gay victims and supporters of the bill made their voices heard in the loudest way, and such testimony dominated the hearings.

Indeed, committee members faced a long line of gay and lesbian victim testimony. Some testimony underscored the intersectional support for hate crime legislation, such as the remarks of Jocelyn Strange, an African American from Texas City. She recounted a recent incident in Texas City involving her nephew, Laaron Morris, and his friend Kevin Tryals. On January 17, firefighters found Morris' charred body inside a burning Ford Mustang and Tryals' lifeless body outside of the car. Because Morris was both gay and a drag queen, Strange testified that the incident should be investigated as a hate crime. Texas City authorities, however, were hesitant to pursue a hate crime investigation.²² Strange pleaded to the committee, "It is our hope that this case and many more unsolved cases like ours are brought to closure."²³ In the eyes of such witnesses and hate crime law supporters, excluding sexual orientation in favor of a focus on race did not make sense.

Committee members heard more testimony from gay and lesbian victims of assault and harassment. For example, Reverend Colleen Darraugh, the pastor of the predominantly gay Harvest Metropolitan Community Church in Denton, testified that the

²¹ Petersen, *Murder, the Media, and the Politics of Public Feelings: Remembering Matthew Shepard and James Byrd Jr.*, 135-136.

²² Attempts to find more information on this particular incident were unsuccessful.

²³ Underwood, "Hate Crime Vote Sails Through House."

church's sign was torched on February 19. FBI investigators determined that an accelerant had been used, and the case fell to the agency's Hate Crimes Task Force. Darraugh emphasized the similarity between anti-gay and racist harassment: "There is a short jump between the burning of a black church and the churches that serve gay and lesbian people." Another gay man, John Hence, testified about an experience in 1994 at Bright Canyon near Amarillo. Hence and 11 other gay men were on a camping trip in the canyon when, in the middle of the night, three men from a neighboring campsite drove to the gay men's site and ran over one of their tents. The assailants then chased the campers and threatened to unleash a rattlesnake on them. One of the harassers, a corrections officer at a nearby prison, was charged and sentenced to three years of probation. Hence urged the committee, "It's important that the law says that this is not acceptable. I honestly thought someone was gonna die that night." Openly lesbian Houston City Council Member Annise Parker testified that she had been the victim of anti-gay violence. Also underscoring the need for an intersectional understanding of hate crime, Parker recounted a 1980 incident in which she and her girlfriend had been mistaken for an interracial couple (they were, in fact, both white) and verbally berated by a group of men. Emphasizing how verbal harassment could easily escalate into physical assault, she testified, "This legislation has to include all of us."²⁴

Opponents of the bill also focused primarily on sexual orientation, such as Lorelei Gilliam, the executive director of the American Family Association (AFA) of Texas, a Religious Right organization vehemently opposed to gay rights. Gilliam testified that the Byrd Act "sets up special classes of victims" and argued that gay and lesbian victims of

²⁴ Underwood, "Hate Crime Vote Sails Through House."

crime currently enjoyed the right to prosecute under existing laws. She added that the bill “would chill free speech by making unpopular certain opinions.” Ellis, who also attended the House committee hearings, intervened and asked Gilliam, “If sexual orientation was not in this bill, would your group be against it?” When she did not answer for several seconds, Ellis added, “That’s all right. I’m gonna save you.” Representative Joe Deshotel (D-Beaumont) then asked Gilliam to provide an exact location of the language in the bill that would criminalize thought, to which she responded that she would have to get back to him with an answer. Opposing lawmakers used similar arguments about “existing laws” being sufficient, signaling that many Republicans were no longer willing to explicitly say that they opposed sexual orientation inclusion. Jim Harrington, the legal director of the Texas Civil Rights Project, testified before the committee and specifically took aim at the notion that the existing hate crime law was enough to ensure proper prosecution of hate crimes. He argued that almost half of all hate crimes in the state occurred in rural areas, where authorities are either unwilling or unable to investigate them as hate crimes under current law.²⁵

Emotional testimony did not only come from gay and lesbian victims. Senfronia Thompson, the mother of a murder victim herself, opened the hearing by emphasizing the “pain and sorrow [that] never go away” and by underscoring the need for fully inclusive legislation: “Some opponents think ‘sexual orientation’ should be stricken from the bill, that this somehow condones or approves of the gay lifestyle. It does not. Hate crimes against gays are the second most often reported type of hate crime. This is not approval,

²⁵ Underwood, “Hate Crime Vote Sails Through House.”

but protection.”²⁶ Further, Byrd’s family members—including his younger sister, Louvon Harris—testified in support of the bill. Several offices and groups also testified in support of the Byrd Act, including the Texas District and County Attorneys Association, the Travis County District Attorney, Houston Mayor Lee Brown, the American Jewish Congress of Texas, the Austin Human Rights Commission, and the Texas National Organization of Women, among others. At the end of the four hours of testimony, Thompson called for a vote, and the committee passed the bill 6-2, with the two Republicans remaining opposed.²⁷

HB 938’s next major test was on the House floor, where it was considered on April 27. Before the vote, legislators offered a number of amendments. Warren Chisum, who had long been a leading opponent of gay-inclusive hate crime legislation, proposed an amendment to substitute “sexual preference” in the place of “sexual orientation,” a proposal that was accepted by bill supporters and secured his support for the legislation. In addition, amendments were passed adding “age,” “status as a pregnant person,” and “gender” as protected categories. Amendments proposing to add the categories of “status as a student athlete” and “status as a student or teacher” were introduced and then withdrawn. The final Byrd Act that made it to the House floor included race, color, disability, religion, national origin or ancestry, age, status as a pregnant person, gender, and sexual preference as protected categories, an even more comprehensive bill than originally proposed.²⁸

²⁶ Underwood, “Hate Crime Vote Sails Through House.”

²⁷ “On the Lege: Knocking Out Hate,” *Austin Chronicle*, March 19, 1999.

²⁸ *House Journal*, 76th Texas Legislature, Regular Session, April 27, 1999, 1416-1418.

During the House floor debate over the bill, opponents emphasized the argument that the Byrd Act created special classes of victims and divided Texans along racial and sexual orientation lines. Christian, still a bill opponent, used an analogy to compare the legislation to a fence separating the black and white cemeteries in Jasper that was symbolically taken down in the wake of the Byrd murder: “Folks, we’re erecting the fences today that future generations will look back and say they built fences between this group and that group on this day. It’s just wrong. Equality should be equality.”²⁹ Representative Joe Nixon (R-Houston) agreed, claiming that the bill violated the Fourteenth Amendment by “creat[ing] categories of people it protects” and “thereby excluding those people not in a stated category,” in addition to violating the First Amendment by “mak[ing], in part, free speech illegal.”³⁰ This particular argument has been commonly used by conservative hate crime law opponents, who regard such legislation as targeting “thought crime,” particularly centering on religious objections to homosexuality.³¹ Such an argument presented a way to avoid the appearance of blatant homophobia on the parts of hate crime law opponents. Texas representatives who opposed the bill were careful to make their arguments legal in nature rather than going on the record to oppose the inclusion of sexual orientation in the legislation.

Meanwhile, the Byrd Act supporters in the House appealed to emotion and emphasized the need to secure protection and justice for all hate crime victims. Indeed,

²⁹ *House Journal*, 1421.

³⁰ *House Journal*, 1424.

³¹ See James B. Jacobs and Kimberly Potter, *Hate Crimes: Criminal Law and Identity Politics* (Oxford, UK: Oxford University Press, 1998) for more on this line of argument.

Thompson opened her remarks by reminding legislators that victims and survivors of hate were watching from the gallery: “I have a person here from the Byrd family, Darrell Barrette. I have Lucy Cates who was a child who hid during the time of the Holocaust. . . . I have Manny Zuniga, whose brother was killed; René Buck, whose brother was beaten.” She also talked about a letter written to her by Stella Byrd: “She believed that the James Byrd Act would help other families from having to experience the private hell that she and the members of her family are having to endure. She was asking, in this letter, that our Texas lawmakers help to pass the James Byrd Hate Crime Act.”

Responding to arguments that the bill elevated certain classes of victims above others, Thompson reminded legislators that they had voted in a previous session to increase the penalty for killing children under six years of age.³² Representative Steven Wolens (D-Dallas) appealed to the parents in the legislature to think of their children: “And so, I would ask you, please think of yourself as parents having children [who could potentially be targeted in a hate crime].”³³ Mexican American Representative Paul Moreno (D-El Paso) discussed his own experience with racism: “In this beautiful city of Austin, Texas, while I was a third year student at the University of Texas Law School I was denied a home simply because I was a Mexican. Now don’t tell me that doesn’t hurt.”³⁴

In the end, the Byrd Act coalition in the House was victorious. Only one Democrat, Representative Bob Turner (D-Voss), voted against the bill, and nine Republicans broke ranks to support the legislation. The bill passed 83-61, a wide margin

³² *House Journal*, 1434.

³³ *House Journal*, 1427.

³⁴ *House Journal*, 1422.

for what was once an extremely controversial piece of legislation. By the 76th session, the Byrd murder had fundamentally altered the politics surrounding hate crime. Steve Labinski, the president of the gay Log Cabin Republicans of Texas, claimed credit for convincing the nine Republicans to vote in favor of the bill. Regardless, the passage of HB 938 was a major victory for hate crime law advocates who had long seen the House as the primary obstacle. Hardy-Garcia commended the House for pushing back against the homophobia surrounding the Byrd Act and finally doing the right thing: “I am very proud of the community and I commend the many legislators who had the courage to stand up for this bill, despite the continuous onslaught of homophobic rhetoric surrounding the Act.”³⁵ Hardy-Garcia and other Byrd Act supporters, while elated about their unprecedented victory in the House, immediately turned their eyes toward the looming battle in the Texas Senate.

Hate crime law supporters were not naïve about their chances in the Republican-controlled Senate, but the decisive House vote gave reason for optimism. During the Senate deliberations, Ellis pointed to the overwhelming House vote—including the supportive votes of staunch opponents of sexual orientation inclusion such as Chisum—and took comfort “that if the issue is sexual orientation, that people are ashamed to say it in public.”³⁶ Indeed, if senators were opposed to the inclusion of sexual orientation, they clearly tried not to make it the centerpiece of their opposition to the bill. Meanwhile, the Byrd Act coalition in the Senate—like the House coalition—had to walk a political

³⁵ Stephen R. Underwood and Matt Lum, “Hate-Crimes Bill Passes House, Moves to Battle in Senate,” *The Texas Triangle*, April 30, 1999.

³⁶ “On the Lege: Byrd Bill Stalls . . . Again,” *Austin Chronicle*, May 14, 1999.

tightrope between strongly supporting sexual orientation inclusion and not letting the bill die as a result of such inclusivity. As in the House, much of the discussion revolving around anti-gay violence and the inclusion of sexual orientation occurred in the friendlier audience of committee hearings, which took place in the Senate Criminal Justice Committee, chaired by Senator Kenneth Armbrister (D-Victoria).

The strategy in the Senate, led by Ellis, was very similar to the strategy deployed in the House: humanizing the Byrd Act and making the vote a choice between saying “yes” or “no” to delivering justice for the grieving Byrd family and other victims. In the words of the *Austin Chronicle*, Ellis brought out the “heavy artillery” during the committee hearings designed to make it extremely difficult for bill opponents to vote against the legislation.³⁷ That “heavy artillery” included, first and foremost, the testimony of Byrd family members. During the May 6 Criminal Justice Committee hearing on the bill, Houston Mayor Lee Brown opened the testimony, but only because he needed to catch a flight. The real opening of the testimony rested with Darrell Berrette, Byrd’s nephew, who read a letter to the committee members from Byrd’s parents, James and Stella Byrd: “We are writing you to ask you to pass the James Byrd Jr. Hate Crimes Act in memory of our son. . . . Although we are seeking justice in the courtroom for James’ death, we are also united in our efforts to prevent these senseless acts of hatred.” The letter added that the legislation would prevent other families from experiencing the pain the Byrd family had endured following the murder. Calling for an end to “painful division” between race, gender, and sexual orientation, James and Stella Byrd urged the

³⁷ “On the Lege: Byrd Bill Stalls . . . Again.”

senators to pass the comprehensive bill.³⁸

Even more moving testimony, however, came from Renee Mullins, Byrd's oldest daughter. Her voice breaking, Mullins told the committee that her family had just celebrated Byrd's 50th birthday at his grave. She then graphically recounted Byrd's dragging death, emphasizing the torture he endured at the hands of white supremacists, after which she asked the committee: "How can we not do the right thing and pass this bill? . . . What if it was your father, mother, sister, or brother, or even your animal? I would not condone an animal to die the way my father had to die. . . . God forbid if it was you." Mullins urged the senators to pass a comprehensive bill inclusive of sexual orientation and all other protected categories to "let me know my father did not die in vain." Through tears, she added, "My father's legacy must live on, but hate crimes must die. . . . Let's not put this bill off and let another innocent man like my dad die at the hands of haters." African American Senator Royce West (D-Dallas) built on Mullins' testimony to urge senators to respond to the Byrd family's pain and pass the bill not as Republicans or Democrats, but "as Texans." Then, clearly taking aim at his Republican colleagues, Senator John Whitmire (D-Houston) directly asked Mullins, "Are you aware that this bill is in trouble [in the Senate]?" (Although the House had consistently been the site of hate crime law obstruction, there were new concerns that the Senate did not have the votes to pass the bill.) When she replied that she was aware of the bill's chances, Whitmire asked her, "If [the bill] did not pass this body . . . can you tell us and the people of Texas what that would mean to your family?" Mullins responded, "I'm praying to the

³⁸ Texas Senate Criminal Justice Committee, Hearing on SB 275, 76th Texas Legislature, May 6, 1999, transcribed by author.

good Lord who has been with me for 11 months—I hope it doesn’t come to that.”³⁹ The Byrd Act coalition deployed “heavy artillery” against their mostly Republican opponents, painting a “no” vote as a desecration of Byrd’s memory and a proverbial slap in the face of his closest family members.

While the Byrd family opened the hearing in a particularly moving way, the Senate Criminal Justice Committee heard from a long line of victims, victims’ family members, and advocates of hate crime legislation. The sister of an Austin anti-gay hate crime victim testified about the emotional impact on her family and urged the committee to pass the comprehensive bill so no other family would have to go through the experience. Joel Brooks of the Dallas American Jewish Congress testified that he was the victim of anti-Semitic harassment and assault and that his parents’ graves were vandalized with swastikas. Donna Hoffman of the Texas National Organization for Women urged the committee to keep the House inclusion of gender. A number of witnesses, such as Jim Harrington of the Texas Civil Rights Project and a law professor, argued that the law was constitutional and questioned the constitutionality of the existing law that did not carve out explicit protected categories. Another theme in the testimony was an emphasis on the strong support by Texans of hate crime legislation, as found in polling. Witnesses and Senate allies painted the Byrd Act as a sensible, popular, and just piece of legislation that would help shield victims of hate crime and their families from unnecessary pain and suffering.⁴⁰

Not all of the witnesses at the hearing supported the legislation. Many of the

³⁹ Hearing on SB 275.

⁴⁰ Hearing on SB 275.

opponents focused on the lack of need for a new law. One witness from Luffkin argued that the real hate following the Byrd murder came from newspapers and from people painting East Texas as racist. A Dallas witness questioned whether white males would be included in the bill, which provoked a lengthy exchange with Ellis in which the senator repeatedly assured him that white men have a race and would therefore be protected. Other opponents, as they did in the House, argued against elevating certain classes of victims above others, taking care not to outright condemn the inclusion of sexual orientation in the bill. For example, Gilliam of the Texas AFA claimed that the bill would protect certain categories of victims more than others, in addition to arguing that the legislation would trample on free speech—specifically, religious speech opposing homosexuality. A policy analyst from the Washington, D.C.-based Family Research Council—who identified herself as a “former lesbian”—traveled to the hearing to argue against the bill, claiming that it made some rapes and murders more important than others. She also argued that existing laws were enough to protect hate crime victims. Ellis questioned her about her opposition and was able to force an admission that sexual orientation was a very large part of her (and the Family Research Council’s) reason for opposing the law.⁴¹ Opponents, far from making sexual orientation the centerpiece of their arguments against the Byrd Act, instead focused on constitutionality, existing laws being sufficient for prosecuting hate crime, and the danger of elevating and endowing with “special rights” one class of victims above another.

However, as Ellis was able to ascertain from the Family Research Council witness, the inclusion of sexual orientation was still the major sticking point in the

⁴¹ Hearing on SB 275.

legislation, even if the opposition to that language often went unsaid. Despite this opposition and the clear path forward that the bill would have had without the inclusion of sexual orientation, Ellis and the Byrd Act coalition refused to remove it from the bill, insisting that the issue was not one that lent itself to compromise.⁴² Indeed, while the legislation passed the House in its comprehensive form, it ultimately failed in the Senate during the 76th session as a result of that inclusion of sexual orientation.

When the Byrd Act failed in 1999, reports circulated that Governor Bush, who wanted to avoid dealing with pro-gay legislation during his presidential campaign, had called a meeting with the Republican caucus to urge them to stall the Byrd Act. Bush had already made his position clear on March 22, when he stated that he opposed granting special rights to gay and lesbian Texans through hate crime legislation.⁴³ Bush even reportedly called the Byrd family during the negotiations and asked if they would support the bill without the inclusion of sexual orientation, but the Byrds refused to exclude any group.⁴⁴ While it is difficult to prove these rumors because of the lack of official statements from the Bush administration tying the hate crime debate to the presidential election, Bush did electorally benefit in his gubernatorial bid from evangelical Christian voters who would be opposed to any official recognition of gay rights. In 1994, 66 percent of Protestants voted for Bush, in addition to 81 percent of self-identified Religious Right voters and 83 percent of self-described “born-again Christian or

⁴² “On the Lege: Byrd Bill Stalls . . . Again.”

⁴³ Stephen R. Underwood, “Senate Committee May Still Kill Hate-Crimes Bill,” *The Texas Triangle*, May 14, 1999.

⁴⁴ Matt Lum, “FBI Releases Hate Crimes Data; James Byrd, Jr. Hate Crimes Act Gets Mondya Hearing,” *The Texas Triangle*, February 16, 2001.

fundamentalist” Texans.⁴⁵ Just before the 2000 election, the NAACP ran a series of television ads specifically targeting Bush’s opposition to the Byrd Act, featuring Byrd’s daughter Renee Mullins’s claim that she had begged Bush to support the bill: “He just told me no.” President Bill Clinton also referenced Bush’s Byrd Act opposition during the 2000 election.⁴⁶ Whether or not the bill faced a certain death directly because of Bush’s political aspirations, the Byrd Act did play a significant role in 2000 presidential politics.

As Ellis and his Senate allies approached the deadline to pass the Byrd Act in the 76th session, they began to realize that the bill was in trouble. Armbrister repeatedly called for extensions to postpone the Criminal Justice Committee vote, and with Republicans outnumbering Democrats 4-3 on the committee, Ellis knew the odds, but remained determined to secure enough votes to send the bill to the floor.⁴⁷ However, by May 21, most observers were willing to call the bill dead. The *Austin Chronicle* noted of the proceedings, “It took the brutal murder of a disabled black man in Jasper to convince House members to support a comprehensive hate crimes bill last month. It took four Republican senators, a presidential candidate, and 11 hours of back-room finagling to derail it in the Senate.” Despite a full day of negotiations between Democrats, Republicans on the committee, Governor Bush, and Lieutenant Governor Rick Perry, no deal emerged that would advance the bill. Democrats were quick to pounce on

⁴⁵ Wuthnow, *Rough Country*, 391.

⁴⁶ Deborah Barfield, “NAACP TV Ads Focusing on Bush and Hate Crimes,” *Newsday*, October 25, 2000, http://amarillo.com/stories/2000/10/25/new_naacp.shtml#.VvFvJZMrJ-U.

⁴⁷ Underwood, “Senate Committee May Still Kill Hate-Crimes Bill.”

Republicans for what they called a lack of moral fortitude, and West proclaimed that Byrd himself was “turning over in his grave. . . . He cannot rest, and you should not rest.”⁴⁸ Despite such strong words from Democrats and a last-minute rally on the State Capitol steps led by Thompson, the pessimistic observers were right: The Byrd Act was effectively dead in the 76th legislative session.⁴⁹ However, although SB 275 did not emerge from the Senate Criminal Justice Committee in 1999, the politics around hate crime legislation had demonstrably shifted, as evidenced by the unprecedented House vote. The Byrd Act did not become law in the 76th session, but because of the momentum that gathered following Byrd’s murder, the legislative coalition that would eventually pass the bill was fully constructed in 1999. This coalition would not dissipate after the 76th session, even if it was stalled by presidential politics.

77th Legislative Session

In January of 2001, at the beginning of the 77th legislative session, battle-worn Thompson and Ellis once again introduced the Byrd Act in the form of HB 587 and SB 87, respectively. The legislation was virtually identical to the amended bill that died in the Senate during the 76th session. Sixty-four legislators stood behind Thompson and Ellis and signaled their support for the Byrd Act, and advocates hoped that the momentum from the 76th session was not gone.⁵⁰ In the 77th session, the legislative

⁴⁸ “On the Lege: Bushwacked,” *Austin Chronicle*, May 21, 1999.

⁴⁹ Matt Lum, “Capitol Rally Gives Final Hurrah to Hate-Crimes Bill,” *The Texas Triangle*, May 28, 1999.

⁵⁰ Renee Barlow, “Hate Crimes Legislation Filed,” *The Texas Triangle*, January 12, 2001.

makeup remained the same; Democrats controlled the House 78-72, and Republicans narrowly controlled the Senate 16-15.⁵¹ However, there was one important difference: George W. Bush was now the President of the United States, leaving former Lieutenant Governor Rick Perry (R) as the new governor. The presidential politics that had been blamed (rightly or wrongly) for the Byrd Act's failure in the 76th session were no longer an issue, although Perry was no ally of hate crime legislation. Meanwhile, the Byrd Act coalition that had passed the bill out of the House and almost forced it to the Senate floor remained in place. The previously insurmountable opposition to hate crime legislation in the Texas Legislature had been surmounted in the 76th session, leaving a clear pathway to Governor Perry's desk in 2001.

In the 77th session, the legislative action began on February 7 on the Senate side of the legislature, again in the Criminal Justice Committee. Despite the high drama that took place in the committee room during the 76th session, in 2001 there was little drama in the Criminal Justice Committee in the absence of pressure from a governor with presidential ambition. Ellis employed a strategy similar to that of the 76th session, bringing forward emotional testimony from witnesses, including Lauvon Harris, Byrd's youngest sister. Harris reminded the committee, "James suffered a troubled death simply because of hate. No other reason. America is supposed to be the land of the free. My brother was born a free man in this country, but because he was a black man, he lost his life." Thompson, also present for the Senate committee hearing, implored the committee members to act in light of the Lone Star State's "ignoble history as it relates to race relations." Hardy-Garcia appeared before the committee to speak on behalf of gay and

⁵¹ Membership Statistics for the 76th Legislature, Legislative Reference Library of Texas, <http://www.lrl.state.tx.us/legeLeaders/members/memberStatistics.cfm>.

lesbian activists and victims, also framing her comments in racial terms and calling Byrd's murder "a moment when all Texans hung their heads in shame. Surely he was not the first man lynched in East Texas, but we have reached a pinnacle point in Texas history when people are saying, 'This is really wrong.'" The Byrd Act supporters emphasized the urgency of a comprehensive hate crime law and, as in the previous session, the importance of securing justice for the Byrd family and other victims of hate crime. Opponents, such as Mark Levin—who represented the Young Conservatives of America, Texas Eagle Forum, American Freedom Center, Texas Christian Coalition, AFA, and Free Market Foundation—used the familiar rhetoric of all crimes being hate crimes and existing law being sufficient to prosecute bias-motivated crimes. In the end, passage came easily as the senators voted 5-1, with one abstention, to send the bill to the Senate floor. None of the drama that came with presidential politics of 1999 was evident in the Senate Criminal Justice Committee in 2001, which finally appeared ready to address hate crime.⁵²

On February 19, Thompson brought the bill up for testimony in the House Judicial Affairs Committee, where similar arguments in support and opposition were made. She invited Byrd's parents, James and Stella, to the hearing, and while they sat waiting to testify, Thompson showed images to her colleagues of Byrd, the Ku Klux Klan burning crosses, and hate crime headlines. Key to the committee hearing, however, was Stella Byrd's testimony, in which she gave emotional support to the bill: "A mother—a family never gets over something like this. . . . If you pass this law to help protect the

⁵² Matt Lum, "Senate Criminal Justice Committee Approves Hate Crimes Bill," *The Texas Triangle*, February 9, 2001.

people, then my son's death will have not been in vain." Testimony also included Donna Neveli, who discussed her son's experience as a Jewish student in a mostly non-Jewish high school, which included classmates taunting him, "Hitler missed one. You're the Jew. You're the one he left behind." Although opponents made familiar arguments about granting special rights to certain classes of people and about current law being sufficient, the Judicial Affairs Committee easily passed the bill in a 7-2 vote, falling strictly along party lines.⁵³

The next legislative action with regard to the Byrd Act did not come until April 23, when it came before the full House for consideration. Initially, it faced poison-pill amendments, with Chisum motioning to table the bill entirely and another Republican representative introducing an amendment to "protect the kids who get beat up because they have red hair and pimples." Representative John Shields (R-San Antonio) even invoked the memory of General Sam Houston, arguing (puzzlingly) that the giant in Texas history would have opposed hate crime legislation. Thompson admonished her colleagues: "It is shameful that so many members in this House have such a homophobic attitude that they would not want to protect all the citizens of Texas." She also showed representatives four photographs of hate crime victims, including the 1994 autopsy photograph of Nicholas Ray West. In the end, the House coalition that had formed in the 76th session stuck together and even grew in size, voting 87-60 to pass the Byrd Act. Hardy-Garcia celebrated the second House win: "I am extremely pleased with the vote.

⁵³ Matt Lum, "Hate Crimes Bill Gains Momentum; Victim Testimony Relates Painful Reality," *The Texas Triangle*, February 23, 2001.

But we can't give up now. The fight for civil rights is a long and hard one."⁵⁴

Indeed, attention immediately turned to the Senate, the final obstacle and where passage was anything but assured. Ellis signaled after the House vote that Governor Perry had already involved himself in the legislative wrangling: "It is my understanding that the governor has gotten involved and has discouraged members from voting to bring the bill up." In fact, Perry told reporters that he did not want the bill to come up until Senators Florence Shapiro (R-Dallas) and Tom Haywood (R-Wichita Falls), both Byrd Act opponents, were present for the vote, indicating the fate the governor preferred for the Byrd Act.⁵⁵ For their part, Senator Gonzalo Barrientos (D-Austin) and Hardy-Garcia both chastised the governor for his perceived legislative meddling, with Hardy-Garcia explaining, "He tried to handle it the way George Bush handled it. But Rick Perry is no George Bush. People are not going to make the exception they made for someone waging a national campaign." Even Republican Lieutenant Governor Bill Ratcliff said that it was unprecedented to delay action on a bill to wait for two senators to be present to vote.⁵⁶ Glen Maxey was harsher toward Perry: "Just as George Bush stonewalled for political gain, Rick Perry is playing games with people's lives. He doesn't have the courage of his convictions to sign or veto the bill, so he hides behind getting senators to kill it on procedural grounds."⁵⁷

⁵⁴ Matt Lum, "Hate Crimes Legislation Passes in Texas House," *The Texas Triangle*, April 27, 2001.

⁵⁵ Lum, "Hate Crimes Legislation Passes in Texas House."

⁵⁶ Amy Smith, "Naked City: Eighty-Seven Reps. Agree: Hate Is Bad," *Austin Chronicle*, April 27, 2001.

⁵⁷ Matt Lum, "Senate to Vote on Hate Crimes," *The Texas Triangle*, May 4, 2001.

However, on May 7, the Senate gave its final approval and voted to pass the Byrd Act, sending the legislation to Governor Perry's desk. Surprising many pundits and observers, Perry signed the bill on May 11, just days after expressing concerns that it would "create new classes of citizens." Stella Byrd stood next to Perry at the signing ceremony, which took place on Mother's Day. In his signing statement, Perry even echoed liberal arguments for hate crime legislation, although he also took care not to mention sexual orientation: "This law sends a signal to would-be criminals that if you attack someone because of their religion or race or gender, you face stiffer penalties." Stella Byrd speculated on Perry's decision to sign the legislation: "I think he finally realized it was a good bill."⁵⁸ She also said, "This is the best Mother's Day gift I've ever received." Thompson began to cry as Perry signed the bill, and Ellis later credited Thompson with her hard work: "More than anything else, this bill needed a tough, strong black woman [to pass it]."⁵⁹ In reality, while Thompson's and Ellis' leadership was vital to the Byrd Act's passage into law, the bill's final triumph in the 77th session was a demonstration of the strength of the Byrd Act coalition that had been constructed in 1999, a year after Byrd's death.

Conclusion

The James Byrd Jr. Hate Crimes Act could not have become law in Texas without the activist and legislative momentum that gathered after Byrd's grisly murder in Jasper. The unprecedented outrage and grief that sprung out of the killing fundamentally changed

⁵⁸ "Governor of Texas Signs a Hate Crimes Bill."

⁵⁹ Amy Smith, "Naked City: Does Compassion Pay?," *Austin Chronicle*, May 18, 2001.

the politics of hate crime legislation in Texas. The activist coalition that formed in the wake of the murder translated into a legislative coalition in the Texas Legislature comprised of African American, Mexican American, Jewish, and gay legislators intent on passing a comprehensive hate crime bill. The Byrd Act coalition, led by Thompson and Ellis, used powerful victim testimony—especially from the Byrd family—to persuade skeptical and opposing legislators and to frame the vote as a choice between securing justice for the Byrd family and other victims of hate crime or allowing injustice to prevail. In the end, the coalition won over enough Republican votes to force passage of the bill, albeit not until 2001. Governor Rick Perry, undoubtedly sensing the political shift on the issue, clearly felt compelled to sign the legislation, even though he was uncomfortable with the inclusion of sexual orientation.

The passage of a comprehensive hate crime bill inclusive of sexual orientation out of the Texas Legislature was an impressive feat and the capstone of a decade of hate crime activism. It also marked the first piece of gay rights legislation to pass out of the legislature in Texas history. Ultimately, the coalition stuck together; Hardy-Garcia said after the bill signing, “There were many opportunities to cut gays out of the bill, and the bill would have passed easily, but the Byrd family never wavered on the gay issue. They stuck by us.”⁶⁰ At its essence, the passage of the James Byrd Jr. Hate Crimes Act is a powerful demonstration of what an intersectional coalition can accomplish, even in a conservative political environment.

⁶⁰ Smith, “Naked City: Does Compassion Pay?”

Conclusion

When 18-year-old David Ritcheson, a Latino hate crime survivor from Spring, Texas, testified before Congress in April 2007 in support of strengthened federal hate crime legislation, his words were full of optimism: “I appear before you as a survivor of one of the most despicable, shocking, and heinous acts of hate violence this country has seen in decades. . . . [but] as each day passed [since the assault], I became more and more aware of everything I had to live for. I am glad to tell you today that my best days still lay ahead of me.”¹ Less than three months later, Ritcheson committed suicide by jumping from a Cozumel-bound cruise ship (part of a planned “summer escape”), to the shock of his friends and family. One of his classmates remarked to the *Houston Chronicle*: “I honestly couldn't see David's pain. If he was in pain, he hid it really, really well. He was always smiling, joking around, being himself.” The physical and mental pain of the hate crime lingered, despite his friends’ and family’s observations—and despite Ritcheson’s rejection of psychiatric help following the attack.²

The assault that had propelled the teenager into the national spotlight and continued to torment him until his death seemed to many like an open-and-shut hate crime case. In April 2006, Ritcheson went to a crawfish festival with high school acquaintance Gus Sons, where they met two other boys, including David Henry Tuck, a skinhead who had once attacked a Hispanic man and served time in a juvenile detention facility. The boys drank vodka and snorted cocaine, and for reasons unknown—his

¹ “The Wages of a Hate Crime,” *Newsweek*, July 4, 2007.

² Bill Murphy, Paige Hewitt, and Jennifer Leahy, “Teen Who Survived Pipe Attack Dies After Leap from Ship,” *Houston Chronicle*, July 1, 2007.

attackers claimed Ritcheson had made an advance on Sons's younger sister—an argument ensued. Tuck and the other boy, Keith Robert Turner, then attacked Ritcheson, relentlessly beating him for several hours, stripping him naked, burning his skin with cigarettes, pouring bleach into his wounds, and sodomizing him with the end of a patio umbrella (kicking it into his anus with such force that there was extensive damage to his internal organs). They reportedly exclaimed, “White power!” during the torture episode, and they even began to carve a swastika into his chest, before deciding that it would be a step too far. Ritcheson spent three months in the hospital and endured more than thirty surgeries. But the case was not tried as a hate crime, since first-degree felonies were exempted from penalty enhancement in the text of the James Byrd Jr. Hate Crimes Act. Just before his suicide, Ritcheson became an advocate for the federal Local Law Enforcement Hate Crime Prevention Act, known as David's Law (which did not pass in 2007). Tuck and Turner were both convicted of aggravated sexual assault; Tuck was sentenced to life, and Turner was sentenced to ninety years.³ In the end, hate crime penalty enhancements would have been more symbolic than practical.

Almost nine years later, in January 2015, Ty Underwood—a 24-year-old African American transgender woman—was found fatally shot in her car in North Tyler, Texas. The local media reported on her murder using male pronouns, and when police identified 21-year-old African American Carlton Ray Champion, Jr. of Longview as a suspect, newspaper reporting focused on a homosexual relationship gone wrong.⁴ Champion was

³ “The Wages of a Hate Crime.”

⁴ Adam Russell, “Relationship Had Sexual Connotations, Police Say,” *Tyler Morning Telegraph*, February 9, 2015.

charged, and a jury convicted him of the murder, after which he shouted, “I’ll be back on the streets!” and had to be restrained by officers in the courtroom.⁵ He was later sentenced to life in prison.⁶ Immediately after the killing, Underwood’s friends demanded that the case be treated as a hate crime carried out because of bias against her gender identity, and the Twitter hashtag #JusticeForNunne (one of Underwood’s nicknames) called not only for justice in the Underwood murder, but also justice for the transgender community at large, which in recent months has reportedly seen an “epidemic” of hate crime.⁷ In Texas, the Byrd Act—despite protestation from Texas transgender activists who had been shut out of the hate crime movement in the 1990s—does not include gender identity as a protected category. In the end, Underwood was likely a victim of domestic, rather than hate, violence, but her murder opened a public discussion in the Lone Star State about the limits of existing hate crime legislation.⁸

Over a decade after the passage of the James Byrd Jr. Hate Crimes Act, its limitations have become clear. The two cases above are just a couple of high-profile examples of the holes in the Byrd Act. Some have even called the legislation’s overall effectiveness into question. A 2012 *Austin American-Statesman* article titled “Texas Hate Crime Law Has Little Effect” makes the argument that the law is largely unused, leaving

⁵ Risa Morris, “Champion Found Guilty in January Murder of Ty Underwood,” *Tyler Morning Telegraph*, December 17, 2015.

⁶ Elizabeth Daley, “College Football Player Sentenced to Life for Killing Texas Trans Woman,” *The Advocate*, December 18, 2015.

⁷ Samantha Michaels, “More Transgender People Have Been Killed in 2015 Than Any Other Year on Record,” *Mother Jones*, November 20, 2015.

⁸ Hannah Smothers, “In Texas, There’s No Such Thing as a Transgender Hate Crime,” *Texas Monthly*, February 3, 2015.

little reason for its existence aside from sending a symbolic message to would-be hate crime perpetrators.⁹ In the decade after the passage of the Byrd Act, hate crime reports steadily declined in Texas along with other violent crime, with the number of reported hate incidents hovering close to 200 per year.¹⁰ However, in the first ten years of the Byrd Act, only ten convictions were secured under the law. Possible reasons range from subjective standards to blatant holes in the law's coverage to reluctance on the part of prosecutors (who often use hate crime charges as leverage to secure a plea bargain). Travis County District Attorney Rosemary Lehmborg blames local law enforcement, which sometimes fails to treat incidents as hate crimes from the beginning, and Equality Texas (the LGRL's successor group) maintains that Texas is unique in its lax enforcement of its hate crime law.¹¹ Whether the reason is the difficulty of proving bias motivations, the failure of authorities to use the law appropriately, or some combination of the two, it is clear that the Lone Star State's hate crime law has been relatively ineffective in the years after its passage. A logical question follows: Was the Byrd Act worth the effort that activists and legislators poured into it? Scholars are beginning to debate the merits of hate crime legislation in general, with some arguing that it is not

⁹ Eric Dexheimer, "Texas Hate Crime Law Has Little Effect," *Austin American-Statesman*, January 24, 2012.

¹⁰ Uniform Crime Reports 2001-2010, Criminal Justice Information Services, Federal Bureau of Investigation, <https://www.fbi.gov/about-us/cjis/ucr/hate-crime/>.

¹¹ Dexheimer, "Texas Hate Crime Law Has Little Effect."

effective and others claiming it is harmful to society and helpful only to the expanding “prison industrial complex.”¹²

Answering such a question—if an answer is even possible—is beyond the scope of this study. Regardless of the Byrd Act’s ultimate effectiveness, a thorough examination of the Texas movement for hate crime legislation leaves no reason to doubt the motives of the movement. In the 1990s, when many believed an “epidemic” of hate crime was sweeping the state and nation, leaving racial and sexual minority communities vulnerable, activists and policymakers saw hate crime legislation as the best possible means to combat the threat. They were under no delusion that hate crime would end when Governor Rick Perry signed the law, and its limitations were not unknown. Advocates saw the James Byrd Jr. Hate Crimes Act as an imperfect civil rights measure that would move state law toward adequate prosecution of hate crime at a time when many lacked faith in the Lone Star State’s ability and willingness to punish racist and homophobic wrongdoers.

Much like other bills, such as the federal “crime bill” omnibus legislation passed in 1994, the Byrd Act was a product of a particular time and place. Current and future scholars from multiple disciplines will undoubtedly continue to assess the effect and impact of hate crime legislation, but this study rehabilitates the hate crime activist—who either has slipped into obscurity or has been subject to retrospective disapproval—as a serious civil rights activist. As this dissertation argues, the reported hate crime epidemic

¹² See James B. Jacobs and Kimberly Potter, *Hate Crimes: Criminal Law and Identity Politics* (Oxford, UK: Oxford University Press, 1998), Valerie Jenness, *Making Hate a Crime: From Social Movement to Law Enforcement* (Thousand Oaks, Calif.: Sage Publications, 2004), and Christina B. Hanhardt, *Safe Space: Gay Neighborhood History and the Politics of Violence* (Durham, N.C.: Duke University Press, 2013) for more discussion on this topic.

led to a strong and diverse movement for hate crime legislation, which only passed due to coalitional activism and legislating, intense lobbying by gay and African American activists, and public pressure powered to a large extent by the media. Although the movement itself lacked intersectional organizing, activists shared one goal, and an intersectional coalition in the legislature ensured that the final legislation was as comprehensive as possible. At its core, this study contends that this was a serious civil rights movement seeking to gain protection under state law from the threat of violence. Whether or not the “epidemic” was constructed or supported by actual numbers, the threat of racist and anti-gay violence was very real. In the end, this civil rights movement was successful in its aims, even if the legislation that resulted did not bring an end to hate crime.

There are several significant conclusions to be drawn from this study of the Texas hate crime movement, many of which are potentially instructive to contemporary social movements. The first is a point already partially made by scholar Jennifer Petersen in her examination of the aftermath of the Matthew Shepard and James Byrd, Jr. murders: the public grief and outrage generated by individual high-profile cases of injustice can be harnessed to produce policy.¹³ Anti-violence activism in Texas—whether in the form of the movement against police brutality in the 1970s and 1980s or the movement against hate crime in the 1990s—largely revolved around particularly egregious examples of bigoted violence. The police killings of 12-year-old Santos Rodriguez in Dallas and Jose Campos Torres in Houston spurred activism that ultimately led to significant police reforms; the brutal deaths of Donald Thomas in Arlington, Paul Broussard in Houston,

¹³ See Jennifer Petersen, *Murder, the Media, and the Politics of Public Feelings* (Bloomington: Indiana University Press, 2011).

and James Byrd, Jr. in Jasper, among others, fueled activism and lobbying efforts that led to two separate hate crime bills in 1993 and 2001. These were sympathetic victims in the collective mind of the Texas public, and as shown in Petersen's and my examinations of the legislative record, sympathy and grief surrounding particular cases played a vital role in the ultimate passage of the Byrd Act.

Building on the above point, another conclusion to be drawn from this study is that sympathetic coverage by the media—local, state, and national—is extremely important in building a case for a civil rights measure such as the Byrd Act. Petersen made this point in her analysis of the Byrd case, and I found a similar dynamic at play in the larger hate crime movement. Texas activists recognized the power of the media, and they often explicitly sought media coverage. The national and international publicity surrounding the Byrd death-by-dragging generated incalculable outside pressure on the Texas Legislature to act to address the issue of hate crime. A sympathetic media and public grief and outrage are intertwined and have the ability to create an unstoppable force for policy change.

Third, this study underscores the importance of both grassroots and political forces in producing policy. The “new political history” championed by historians such as Julian Zelizer takes both grassroots activist pressure and “traditional” political institutions into account when examining the history of policy.¹⁴ At its heart, this dissertation is a policy history of the James Byrd Jr. Hate Crimes Act, and I utilize the methodology of this new school of political history. Both activists and allies in the legislature were of vital importance to the success of the Byrd Act, which likely would have died in its

¹⁴ See Julian Zelizer, *Governing America: The Revival of Political History* (Princeton, N.J.: Princeton University Press, 2012).

current form without both outside and inside pressure. Even with the pressure generated by the Byrd murder, it is likely that sexual orientation would have been dropped by socially conservative legislators without the existence of a strong, long-standing gay movement in support of hate crime protections and legislative allies who refused to exclude gay and lesbian Texans in the final legislation.

Finally, and perhaps most importantly, this study highlights the importance of intersectional coalition building in social movements and policymaking. The Texas hate crime movement itself was not intersectional. Indeed, gay and African American activists traveled on largely separate (but parallel) tracks in their push for hate crime legislation, even if those tracks occasionally crossed. Following the Byrd murder, however, these two movements converged, at least at the organizational level, with the LGRL and NAACP both recognizing the burden of violence both minority communities shared, and even the Byrd family pushed for the inclusion of sexual orientation in the bill. The intersectionality largely missing from the movement itself could be found in the legislature, where gay, African American, and Hispanic legislators fought to keep the Byrd Act as comprehensive as possible. Without these coalitions of diverse minority communities, the Byrd Act likely would have either failed completely or passed in a less inclusive form. But as comprehensive as the James Byrd Jr. Hate Crimes Act was in the end, it was not inclusive enough to address transphobic violence, leaving transgender victims without the protection of state law.

The above points are potentially transferrable to current and future social movements, especially those addressing violence. Indeed, just as hate-based violence did not begin in the 1980s with the creation of the “hate crime” legal construct, it did not end

with the passage of hate crime legislation nationally and in forty-five states.¹⁵ And just as anti-violence efforts shifted in the Lone Star State from lynching to police violence to hate crime, the focus has changed again in the twenty-first century on the national level. Overwhelmingly, the form of hate-based violence in the headlines today is police brutality toward people of color, especially African Americans. And just as reports of a hate crime epidemic demanded immediate attention in the 1990s, reports of a police brutality epidemic are sweeping the nation and driving similar levels of activist outrage—leading to rioting in Ferguson and Baltimore.¹⁶ The year 2015 saw the police-related deaths of Eric Garner in Staten Island and Michael Brown in Ferguson, Missouri, neither of which resulted in a grand jury indictment of the officers involved. African American activists and others called for legislative solutions, focusing especially on the need for police body cameras.¹⁷ African Americans had already been pushing for action following the 2012 shooting of black teenager Trayvon Martin by neighborhood watch coordinator George Zimmerman.¹⁸ Activism revolving around these highly publicized incidents coalesced into a twenty-first century civil rights movement in the form of Black Lives Matter (BLM). BLM activism consists of decentralized and confrontational protests

¹⁵ “Hate Crime Laws in the U.S.,” National Gay and Lesbian Task Force, http://www.thetaskforce.org/static_html/downloads/reports/issue_maps/hate_crimes_06_13_color.pdf.

¹⁶ “What Happened to Ferguson?,” *New York Times*, August 13, 2014; David A. Graham, “The Baltimore Riot Didn’t Have to Happen,” *The Atlantic*, April 30, 2015.

¹⁷ Paul Cassell, “Would a Body Camera Have Answered Questions about Michael Brown’s Shooting?,” *Washington Post*, August 21, 2014.

¹⁸ “The Events Leading to the Shooting of Trayvon Martin,” *New York Times*, April 2, 2012.

revolving around police violence against people of color. BLM activism was further fueled by the 2015 police-related deaths of Freddie Gray in Baltimore and Sandra Bland in Waller County, Texas, among others.¹⁹ Similarly to the 1990s hate crime movement, BLM organizers invoke high-profile killings and “epidemic” language, employing the rhetoric of urgency.

However, African American activist responses to police violence have been met with criticism, even from white liberals seemingly most likely to support the struggle against racism. Even some whites in the gay community—despite having a history with deep roots in the struggle against police oppression—have been tepid at best in their embrace of BLM. As shown in this study on Texas, relations between the police and the gay community improved in the 1990s, and the once-ubiquitous anti-gay police harassment is mostly a relic of the gay liberation era. Responding to perceived white gay apathy toward African American police brutality concerns, the editor of the national gay publication *The Advocate* called on white members of the LGBT community to remember their own history and to consider the question: “Will our advocacy be real and encompass all people who face marginalization and oppression, or will it be bullshit?”²⁰

It is not the place of this dissertation to offer advice to social movement organizers, but the power of coalitional activism is clear in this Texas example. It remains to be seen how successful the BLM movement will be at forcing a public awareness of and legislation targeting systemic racism in the criminal justice system. It also remains to

¹⁹ “Timeline: Freddie Gray’s Arrest, Death and the Aftermath,” *Baltimore Sun*, April 12, 2015; Mitch Smith, “Grand Jury Declines to Indict Anyone in Death of Sandra Bland,” *New York Times*, December 22, 2015.

²⁰ Matthew Breen, “To Be Intersectional or Illegitimate,” *The Advocate*, January 1, 2015.

be seen how intersectional the movement will become, and whether it will encompass even broader concerns of systemic violence. But it appears that the wind is currently at the backs of activists, and the foundation is being laid for future policy responses. As demonstrated by Texas hate crime activists in the 1990s, policymaking is often delayed, but a serious and relentless movement for justice makes action difficult to avoid in the long run.

Bibliography

Archives

Briscoe Center for American History, University of Texas at Austin, Austin, TX
Ann Richards Papers

Charles V. Botts Library and Resurrection Archives, Houston, TX
Houston Gay Political Caucus Papers
Houston Human Rights League Papers

The HAPPY Foundation, San Antonio, TX
Tommy Musick File
Charles Resendez File
Nicholas Ray West File

LGBT Resource Center Collection, University of North Texas Libraries, Denton, TX
Hugh Callaway Collection
This Week in Texas Collection

ONE National Gay and Lesbian Archives, University of Southern California Libraries, Los Angeles, CA
Dallas Voice Collection
Houston Voice Collection
Texas Triangle Collection
The New Voice Collection
This Week in Texas Collection

Texas Legislative Record

76th and 77th Legislative Sessions, 1999 and 2001.

Newspapers and Magazines

The Advocate

Boulard, Garry. "The Anti-Twinkie Defense." 14 June 1994.

Bourgault, John. "Murder Mobilizes Houston Community." 24 September 1991.

Breen, Matthew. "To Be Intersectional or Illegitimate." 1 January 2015.

Daley, Elizabeth. "College Football Player Sentenced to Life for Killing Texas Trans Woman." 18 December 2015.

Longcope, Kay. "Death of a Texan." 22 February 1994.

Angleton Times

"Duffee [sic] Only Person Held." 18 July 1913.

"Joe Durfee Taken from Jail: Hanged by Unknown Parties." 16 October 1914.

"Joe Durfee, Convicted Negro, Sentenced to Hang at Angleton." 11 September 1914.

Associated Press

Aron, Jaime. "Anatomy of a Hate Crime." 18 April 1993.

Brown, Chip. "Senate Panel Acts to Boost Hate-Crime Penalties." 31 March 1993.

"Death Marchers' Protest Supremacist's Sentence." 29 March 1993.

"Death Marchers' Protest Supremacist's Sentence." 29 March 1993.

"Gay-Hating Gang Linked to Slaying and Assaults." 7 January 1994.

"Group Reports Surge in Anti-Gay Violence." 20 March 1992.

Jorden, Jay. "Hundreds Object to Sentence." 25 March 1993.

"Jury Forms Revised After Confusion Over Supremacist's Sentence." 25 April 1993.

McFarland, John. "Shooting Breaks Peace of Small Town." 27 August 1994.

Wilson, Craig. "Series of Hate Crimes Shakes Communities in Dallas Area." 13 July 1991.

The Atlantic

"The Baltimore Riot Didn't Have to Happen." 30 April 2015.

Austin American-Statesman

Dexheimer, Eric. "Texas Hate Crime Law Has Little Effect." 24 January 2012.

Austin Chronicle

"On the Lege: Bushwacked." 21 May 1999.

"On the Lege: Byrd Bill Stalls . . . Again." 14 May 1999.

“On the Lege: Christian Sabotage?.” 26 February 1999.

“On the Lege: Knocking Out Hate.” 19 March 1999.

Smith, Amy. “Naked City: Does Compassion Pay?.” 18 May 2001.

Smith, Amy. “Naked City: Eighty-Seven Reps. Agree: Hate Is Bad.” 27 April 2001.

Baltimore Sun

“Timeline: Freddie Gray’s Arrest, Death and the Aftermath.” 12 April 2015.

The Bulletin

“The Masterson House Saga.” June 2003.

Chicago Tribune

Weingarten, Paul. “Smoldering Race Tension Grips Dallas.” 20 March 1988.

Dallas Morning News

“Austin Rally for Gay Rights Draws 5,000.” 3 April 1995.

Barber, Dan R. “Victim Recalls Slain Friend.” 17 April 1992.

Bates, Charlie. “Downtown Area Guarded.” 30 July 1973.

Biffle, Kent. “300 Protest Drowning of Prisoner.” 16 October 1977.

“Council to Appeal Decision.” 16 December 1975.

Domeier, Doug. “Ethnic Group to Address City Council.” 30 July 1973.

Ewell, James. “DPA Advising Policemen Not to Testify in Shootings.” 26 October 1972.

Ewell, James. “Dyson Disputes Youths’ Statements.” 27 May 1970.

Ewell, James. “Police Disclose Arnold Removal.” 4 August 1973.

Ewell, James. “Police Promise Negroes Answer.” 10 June 1970.

Finklea, Robert. “Fingerprints Don’t Match.” 26 July 1973.

Finklea, Robert. “Officer Suspended, Charged.” 25 July 1973.

“It’s Just a Bad Idea.” 21 April 1980.

Jackson, David. "How Judge's Sentencing Measures Up." 21 December 1988.

Keene, Forrest E. "Civilian Review Boards Are Opposed." 22 November 1972.

Kelley, Chris. "Citizen Probes Opposed." 5 June 1980.

Lewis, Jim. "Santos' Troubles Blamed on Home Problems." 25 July 1973.

Lobrovich, Mitch. "Police Taunted by Crowd." 29 July 1973.

Proctor, George, and Don Mason. "Cain Put Behind Bars." 27 July 1973.

Proctor, George. "Jury Finds Cain Guilty of Murder." 16 November 1973.

Proctor, George. "Jury Seated in Cain Trial." 13 November 1973.

Proctor, George. "Policeman Indicted." 28 July 1973.

Proctor, George. "Rodriguez Testifies Cain Used Gun for Pressure." 24 November 1973.

Proctor, George. "Thought Pistol Was Unloaded, Cain Tells Jury." 11 November 1973.

Proctor, George. "Wade Awaits Police Data on Cain in Death." 27 July 1973.

"Schrader Expresses Dismay." 29 July 1973.

Seibel, Mark. "Mexican Americans Angered." 7 October 1977.

Stephenson, Tom. "Blacks Continue Criticism of City Police Department." 7 December 1972.

Stephenson, Tom. "Clouds Blacker Since Shooting." 29 July 1973.

Strong, Barbara, and Bonnie Bradshaw. "President 'Closes' Rodriguez Issue." 21 July 1978.

Tatum, Henry. "Appeals Board Urged for Citizen Complaints." 12 March 1974.

Tatum, Henry. "Citizen Panel to Investigate Police Sought." 17 April 1980.

Tatum, Henry. "Commission Says Officers Acted in Line of Duty." 28 May 1970.

Tatum, Henry. "Council Hears Warning." 20 November 1973.

Tatum, Henry. "Council to Study Death of Santos." 31 July 1973.

Tatum, Henry. "Dyson Hits Dual Standard." 29 July 1973.

Tatum, Henry. "Group Convinces Council to Delay Police Decision." 22 May 1980.

Tatum, Henry. "Minority Awareness Plan Aired." 5 September 1973.

Tatum, Henry. "Panel Dislikes Bond-Setting Powers." 27 July 1973.

Tatum, Henry. "Panel Seeks Compromise on Police Review." 20 May 1980.

Tatum, Henry. "Police Appeal to 'Tax-Paying Citizens.'" 24 June 1980.

Tatum, Henry. "Review Board Petition Effort Falls Short." 23 September 1980.

Tatum, Henry. "Wise Denies Review Board Role." 1 August 1973.

"Torres Case Sentences Challenged." 9 November 1978.

"Transfer of Officers Talk Topic." 11 June 1970.

"Trial of Cain Ready to Start," 11 November 1973.

Trejo, Frank. "Many Set to Attend Rally in Gay's Death." 8 January 1994.

Vaidhyanathan, Siva. "Hampton Inquiry Begins." 14 January 1989.

Williams, Lynna. "Friends, Family Prepare for Burial." 26 July 1973.

Dallas Peace Times

"Public Outcry Demands Judge Resign." January 1989.

Dallas Times Herald

"Man Indicted in Killing." 20 November 1991.

Montgomery, Lori, and Jeff Collins. "Prejudice and Presumption: Views of Victims' Lifestyle Blur Truth in Gay-Bashing Case." 8 January 1989.

Montgomery, Lori. "Judge Apologizes, Won't Step Down." 23 December 1988.

Montgomery, Lori. "Judge Outcry Growing." 21 December 1988.

Mullen, Kris. "Neighbors Aim to Close Gate on After-Hours Park Activity." 21 November 1991.

Webb, John E. "Biased Justice." 8 January 1989.

Dallas Voice

"Jon Buice Denied Parole in Gay Houston Man's 1991 Murder." 17 October 2013.

Kusner, Daniel A. "17 Years After Deadly Shooting in Reverchon Park, Victim All But Forgotten." 30 January 2008.

Vercher, Dennis. "Attorneys Ask Supreme Court to Remove Judge." 10 February 1989.

Houston Chronicle

Asher, Ed. "Tougher Hate-Crime Law Sought." 10 July 1998.

Benjaminson, Wendy. "Slaying Puts Gays on Alert in Tyler Area." 13 February 1994.

Chriss, Catherine, and Eric Hanson. "Fatal Bashing has City Gays Alarmed." 6 July 1991.

Chriss, Catherine, and Stefanie Asin. "One of Viet Teen's Accused Killers Had Clashed with Asians." 12 August 1990.

Chriss, Catherine. "Gays in Montrose Live in Fear of Attack on the Streets." 14 July 1991.

Hanson, Eric, and Tara Parker Pope. "Skinheads Charged in Teen's Death." 11 August 1990.

"Inhumane Death of Gay Wyoming Man Should Outrage Us All." 14 October 1998.

Johnson, Stephen, and R.A. Dyer. "Police Officer Posing as Gay Is Beaten." 7 August 1991.

Keeton, Laura A. "House Hate-Crimes Bill Tougher as It Passes." 26 May 1993.

Lash, Steve. "Proposal Made to Broaden Law on Hate Crimes." 17 June 1998.

Lum, Lydia. "Asians Rally to Demand Ethnic Peace." 26 August 1990.

Lum, Lydia. "Minority Leaders Stress Will to Fight 'Hate Crime.'" 24 August 1990.

Moran, Kevin. "Skinhead Receives 40 Years." 12 November 1993.

Perry, Earnest L. "HPD Puts Hate Crimes High on Priority List." 11 September 1991.

Robison, Clay. "Jasper Pulled Into the National Spotlight." 11 June 1998.

Robison, Clay. "Senate OKs Criminal Justice Reforms." 28 May 1993.

Robison, Clay. "Senate Passes Tougher Law on Hate Crimes." 8 April 1993.

Sallee, Rad. "Skinheads Get Prison, Fines in Killing." 25 January 1991.

Schwartz, Matt. "Gay Student's Slaying Rekindles Pain of 1991 Houston Case." 14 October 1998.

"Shocking Jasper Slaying Stands Apart for Its Cruelty." 11 June 1998.

"Skinhead Gets Probation in '91 Dallas Hate Slaying." 24 March 1993.

Stewart, Richard. "FBI Joins in Probe of Murder." 9 June 1998.

Stewart, Richard. "Trio Charged in Jasper Slaying." 10 June 1998.

Turner, Allan. "Man Convicted in Montrose Gay Murder Freed on Parole." 31 December 2015.

Turner, Allan. "Racial Hate Crimes Sordid Part of State History." 10 June 1998.

Houston History Magazine

Block, Robinson. "Moody Park: From the Riots to the Future for the Northside Community." Vol. 9 No. 3: 20-24.

Houston Post

"A Worn-Out Issue," 13 July 1983.

Canetti, Barbara. "1,000 Protest: March Notes Injustice to Homosexuals, Memorializes Member Slain by Police." 23 July 1980.

Canetti, Barbara. "Gun That Killed Paez Couldn't Have Discharged Accidentally, Expert Says." 2 July 1980.

"FBI begins probe of Paez death," 1 July 1980.

Tatum, Henry. "Plan to Boost Power of Police Panel OK'd." 1 October 1981.

Tatum, Henry. "Police Advisory Panel Seeks New Name." 1 July 1981.

Tatum, Henry. "Police Advisory Panel Seeks Policy Changes." 3 June 1981.

Houston Voice

Darbonne, Sheri Cohen. "Fatal Intolerance." 12 January 1996.

Darbonne, Sheri Cohen. "Fatal Intolerance." 12 January 1996.

Darbonne, Sheri Cohen. "Four Aldine High Students Arrested, Confess to Killing Gay Man July 30." 19 August 1994.

Darbonne, Sheri Cohen. "Hate Crime Suspected in Slaying of Gay Man; Few Leads in Case." 12 August 1994.

Darbonne, Sheri Cohen. "Suspects in Burzinski Murder Tied to Several Other Recent Crimes." 26 August 1994.

Hennie, Matthew A. "Supporters Rally for Tougher Hate Crime Law." 5 February 1999.

"March, Meetings Set in Response to Hate Crime." 12 January 1996.

Klanwatch Intelligence Report

"1990: A Year of WAR in the Courtroom and Young Brutality in the Streets." February 1991.

Mother Jones

Michaels, Samantha. "More Transgender People Have Been Killed in 2015 Than Any Other Year on Record." *Mother Jones*. November 20, 2015.

The New Voice

Darbonne, Sheri Cohen. "City, State Officials, Others Want Tough Hate Crimes Laws." Issue 561. 26 July 1991-1 August 1991.

Darbonne, Sheri Cohen. "Murder Sparks Calls for Action from Activists, Officials." Issue 559. 12-18 July 1991.

Darbonne, Sheri Cohen. "Queer Nation Holds Silent Protest March in The Woodlands." Issue 562. 2-8 August 1991.

Darbonne, Sheri Cohen. "Unexpectedly Large Crowd Turns Out for "Take Back the Streets" Rally." Issue 560. 19-25 July 1991.

"Lesbian and Gay Activists Protest Sentences in Paul Broussard Murder Case." Issue 639. 22-28 January 1993.

“Queer Nation to Hold Anti-Violence March in Montrose.” Issue 559. 12-18 July 1991.

New York Times

Cropper, Carol Marie. “Black Man Fatally Dragged in a Possibly Racial Killing.” 10 June 1998.

“Governor of Texas Signs a Hate Crimes Bill.” 12 May 2001.

“Governor of Texas Signs a Hate Crimes Bill.” 12 May 2001.

“Houston Police Set Trap to Quell Tide of Violence Against Homosexuals.” 9 August 1991.

Smith, Mitch. “Grand Jury Declines to Indict Anyone in Death of Sandra Bland.” 22 December 2015.

“The Events Leading to the Shooting of Trayvon Martin.” 2 April 2012.

Verhovek, Sam Howe. “One Man’s Arrival in Town Exposes a Racial Fault Line.” 27 February 1993.

“What Happened to Ferguson?,” 13 August 2014.

Newsweek

“The Wages of a Hate Crime.” 4 July 2007.

San Antonio Express-News

Anderson, Christopher. “SA Supporters Plan to Go to Rally.” Date unknown.

Scott, Stefanie. “5,000 gays, lesbians urge putting an end to ‘bashing.’” 3 April 1995.

San Antonio Marquise

Frederickson, Tere. “The Great LGRL Gaffe.” March 1995.

“Lobby Demands Justice in Texas Gay Murders.” 10-23 March 1994.

Texas Monthly

Smothers, Hannah. “In Texas, There’s No Such Thing as a Transgender Hate Crime.” 3 February 2015.

Texas Triangle

Barlow, Renee. “Hate Crimes Legislation Filed.” 12 January 2001.

Garcia, James E. "Thousands March to Stop the Hate." 27 March 1997.

"James Byrd Hate Crimes Act Filed." 29 January 1999.

Longcope, Kay, and Rick Brown. "5,000 March for Civil Rights." 6 April 1995.

Longcope, Kay. "Verdict Questioned in Trial of Gay's Killer." 23 February 1994.

Lum, Matt. "Brown County: 'We Don't Have Hate Crimes.'" 20 October 2000.

Lum, Matt. "Capitol Rally Gives Final Hurrah to Hate-Crimes Bill." 28 May 1999.

Lum, Matt. "Did You March Against Hate?." 23 March 2001.

Lum, Matt. "FBI Releases Hate Crimes Data; James Byrd, Jr. Hate Crimes Act Gets Mondya Hearing." 16 February 2001.

Lum, Matt. "Hate Crimes Bill Gains Momentum; Victim Testimony Relates Painful Reality." 23 February 2001.

Lum, Matt. "Hate Crimes Legislation Passes in Texas House." 27 April 2001.

Lum, Matt. "Hate Crimes Legislation Passes in Texas House." 27 April 2001.

Lum, Matt. "Senate Criminal Justice Committee Approves Hate Crimes Bill." 9 February 2001.

Lum, Matt. "Senate to Vote on Hate Crimes." 4 May 2001.

Underwood, Stephen R. "Hate Crime Vote Sails Through House." 19 March 1999.

Underwood, Stephen R. "Senate Committee May Still Kill Hate-Crimes Bill." 14 May 1999.

Underwood, Stephen R. "The Empire Strikes Back: Senate Republicans Halt House Advance on Hate-Crimes Bill." 21 May 1999.

Underwood, Stephen R., and Matt Lum. "Hate-Crimes Bill Passes House, Moves to Battle in Senate." 30 April 1999.

Williams, Brad. "West Texas Rally Demands 'Justice for All.'" 13 April 1994.

This Week in Texas

"A Spring Rally." 6-12 April 1979.

“Activists Condemn Hate Crime at Tyler Rally.” 24 February 1995-2 March 1995.

“Activists from Around State to Rally in Tyler Saturday.” 7-13 January 1994.

“Antigay Remarks of Dallas Judge Spark Outrage.” 6-12 January 1989.

“Atlanta’s Brown New HPD Chief.” 12-18 March 1982.

“Crime, Violence, and Harassment.” 28 December 1979-6 January 1980.

“DAIR to Be Seen & Heard!.” 13-19 November 1976.

“Dallas Gay Alliance Conducts Survey on Violence, Activism, Discrimination.” 26 June 1987-2 July 1987.

“Dallas Groups Protest Remark by Sheriff’s Bailiff.” 26 August 1994-1 September 1994.

“Dallas Police Kill the Most.” 6-12 February 1981.

“East Texas ‘Faggot Basher’ Indicted.” 24-30 March 1989.

“East Texas Faggot-Bashing.” 11-17 November 1988.

“Four Youths Arrested in Death of Houston Gay Man.” 19-25 August 1994.

Frye, Phyllis. “Call for Inclusiveness.” 30 September 1994-6 October 1994.

Gartner, Mark. Untitled. 19-25 August 1978.

“Gay Man Slain in Hate Killing Near Houston.” 12-18 January 1996.

“Gay Political Caucus Operation: Documentation.” 17-23 February 1979.

Gephardt, Richard A. “Gephardt on Shepard.” 30 October 1998-5 November 1998.

“Goals of the March on Austin for Lesbian/Gay Equal Rights.” 28 April 1989-4 May 1989.

“GPC Secretary Fred Paez Shot and Killed.” 4-10 July 1980.

“GPC’s Policy Statement in Response to Raid on Levi’s.” 25-31 December 1976.

“Grand Jury Indicts Ten Suspects in Broussard Killing.” 9-15 August 1991.

“Harassment and Violence.” 26 December 1980-1 January 1981.

“Hate Crime Bill Passes Committee of State Senate.” 18-24 April 1997.

“Hate Crimes Pose Continuing Threat to Gay and Lesbian Texans.” 30 December 1994-5 January 1995.

“HGPC Operation Documentation in High Gear.” 24-30 April 1987.

Hill, M.J. “I’m Carrying a Knife.” 19-25 June 1987.

Hill, Ray. “Justice or the Lack Thereof.” 17-23 November 1989.

Hill, Ray. Untitled. 19-25 March 1977.

Hill, Ray. Untitled. 6-12 November 1976.

“HPD Chief Brown Big First Year.” 6-12 May 1983.

“Human Rights League Formed.” 28 May 1976-3 June 1976.

“Investigation Probes Paez Death.” 4-10 July 1980.

Johnson, Phil. “On the Edge of the Tyler Rally.” 14-20 January 1994.

Johnson, Rev. J. Dwayne. “Hate Crimes Roundtable Meeting.” 28 August 1998-3 September 1998.

“Judge Hampton Case Falters.” 19-25 May 1989.

“Judge Hampton Is Cleared of All Bias.” 10-16 November 1989.

Karnia, Steve. “Come Out, Fight Hate.” 19-25 July 1991.

“Keeping Police Reform Intact,” 25-31 March 1988.

Knight, Toni. “Liberty, Justice for All of Us?,” 19-25 July 1991.

“Kon Tiki Bath Raid.” 17-23 July 1976.

“Lesbian/Gay Rights Lobby Launches ‘Pledge Project’ Against Hate Crime.” 29 September 1995-5 October 1995.

Loera, Larry. “We Can’t Remain Silent.” 16-22 August 1991.

Lopez, Salbert. "Death Must Not Be Forgotten nor Forgiven by Any of Us." 19-25 July 1991.

"March for Justice...Is This Justice?," 1-7 August 1980.

"'March in March' Brings Broad Coalition to Austin Seeking Better Hate Crimes Law." 7-13 March 1997.

"'March in March' Brings Broad Coalition to Austin Seeking Better Hate Crimes Law." 7-13 March 1997.

"March on Austin." 19-25 March 1999.

"Matthew Shepard Murder." 1-7 January 1999.

"Neo-Nazi Guilty of Murder in Death of Houston-Area Gay Man." 6-12, September 1996.

"New Police Station on Westheimer." 5-11 April 1985.

"Not All Blacks Favor Referendum." 18-24 January 1985.

"One-Word Change Made to State's Old Hate Crime Law." 2-8 June 1995.

"Operation Documentation Comes to Dallas." 18-24 May 1979.

"Operation Documentation." 15-21 June 1979.

"Paez Death Investigated." 11-17 July 1980.

"Police Raid After Hours Party." 25-31 December 1976.

"Police Station Remains Open." 8-14 April 1988.

"Policeman Indicted in Paez Killing." 24-30 October 1980.

"Proud of Houstonians." 9-15 August 1991.

"Proud to Be White." 6-12 July 1979.

"Queer Nation Houston to Push City Council on Hate Crimes." 2-8 February 1996.

"Rally Planned to Protest Sentence Given to Killer of Gay Midland Man." 25 February 1994-3 March 1994.

“Ray Hill Speaks Out.” 7-13 August 1976.

Schwab, Mort. Untitled. 28 August 1976-3 September 1976.

“Second Defendant Convicted in Murder of Gay Man Near Houston.” 4-10 July 1996.

“Shiflett Subpoenaed.” 8-14 June 1979.

“State Commission on Judicial Conduct Censures Hampton.” 8-14 December 1989.

“State Legislator Reports Receiving Death Threats.” 14-20 October 1994.

“The Book Store Hassle.” 5-11 March 1976.

“This Week.” 13-19 April 1979.

“Thousands Converge on Austin for March and Lobbying.” 7-13 April 1995.

“Thousands Converge on Austin for March and Lobbying.” 7-13 April 1995.

“Thousands Expected to Converge on Austin This Weekend for March Against Hate Crimes, Texas Lesbian Conference and Other Community Events.” 31 March 1995-6 April 1995.

“Thousands March on Capitol in Push for Hate Crime Law.” 28 March 1997-3 April 1997.

“Thousands March on Capitol in Push for Hate Crime Law.” 28 March 1997-3 April 1997.

Trolinger, Steve. “Speak Up, Take Action.” 19-25 July 1991.

“Violence in Gay Community Hits New High.” 26 December 1986-1 January 1987.

Carter, Blue. “Yolk Not Funny.” 23-29 May 1980.

Wedman, Michael V. “Purge Judge Hampton.” 6-12 January 1989.

Williams, Bruce. “Hate Crimes Remain High-Priority Issue for the Lesbian/Gay Rights Lobby of Texas as the 75th Legislative Session Approaches.” 4-10 October 1996.

Winslow, Bart. “More Hampton Outrage.” 13-19 January 1989.

“Run for Hope’ to Remember James Byrd.” 27 November 1998-3 December 1998.

“2nd ‘Stop the Hate’ Rally Planned for Tyler.” 10-16 February 1995.

“61 Arrested at Mary’s.” 27 June 1980-3 July 1980.

Time

“Nation: End of the Rope.” 17 April 1978.

Tyler Morning Telegraph

Morris, Risa. “Champion Found Guilty in January Murder of Ty Underwood.” 17 December 2015.

Russell, Adam. “Relationship Had Sexual Connotations, Police Say,” 9 February 2015.

Vanity Fair

Bissinger, Buzz. “The Killing Trail.” February 1995.

Website Sources

Barfield, Deborah. “NAACP TV Ads Focusing on Bush and Hate Crimes.” *Newsday*. 25 October 2000.

<http://amarillo.com/stories/2000/10/25/new_naacp.shtml#.VvFvJZMrJ-U>.

“Closing Arguments Today in Texas Dragging-Death Trial.” CNN. 22 February 1999.

<<http://www.cnn.com/US/9902/22/dragging.death.03/>>.

“Hate Crime Laws in the U.S.” National Gay and Lesbian Task Force,

<http://www.thetaskforce.org/static_html/downloads/reports/issue_maps/hate_crimes_06_13_color.pdf>.

Membership Statistics for the 76th Legislature, Legislative Reference Library of Texas,

<<http://www.lrl.state.tx.us/legeLeaders/members/memberStatistics.cfm>>.

Population Tables 1990-1999. Texas Department of State Health Services.

<<https://www.dshs.state.tx.us/chs/popdat/ST1999.shtml>>.

“The Texas Crime Report.” Texas Department of Public Safety. 1998-2001.

<http://dps.texas.gov/administration/crime_records/pages/crimestatistics.htm>.

Uniform Crime Reports 2001-2010. Criminal Justice Information Services. Federal

Bureau of Investigation. <<https://www.fbi.gov/about-us/cjis/ucr/hate-crime/>>.

Unpublished Primary Sources

“Gays Murdered in Texas.” Lesbian/Gay Rights Lobby of Texas. Date unknown. Charles V. Botts Library and Resurrection Archives. Houston, TX.

Secondary Sources

Aaronson, Ely. *From Slave Abuse to Hate Crime: The Criminalization of Racial Violence in American History*. Cambridge, UK: Cambridge University Press, 2014.

Alaniz, Yolanda, and Megan Cornish. *Viva La Raza: A History of Chicano Identity and Resistance*. Seattle, Wash.: Red Letter Press, 2008.

Alonzo, Armando C. *Tejano Legacy: Rancheros and Settlers in South Texas, 1734-1900*. Albuquerque: University of New Mexico Press, 1998.

Anderson, Gary Clayton. *The Conquest of Texas: Ethnic Cleansing in the Promised Land, 1820-1875*. Norman: University of Oklahoma Press, 2005.

Anderson, Gary Clayton. *The Conquest of Texas: Ethnic Cleansing in the Promised Land, 1820-1875*. Norman: University of Oklahoma Press, 2006.

Anderson, Gary Clayton. *The Indian Southwest: Ethnogenesis and Reinvention, 1580-1830*. Norman: University of Oklahoma Press, 2009.

Barr, Alwyn. *Black Texans: A History of African Americans in Texas, 1528-1995*. Norman: University of Oklahoma Press, 1996.

Behnken, Brian D. *Fighting Their Own Battles: Mexican Americans, African Americans, and the Struggle for Civil Rights in Texas*. Chapel Hill: University of North Carolina Press, 2011.

Bernstein, Patricia. *The First Waco Horror: The Lynching of Jesse Washington and the Rise of the NAACP*. College Station: Texas A&M University Press, 2006.

Bessler, John D. *Legacy of Violence: Lynch Mobs and Executions in Minnesota*. Minneapolis: University of Minnesota Press, 2003.

Brandstatter, A.F., and Louis A. Radalet. *Police and Community Relations: A Sourcebook*. Beverly Hills, Calif.: The Glencoe Press, 1968.

Breines, Winifred. *The Trouble Between Us: An Uneasy History of White and Black Women in the Feminist Movement*. Oxford, UK: Oxford University Press, 2006.

Brundage, W. Fitzhugh. *Lynching in the New South: Georgia and Virginia, 1880-1930*. Urbana: University of Illinois Press, 1993.

- Burris, John L., and Catherine Whitney. *Blue vs. Black: Let's End the Conflict Between Cops and Minorities*. New York: St. Martin's Press, 1999.
- Calvert, Robert A. "The Civil Rights Movement in Texas." In *Texas Heritage*, edited by Ben Procter and Archie P. McDonald. St. Louis: Forum, 1980.
- Campbell, Randolph B. *An Empire for Slavery: The Peculiar Institution in Texas*. Baton Rouge: Louisiana State University Press, 1989.
- Campbell, Randolph B. *Grass Roots Reconstruction in Texas, 1865-1880*. Baton Rouge: Louisiana State University Press, 1997.
- Cantrell, Gregg. "Racial Violence and Reconstruction Politics in Texas, 1867-1868." *Southwestern Historical Quarterly* 93 (Jan., 1990): 333-551.
- Cantrell, Gregg. *Stephen F. Austin: Empresario of Texas*. New Haven, Conn.: Yale University Press, 2001.
- Carpenter, Dale. *Flagrant Conduct: The Story of Lawrence v. Texas*. New York: W.W. Norton and Company, 2013.
- Carrigan, William D. *The Making of a Lynching Culture: Violence and Vigilantism in Central Texas, 1836-1916*. Urbana: University of Illinois Press, 2004.
- Carrigan, William D., and Clive Webb. *Forgotten Dead: Mob Violence Against Mexicans in the United States, 1848-1928*. Oxford, UK: Oxford University Press, 2013.
- Carter, David. *Stonewall: The Riots That Sparked the Gay Revolution*. New York: St. Martin's Press, 2004.
- Chandler, Charles Ray. "The Mexican-American Protest Movement in Texas." Ph.D. dissertation. Tulane University, 1968.
- Chapman, David L. "Lynching in Texas." Master's thesis. Texas Tech University, 1973.
- Chavez, Ernesto. "*Mi Raza Primero!*": *Nationalism, Identity, and Insurgency in the Chicano Movement in Los Angeles, 1966-1978*. Berkeley: University of California Press, 2002.
- Clayton, William S. *Freedom Is Not Enough: The War on Poverty and the Civil Rights Movement in Texas*. Austin: University of Texas Press, 2010.
- Crisp, James Earnest. "Anglo-Texan Attitudes Toward the Mexican, 1821-1845." Ph.D. dissertation. Yale University, 1976.

- Crouch, Barry A. "A Spirit of Lawlessness: White Violence, Texas Blacks, 1865-1868." *Journal of Social History* 18 (winter, 1984): 217-32.
- Crouch, Barry A. *The Dance of Freedom: Texas African Americans During Reconstruction*. Austin: University of Texas Press, 2007.
- Crouch, Barry A. *The Freedmen's Bureau and Black Texans*. Austin: University of Texas Press, 1992.
- Cullen, David O'Donald, and Kyle G. Wilkison, ed. *The Texas Right: The Radical Roots of Lone Star Conservatism*. College Station: Texas A&M University Press, 2014.
- De la Teja, Jesus F., ed. *Tejano Leadership in Mexican and Revolutionary Texas*. College Station: Texas A&M University Press, 2010.
- De Leon, Arnaldo, ed. *War Along the Border: The Mexican Revolution and Tejano Communities*. College Station: Texas A&M University Press, 2012.
- De Leon, Arnaldo. *Mexican Americans in Texas: A Brief History*. Arlington Heights, Ill.: Harlan Davidson, 1993.
- De Leon, Arnaldo. *The Tejano Community, 1836-1900*. Albuquerque: University of New Mexico Press, 1982.
- De Leon, Arnaldo. *They Called Them Greasers: Anglo Attitudes Toward Mexicans in Texas, 1821-1900*. Austin: University of Texas Press, 1983.
- DeLay, Brian. *War of a Thousand Deserts: Indian Raids and the U.S.-Mexican War*. New Haven, Conn.: Yale University Press, 2009.
- Dowd Hall, Jacqueline. *Revolt against Chivalry: Jessie Daniel Ames and the Women's Campaign against Lynching*. New York: Columbia University Press, 1979.
- Durham, Kenneth R. "The Longview Race Riot of 1919." *East Texas Historical Journal* 18 (fall, 1980): 13-24.
- Eisenbach, David. *Gay Power: An American Revolution*. New York: Carroll and Graf Publishers, 2006.
- Farber, Paul Lawrence. *Mixing Races: From Scientific Racism to Modern Evolutionary Ideas*. Baltimore: Johns Hopkins University Press, 2010.
- Foley, Neil. *Quest for Equality: The Failed Promise of Black-Brown Solidarity*. Cambridge, Mass.: Harvard University Press, 2010.

- Foster, Morris W. *Being Comanche: The Social History of an American Indian Community*. Tucson: University of Arizona Press, 1991.
- Geller, William A., and Hans Toch. *Police Violence: Understanding and Controlling Police Abuse of Power*. New Haven, Conn.: Yale University Press, 1996.
- Gerstenfeld, Phyllis B. *Hate Crimes: Causes, Controls, and Controversies*. Thousand Oaks, Calif.: Sage Publications, 2004.
- Gillette, Michael L. "The Rise of the NAACP in Texas." *Southwestern Historical Quarterly* 81 (Apr., 1978): 393-416.
- Goins, John. "Confronting Itself: The AIDS Crisis and the LGBT Community in Houston." Ph.D. dissertation. University of Houston, 2014.
- Goldsby, Jacqueline. *A Spectacular Secret: Lynching in American Life and Literature*. Chicago: University of Chicago Press, 2006.
- Graybill, Andrew R. *Policing the Great Plains: Rangers, Mounties, and the North American Frontier, 1875-1910*. Lincoln: University of Nebraska Press, 2007.
- Hamalainen, Pekka. *The Comanche Empire*. New Haven, Conn.: Yale University Press, 2008.
- Hanhardt, Christina B. *Safe Space: Gay Neighborhood History and the Politics of Violence*. Durham, N.C.: Duke University Press, 2013.
- Jacobs, James B., and Kimberly Potter. *Hate Crimes: Criminal Law and Identity Politics*. Oxford, UK: Oxford University Press, 1998.
- Jenness, Valerie, and Ryken Grattet. *Making Hate a Crime: From Social Movement to Law Enforcement*. New York: Russell Sage Foundation, 2001.
- Jenness, Valerie. *Making Hate a Crime: From Social Movement to Law Enforcement*. Thousand Oaks, Calif.: Sage Publications, 2004.
- Jett, Brandon T. "The Bloody Red River: Lynching and Racial Violence in Northeast Texas, 1890-1930." Master's thesis. Texas State University-San Marcos, 2012.
- Johnson, Benjamin Heber. *Revolution in Texas: How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans Into Americans*. New Haven, Conn.: Yale University Press, 2005.
- Johnson, E. Patrick. *Sweet Tea: Black Gay Men of the South*. Chapel Hill: University of North Carolina Press, 2008.

- Joseph, Peniel E. *Waiting 'Til the Midnight Hour: A Narrative History of Black Power in America*. New York: Henry Holt and Company, 2007.
- Kavanagh, Thomas W. *Comanche Political History: An Ethnohistorical Perspective, 1706-1875*. Lincoln: University of Nebraska Press, 1996.
- King, Joyce. *Hate Crime: The Story of a Dragging in Jasper, Texas*. New York: Pantheon Books, 2002.
- La Vere, David. *The Caddo Chiefdoms: Caddo Economics and Politics, 700-1835*. Lincoln: University of Nebraska Press, 1998.
- Lane, Roger. *Policing the City: Boston 1822-1885*. Cambridge, Mass.: Harvard University Press, 1967.
- Leonard, Stephen J. *Lynching in Colorado: 1859-1919*. Boulder: University Press of Colorado, 2002.
- Levin, Jack, and Jack McDevitt. *Hate Crimes Revisited: America's War on Those Who Are Different*. Boulder, Colo.: Westview Press, 2002.
- Loffreda, Beth. *Losing Matt Shepard: Life and Politics in the Aftermath of Anti-Gay Murder*. New York: Columbia University Press, 2000.
- Lorde, Audre. "Age, Race, Class, and Sex: Women Redefining Difference" In *Words of Fire: An Anthology of African American Feminist Thought*, edited by Beverly Guy-Sheftal. New York: The New Press, 1995: 284-291.
- McGovern, James R. *Anatomy of a Lynching: The Killing of Claude Neal*. Baton Rouge: Louisiana State University Press, 1982.
- Miller, Edward H. *Nut Country: Right-Wing Dallas and the Birth of the Southern Strategy*. Chicago: University of Chicago Press, 2015.
- Moneyhon, Carl H. *Texas After the Civil War: The Struggle of Reconstruction*. College Station: Texas A&M University Press, 2004.
- Monkkonen, Eric H. *Police in Urban America, 1860-1920*. Cambridge, Mass.: Cambridge University Press, 1981.
- Montejano, David. *Anglos and Mexicans in the Making of Texas, 1836-1986*. Austin: University of Texas Press, 1987.
- Montejano, David. *Quixote's Soldiers: A Local History of the Chicano Movement, 1966-1981*. Austin: University of Texas Press, 2010.

- Nieman, Donald G. "Black Political Power and Criminal Justice: Washington County, Texas, 1868-1884." *Journal of Southern History* 55 (Aug., 1989): 321-420.
- Ogbar, Jeffrey O.G. *Black Power: Radical Politics and African American Identity*. Baltimore, Md.: Johns Hopkins University Press, 2005.
- Ohler, Greg. "Background Causes of the Longview Race Riot of July 10, 1919." *Journal of the American Studies Association of Texas* 12 (1981): 46-54.
- Olson, James S., and Sharon Phair. "The Anatomy of a Race Riot: Beaumont, Texas, 1943." *Texana* II (Jan., 1973): 64-72.
- Oropeza, Lorena. *Raza Si! Guerra No!: Chicano Protest and Patriotism During the Viet Nam War Era*. Berkeley: University of California Press, 2005.
- Orozco, Cynthia E. *No Mexicans, Women, or Dogs Allowed: The Rise of the Mexican American Civil Rights Movement*. Austin: University of Texas Press, 2009.
- Perales, Monica, and Raul Ramos, ed. *Recovering the Hispanic History of Texas*. Houston, Tex.: Arte Publico Press, 2010.
- Perry, Barbara. *In the Name of Hate: Understanding Hate Crimes*. New York: Routledge, 2001.
- Petersen, Jennifer. *Murder, the Media, and the Politics of Public Feelings*. Bloomington: Indiana University Press, 2011.
- Pfeifer, Michael J. *Rough Justice: Lynching and American Society, 1874-1947*. Urbana: University of Illinois Press, 2004.
- Phillips, Edward Hake. "The Sherman Courthouse Riot of 1930." *East Texas Historical Journal* 25 (fall, 1987): 12-19.
- Poyo, Gerald E., ed. *Tejano Journey, 1770-1850*. Austin: University of Texas Press, 2010.
- Poyo, Gerald E., Gilberto M. Hinojosa, and Jose Cisneros, ed. *Tejano Origins in Eighteenth-Century San Antonio*. Austin: University of Texas Press, 1995.
- Ramos, Raul A. *Beyond the Alamo: Forging Mexican Ethnicity in San Antonio, 1821-1861*. Chapel Hill: University of North Carolina Press, 2010.
- Remington, Bruce. "Twelve Fighting Years: Homosexuals in Houston, 1969-1981." Master's thesis. University of Houston, 1983.

- Resendez, Andres. *Changing National Identities at the Frontier: Texas and New Mexico, 1800-1850*. Cambridge, UK: Cambridge University Press, 2004.
- Rice, Lawrence D. *The Negro in Texas: 1874-1900*. Baton Rouge: Louisiana State University Press, 1971.
- Rosenbaum, Robert J. *Mexicano Resistance in the Southwest: "The Sacred Right of Self-Preservation"*. Austin: University of Texas Press, 1981.
- Roth, Benita. *Separate Roads to Feminism: Black, Chicana, and White Feminist Movements in America's Second Wave*. Cambridge, UK: Cambridge University Press, 2004.
- Roth, Michael P., and Tom Kennedy. *Houston Blue: The Story of the Houston Police Department*. Denton: University of North Texas Press, 2012.
- Rushdy, Ashraf H.A. *The End of American Lynching*. New Brunswick, N.J.: Rutgers University Press, 2012.
- San Miguel, Jr., Guadalupe. *Brown, Not White: School Integration and the Chicano Movement in Houston*. College Station: Texas A&M University Press, 2005.
- Sapper, Neil. "The Fall of the NAACP in Texas." *Houston Review* 7 (summer, 1985): 53-68.
- Schutze, Jim. *The Accommodation: The Politics of Race in an American City*. Secaucus, N.J.: Citadel Press, 1986.
- Sklansky, David Alan. *Democracy and the Police*. Stanford, Calif.: Stanford University Press, 2008.
- Skove Nevels, Cynthia. *Lynching to Belong: Claiming Whiteness through Racial Violence*. College Station: Texas A&M University Press, 2007.
- Slotkin, Richard. *Regeneration Through Violence: The Mythology of the American Frontier, 1600-1860*. Norman: University of Oklahoma Press, 1975.
- Smith, C. Calvin. "The Houston Riot of 1917, Revisited." *Houston Review* 13 (1991): 85-102.
- Smith, F. Todd. *From Dominance to Disappearance: The Indians of Texas and the Near Southwest, 1786-1859*. Lincoln: University of Nebraska Press, 2006.
- Smith, F. Todd. *The Wichita Indians: Traders of Texas and the Southern Plains, 1540-1845*. College Station: Texas A&M University Press, 2000.

- Sprinkle, Stephen V. *Unfinished Lives: Reviving the Memories of LGBTQ Hate Crimes Victims*. Eugene, Ore.: Wipf and Stock, 2011.
- Takaki, Ronald. *Iron Cages: Race and Culture in 19th-Century America*. Oxford, UK: Oxford University Press, 1979.
- Taylor, Travis. "Lynching on the Border: The Death of Antonio Rodriguez and the Rise of Anti-Americanism During the Mexican Revolution." Master's thesis. Angelo State University, 2012.
- Temple-Raston, Dina. *A Death in Texas: A Story of Race, Murder, and a Small Town's Struggle for Redemption*. New York: Henry Holt and Company, 2002.
- Thorburn, Wayne. *Red State: An Insider's Story of How the GOP Came to Dominate Texas Politics*. Austin: University of Texas Press, 2014.
- Till-Mobley, Mamie, and Christopher Benson. *Death of Innocence: The Story of the Hate Crime That Changed America*. New York: Random House, 2011.
- Trelease, Allen W. *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction*. New York: Harper and Row, 1971.
- Tuttle, William. "Violence in a 'Heathen' Land: The Longview Race Riot of 1919." *Phylon* 33 (winter, 1972): 324-33.
- Waldrep, Christopher. *African Americans Confront Lynching: Strategies of Resistance from the Civil War to the Civil Rights Era*. Lanham, Md.: Rowman and Littlefield, 2008.
- Walker, Samuel. *A Critical History of Police Reform: The Emergence of Professionalism*. Lexington, Mass.: D.C. Heath and Company, 1977.
- Watson, Dwight. *Race and the Houston Police Department, 1930-1990: A Change Did Come*. College Station: Texas A&M University Press, 2005.
- Weber, David J. *The Mexican Frontier, 1821-46: The American Southwest Under Mexico*. Albuquerque: University of New Mexico Press, 1982.
- Wells-Barnett, Ida B. *On Lynchings*. Amherst, N.Y.: Humanity Books, 2002.
- Whitfield, Stephen J. *A Death in the Delta: The Story of Emmett Till*. Chicago: Johns Hopkins University Press, 1988.
- Williams, David A. *Bricks Without Straw: A Comprehensive History of African Americans in Texas*. Austin, Tex.: Eakin Press, 1997.

- Williams, Kristian. *Our Enemies in Blue: Police and Power in America*. Brooklyn, N.Y.: Soft Skull Press, 2004.
- Wintersmith, Robert F. *Police and the Black Community*. Lexington, Mass.: D.C. Heath and Company, 1974.
- Wood, Amy Louise. *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940*. Chapel Hill: University of North Carolina Press, 2009.
- Wright, George C. *Racial Violence in Kentucky, 1865-1940: Lynchings, Mob Rule, and "Legal Lynchings"*. Baton Rouge: Louisiana State University Press, 1990.
- Wuthnow, Robert. *Rough Country: How Texas Became America's Most Powerful Bible-Belt State*. Princeton, N.J.: Princeton University Press, 2014.
- Young, Nancy Beck. *Why We Fight: Congress and the Politics of World War II*. Lawrence: University Press of Kansas, 2013.
- Zelizer, Julian. *Governing America: The Revival of Political History*. Princeton, N.J.: Princeton University Press, 2012.