

Chapter 7:

“Rape is Not A Hate Crime Against Women”

I began to change my mind about hate crimes laws in June 1998, five days after James Byrd Jr. was dragged to death in Texas. Driving from a conference in Denver back home to Atlanta, I pulled off the highway to let my engine cool. I was reading the *Tuscaloosa News* in my car when three black men straggled over from the row of silent payphones. They'd been passing time, drinking. There didn't appear to be a lot else to do in the middle of the night in a parking lot carved out from scrub pine in western Alabama. The men were friendly and a little bit drunk. They wanted money to check the oil in my car, and they felt like talking.

Upon learning that I had just made the long drive through Texas, one of them shook his head and said: “I wouldn't go to Texas. They kill black men there.” After a day and a night of driving alone, I also wanted to talk. Black men, I said, get killed everywhere, and other people do, too. I pointed to the story I was reading in the *Tuscaloosa News* about a particularly brutal murder that had occurred nearby, in 1995: Mattie Wesson, age 70, had been awakened in her bed by a neighbor who beat her, tied her up, raped her, then shot her five times as she crawled out the

door to escape. The first police officer to arrive on the crime scene was Mattie Wesson's son. He found his mother's body in her carport.¹

"But that's different," one of the men said. "Those guys in Texas wanted to kill a black man. This guy was looking for crack money, and the old lady woke up. I don't know why he raped her, though. That didn't seem necessary," he added.

As I drove back to Atlanta, the word "necessary" stuck in my mind. The man in the parking lot wasn't minimizing what happened to Mattie Wesson: he expressed horror at the thought of her ordeal. The rape seemed to genuinely puzzle him. Her assailant needed money for crack, and that need was clearly logical; he needed to conceal his identity and Mattie Wesson knew him, so killing her made sense, in a criminal way. But raping a frail old woman you're about to kill couldn't be explained by the logic of addiction. Raping Mattie Wesson, we agreed in that parking lot, was a hateful act. It was just like tying James Byrd to a truck and dragging him behind it until he died. It wasn't necessary.

I remembered this encounter with particular clarity because it forced me to think about something that had been bothering me since I had attended President Clinton's 1997 White House Conference on Hate

¹ For the Wesson case, see "Court Rules in Capital Murder Case from Montgomery," *The Associated Press State and Local Wire*, 29 October 1999.

Crimes seven months earlier.² This conference marked a new level of visibility and prestige for the hate crimes movement. Important White House staff was in attendance, including members of Clinton's Cabinet, Vice President Gore, and Attorney General Janet Reno. Congressional leaders were there, along with scores of community leaders and youth leaders and religious leaders and civil rights leaders and gay and lesbian leaders; it was one of those events touted as "coalition-building." If you couldn't be in Washington, there were more than 50 sites set up around the country so that thousands of additional activists could observe and convene their own events.

I was sitting in one of these satellite-linked audiences, in a public television studio in Atlanta. On the television screen, President Clinton was experiencing his usual high level of empathetic intensity; his voice crackled with sorrow, then excitement; he looked as if he wanted nothing more than to plunge into the crowd of people and start hugging them.

This was an event, it was the place to be, and the vast array of department heads and big-name non-profits bespoke of an enormous hate crimes bureaucracy already humming. This was a church of the believers, and I was one too, sitting in Atlanta in a television studio, surrounded by dozens of community leaders; what we were going to do was nothing less

² The White House Conference on Hate Crimes, 10 November 1977. For a summary of the President's remarks, see, <http://clinton2.nara.gov/Initiatives/OneAmerica/whc.html> (accessed June 5, 2005).

than lead the American public from the darkness of hate and prejudice into a new century of enlightenment, and how we were going to accomplish this task was through tolerance programs funded by the Department of Education, and community mediation programs funded by the Department of Justice's Community Relations Service, and mental health studies funded by the National Institute of Mental Health, and law enforcement trainings to teach police how to identify bias in criminal behavior, and statistics-gathering to make this invisible crime wave visible, and long prison terms for criminals who lash out with prejudice.

All of this was discussed with zeal, in a crowd resplendent of visible multiculturalism, a rainbow of identities and faces in perfect agreement regarding the rightness of their task, for whom in that room could argue that prejudice is not an urgent and omnipresent burden? There was something disorienting about listening to left-leaning activists making fierce arguments for longer prison sentences and crackdowns on crime, but these were no ordinary criminals being discussed; they were neo-Nazis and Klansmen and gay-bashers, people undeserving of the sociological empathy that progressive activists bring to discussions of crime.

There was also a curious emphasis on the historical which reminded me, of all things, of the intensity that Confederate re-enactors bring to their task of re-living the Civil War. The murders that would come to symbolize hate crimes for most Americans, Matthew Shepard's and James

Byrd Jr.'s, had not yet occurred. The hate crimes movement was reaching back into the past for evidence of racial sins. Reference was made to the Klan and to lynching, cross burning, Hitler, and the martyrs of the civil rights movement. Nobody discussed the precipitous rise in violent crimes that terrorized large portions of the public throughout the 1980's and early 1990's, and nobody mentioned violence directed at women and children even though representatives from women's groups were scattered through the crowd.

Clinton spoke about his administration's firm commitment to combating hate. Then someone in Washington, whom I later identified as California State Senator Sheila Kuehl, rose from the crowd and asked the president what was going to be done about the issue of rape. Would it, or would it not be counted as hate? This was clearly an ongoing discussion, and a tense one.

The president tilted his head apologetically, for what is he if not essentially apologetic? Then he said the thing that came flying back to me in the middle of the night on a highway in Alabama.

The President paused and then replied, his voice controllably amenable. He talked about not wanting to "clog" the federal system with crimes that were being prosecuted in the states merely in the interest of being "politically sensitive." He used the federalism argument to dispose of the rape question, which was clearly discomfiting to him, and I

remember him saying, though this exchange does not appear in the fragmentary written record of the event, that there are just “too many of ‘em,” meaning rapes, to count them as hate crimes.

State Senator Kuehl sat down, and Clinton hurried on to the next subject. What an odd thing to say, I thought, and what an odd reaction from the crowd. In other discussions throughout the day, the question of federal versus state enforcement was openly discussed in terms of what types of crimes state laws should cover versus what federal laws should cover, but nobody spoke of other crimes “clogging” the system or being included due to “political sensitivities.” This was a conference in which name-calling was being considered as, well, a federal crime. The question about rape had broken the mood of easy conviviality, for a moment, until it was forgotten. And I put it in the back on my mind as well, until that moment in the parking lot in Alabama when the stranger checking my oil lamented that Mattie Wesson’s killer hadn’t needed to rape the old woman, that Mattie Wesson’s rape wasn’t necessary.

The Problem of “Too Many Rapes”

If hate crimes policy were crafted by the type of people you find sharing quarts of beer in parking lots off interstates in western Alabama (where, arguably, it ought to be), then Mattie Wesson’s rape might come to be considered a crime of hate. But by the time she was brutally raped and

murdered, the leaders of the hate crimes movement, a coalition of non-profit organizations and elected officials, had already decided that rapes of women must never count as gender bias hate crimes at either the state or federal level. This was a decision that was made quietly, behind closed doors, and evidence of the exclusion would not become clear until state laws began to be enforced and state data collected. Only by default, through the crimes that are prosecuted as bias crimes, is it possible to show that the category “gender bias” has been designated for use only in cases involving transsexual or transvestite victims.

Other abuse of non-transvestite, non-transsexual women, from verbal intimidation to murder, is likewise completely and quietly excluded from hate crimes enforcement. This exclusion begins at the highest level of administration of these laws, in hate crime trainings for police officers and prosecutors administered through federal and state grants and conducted by the non-governmental, non-profit Simon Wiesenthal Center, Anti-Defamation League, and also in internal trainings conducted by law enforcement agencies.

With the exception of Carla Arranaga, whom I will discuss later in this chapter, I have not found one elected official, official non-profit representative, or Office of Justice Programs representative who has been willing to speak with me on the record about policy regarding hate crimes and rape since 1998. One trainer at the Simon Wiesenthal Center told me

that the question of rape as a hate crime “always comes up,” when they’re training police officers and prosecutors but that the center doesn’t “put it in writing, it’s not part of our curriculum.” She said that the trainers address rape verbally, during the “Q and A” period, instead. However, she would say no more about what was discussed.³ Not long after that conversation, the woman’s supervisor, Sunny Lee, called me and told me that the trainer had no authority to speak about the Center’s trainings and that, furthermore, the Center does not play an official role in setting policy. “I am flattered you think we are so important,” she told me, “but we just teach tolerance.”⁴

In fact, the Wiesenthal Center does train police and prosecutors. As noted prominently on their website,⁵ they have brought their Task Force Against Hate program to cities throughout the country. In 2000, the U.S. Department of Justice cited the Simon Wiesenthal Center’s *National Institutes Against Hate Crimes* program as a “best practices” program for “training and support for law enforcement professionals.” The DOJ “best practices” report noted that, by the end of the four-day seminar, each “multidisciplinary team of law enforcement professionals” attending the training “has developed a comprehensive, coordinated plan for addressing

³ Employee of the Simon Weisnethal Center who identified herself as a “law enforcement trainer,” telephone conversation with the author, 8 August 2000.

⁴ Sunny Lee, Program Manager, Training For Tolerance for Law Enforcement, telephone conversation with the author, 8 August 2000.

⁵ <http://www.wiesenthal.com/site/>.

hate crimes in its community.”⁶ What is said about rape, however, is something I could not discover, despite written requests and phone conversations.

Public explanations for choosing to exclude women as victims from the “gender bias” category of hate crime victims hardly run longer than Clinton’s offhanded comment at the 1997 teleconference; rape is not counted as a gender bias crime against women because too many women are raped; other gender-based attacks, from verbal abuse, to “hate speech” and “hate vandalism,” to physical assaults directed at women are not counted because counting them would bring the criminal justice system to a grinding halt. As Senator Orrin Hatch said in 1999, in response to a question about adding “gender bias” to laws in the states, “if you put gender in there it’s a real problem because then all rapes would be a hate crime.”⁷ Counting even a fraction of the hundreds of thousands of sexual attacks committed each year would obscure the few thousand incidents of bias committed against ethnic minorities, religious minorities and gays, particularly gay men.

Certainly, nobody would ever argue that there are too many gay-bashings or cross-burnings or synagogue defacements to count them as

⁶ Steven Wessler, *Promising Practices Against Hate Crimes: Five State and Local Demonstration Projects*, prepared for the U.S. Department of Justice, Office of Justice Programs, May 2000.

⁷ Scott Holleran, “Middle of the Right; GOP Presidential Candidate Hatch Supports Hate Crime Laws, Free Market,” *Daily News of Los Angeles*, 19 December 1999.

hate crimes, but this is precisely what is said about rape, and it is said with a casual air that reveals the authority these activists feel in deciding what is and is not urgent in the fight against prejudice and violence in American life. It ought to have been embarrassing to be caught saying this. But the leaders of the hate crimes movement have suffered no such embarrassment. Instead, they've successfully deflected attention from the subject, so successfully that even activists working within the movement are completely unaware that there ever was a controversy over "too many rapes." Many (I would argue, most) of these activists, as well as journalists and ordinary people, also know nothing about the peculiar way their leaders solved this problem, a solution which depends, to an extraordinary degree, on disturbing stereotypes about rape itself.

What the leaders of the hate crimes movement have done is decreed that rapes can be counted as hate crimes only if the rapist displays some other bias *in addition to* bias against women -- that is, if in the course of selecting his victim or committing the assault, a rapist displays prejudice against gays, whites, blacks, Jews, Asians, or even, as in one case charged as a hate crime in Ohio, against Amish people.⁸ That rapists are displaying animosity toward women, first by selecting them for such "unnecessary"

⁸ The rapist, Michael Vieth, was ultimately not convicted of hate crime, but members of the Amish community rallied against the judge's decision to drop the religious-bias hate crime charge, and prosecutor John Matousek contended that, "[Vieth] not only raped [the victim], he raped the Amish community, and he raped our community." Meg Jones, "Elroy Man's Attacks on Amish are Not Hate Crimes, Judge Says; Vieth Could Get Parole in 15 Years After Rape of Monroe County Girl," *Milwaukee Journal Sentinel*, 26 March 1996.

assaults, then by attacking the part of their bodies that literally makes them female, is thus rendered normative, a part of the background from which other prejudices may arise, but not, in itself, evidence of gender-based hatred toward women.

In August 2000, serial rapist Mark Anthony Lewis was charged with eight counts of hate crimes in Chicago after being identified as the assailant in nine rapes.⁹ Lewis, who is black, was charged with ethnic bias toward Asians: seven of his victims were Asian women. He was also charged with anti-Asian ethnic bias hate crime in the rape of a Hispanic woman whom he mistakenly believed was Asian. But his rape of the ninth woman, a white Serbian immigrant, didn't count as a hate crime. Also, none of the rapes were counted as gender bias crimes, even though Lewis was clearly seeking out one woman after another to victimize. During the trial, Asian leaders spoke to the press about the fear that Lewis had spread throughout the Asian community. "It was important to emphasize why the hate crimes laws were there," said Tuyet Le, a member of the Illinois Asian Hate Crimes Network.¹⁰

But why was Lewis charged with anti-Asian bias crime? According to the Department of Justice-funded publication, *A Local Prosecutor's Guide for Responding to Hate Crimes*, "Bias- or hate-motivated incidents and

⁹ Shu Shin Luh, "Serial Rapist Charged; 212 Counts Include 8 for Hate Crimes," *Chicago Sun-Times*, 31 August 2000.

¹⁰ Ibid.

crimes can have a serious impact not only on the victim but also on those who share his or her characteristics because they have been singled out as a result of inherent characteristics and robbed of self-esteem.”¹¹ Whom was Lewis singling out? Lewis raped non-Asian women, and many others had reason to fear being raped by him. Despite being part of the Asian community, however, Asian men did not have to fear being sexually assaulted by Lewis.

Asian women, of course, had reasons to fear of Lewis, but they also had reason to fear being targeted by any number of other rapists stalking women in Chicago in 2000. How do you differentiate the fear based on ethnicity from the fear women experience because of the prevalence of rape, which, more than any other crime, is committed by members of one group (men) and perpetrated against the members of another (women)? Hate crimes laws, as they were applied in the case of Mark Anthony Lewis, told an incomplete truth. To condemn Lewis only for ethnic hatred is to erase the fact that the rapes he committed were intended to terrorize and humiliate his victims in a very specific way: as women. The hate crime charges also meant that one of his rapes, the rape of a white woman, did not carry as severe a sentence as the rapes committed against Asian women.

¹¹ American Prosecutor's Research Institute (APRI), *A Local Prosecutor's Guide for Responding to Hate Crimes*, sponsored by the Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice, 2000, p. 1.

Among the hundreds of other women raped in Chicago that year, none were considered victims of hate crimes, not even those who were beaten, slashed or burned by their rapists, not the ones who were raped by gangs of men acting in unison, like a lynch mob, nor the women strangled and raped and left for dead by the side of the road like Matthew Shepard. Mark Anthony Lewis was charged with hate in Chicago, but Patrick Sykes was not, even though Sykes poured roach killer into the eyes and throat of one of his rape victims, leaving her blind, and he beat her so severely that the nine-year old suffered brain damage, is nearly blind, and will never speak or walk again.¹²

In Georgia, Renaldo Javier Rivera confessed to raping and killing four women and raping at least 150 others, but these killings and rapes weren't called gender bias hate crimes,¹³ nor were the rape-murders committed in New York by Arohn Kee, who doused one of his victims with gasoline and set her body on fire, and strangled, stabbed and sodomized three other women and girls.¹⁴

¹² In sentencing Sykes, the judge said he wished he could impose a longer sentence, because "[Sykes] should remain in prison for the rest of his life," which might not occur with a sentence of 120 years. Hate crime enhancement would have given the judge the ability to impose a longer sentence. Carlos Sadovi, "Girl X Attacker Gets 120 Years; Judge: I Don't Believe Even This Sentence is Enough," *Chicago Sun-Times*, 3 July 2001.

¹³ Sandy Hodson, "Disturbing Details; Rivera Speaks Through Recordings in Columbia County Court, Officers Play Tape of Suspect Describing Killing, Raping Women," *The Augusta Chronicle*, 28 February 2001.

¹⁴ Michael Saul, "Killer Finally Says Sorry; Gets Max Sentence As Victim's Kin Vent Their Rage," *New York Daily News*, 27 January 2001.

What the leaders of the hate crimes movement were saying is this: drink yourself into a state of recklessness, then choose to humiliate and torture a gay man or black man, and you have committed a hate crime. Drink yourself into a state of recklessness and choose to humiliate and violate and torture a woman, and you have not.

How Many Are “Too Many Rapes”?

Hate crimes activists aren't incorrect when they say that counting rapes of women would transform their movement. In 1999, according to the FBI's Uniformed Crime Report, 383,170 women were the victims of rape, attempted rape or sexual assault.¹⁵ In the same year, the FBI reported a total of 9,301 hate crime offenses. Of those, 3,082 were crimes against property; 3,268 were incidents of verbal intimidation, and another 1,766 were simple assaults, or crimes that involve some physical contact, such as shoving or punching, but negligible injury or physical threat.¹⁶ Only 1,143 hate crime incidents were crimes against persons that rose to the severity of those 383,170 sexual assaults.

Women's advocates and hate crimes advocates alike would argue that the FBI's data tends to underestimate the actual number of crimes. But no amount of debate over the phenomenon of victim underreporting

¹⁵ U.S. Department of Justice, Federal Bureau of Investigation, *Uniform Crime Reports*, 1999.

¹⁶ U.S. Department of Justice, Federal Bureau of Investigation, *Hate Crime Statistics*, 1999.

(are there six times as many victims of rape; ten times as many hate crime victims?) can obscure the enormous gap between a few thousand annual hate crimes and hundreds of thousands of sexual assaults. In 1999, rape was 41 times more common than all hate crimes combined and 335 times more common than physically violent incidents of hate. "Counting rape" certainly would obscure other hateful acts, particularly the two-thirds of such crimes that involve vandalism or verbal assault.

This activity of quantifying crimes is discomfiting: what is a spray-painted swastika worth? How many gay-bashings equals a rape? But the intense focus on counting or excluding different types of victimization emerges from the culture of the hate crimes movement itself. When President Clinton and Senator Hatch observed that there were too many rapes to count rape as hate crime, what they were actually saying was that counting rape, not to mention other types of offenses directed specifically at women, including speech offenses, would turn the hate crimes movement into an anti-rape movement by default, by the numbers. In 1997, at the White House Hate Crimes Conference, the left-leaning activists of the hate crimes movement greeted the mere suggestion that such a thing might occur with anxious silence.

Throughout the 1990's, as more states passed state-level hate crimes laws, resistance to using the gender-bias category to prosecute crimes

committed against women¹⁷ remained remarkably consistent from state to state. This exclusion of women is not the result of legislative credo or public debate, nor is this interpretation of hate crimes laws transparently expressed in the laws themselves. Bias statutes are notoriously vague, and an entire industry of “trainers” and “educators” has sprung up to explain, to prosecutors and police, precisely what these laws are supposed to mean. Such explanations regularly run to several pages, with supplemental lists of “bias indicators” to cue police in to the presence of a bias motivation, which need not be the entire motivation for the crime, but must be part of the criminal’s intent.¹⁸ This explains the existence of crimes like “bias motivated motor vehicle theft,” in which it would admittedly be difficult to gauge the percentage of motivation arising from needing or wanting a car, versus the motivation to express some prejudice through car theft.

Within this broadly suggestive universe, and within a social movement known for factionalism, it is remarkable that the official line on hate crimes and rape has held so long. I suspect the reason is as Orrin Hatch inadvertently expressed it: if you count one rape, you must count them all, so none must be counted.

The Myth of Incremental Inclusion of Women

¹⁷ By “women,” I am referring to non-transvestite, non-transsexual, non-hermaphroditic, biological females, here and throughout.

¹⁸ APRI, *A Local Prosecutor’s Handbook*, p. 7; For an extensive discussion of the “dual-motive” rule, see Ruben Castaneda, “Hate Crime Laws Rely on Motives, Not Targets,” *Washington Post*, 26 October, 1998.

Until the mid-1990's, the problem of "too many rapes" was kept at bay simply by excluding gender bias from hate crimes laws, a strategy that angered some feminist activists, but not so much so that they would dare to risk accusations of being insensitive toward racism or homophobia by asserting too loudly that gender bias is no less significant, in cause or effect, than those types of prejudice. Feminists who wish to keep on in progressive politics learn early to suppress such urges.

Women who raised the subject of rape were told to wait for another day, or they were told that rape already carried enhanced penalties, or that rape was about dominance and dominance was different from hate, or even that rapes shouldn't be counted as hate crimes because most rape victims know their attackers.¹⁹ At the same time, they were being told that rape actually is a hate crime against women but it couldn't be counted as one because there are too many rapes. Women who asked about rape were told absolutely anything, and often contradictory things, because the Anti-Defamation League and other organizations in the Coalition on Hate Crimes Prevention (including the Center for Democratic Renewal, the NAACP, the Southern Poverty Law Center, the American Civil

¹⁹ Carla Arranaga, then the Deputy in Charge of the Los Angeles District Attorney's Office, Hate Crimes Division and a member of the advisory group that drafted the APRI's *Prosecutor's Handbook*, told the author that "rape is a crime of dominion and control, not hate," and that "gender is not the motive for rape." Carla Arranaga, interview with author, July 2000. For an interesting discussion of the lack of victim interchangeability in non-strange rape cases as an argument against counting any rapes as hate, see Steven Bennett Weisburd and Brian Levin, "On the Basis of Sex: Recognizing Gender-Based Bias Crimes," *Stanford Law and Policy Review* 5 (Spring 1994): 36 - 38.

Liberties Union and the National Gay and Lesbian Task Force) had no intention of ever counting rapes as gender bias hate crimes. At the same time, they saw no need to acknowledge their position. In fact, it was through never admitting an official position on rape that these activists have been so successful in keeping rapes, or any other acts of gender-motivated violence directed at women, from being counted as gender bias crimes anywhere in the United States.

By the mid-1990's the hate crimes movement had grown into a significant political force, and media outlets were beginning to use the language of the movement in reporting certain crimes as crimes of hate. The public's perception of gay bashing, in particular, was transformed by activism and press coverage that linked these crimes to historic acts of violence directed at Jews and blacks. Elected officials who previously would have never voted for any law containing the words "sexual orientation" stepped up to condemn such violence, and state legislatures around the country passed hate crimes laws and added new categories of bias victims to laws already on the books. As passage of these laws became an increasingly popular organizing tool, one of the categories often added was gender bias. In 1991, only a few states listed "gender" as a protected victim category; by 1999, 19 states included gender bias in

their laws.²⁰ Feminist organizations that had championed the causes of hate crimes laws for their gay and minority members celebrated the hate crimes movement's recognition of violence against women.

But inclusion, in this case, was not what it appeared to be. Although only one federal law explicitly prohibits rape from being counted as a crime of gender bias (and this exclusion is buried away in the U.S.S.C. addendum to the law itself, which covers bias in federal parks and reservations),²¹ this prohibition has become an unwritten part of every state-level law governing bias crime. Rapists have been charged under state bias crimes laws for choosing to rape women who are white, black, Asian, Amish and gay, but the crime they were charged with was racial, ethnic, or sexual orientation bias, not gender bias.²² None of the 19 states that included gender bias in their hate crimes laws had used these laws, by 1999, to prosecute rape unless the rapist displays a prejudice against a certain ethnic, religious or racial group, or against lesbians, transvestites or gays. Six years later, there has not yet been even one hate crime

²⁰ David Rosenberg and Michael Liberman, *Hate Crime Laws, 1999*, prepared for the Anti-Defamation League (New York, 1999), 2 - 3.

²¹ 18 USCS Appx § 3A1.1 (2000).

²² In 1998, only 12 rapes were prosecuted as hate crimes in the United States: four were prosecuted as hate crimes against whites, four against blacks, two against lesbians, and one against a person with a mental disability. In Michigan, where gender bias is included in the hate crimes law, there were 3,206 rapes, but only two counted as hate crimes, and neither were counted as gender-bias rapes. In New Jersey, which has one of the most extensive hate crimes reporting systems in the nation, there were 1,730 rapes, but none were considered hate crimes. Minnesota and a handful of other states with gender bias laws didn't even bother to include a category for gender bias in their otherwise comprehensive annual hate crime reports. For rape statistics, see FBI, *Uniform Crime Reports*, 1998. For hate crime statistics, see FBI, *Hate Crime Statistics*, 1998.

prosecution on the grounds of gender bias in a rape case in any state.

Rapists who stalk and assault one heterosexual woman after another, even serial killers who torture and kill scores of women, have nothing to fear from hate crimes laws. This is a shadow policy, nowhere recorded yet everywhere obeyed: without one word about excluding rape as gender bias, this exclusion has become the status quo.

If rape doesn't count as a gender-based hate crime against women, what does? The answer is that, in practice, nothing does. None of the 1,325 incidents prosecuted as hate crimes in New Jersey in 1997, for example, involved charges of gender bias, and a mere handful of gender-bias cases have been tried in other states. In fact, the majority of gender-bias prosecutions reported in the entire United States have occurred in one of two counties in Michigan, and state police statisticians reported that they believed that many might be coding errors.²³ Elsewhere it appears that gender-bias cases do not even involve female victims, but transvestites: in 1999, the first year California began prosecuting gender-bias cases, all 13 such cases tried in that state involved violent crimes

²³ In 2000, author spoke by telephone with several women at the Crime Statistics Bureau of the Michigan State Police. They hypothesized that some "Anti-Female" bias reports might actually be "Anti-Female Homosexual" reports, or simple coding errors. Michigan State Police, Hate/Bias Crime State Totals, 1999, <http://www.michigan.gov/msp/>, (accessed June 5, 2005).

committed, not against women, but against men who were dressed as women when they were assaulted.²⁴

It would seem to defy all odds that the only people subjected to violent sexism would not be women at all, but men dressed to look like women, while biological women roamed free of such threats. Of course, women in California were not free from the danger of assault; attacks of women simply weren't reported as hate. In 1999, 9,443 women in California reported a rape. Yet not one of those crimes was viewed as a hate crime by the police, by prosecutors, or by the activists in California's very substantial hate crimes movement.²⁵

The same prosecution pattern exists in every state that counts gender bias in its hate crimes law. Between 1991 and 1999, what the leaders of the hate crimes movement did to solve the problem of "too many rapes" was use their status as trainers and consultants for the Justice Department to spread the message that, even if gender bias is to be included in hate crime laws, rapes should not be investigated as gender bias crimes when the victims are women.

Had this policy been the subject of public debate, it might have proven very unpopular. But there was no such debate: how do you debate a policy when nobody will admit that it exists in the first place?

²⁴ California Department of Justice, Division of Criminal Justice Information Services, *Hate Crime in California, 1999*.

²⁵ California Department of Justice, Division of Criminal Justice Information Services, *Crime in California, 1999*.

The Code of Silence

In 1999, after thinking about Mattie Wesson's terrible death, I began asking questions about hate crimes laws. Why were only a handful of rapes being prosecuted as hate crimes? Why were these rapes prosecuted as racial hate crimes or sexual orientation hate crimes, but never as gender bias crimes? Why weren't hate crime laws being used to prosecute serial rapists, gang rapists, and rapist-murderers who tortured and killed one female victim after another? Could it possibly be true that, among the tens of thousands of rapists who have attacked women in states where gender bias is against the law, not a single one of them has used sexist slurs during any of these tens of thousands of rapes? Could absolutely nobody in any of these states have ever come to the conclusion that attacking a woman's sexual organs might constitute hatred or bias toward women in and of itself? I did not find answers to these questions.

In 1996, the Anti-Defamation League (ADL) announced that it had changed its position on hate crimes and women and would heretofore include gender bias in its model hate crimes legislation. The ADL barely commented on their policy change when they instituted it in 1996. But three years later, in a publication titled *1999 Hate Crimes Laws*, the ADL directly addressed their decision to add gender bias to their model hate crimes legislation. Where, elsewhere, the League's rhetoric on hate crimes

runs to urgent condemnation of the “rising tide of hate,” on the subject of hate crimes directed at women, they display a different tone:

Clearly not all crimes against women are gender-based crimes, and prosecutors have discretion in identifying those crimes which (sic) should be prosecuted as hate crimes. Prosecutors also must have concrete admissible evidence of bias to charge an individual with commission of a hate crime. Even in cases where gender bias can be proven, prosecutors may decide that the penalty imposed by the underlying crime is in itself sufficient and penalty enhancement is therefore unnecessary.²⁶

This is not the type of statement the League makes when discussing hate crimes committed against gays, blacks, or the Jewish community: in the face of such crimes, their message is always one of demanding an urgent response. Furthermore, to reassure readers that there must be “concrete, admissible evidence of bias” before a gender bias charge may be levied implies that women are likely to levy vague, and even unfounded, charges of gender bias, a claim that echoes allegations that women are prone to lie about rape. Finally, to state that prosecutors don’t necessarily need to use hate crimes laws in every case where gender bias is present signals a resistance to including “gender bias” at all; the use of the word, “unnecessary” underscores the tone of grudging disdain.

The writers offer additional reassurances to hate crime activists who worry about an onslaught of gender-bias crimes:

²⁶ Rosenberg and Liberman, *Hate Crime Laws*, 2 - 3.

After studying the [state] statutes in which gender is included, ADL came to the conclusion that the inclusion of gender has not overwhelmed the reporting system, nor has it distracted the criminal justice system from vigorous action against traditional hate-based crimes.²⁷

It's difficult to interpret this statement as a real commitment to the notion that even some rapes and other crimes against women should be conceptualized as hate crimes. The ADL advises government employees such as police and prosecutors on the implementation of hate crimes laws, so their opinion regarding the inclusion of women matters a great deal. But perhaps the most troubling part of this statement lays in the final sentence, which reassures readers that "there [have] not been an overwhelming number of gender-based crimes reported." As police and prosecutors are specifically instructed by hate crime trainers to not count violence against women as hate, it is, of course, not surprising that "overwhelming" numbers of such crimes failed to surface in police reports and court dockets. This statement betrays a deep contempt for women who are victims of violent crimes.

Yet, despite great efforts by movement leaders to avoid all discussions of rape, the subject haunts the hate crimes movement. It surfaces incessantly in the language of activists and professionals as they grapple for the best way to explain precisely what a hate crime looks like

²⁷ Ibid.

to the observer and feels like to the victim. “It’s like rape” is the explanation when other words fail them. In 1985, Representative Raymond J. McGrath of New York testified before a House subcommittee that vandalism at a synagogue in his district left the synagogue’s rabbi, David Artz, feeling that the building itself had been “raped.” McGrath quoted Rabbi Artz’s description of the pain caused by the vandals: “I knew that somebody, some sick crazy, who knows what, had taken these prayer books. At that moment, I actually felt the room moan. It had been violated. It had been raped. It was lying there burning slowly, violated.”²⁸

Criminologists at the Department of Justice likewise resorted to using the rape of women as an explanatory device for describing hate crimes in their own publications. On the first page of the Department’s manual for training law enforcement officers to identify and report hate crimes, the authors describe victims’ responses to these crimes as being “like rape victims”:

[L]aw enforcement officers must be particularly skillful in responding in such a way that the trauma of the victim and the community is not exacerbated by a lack of sensitivity in the law enforcement response. Like rape victims, victims of hate crimes suffer possible serious and long-lasting traumatic stress which could be increased by an inappropriate law enforcement response.²⁹

²⁸ House Committee on the Judiciary, *Crimes Against Religious Practices and Property, Testimony to Accompany H.R. 665*, 99th Congress, 1st sess., 1985, 94.

²⁹ U.S. Department of Justice, Criminal Justice Information Services Division, *Training Guide for Hate Crime Collection*, 1990, 1.

Victims of hate crimes respond to these crimes, the experts tell us, in precisely the same way that rape victims respond to rape. What they do not tell us, here or elsewhere, is why rape is not therefore *prima facie* a hate crime in these experts' eyes. If breaking into a synagogue and setting fire to prayer books -- making ashes of prayers -- is said to desecrate the body of the synagogue *like raping it*, then why is not breaking into a woman's body, desecrating her womanhood, a crime of hate against her as well?

In *A Policymaker's Guide to Hate Crimes*, the Department of Justice uses rape to explain the effects of hate crimes again, this time to talk about the problem of victim underreporting. "Some victims," the authors write, "refuse to report a bias-motivated crime because they consider it a degrading personal experience, like a rape, and feel that filing a report will leave them exposed to further humiliation."³⁰ Hate crimes are degrading like rape, traumatizing like rape, embarrassing and even frightening to report like rape; according to the experts whose job it is to explain hate crimes, the best way to understand what should be thought of as a crime of hate may be to close your eyes and think of a woman being raped.

This is no accident of semantics. Research done on rape victims produced the very model of victimization from which definitions of hate

³⁰ U.S. Department of Justice, Bureau of Justice Assistance, *A Policymaker's Guide to Hate Crimes*, 15.

crimes evolved. The earliest psychological research on post-traumatic stress disorder, which is widely described as an effect of hate crimes, was research performed on Vietnam Veterans and female victims of rape. Likewise, anti-violence campaigns by gay and lesbian groups starting in the 1980's were modeled on feminist Violence Against Women campaigns; nevertheless, the National Gay and Lesbian Task Force joined with the Anti-Defamation League and other civil rights groups to keep violence against women from being counted as hate. Maybe a better way to understand hate crimes is to think of rape and imagine the crime being committed against anyone but a heterosexual woman. What they're doing comes disturbingly close to saying that it's normal if you treat a woman or a child that way.

"Rape is not A Crime Against Women"

On the evening news in Atlanta, and in other places, stories about rape are accompanied by a graphic of the international sign of womanhood with a crack running through it. This image is shorthand for the act of sexual violation: a woman's body, whole and round, is split open by violence. This symbol also serves as a warning directed at other women, as surely as three intertwined circles represent the warning for dangerous levels of radioactivity. News anchors report this danger in a manner reminiscent of a weather report: women should avoid walking

alone at night, avoid such and such part of town, be wary if they must wait alone for a bus to take them home from work. And of course, women must be careful in their apartments if they live alone; in their autos if they drive alone, in parking lots and in nightclubs and when they go outside to exercise. We accept such warnings as an ordinary part of life. But that doesn't make them any less disturbing. No matter how much we naturalize them and minimize the meaning of these messages, they still relay the same unpalatable truth: we expect half the population to limit their lives simply because they are women.

In contemporary America, it wouldn't be acceptable for any group other than women to be called upon to give up freedom of movement because of their identities. If gay men were told not to jog alone in Central Park, or if Jewish men were told they should only use public transportation in groups of two or more after dark, scandal would erupt. If the YWCA felt the need to offer special self-defense classes to young black men living or working alone, we would call the threat lying behind this need intolerable. But sexual danger directed at women is considered such an ordinary part of life that, rather than protest it, we tolerate it and we manage it, largely by shifting responsibility for preventing attacks to women themselves.

None of this is news: in fact, the very immutability of sexual danger is what makes it so difficult to articulate as a social problem, let alone an

urgent justice issue. Rape, like domestic violence and child abuse, needs to be “managed” because there are so many victims that it would be morally implausible to do otherwise: if you cannot eradicate the violence that lies at the root, you must at least remove the victims to a safer place, which is why the first business of feminist anti-violence campaigns was to create shelters, rape crisis centers and domestic violence shelters and emergency hotlines for calling for help. Such establishments, despite their intentions and the services they provide, are tributes to a failure: they represent the latitude and longitude of gender violence as surely as refugee camps dotting international borders represent failures to overcome ethnic and political violence.

But despite the reality that the phone book in every city and sizeable town opens with a list of shelters and rape crisis centers, whose clients are overwhelmingly, and sometimes exclusively women, and despite universal cognition that a cracked “female symbol” symbolizes rape, advocates within the hate crimes movement sometimes assert that rape has nothing at all to do with gender, or with sexism, or with any difference between the social status of women and men. Los Angeles County Deputy District Attorney Carla Arranaga, one of the hate crimes movement’s most celebrated prosecutors, says that, contrary to what feminists have been saying for thirty years, rape has nothing to do with gender; therefore, rapes of women should not be counted as hate crimes.

As the head of the Hate Crimes Suppression Unit in Los Angeles in 1999, Arranaga acted on this belief every day, as she found no evidence of gender bias in any of the 2,000 rapes or attempted rapes that were committed in the City of Los Angeles that year.

In 1999, at the time that we spoke, Arranaga was lead prosecutor for the Hate Crimes Suppression Unit in Los Angeles County; she also served on the Advisory Council of the Simon Weisenthal National Institute Against Hate Crimes, and she drafted parts of *A Local Prosecutor's Guide for Responding to Hate Crimes*, the nationally-distributed training manual funded by a grant from the Department of Justice. In 1999, she represented the United States in an address to the United Nations Human Rights Commission, where she spoke about creating educational curricula for law enforcement officers with the support of the Department of Justice, the Clinton Administration, and the Simon Weisenthal Museum of Tolerance in Los Angeles. She has received recognition and many honors for her “trailblazing” work developing hate crimes protocol for prosecutors and police.³¹

What Arranaga thinks about hate crimes clearly matters. In comments to the press and to advocacy groups, she has said that evidence of bias crime can be as little as “derogatory words” uttered by the assailant. She describes five types of hate crimes offenders, including

³¹ For biographical information on Carla Arranaga, see Carla Arranaga, Remarks to the United Nations Human Rights Commission, March 30, 1999, Geneva, Switzerland.

“thrill seekers,” “reactive” offenders who feel intimidated by those they attack, and “mission offenders,” a group which according to her, includes men who “protect against crimes against the gender” by attacking gay men or men who dress like women. These assailants, Arranaga says, “enforce” their masculinity against those who threaten gender stereotypes.³² But this definition, according to Arranaga, does not apply to men who sexually assault heterosexual, biological women. In Carla Arranaga’s vision of hate crimes, it is violent prejudice to attack a man dressed as a woman because men dressed anger you, but attacking a woman because women inspire this type of rage is not prejudice at all. “Gender is not the motive for rape,” Arranaga told me in July, 2000, “men get raped and women rape.”³³

Of course, not all victims of rape are women, particularly factoring in child-rape. Men are raped in prison; gay men are raped by both other gay men and by heterosexuals, and even non-incarcerated, adult, heterosexual men are, very rarely, sexual victims. But the existence of men who have been raped does not make raping women any less a gendered act, just as the existence of anti-Christian violence does not somehow cast the specific harm of anti-Semitism into doubt. The existence of rape in prisons, where the men being raped are often, not-so-

³² Ken Howard, “Hate Crimes Victim Assistance,” *Progress Notes, Newsletter of the Lesbian and Gay Psychotherapy Association*, April, 1999.

³³ Arranaga, interview with author, July 2000

subtly, recast as humiliated does not make the individual rapist outside of prison any less driven by the desire to humiliate and violate women's bodies. The inherent gender-bias of the act is reinforced by prison rape, where, in the absence of women to victimize, some men "create" substitute women through the very act of raping them.

Before there were hate crimes laws, the contradiction between the way we "manage" violence against women and protest violence against other groups of people could be viewed as a simple cultural reality, an unfortunate, but not intentional, fact of life. By passing laws that explicitly differentiate between crimes that threaten people with similar identities and crimes that do not, however, the hate crimes movement has institutionalized this difference, and the choice they made to exclude rapes of women from hate crimes protections sanctions an entirely new form of denial regarding rape. Now when the shattered "woman" symbol appears on the evening news, unaccompanied by the media hype and intensive law enforcement efforts attached to incidents that are called hate crimes, the message being delivered to women is this: exercise caution because you may be attacked because you are a woman, but do not presume that this means women are being targeted because they are female.

Maintaining the boundaries of this fiction is a stress for the hate crime movement's leadership, particularly because they so often find

themselves resorting to rape as an explanatory model for hate crime. The cracked “female symbol” symbolizing rape on the evening news is like a timer ticking down to a day when the movement’s ideological contradictions are aired in public. Meanwhile, however, the exclusion of women goes unchallenged, and it has become literally part of the fabric of the hate crimes movement, replicated in trainings, repeated when convenient, denied when necessary. This is the essence of cultural power: to be understood without saying what you mean.

The Other Assaults in Central Park

“Well, thank God for videos,” Patricia Ireland said to journalist Paula Zahn.³⁴ She was speaking of the assaults in New York's Central Park following the June 2000 Puerto Rican Day parade, where dozens of women were surrounded by men who threw them on the pavement, tore off their clothes, and groped their genitals. A horrified bystander videotaped some of the mob scene; other footage was filmed by the attackers themselves and later seized as police evidence. Ireland was thankful for the videos because, already, just days after the sexual assaults, nay-sayers of every stripe were emerging to explain away the violent scenes by talking about the behavior of some of the women in the park, or the ongoing standoff between minorities and the New York Police Department in the long wake

³⁴ Paula Zahn Interview With Patricia Ireland, Fox News: *The Edge With Paula Zahn*, 16 June 2000.

of the Amadu Diallo shooting, or the hysteria of "privileged" white New Yorkers, or even the influence of the day's unseasonable heat.

By the time the story broke nationally, the buzz surrounding it had surmounted the assaults themselves; commentators and pundits viewing the videotapes saw in them any story they chose to see. Mostly, what they saw was yet another racial incident in Central Park, although this time the victims were not all white: this wolf pack indiscriminately engulfed blacks, whites and Puerto Ricans. That the victims of a mass sex crime were all women was self-evident, and thus not worth discussing. That fifty women had been mauled in broad daylight simply did not seem to be the point.

Some bystanders and even victims seemed to be struggling to find words to express the difference between what had happened in the Park and what happens to women routinely. "I grew up here, but this was the worst I've ever seen in New York," said one woman who witnessed the assaults.³⁵ One of the men who rescued fitness instructor, Anne Peyton Bryant, from a throng of attackers was heard to say, "This is too much,"³⁶ as he reached for her, as if fewer assailants, or less groping, would constitute a completely different scene. The police in Central Park that day did not even respond to pleas from women who had just been attacked and were begging them to prevent attacks on other women.

³⁵ Martin Mbugua, Michelle McPhee, Bill Hutchinson, "Central Park Terror; Gang of 15 Strips, Sexually Abuses 4 Women," *Daily News Online Edition*, 12 June 2000.

³⁶ Jessica Graham, "Terror in Central Park," *New York Post*, 13 June 2000,

"You've been sexually assaulted. You should come back tomorrow when you've calmed down," Bryant was told by the third group of officers to whom she appealed for help.³⁷

Sexual abuse of women, from name-calling, to public groping, to assault, is so familiar as to have its own cartography, a moving map each woman carries in her mind as she traverses subway steps and apartment hallways and parking lots. The victims in Central Park spoke familiarly of escape plans and logistics and evading male attention, as if, instead of roller-blading and enjoying the sun, they had actually been conducting maneuvers through enemy territory. "We aimed for the side of the park, me in front and Stephanie behind, assuming the guys would be too busy bothering some other women to notice us," said one victim who failed to escape the mob. "I will never again leave my house to participate in a Thanksgiving Day parade or any large event that is part of the culture of New York," cried Anne Bryant. "If I put 10,000 cops in Central Park, we couldn't cover every single area," observed Police Commissioner Howard Safir, tacitly endorsing the notion that women should learn to be smarter prey.³⁸

When commentators speak of mass sexual assaults on women as "wildings," "whirlpoolings" (sex attacks in public pools) and "trains," they

³⁷ Ibid.

³⁸ Michael Blood, "Giuliani's Safe-City Claim Uses Incorrect Crime Stats," *New York Daily News*, 13 June 2000.

unconsciously inherit a terminology invented by the assailants themselves, a language designed to celebrate sexual invincibility and mob mentality.³⁹ Members of the press are particularly fond of categorizing crimes this way, because it is dramatic, and, in our crime-saturated culture, the way the media views a crime largely shapes the way the public, and even police respond to it. The assaults in Central Park did not become a "story" because women were attacked: it became a story because the numbers of women were so high, the location was so public, and videotapes recorded the crimes. Women are raped in New York City every single day: sexual assault and harassment are so ubiquitous that nobody is surprised when men videotape the breasts and buttocks of strange women walking down a street, and there are countless slang terms derived from popular songs to describe the act of reducing women to sexual prey: "booty calls," "thongings," "money shots." Some of these sayings can be heard on the Central Park videotapes, along with other, more familiar refrains. "Get the *itches," men are yelling, "get them, get them, get them."⁴⁰

Yet despite the clarity of a videotaped record, and perhaps in part because of it, there were still people who do not view the assaults of these women as a matter of injustice. The assailants themselves believed this: they can be heard calling the women "*luts" as they pin them down and

³⁹ Molly Watson, "British Girl Left Naked in Central Park Attack," *The Evening Standard*, 13 June 2000.

⁴⁰ Katie Couric, Stone Phillips, "A Witness to Terror: The Central Park Attacks," *Dateline NBC*, 20 June 2000.

"*itches" as they fondle them, and there is no incongruity in this for them: on the videos these men look happy and proud; they are laughing; the sun is shining on them.⁴¹ The police officers in the park who refused to respond to cries for help believed this too, as did the Police Commissioner and Mayor Giuliani, until they saw the writing on the wall that this story was becoming too large to manage with press releases about dropping crime rates. But even after Police Commissioner Safir and Mayor Giuliani changed their tune, from speaking of dwindling crime statistics to expressing outrage, U.S.A. Today columnist Amy Holmes looked at those tapes and did not see an outrage against women.

Amy Holmes looked at the videotapes and saw women laughing as strange men yelled at them and sprayed them with water. In her column, she grudgingly admits that "some women cursed their harassers and fled," and that "[o]thers were pushed down, stripped bare, assaulted and utterly terrorized."⁴² But these women were not of interest to Amy Holmes: what interested her were the young women wearing tight clothes who smiled as the men sprayed water at them, the ones who (notoriously: this scene was replayed on the news again and again) ran the gauntlet of eager men who were chanting already, though not hurting anyone or holding them down - yet. The mere existence of these young women was proof enough, for

⁴¹ Ibid.

⁴² Amy Holmes, " " USA Today, .

Amy Holmes, that society at large, and, by extension, all the women attacked in the park, were responsible for the violence that befell them.

"[P]ublic commentary and official reaction have paid little attention to what actually was tolerated that day by many of the young women in the park," Holmes complains. What is striking about her perspective is how closely it aligned with that of the rapists themselves; she could not see the distinction between innuendo and violence. But even if Amy Holmes couldn't see the difference between condoning tacky horseplay and being sexual assaulted, no woman in the park that day had such doubts.

"I had no reason to feel afraid, especially when all these police [were] here," said college senior Josina Lawrence. The next thing she knew, she said, too many men to count were attacking her. Ashanna Cover added, "[t]hey [were] trying to dig in between my legs. They -- they ripped the crotch to my shorts. I could feel them on my flesh trying to penetrate me with their fingers."⁴³

Not all of this is visible on the tapes, either, but there are waves of victims and witnesses to confirm it and film of women emerging from the crowds of men half naked and dazed, as if they have been swallowed up into another world and spat out again. If testosterone and booze and soaring temperatures and male bonding drove some men in the park into

⁴³ Couric, Phillips, "A Witness to Terror."

a frenzy of aggression, their assaults drove their victims to a state of physiological shock, the hallmark of "real" victimization. "You've been sexually assaulted. You should come back tomorrow when you've calmed down," said one police officer to Anne Peyton.⁴⁴

On the same day that the 50 women were sexually violated in Central Park, seven Hassidic Jews were assaulted in Coney Island by a group of Hispanic men who mugged them at knifepoint. This crime was immediately declared a hate crime on the grounds that the assailants had shouted anti-Semitic slurs at their Jewish victims while mugging them and stealing their wallets.⁴⁵

The assault, and the hate crime charge, was all that was reported in the papers. Of course, there was no video, but even if there had been, and even if the film had shown the male victims behaving in a careless way -- say by straying onto an unlit portion of the beach -- it's still highly unlikely that Amy Holmes would write a column for *USA Today* suggesting that these men, being aware of the existence of muggers and anti-Semitism in the world, should know better than to walk on a deserted beach at night. *Dateline* would not dedicate a program to interviewing psychologists who dissected the day's heat or the drunkenness of the assailants or the choices the men made in not concealing their religious

⁴⁴ Graham, "Terror in Central Park."

⁴⁵ "Attacks on Two Groups Marks Violent New York City Weekend," *Associated Press*, 13 June 2000.

garb. "Monkey see, monkey do," was the way one sociologist on *Dateline* explained the behavior of the men in Central Park, a particularly unfortunate choice of words, not merely for the implied racial slur, but because it bolsters the notion that holding women down and "digitally penetrating" them is a playful, innocent thing to do. "Young women have to be consistent," the sociologist concluded, ignoring the fact, which should not matter anyway, that most of the women assaulted in the park had not engaged in pre-violation flirtation with their attackers.⁴⁶

Nobody welcome in polite society today talks about Matthew Shepherd's come-on in a bar as a justification for his brutal murder. That used to happen, but it doesn't anymore. However, it does beg a question: why is it still fine to talk about women this way, even if they are women who wear halter tops to Central Park and laugh when strange men whistle at them and spray them with water? Logically, they shouldn't be doing these things, and sociologically, there's a great deal to be said about the culture under girding the boorish, sexist behavior that exploded in the park that day, but in the legal realm, shouldn't sexual assault victims be reaping some of the benefits of our decades-old experiment with hate crimes laws?

Rape haunts the hate crimes movement because it is a movement mired in a particular history, the history of lynching, a subject that inevitably summons up visions of women lying about rape and minority

⁴⁶ Couric, Phillips, "A Witness to Terror."

men being punished for non-existent sexual assaults. The original drafters of hate crimes laws did not envision using these laws to punish the teenager who mouths a slur in a drunken bar brawl or members of rival ethnic gangs engaging in turf wars: they envisioned using hate crimes laws to combat the much-cited “rising tide” of white supremacist violence supposedly sweeping the nation in the 1990’s. Things did not turn out this way. Fewer than 1% of hate crimes prosecutions today involve perpetrators who have even the slimmest ties to a hate group. Yet the lynch mob remains the hate crimes movement’s central metaphor for hate. Visual symbols of the Klan -- the hooded crowd, the burning cross -- illustrate the movement’s web sites and fundraising brochures. Within this ideological framing, the subject of violence against women is treated at best with ambivalence, at worst with duplicity and contempt.

Much is at stake in defining which crimes are and are not crimes of hate, not only the money the federal government spends annually on “teaching tolerance” and other anti-hate crime trainings, but, more elementally, control over the energies of a large-scale social movement whose membership spans the Democratic Party and the progressive left. The notion of directing these energies toward anti-rape work is literally unthinkable to political activists who cut their teeth on both anti-Klan activism and the rights movement for criminal defendants.

Thus, the problems caused by rape are both symbolic and real: there are “too many” rapes and they are the wrong types of crimes, with the wrong type of defendant, frequently a minority male. Among themselves, hate crimes activists voice concerns that too many minorities will be caught committing hate crimes, and admitting women victims to hate crimes protection would increase this fear. Being hard on crimes committed by minority men is clearly not the type of message the hate crimes movement wishes to send with these laws, even when so many of the victims are minorities themselves.

Conclusion: Remembering Carlie Brucia

At the Atlanta teleconference for the 1997 White House Conference on Hate Crimes, community and religious leaders, elected officials, and law enforcement representatives gathered at a public television studio in Midtown Atlanta to hear President Clinton speak about hate. Before the Washington program began, the Atlanta group held its own conference. This is how speaker Daniel Levitas, a longtime “opposition researcher” affiliated, at times, with the Southern Poverty Law Center and the Center for Democratic Renewal, began his speech:

It was August 16, 1915, here in Georgia, that Leo Frank, a transplanted New Yorker, the manager of a pencil factory, and a Jew, was abducted from a prison farm and taken to Cobb County and lynched by a mob that called itself “The Knights of Mary Phagan.”¹

With an audible sneer in his voice, Levitas read out a description of Phagan as “a working class gentile, a daughter of the people, a daughter of the common clay.” He paused, and continued, “I wonder sometimes when I travel throughout Georgia and see all the monuments to the Confederate war dead and hardly a single monument to the thousands of lynching victims who have died throughout the South and in Georgia.” Thus was

¹ Transcribed by author from videotape and notes taken by author at *the 1997 White House Hate Crimes Conference*, Atlanta Section, 10 November 1997.

Mary Phagan invoked, and the very act of remembering her questioned, at a conference decrying hate and memorializing victims of “hate crime.”

By December, 1998, the month when the Leo Frank musical, *Parade* opened on Broadway, the bodies of more than 120 women and girls, mostly young factory workers, had been found in the desert outside the Mexican city Ciudad Juarez, a dusty, impoverished industrial city across the border from El Paso, Texas.² Almost half the victims were very young women, like Phagan, who had labored from an early age in factories. Many disappeared, as Phagan did, in transit to and from the factories where they worked. Social conditions in Juarez today are eerily similar to those of Atlanta in 1913: young female laborers leave the protection of their rural families and move to cities in search of jobs that will pay their subsistence and leave something to send home. Some find a measure of independence and of danger. Scores have disappeared. Bodies are found, strangled, in the desert. Many have been found with their clothes cut off and their shoelaces garroting their throats. The garrote, the body thrown in refuse, the clothes torn off, and the subsistence-wage factory job: how could we fail to see Mary Phagan in them?

But we do not. Historical fashion currently dictates against seeing sexual danger as real, rather than hysterical (“sex panics”) and reactionary. Of course, “panic” over police brutality is always in fashion.

² Ricardo Sandoval, “Serial Killings Haunting Mexico; 120 Young Women Slain Since 1993,” *Times-Picayune*, 21 November 1998, sec. A, p. 1.

Some reporters covering the Juarez murders have chosen to focus, not on the dead girls, but rather on the possibility that police may be subjecting some suspects to illegal interrogations. In September 2003, *The New Yorker* ran a feature story detailing the plight of a “hippy couple” arrested and interrogated in the search for suspects in the Juarez murders.

Halfway through the article, the reporter got around to noting that Ulises Perzabel, the husband, had a prior record for “a brief affair with a minor” and had been accused of photographing other young girls. Inexplicably, the article is titled, “A Hundred Women,” though most of the victims have been young adolescents, and the death count then stood above 300, not 100.³ *The New York Times* seemed to take notice of the murders in Juarez only when criticism of inept police work became the focus of Amnesty International and others.⁴

Some victims of sex assault matter; Abner Louima, the black man sodomized by out-of-control cop Justin Volpe, is memorialized as a victim of hate crime on dozens of web sites. Jim Dwyer, Peter Neufeld and Barry Scheck, who otherwise work to get rapists out of prison, have taken on rape victim Louima as a cause, calling him a victim of torture. In one article in the *New York Times Magazine*, Dwyer plays up the theme of

³ Alma Guillermoprieto, “Letter From Mexico: A Hundred Women,” *The New Yorker*, 29 September 2003, 82 – 93.

⁴ See, for example, “Juan Forero, “Rights Group Faults Police in Deaths of Women,” *The New York Times*, 12 August 2003; Ginger Thompson, “Hundreds of Thousands in Mexico March Against Crime,” *The New York Times*, 28 June 2004; James C. McKinley Jr., “Little Evidence of Serial Killings in Women’s Deaths,” *The New York Times*, 25 October 2004.

Louima as a Christ-figure: “[t]he ancient Roman technique of crucifixion,” he writes, “runs toward the same point as Justin Volpe’s station-house impalement.” His hagiographically detailed description of the rape committed against Louima in no way resembles his perfunctory descriptions of murders and rapes in *Actual Innocence* and elsewhere. “No credible system of justice could ignore the assault on Louima,” Dwyer rages, although the attack was, of course, far from ignored.⁵

The Southern Poverty Law Center, the American Civil Liberties Union, Human Rights Watch, and even the Yale School of Law “discovered” rape in 2003, when they lobbied for the Prison Rape Reduction Law.⁶ The rape of men in prison, it would seem, fits these organizations’ definition of injustice in ways that the rape of women and children outside prisons cannot. “The feminist mantra that ‘rape isn’t about sex, it’s about power’ may be even more applicable in the prison context,” writes Daniel Brook in the Yale Law School magazine, *Legal Affairs*. “The relationship between rapist and victim in prison,” he writes, “can devolve into out-and-out servitude. Victims are given women’s names and made to perform household tasks.”⁷

The men at Abu Ghraib Prison who were subjected to sexual

⁵ Jim Dwyer, “No Way Out,” *The New York Times Magazine*, 23 June 2002, 19 – 23.

⁶ For the Stop Prison Rape coalition, see Stop Prison Rape, <http://www.spr.org/en/history.html/>. Adam Liptak, “Ex-Inmate’s Suit Offers View Into Sexual Slavery in Prisons,” *The New York Times*, 16 October 2004.

⁷ Daniel Brook, “The Problem of Prison Rape,” *Legal Affairs*, March/April 2004, 24 – 29.

humiliations have likewise become subjects of veneration, and we have been commanded to contemplate these images of assault. “The photographs are us,” observes Susan Sontag, in the *New York Times Magazine*, comparing them to photographs of lynching and of the Holocaust. “Rape and pain inflicted on the genitals are among the most common forms of torture,” she writes, “[n]ot just in Nazi Concentration camps and in Abu Ghraib when it was run by Saddam Hussein. Americans, too, have done and do them when . . . they are led to believe that the people they are torturing belong to an inferior race or religion.”⁸ Or gender, she might have added, but does not; instead, she writes of hazing rituals in fraternities and on sports teams, and of the French torture of “recalcitrant natives” during their colonial occupation of Algeria. She is writing of actions taken by “a collectivity”: the pictures are taken by all of us, she argues. It is doubtful she would see street crimes, rapes of women, that way.

But there are other forms of collective action. Specifically, there is collective inaction, and this might be said to largely define public responses to rape and other forms of torture in which the object of torture is women or children. Sontag does not count this as torture. She notes, “you wonder how much of the sexual tortures inflicted on the inmates of

⁸ Susan Sontag, “Regarding the Torture of Others; Notes On What Has Been Done – And Why – To Prisoners, By Americans,” *The New York Times Magazine*, 23 May 2004, 24 – 29, 42.

Abu Ghraib was inspired by the vast repertory of pornographic imagery available on the Internet,” but she carefully avoids calling pornography itself a problem. To do so would raise questions of free speech and civil liberties, distractions from the subject at hand. For Sontag, the pornographic images that inspired the Abu Ghraib photographs only constitute a problem inasmuch as they desensitize Americans to “the torture of others.” How can she so blandly reinscribe the politics of “public” and “private” torture, in, of all things, a treatise on respecting human dignity? The language of hate crimes, which draws distinctions like these and codifies them in our laws, has actually created a new political world and political language in which the torture of some simply is not equal to “the torture of others.”

Some collective inaction is, likewise, deemed less important than other collective inaction. In Sarasota, Florida, serial rapist Joseph P. Smith was able to walk away from crime after crime until he experienced the shockingly bad luck of being caught on video kidnapping an 11-year old girl, Carlie Brucia, whose raped-and-murdered body was later discovered near a church parking lot. It might be argued that the Smith kidnapping video is much like the photographs from Abu Ghraib. But to argue this is to ignore the other evidence that accrued against Smith in the decades before he killed Brucia, evidence that was perfectly visible, but disbelieved. It is also to ignore the absolute difference between the way

the Smith video and the Abu Ghraib photographs are really viewed: the one as fodder for the *National Enquirer* crowd, the other as a searing indictment of America's violation of foreign prisoners' human rights.

Smith was out on the streets, instead of in prison, because every time he was caught attacking other women, somebody decided the crime wasn't serious enough to punish him, or the evidence wasn't overwhelming enough to convict him, or the woman reporting the attack must have been lying, and this has everything to do with the last fifty years of activists and defense attorneys and politicians and artists all arguing that to accuse any man of rape summons images of lynching. 11-year old Carlie Brucia's abduction, rape and murder is one consequence of half a century of social activism that has strayed far from its original, admirable goal of ensuring equal protection under the law, and has instead, become a movement dedicated to wearing down the criminal justice system until no man is incarcerated for this crime.

Thirty years after the advent of the feminist anti-rape movement, it is not supposed to be this way. Rapists are supposed to be behind bars: victims are supposed to be believed. When a strange man tries to drag you into the underbrush and pull your clothes off, nothing you have done is supposed to justify his actions in the eyes of the law. The case of Carlie Brucia, such thinking goes, must be an anomaly, certainly tragic, but signifying nothing. If Joseph Smith wasn't convicted and imprisoned for

his other known assaults of women, there must not have been adequate proof of these crimes. We choose to not see how broken the system is.

But even before he snatched Carlie Brucia off a city street, Joseph Smith's record of assaulting women was extreme, frightening, well documented, and repeatedly excused by officials and jurors alike. On three separate occasions, Smith was caught trying to overpower women using the same shock-and-grab method he used on Brucia. Each time, someone at a different level of the criminal justice system decided that Smith's attacks on women weren't important enough for punishment -- a judge, a prosecutor -- or that the victim was lying, as jurors said when they acquitted him of one of the assaults.

In 1993, Smith jumped a woman walking home from a club late at night and smashed her in the face before a Sarasota deputy on routine patrol interrupted the attack. Even though the woman suffered a fractured nose and other injuries, and only the fortuitous arrival of a policeman enabled her to escape, Sarasota Circuit Judge Lee Haworth allowed Smith a plea bargain that kept the nature of the crime off his record and sentenced him to only sixty days in jail. Later, even that sentence was reduced to weekend incarceration. In 1997, Smith walked into a convenience store, bought a knife, concealed it in his shorts, then approached a woman in the store's parking lot and tried to enter her car by claiming that he needed a jump start for his own vehicle. The woman

wouldn't let him into her car, but she agreed to follow him to where he said his car was stalled. An anonymous caller alerted police that Smith was acting strangely, and they headed him off as he led the trusting woman toward a secluded place. His car, recovered elsewhere, started easily. In addition to the knife, he had concealed pepper spray in his shorts: a policeman wrote in his report that he believed Smith intended "to do great harm" to the woman. But the incident report somehow never made its way into the courtroom or Smith's parole records. He simply wasn't charged. Instead, despite his prior record, he was allowed to plead no contest to a concealed weapons charge and was given probation.

Obviously emboldened, a few months later, Smith attacked another woman, dragging her off a sidewalk into underbrush before a group of retired golfers passing in a car stopped and rescued her. This time, there were more witnesses, respectable retirees at that, and the case went to trial. The woman testified that she was walking to a friend's house when Smith tried to drag her away from the road. He tore her clothes and said he would knife her if she didn't stop screaming. The retirees stopped their car and chased him away with their golf clubs. Smith testified that he wasn't trying to harm the woman, but save her: he said he thought she was suicidal and needed to be kept away from traffic, and he said that she was afraid of his tattoos, and this was why she was screaming. To the astonishment of the prosecutors, the victim and the golfers, the jury

believed Smith and acquitted him of all charges. They shook his hands and congratulated him after the trial.

It isn't even clear that the jurors believed Smith's improbable tale. But they clearly believed that Joseph Smith should not go to jail for attacking a woman who had the nerve to be walking alone at 9:30 in the evening, who had the nerve to go to a bar and play some pool and then walk home on a public sidewalk by a busy street, who had the nerve to do anything but lock herself inside.

Charged with passing judgment on Joseph Smith, they anesthetized themselves to his violence and passed judgment on his victim instead, and in doing so they doubtlessly saw themselves as Henry Fonda in *12 Angry Men* or Gregory Peck in *To Kill a Mockingbird*, as jurors often do and say quite proudly. Prosecutors and police keep getting better at dealing with sex crimes; they spend time with victims, after all, and they spend time with criminals too, so when feminists first articulated that *rape is violence, not sex*, cops got it a lot faster than anybody else. But all the understanding cops in the world don't matter so long as jurors and judges are willing to let serial offenders walk out the door.

Carlie Brucia's rape and murder sent shockwaves because her abduction was visible; it was captured on a security camera and replayed on millions of television screens in millions of living rooms. That one image caught the Court TV-watching public's attention, in the same way that the

multitude of images of Jon-Benet Ramsey made her famous: a young girl teetering on the edge of obliteration is fascinating; an adolescent snatched off the streets or a child attacked in her home becomes vicariously scary eye-candy to guiltily devour.

It is also a type of story that certain other people like to dismiss, categorizing it as a worst-case scenario that almost never happens, the telling and re-telling a conspiracy designed to stoke white, middle-class fears and enrich the producers of nightly news magazines and home-alarm manufacturers and gated community developers. But the tape of Carlie Brucia's abduction revealed something farther-reaching, showing what would have happened to those other three women had Joseph Smith not been so careless or unlucky; it revealed a systematic failure on the part of everyone to respond with alarm to a man who went hunting for women.

But instead of asking, "Why wasn't Smith in prison?" what people asked was: "Why didn't Carlie fight back?" Even though no one watching that tape could doubt that the 11-year old was dead the moment Joseph Smith grasped her, they still bothered to dissect the girl's behavior. Why didn't she scream? Why didn't she go limp or start clawing him or do anything, but instead kept walking? Because Brucia was 11-years old, and because she was found dead, the questions more or less stopped there. But if she had been a few years older, or had been found alive, a residue of suspicion would attach to her: were her jeans a little too tight; was she

wearing make-up; did she provoke him? If Brucia had been 21 and a bartender like the woman Smith bashed in the face, would she even be able to convince anyone that she went unwillingly? Then the videotape would be evidence for the defense, not the prosecution.

The story about rape that we are apparently willing to believe is the one in which the woman has something to hide, is deceptive, is “a little bit slutty or a little bit nutty” or, best of all, is a racist white woman or an angry black woman just waiting to pounce on the nearest black man and ruin his life. This is the story, in the form of *To Kill a Mockingbird*, we watch at Thanksgiving and assign to school kids and even to whole states, to read for the edifying purpose of “understanding” racism. It is the story jurors tell when they’re asked why they let the guy go; more often, it is the story judges and prosecutors and detectives tell themselves when they do not choose or do not feel able to pursue a case or impose a reasonable sentence. It is the plot of a thousand Hollywood movies, and it is how people like Joseph Smith end up with a fistful of get-out-of-jail-free cards and people like Carlie Brucia, and millions of victims end up being killed or assaulted and denied justice. We still reside at the crossroads of racism and sexism, Brownmiller’s “violent meeting place,” but the policies conceived at this site have expanded to include all defendants, white and black, and exclude all victims, black and white. This cannot be called progress.

Bibliography

- "Court Rules in Capital Murder Case from Montgomery." *The Associated Press State and Local Wire*, 29 October 1999.
- "DNA Testing Links Convicted Rapist to Scene," *The Associated Press State and Local Wire*, 23 March 2003.
- "DNA Tests Deliver Justice For All." Editorial, *Atlanta Journal and Constitution*, 9 August 2004.
- "Feds Courageous in Efforts to End Pimps Lurid Crimes." Editorial, *Atlanta Journal and Constitution*, 11 April 2001.
- "Inmate Charged With Two Rapes in 1999," *Associated Press State and Local Wire*, 5 April 2002.
- "Man Who Spent 20 Years in Prison Filed Wrongful Conviction Lawsuit." *The Associated Press State and Local Wire* 7 July 2000.
- "State Nearly Done Analyzing Backlogged DNA evidence." *Associated Press*, 6 July 2003.
- Aletti, Vince. "Crime and Punishment," *Village Voice*, 17 June 2003.
- American Prosecutor's Research Institute (APRI), *A Local Prosecutor's Guide for Responding to Hate Crimes*, sponsored by the Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice, 2000.
- Anderson, Virginia. "Atlanta Crime Statistics Controversy: Mr. Nice Guy Caught in the Middle?" *Atlanta Journal and Constitution*, 5 June 1998.
- Anon. "Capitalizing Race Hatred." *New York Globe* (April 6, 1915).
- Arnold, David. "A Lifer's Protests Now Come to Light; DNA Results Due Soon in Long-Contested Rape Case," *The Boston Globe*, 22 January 2002.
- Arranaga, Carla. Remarks to the United Nations Human Rights Commission. March 30, 1999, Geneva, Switzerland.
- Baldas, Teresa. "Proliferation of Innocence Projects Pushing DNA Evidence to Exonerate Prisoners Changes Tone, Topics of Debate." *Miami Daily Business Review*, 8 October 2004.
- Ball, Ian. "Jogger's Bonfire of Profanities," *The Sunday Telegraph Limited*, 29 July 1990.
- Benson, Olea, Mark Fazlollah, Michael Matza and Craig R. McCoy, "How to Examine How a Police Department Handles Rape Cases," 2000 IRE

National Conference

http://home.earthlink.net/~cassidyny/police_tips.htm (accessed June 5, 2005).

- Bernstein, Richard. "Books of the Times: DNA Tests and the Road to More Reliable Justice." *New York Times*, 25 February 2000.
- Bevacqua, Maria. *Rape on the Public Agenda: Feminism and the Politics of Sexual Assault*. Boston: Northeastern University Press, 2000.
- Blood, Michael. "Giuliani's Safe-City Claim Uses Incorrect Crime Stats." *New York Daily News*, 13 June 2000.
- Blowen, Michael. "'Frontline' Examines how DNA Changes the Justice System," *The Boston Globe*, 25 February 1997.
- Blum, Ronald. "'Dead Man Walking' Given New York Premiere," *Associated Press Arts and Entertainment Reviews*, 15 September 2002.
- Boyer, Allen. "Sprung." *New York Times*, 13 February 2000.
- Boyer, Peter J. "DNA On Trial: The Test is Irrefutable, So Why Doesn't It Always Work?" *The New Yorker*, 17 January 2000.
- Brantley, Ben. "Martyr's Requiem Invokes Justice," *The New York Times*, 18 December 1988.
- Brook, Daniel. "The Problem of Prison Rape," *Legal Affairs*, March/April 2004.
- Brooks, Peter. "The Truth About Confessions," *New York Times*, 1 September 2002.
- Brownmiller, Susan. *Against Our Will: Men, Women and Rape*. New York: Simon and Schuster, 1975.
- Brownmiller, Susan. *In Our Time; Memoir of a Revolution*. New York: Random House, 1999.
- Bruun, Mathew. "LaGuer Victim's Family Speaks Out; DNA Test Supports Conviction," *Worcester Telegraph & Gazette, Inc.*, 28 March 2002.
- Bruner, Tasgola Carla. "Sex Crime Follow-Ups Fall Short," *Atlanta Journal and Constitution*, 8 June 2003.
- Brunkow, Angie. "Rapist's Prison Time At Issue After Arrest: Some Say Nebraska's 'Good-Time' Law Freed Andrew Lee Harris Accused in Deaths of Two Women, Too Early," *Omaha World-Herald*, 26 Oct. 2000.
- Bruun, Matthew. "Conte Says DNA Match Proves Guilt." *Worcester Telegram & Gazette, Inc.*, 27 March 2002.
- Bruun, Matthew. "DNA Findings Difficult to Rebut; Doctor Rejects LaGuer Claims." *Worcester Telegram & Gazette, Inc.*, 31 March 2002.

- Bruun, Matthew. "Juror Sure LaGuer is Guilty; Convict Charges Evidence Rigging." *Worcester Telegram and Gazette, Inc.*, 26 March 2002.
- Bruun, Matthew. "Rapist Loses Another Bid for a New Trial," *Worcester Telegram & Gazette Inc*, 20 December 2004.
- Bruun, Matthew. "Silber Defends Aiding LaGuer; Rapist Called Rehabilitated." *Worcester Telegram & Gazette, Inc.*, 29 March 2002.
- Burbach, Chris. "Harris Had Three Decades of Trouble," *Omaha World-Herald*, 29 October 2000.
- Butterfield, Fox. "'Old-Fashioned Faith' in Rape Case," *New York Times*, 30 May 1985.
- Butterfield, Fox. *All God's Children: The Boskett Family and the American Tradition of Violence*. New York: Alfred A. Knopf, 1995.
- California Department of Justice, Division of Criminal Justice Information Services, *Crime in California*, 1999.
- California Department of Justice, Division of Criminal Justice Information Services, *Hate Crime in California*, 1999.
- Campos, Carlos. "'Great Moment' As Senator Offers Jeep to Inmate Freed by DNA." *Atlanta Journal and Constitution*, 19 March 2005.
- Camus, Albert. *The Stranger*. Trans. Matthew Ward. New York: Alfred A Knopf, 1988.
- Canby, Vince. Pedigree Versus Play: The Mystery of 'Parade.'" *The New York Times*, 27 December 1998.
- Carter, Dan T. *Scottsboro: A Tragedy of the American South*. Baton Rouge: Louisiana State University Press, 1969.
- Cash, Wilbur Joseph. *The Mind of the South*. New York: Alfred A Knopf, 1941.
- Castaneda, Ruben. "Hate Crime Laws Rely on Motives, Not Targets." *Washington Post*, 26 October, 1998.
- Catania, Sara. "In Justice for All," *L.A. Weekly*, 16 May 2003.
- Cook, Fiedler (director). *Judge Horton and the Scottsboro Boys*. Monticello, Georgia: National Broadcasting Company, 1976.
- Couric, Katie, Stone Phillips, "A Witness to Terror: The Central Park Attacks," *Dateline NBC*, 20 June 2000.
- Crabbe, J.H. "Admissibility in Evidence of Colored Photographs," 53 *American Law Reports* 2d 1102.
- Davis, Angela. "Rape, Race and the Myth of the Black Beast Rapist," in *Women, Race and Class*. New York: Random House, 1981.

- Death Penalty Information Center. "Innocence and the Crisis in the American Death Penalty," 17 Sept. 2004, <http://www.deathpenaltyinfo.org>.
- Didion, Joan. "New York: Sentimental Journeys." *New York Review of Books*, 17 January 1991.
- Dinnerstein, Leonard. *The Leo Frank Case*. Georgia: University of Georgia Press, 1966.
- Driskell v. State*, 659 P.2d 343 (Okla. Cr. 1983).
- Dunne, Dominick. *Fatal Charms and Other Tales of Today*. New York: Bantam, 1987.
- Durks, Tim. "A Clockwork Orange," *Filmsite*, <http://www.filmsite.org/cloc.html> (accessed June 5, 2005).
- Dwyer, Jim. "Freed After 16-Year Error Cleared in Rape, Man Proves Racist Court's Guilt," *Daily News* (New York), 17 June 1999.
- Dwyer, Jim. "No Way Out." *The New York Times Magazine*, 23 June 2002.
- Dyckman, Martin. "Jurors, Heed This Advice," Editorial, *St. Petersburg Times* 29 August 2004.
- Editorial, *Atlanta Journal and Constitution*, 9 August 2004.
- Eisley, Matthew. "Victim Gets Forgiveness From Man Falsely Accused of Rape," *Chattanooga Times Free Press*, 14 January 2001.
- Ellroy, James. *My Dark Places*. New York: Random House, 1996.
- Emory, Theo. "From Behind Prison Walls, Convicted Rapist Campaigns to Clear His Name," *The Associated Press State and Local Wire*, 23 February 2002.
- Faber, Lindsey. "Cold Case Heats Up; DNA From a Decades-Old Attack Leads Authorities to a Suspected Serial Rapist." *Newsday*, 27 April 2005.
- Fairstein, Linda. *Sexual Violence: Our War Against Rape*. New York: William Morrow and Company, 1993.
- Falconer, Morgan. "The Picture of Innocence; When Justice Goes Awry, People can Spend Years in Prison for Crimes." *The Independent*, 28 June 2004.
- Fazlollah, Mark, and Craig McCoy. "Timoney Commends Rape-Squad Reforms; Sex Crimes Now Are Being Pursued Aggressively." *The Philadelphia Inquirer*, 13 December 2000.
- Fazlollah, Mark, Michael Matza and Craig McCoy, "Police Checking into Old Sex Cases," *The Philadelphia Inquirer*, 29 October 1999.
- Fazlollah, Mark, Michael Matza and Craig McCoy. "A 7-year old 'Knew Who Did It'; Philadelphians Who Have Been Sexually Violated Fight to be Taken Seriously." *The Philadelphia Inquirer*, 19 December 1999.

- Fazlollah, Mark, Michael Matza, Craig McCoy and Clea Benson. "Women Victimized Twice in Police Game of Numbers." *The Philadelphia Inquirer*, 17 October 1999.
- Firestone, David. "DNA Test Brings Freedom, 16 Years After Conviction." *New York Times*, 16 June 1999.
- Forero, Juan. "Rights Group Faults Police in Deaths of Women." *The New York Times*, 12 August 2003.
- Forman, Milos (director). *One Flew Over the Cuckoo's Nest*. Burbank: United Artists, 1975.
- Freifeld, Karen. "First Judge Still Not Convinced." *New York Newsday*, 20 December 2002.
- George, Tara. "Angry Judge Gives Bronx Rapist 155 Years." *New York Daily News*, 2 August 2000.
- Georgia Innocence Project. <http://ga-innocenceproject.org/> (accessed June 5, 2005).
- Goodman, Ellen. "Rape - After Webb and Dotson," Editorial, *The Washington Post*, 18 May 1985.
- Graham, Hugh Davis, ed. *Violence: The Crisis of American Confidence*. Baltimore: Johns Hopkins Press, 1971.
- Graham, Jessica. "Terror in Central Park," *New York Post*, 13 June 2000.
- Greene, Ward. *Death in the Deep South*. New York: Stackpole, 1936.
- Gross, Samuel R. "Exonerations in the United States 1989 - 2003," University of Michigan School of Law, 19 April 2004, www.law.umich.edu/facultyBioPage/facultybiopagenew.asp?uniqname=srgross (accessed June 5, 2005).
- Guillermoprieto, Alma. "Letter From Mexico: A Hundred Women," *The New Yorker*, 29 September 2003.
- Gunning, Sandra. *Race, Rape and Lynching: The Red Record of American Literature, 1890-1912*. New York, Oxford University Press, 1996.
- Hackett, Francis. "Brotherly Love." *The New Republic* 7 (March 20, 1915).
- Hale, Billy (director). *The Murder of Mary Phagan*. National Broadcast Company, 1987.
- Hall, Jacquelyn Dowd. *Revolt Against Chivalry: Jessie Daniel Ames and the Women's Campaign Against Lynching*. New York, Columbia University Press, 1979.

- Hansen, Jane O. "Child prostitution: Where is Lloydia?; Young Prey: She, Like Many Others, Has Fallen Victim To Atlanta's Adult Sex Industry," *Atlanta Journal and Constitution*, 12 November 2000.
- Hansen, Jane O. "Selling Atlanta's Children; The Pimps: Prostitution's Middle Man Slides By in Court." *Atlanta Journal and Constitution*, 7 January 2001.
- Harris, Trudier. *Exorcising Blackness: Historical and Literary Lynching and Burning Rituals*. Indiana, Indiana University Press, 1984.
- Heggie, Jack (composer) and Terrence McNally (playwright), *Dead Man Walking*, 2001.
- Henry, Marilyn. "Despite Mixed History, Atlanta's Jewry Thrives." *The Jerusalem Post*, 18 November 1999.
- Hodson, Sandy. "Disturbing Details; Rivera Speaks Through Recordings in Columbia County Court, Officers Play Tape of Suspect Describing Killing, Raping Women." *The Augusta Chronicle*, 28 February 2001.
- Holleran, Scott. "Middle of the Right; GOP Presidential Candidate Hatch Supports Hate Crime Laws, Free Market." *Daily News of Los Angeles*, 19 December 1999.
- House Committee on the Judiciary, *Crimes Against Religious Practices and Property, Testimony to Accompany H.R. 665*, 99th Congress, 1st. sess., 1985, 94.
- Howard, Ken. "Hate Crimes Victim Assistance." *Progress Notes, Newsletter of the Lesbian and Gay Psychotherapy Association*, April, 1999.
- Hulbert, Dan. "A Poignant, Powerful 'Parade'; Uhry's Take on Atlanta Lynching is a Musical With Nerve," *Atlanta Journal and Constitution*, 18 December 1998.
- Hulbert, Dan. "Mixed Emotions Greet Uhry's 'Parade.'" *Atlanta Journal and Constitution*, 1 November 1988.
- Hulbert, Dan. "Striking the Right Note; Playwright Alfred Uhry Goes Back 85 Years into Atlanta History With a Broadway Musical About Mary Phagan's Death and Leo Frank's Lynching." *Atlanta Journal and Constitution*, 1 November 1998.
- Hulbert, Dan. "Uhry's Atlanta Tragedy; Playwright's new Musical Recalls Notorious 1915 Lynching of Leo Frank." *Atlanta Journal and Constitution*, 22 October 1997.

- Humes, Edward. *No Matter How Loud I Shout: A Year in the Life of Juvenile Court*. New York: Simon and Schuster, 1996.
- Huston, John (director). *In This Our Life*, Hollywood: Warner Studios, 1942.
- Innocence Project. <http://www.innocenceproject.org.html/> (accessed June 1, 2005).
- Janich, Kathy. "Homecoming 'Parade' Energizes Edgerton," *Atlanta Journal and Constitution*, 13 June 2000.
- Johnson, Kirk. "'Fingerprinting' Tests become a Factor in Courts," *New York Times*, 7 Feb. 1988.
- Jones, Meg. "Elroy Man's Attacks on Amish are Not Hate Crimes, Judge Says; Vieth Could Get Parole in 15 Years After Rape of Monroe County Girl." *Milwaukee Journal Sentinel*, 26 March 1996.
- Joyce, Elizabeth. "Pursuing the Power of DNA: Forensic DNA's Impact on Crime Victims and their Advocates," *National Center for Victims of Crime, Networks* (Winter/Spring 2003): 1 - 7.
- Jurkowitz, Mark. "The Media; Shock Waves and a Turnaround Press That Once Stood by Leaguer is 'Going Away in Doves,'" *The Boston Globe*, 22 May 2002.
- Kanny, Mark. "Pittsburgh Opera Takes a Stroll Down Death Row," *Pittsburgh Tribune-Review*, 2 June 2004.
- Kassin, Saul. "False Confessions and the Jogger Case," *New York Times*, 1 November 2002.
- Kilik, John, Tim Robbins, and Rudd Simmons (producers), *Dead Man Walking*. Hollywood: Polygram Filmed Entertainment, 1995.
- Kluger, Richard. *Members of the Tribe*. Garden City: Doubleday & Company, Inc., 1977.
- Kubrick, Stanley (director). *A Clockwork Orange*. Hollywood: Warner Brothers, 1971.
- Lafay, Laura. "For Victim's Family, Stages of Grief Never End; First He Took Her Life; Now Her Memory," *The Roanoke Times and World News*, 16 March 1997.
- LaFree, Gary. *Losing Legitimacy: Street Crime and the Decline of Social Institutions in America*. Boulder: Westview Press, 1998.
- LaGuer, Benjamin. "Testimonials," "Quarantined Behind Stone and Steel," and "Timeline (1978 - 2004)" <http://benlaguer.com/>.

- Lang, Robert, ed. *The Birth of a Nation*. Rutgers Films in Print. New Brunswick, Rutgers University Press, 1994.
- Leake III, Graydon Boyd. "The Case of Mary Phagan and Leo Frank, 1913 - 1986: Seventy-three Years of Fact, Fiction and Opinion." Master's Thesis, Georgia State University, 1990.
- Lee, Harper. *To Kill a Mockingbird*. New York: J. B. Lippincott Company, 1960.
- Lefkowitz, Bernard. *Our Guys: The Glen Ridge Rape and the Secret Life of the Perfect Suburb*. New York: Vintage Books, 1997.
- Liptak, Adam. "Ex-Inmate's Suit Offers View Into Sexual Slavery in Prisons." *The New York Times*, 16 October 2004.
- Liptak, Adam. "Fewer Death Sentences Being Imposed in U.S.," *New York Times*, 15 September 2004.
- Liptak, Adam. "Study Suspects Thousands of False Convictions," *The New York Times*, 19 April 2004.
- Loeterman, Ben (producer). "Angel on Death Row," *Frontline*, 9 April 1996. <http://pbs.org/wgbh/pages/frontline/angel/angelscript.html> (accessed June 5, 2005).
- Loeterman, Ben (producer). "What Jennifer Saw," *Frontline*, PBS, Boston, 25 February 1997.
- Looney, Deborah. "They Won't Forget," Turner Classic Movies, <http://www.turnerclassicmovies.com/ThisMonth/Article/> (accessed June 5, 2005).
- Lt. Governor Mark Taylor. <http://ltgov.georgia.gov/gta/> (accessed June 5, 2005).
- Luh, Shu Shin. "Serial Rapist Charged; 212 Counts Include 8 for Hate Crimes." *Chicago Sun-Times*, 31 August 2000.
- Luttrell, Martin. "New Guidelines for Eyewitness Testimony; Photo Arrays And Line-ups Are Being Discouraged," *Worcester Telegram & Gazette*, 13 March 2005.
- MacLean, Nancy "Gender and Sexual Politics in the Making of Reactionary Populism," *The Journal of American History* (December, 1991).
- MacLean, Nancy. *Behind the Mask of Chivalry: The Making of the Second Ku Klux Klan*. New York: Oxford University Press, 1994.
- Mamet, David. *The Old Religion*. New York: Faber and Faber, 1997.
- Manley, Howard. "Ben Laguer's 10-year Fight for Freedom," *The Boston Globe*, 27 February 1994.

- Marquis, Joshua "The Myth of Innocence," *National Review Online*, 27 Jan. 2005 <http://nationalreview.com>.
- Mather, Mike. "Anger in Virginia Beach; 'System Failed' In Giving Convicted Killer Second Chance, Detective Says," *The Virginia-Pilot*, 18 December 1996.
- Mbugua, Martin, Michelle McPhee, Bill Hutchinson. "Central Park Terror; Gang of 15 Strips, Sexually Abuses 4 Women." *Daily News Online Edition*, 12 June 2000.
- McCall, Nathan. *Makes Me Wanna Holler: A Young Black Man in America*. New York, Random House, 1994.
- McCoy, Craig and Mark Fazlollah. "Police Knew of Rapist's Pattern; Officers on the Beat in Center City Weren't Told, Though," *The Philadelphia Inquirer*, 3 December 2000.
- McCoy, Craig and Mark Fazlollah. "Review Turns Up Hundreds of Rapes; Police Had Dismissed More Than 300 of the Cases From 1995 on, Commissioner John F. Timoney Revealed," *The Philadelphia Inquirer*, June 2000.
- McCoy, Craig R. "How We Got That Story: The Buried Rapes," *Columbia Journalism Review* (January/February 2000).
- McCoy, Craig, and Mark Fazlollah. "Police Knew of Rapist's Pattern; Officers on the Beat in Center City Weren't Told, Though." *The Philadelphia Inquirer*, 3 December 2000.
- McCoy, Craig, and Mark Fazlollah. "Review Turns Up Hundreds of Rapes; Police Had Dismissed More Than 300 of the Cases From 1995 on, Commissioner John F. Timoney Revealed." *The Philadelphia Inquirer*, 21 June 2000.
- McCoy, Craig, Michael Matza and Mark Fazlollah. "Police Doubted Teen Was Groped," *The Philadelphia Inquirer*, 21 December 1999.
- McDevitt, Katie. "'CSI Effect' Turns Jurors into Instant Experts." *East Valley Tribune*, 1 July 2005.
- McDonald, R. Robin. "Atlanta Again Tops List for Violent Crime." *Atlanta Journal and Constitution*, 2 May 1994.
- McFadden, Robert D. "2 Men Get 6 to 18 years for Rape in Brooklyn." *New York Times*, 2 Oct. 1990.
- McFadden, Robert D., and Susan Saulny, "A Crime Revisited: The Decision; 13 Years Later, Official Reversal in Jogger Attack." *New York Times*, 6 December 2002.

- McIntosh, Sandra. "Getting Away With Rape?; 'Tell them Mario Did It': One Man Has Been Charged in Eight Assaults, Several Involving Teens. Most Cases Have Been Dropped - To the Surprise of the Victims." *Atlanta Journal and Constitution*, 10 October 1993.
- McIntosh, Sandra. "Rally to Protest Handling of Rape Cases; Report that Fulton County is Easy on Rapists Angers Rights Groups." *Atlanta Journal and Constitution*, 20 October 2003.
- McKinley Jr., James C. "Little Evidence of Serial Killings in Women's Deaths." *The New York Times*, 25 October 2004.
- Meili, Trisha. *I Am the Central Park Jogger: A Story of Hope and Possibility*. New York: Scribner, 2003.
- Meisol, Pat. "DNA Test Gains Stature in Courtroom: Orlando Rape Conviction May Encourage Increased Use of Genetic 'Fingerprinting,'" *St. Petersburg Times*, 27 Dec. 1987.
- Melnick, Jeffrey. *Black-Jewish Relations on Trial: Leo Frank and Jim Conley in the New South*. Jackson: University Press of Mississippi, 2000.
- Mervyn LeRoy (director). *They Won't Forget*. Burbank: Warner Brothers Pictures, Inc., 1937.
- Micheaux, Oscar (director). *Murder in Harlem*. New York: Micheaux Pictures Corporation, 1935 (not extant).
- Michigan State Police, Hate/Bias Crime State Totals, 1999, <http://www.michigan.gov/msp/>, (accessed June 5, 2005).
- Montgomery, Bill. "Cold Cases Thaw Begins; Cash Needed to Progress." *Atlanta Journal and Constitution*, 4 November 2004.
- Morantz, Dave. "'They Need to Throw Away the Key'; Two Women Can't Shake Memories of Their Encounters With Andrew Lee Harris." *Omaha World-Herald*, 29 Oct. 2000.
- Mulligan, Robert (director). *To Kill a Mockingbird*. Hollywood: Universal Films, 1962.
- New York Police Department, "Panel on the Central Park Jogger Case," 27 Jan. 2003, http://www.nyc.gov/html/nypd/html/dcpi/executivesumm_cpjc.html/ (accessed June 5, 2005)
- O'Neill, Helen. "'Perfect Witness' Makes Peace With Man She Mistakenly Accused," *Atlanta Journal and Constitution*, 24 September 2000.

- Oney, Steve. *And the Dead Shall Rise: The Murder of Mary Phagan and the Lynching of Leo Frank*. New York: Pantheon Books, 2003.
- Parvin, Paige P. "Guilty Until Proven Innocent." *Emory Magazine* 81, no. 1 (Spring 2005).
- Phagan, Mary. *The Murder of Little Mary Phagan*. New Jersey: New Horizon Press, 1987.
- Platt, Marc. (producer). *Legally Blonde*. Metro-Goldwyn-Mayer, 2001.
- Pollak, Steven H. "DA's Office Faces Conflict Questions on Rape Reports." *Fulton County Daily Report*, 24 March 2004.
- Pope, Justin. "Death Penalty Foe Seeks to Help O'Dell; Prejean Suggests Question of Innocence," *Richmond Times Dispatch*, 25 July 1996.
- Porter, Louise E., and Laurence J. Allison. "A Partially Ordered Scale of Influence in Violent Group Behavior: An Example From Gang Rape." *Small Group Research* 32 no. 4 (August 2001): 475-497.
- Prejean, Sister Helen, C.S.J. "Crime Victims on the Anvil of Pain." Op-Ed, *St. Petersburg Times*, 15 May 1988.
- Prejean, Sister Helen, C.S.J. "Would Jesus Pull the Switch?" *Salt of the Earth*, Claretian Publications, 1997.
- Preston, Rohan. "History on 'Parade'; Alfred Uhry's Story of Prejudice and Violence is Gleaned Partly From Family Lore." *Minneapolis Star Tribune*, 30 July, 2000.
- Rabinowitz, Dorothy. *No Crueler Tyrannies: Accusation, False Witness and Other Terrors of Our Times*. New York: Wall Street Journal Books, 2003.
- Ramos, Rachel Tobin. "Georgia Innocence Project's First Client Proves Guilty," *Fulton County Daily Report*, 3 August 2004.
- Robinson, Mike. "Ex-con Found Guilty in Girl X Case, Could Get 120 Years." *The Associated Press State and Local Wire*, 5 April 2001.
- Rosenberg, David, and Michael Liberman, *Hate Crime Laws*, 1999. Prepared for the Anti-Defamation League (New York, 1999).
- Rosenthal, A.M. "Why We Crusade for Human Rights," Editorial, *New York Daily News*, 12 July 2002.
- Rosenthal, A.M. *Thirty-Eight Witnesses: The Kitty Genovese Case*. New York: McGraw-Hill, 1964; California: University of California Press, 1999.
- Ross, Barbara, Helen Peterson, and Dave Goldiner. "Kee Guilty in Rape-Slay Spree, Faces Life Term," *New York Daily News*, 21 December 2000.

- Rothwax, Harold J. *Guilty: The Collapse of Criminal Justice*. New York: Random House, 1996.
- Sacks, Pamela H. "A Study in Contrasts; *Last Chance DNA* Examines Testing That Frees Some – But Not All – Inmates." *Worcester Telegram & Gazette, Inc.*, 14 May 2002.
- Sadovi, Carlos. "Girl X Attacker Gets 120 Years; Judge: I Don't Believe Even This Sentence is Enough." *Chicago Sun-Times*, 3 July 2001.
- Sanday, Peggy Reeves. *Fraternity Gang Rape: Sex, Brotherhood and Privilege on Campus*. New York, New York University Press, 1990.
- Sandoval, Ricardo. "Serial Killings Haunting Mexico; 120 Young Women Slain Since 1993." *Times-Picayune*, 21 November 1998.
- Saul, Michael. "Killer Finally Says Sorry; Gets Max Sentence As Victim's Kin Vent Their Rage." *New York Daily News*, 27 January 2001.
- Scheck, Barry, Peter Neufeld and Jim Dwyer. *Actual Innocence: Five Days to Execution and Other Dispatches From the Wrongly Convicted*. New York: Doubleday, 2000.
- Schlesinger Jr., Arthur. *Violence: America in the Sixties*. New York: Signet Broadside, 1968.
- Schroeder, Barbet (director). *Reversal of Fortune*. Warner Studios, 1990.
- Schultz, Leroy G., ed. *Rape Victimology*. Springfield: Thomas Books, 1975.
- Scruggs, Kathy, and R. Robin McDonald, "Freaknik '95; Sexual Issues." *Atlanta Journal and Constitution*, 24 April 1995.
- Selznick, David O. (producer). *Gone With the Wind*. Hollywood: Metro-Goldwyn Mayer, 1939.
- Shattuck, Roger. *Forbidden Knowledge: From Prometheus to Pornography*. New York: St. Martin's Press, 1996.
- Singleton, John (director). *Rosewood*. Lake County, Florida: Warner Brothers, 1996.
- Singleton, John. "Like Judgment Day," published in Michael D'Orso, *Like Judgment Day: The Ruin and Redemption of a Town Called Rosewood*. New York: Boulevard Books, 1996.
- Smith, Taryn. *The Innocents*. New York: Umbrage Editions, 2003.
- Sontag, Susan. "Regarding the Torture of Others; Notes On What Has Been Done – And Why – To Prisoners, By Americans." *The New York Times Magazine*, 23 May 2004.

- Tanfani, Joseph, Thomas Fitzgerald and Rose Ciotta. "Philadelphia Dismisses Its Felony Cases at a Rate of About Half." *Philadelphia Inquirer*, 15 May 2005.
- Teepen, Tom. "Constitution Survives Meddling Politicians." Editorial, *Atlanta Journal and Constitution*, 2 May 2000.
- Thompson, Ginger. "Hundreds of Thousands in Mexico March Against Crime." *The New York Times*, 28 June 2004.
- Thompson, Jennifer. "I Was Certain, But I Was Wrong." *New York Times*, 18 June 2000.
- Toobin, Jeffrey. "The Talk of the Town: A Prosecutor Speaks Up." *The New Yorker*, 25 November 2002.
- Torpy, Bill. "Wrongly Convicted, Free Man Rejoins Life After 16 Years." *Cox News Service*, 19 June 1999.
- Tucker, Cynthia. "Bush Must Take Action Now to Curb Violent Crime Against Women." Editorial, *Atlanta Journal and Constitution*, 18 August 1999.
- Tucker, Cynthia. "Candidates Mum on Anti-Black Bias in Justice System." *Atlanta Journal and Constitution*, 1 October 2000.
- Tucker, Cynthia. "Wrongfully Imprisoned Man Starts Life Anew." *Atlanta Journal and Constitution*, 26 December 1999.
- Twist, Steve. "Point/Counterpoint on the Crime Victims' Rights Amendment: Responses to Key Objections Raised by Opponents." National Victims' Constitutional Amendment Passage Committee Report, July 17, 2003, <http://www.nvcap.org/>.
- Uhry, Alfred (playwright). *Parade*. New York, BMG Entertainment, 1999.
- Ullman, Sarah. "A Comparison of Gang and Individual Rape Incidents." *Violence and Victims* 14 no. 2 (Summer 1999).
- United States Department of Justice, Bureau of Justice Assistance, A *Policymaker's Guide to Hate Crimes*.
- United States Department of Justice, Criminal Justice Information Services Division, *Training Guide for Hate Crime Collection*, 1990.
- United States Department of Justice, Federal Bureau of Investigation, *Hate Crime Statistics*, 1999.
- United States Department of Justice, Federal Bureau of Investigation, *Uniform Crime Reports*, 1999.
- United States Department of Justice, Office of Justice Programs. *National Forensic DNA Study Report*. Smith Alling Lane, 2002.

- United States Department of Justice. <http://www.fbi.gov/hq/lab/codis/> (accessed May 29, 2005).
- Volokh, Alexander. "n Guilty Men," *University of Pennsylvania Law Review*, 146 (1997).
- Walker, Adrian. "The Evidence Needs Review." *The Boston Globe*, 9 April 2001.
- Wang, Truman C. "Opera Pacific Brings New Life to Dead Man," *Opera Review*, 18 April 2002.
- Ward, Paula Reed. "Men Earn Right to New Rape Trial," *Savannah Morning News*, 4 July 2002.
- Warden, Rob. "The Rape That Wasn't: The First DNA Exoneration in Illinois," Center on Wrongful Convictions, Northwestern University School of Law, 8 Sept. 2003
<http://www.law.northwestern.edu/depts/clinic/wrongful/exonerations/Dotson.htm/>.
- Warner, Jack. "DNA Testing Puts State in Lead of Fighting Crime." *Atlanta Journal and Constitution*, 3 December 2000.
- Warner, Jack. "Method of Using DNA Puts State Agency in Crimefighting Vanguard," *Atlanta Journal and Constitution*, 3 December 2000.
- Washington, Julie E. "'Parade' Steps Off." *Cleveland Plain Dealer*, 16 August 2002.
- Watson, Molly. "British Girl Left Naked in Central Park Attack." *The Evening Standard*, 13 June 2000.
- Wedge, Dave. "Silber Backs Rapist; But Victim's Daughter Battles Bid for Parole," *The Boston Herald*, 13 June 2003.
- Weinberg, Steve. "A Definitive Retelling of a Case Without Conclusion," *Atlanta Journal and Constitution*, 5 October 2003.
- Weinberg, Steve. "Embracing Freedom: Wrongly Convicted Man Tells His Story With Dignity and Convincing Emotion," *Atlanta Journal and Constitution*, 14 September 2003.
- Weisburd, Steven Bennett, and Brian Levin. "'On the Basis of Sex': Recognizing Gender-Based Bias Crimes." *Stanford Law and Policy Review* 5 (Spring 1994).
- Wessler, Steven. *Promising Practices Against Hate Crimes: Five State and Local Demonstration Projects*, prepared for the U.S. Department of Justice, Office of Justice Programs, May 2000.