

## Testimony of the National Center for Transgender Equality

For the Hearing:  
S.909 The Mathew Shepard Hate Crimes Prevention Act  
Committee on Judiciary  
United States Senate  
Room 226 Dirksen Building

June 25, 2009

Chairman and Members of the Committee:

The National Center for Transgender Equality (NCTE) is a social justice organization, founded in 2003 and dedicated to advancing the equality of transgender people through advocacy, collaboration and empowerment. When we speak of transgender people, we refer to an umbrella term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth, including but not limited to transsexuals, cross-dressers, androgynous people, genderqueers, and other gender non-conforming people. All of these people face the threat of disrespect, discrimination or violence because of their real or perceived gender identity or expression. Hate violence is among the greatest dangers and most serious challenges faced by and feared by transgender people on a day-to-day basis.

The Matthew Shepard Hate Crimes Prevention Act (S.909) is a desperately needed piece of legislation for transgender people for three reasons:

- First, it will help educate law enforcement about the frequent hate violence against transgender people and the need to prevent and appropriately address it.
- Second, it will help provide federal expertise and resources when it is needed to overcome a lack of resources or the willful inaction on the part of local and/or state law enforcement.
- Third, it will help educate the public that violence against anyone is unacceptable and illegal.

### **THE FREQUENCY OF HATE VIOLENCE AGAINST TRANSGENDER PEOPLE**

Because hate crimes based on actual or perceived gender identity have never been accurately counted by United States law enforcement, it is not possible to document exactly how many transgender people are physically attacked each year because they have or are perceived to have a gender identity (or an expression of that gender identity) that is different than the sex they were assigned at birth. This lack of information itself points to the need for this legislation. Presently, California is the only state that specifically tracks data on crimes against transgender people.

Undeniably, however, transgender individuals are far-too-often the targets of harassment and physical violence because of their actual or perceived gender identity. The transgender community has anecdotally reported on more than one bias motivated murder of a transgender person per month over

the past few decades<sup>1</sup>. In addition, to these known murders, there have no doubt been many other uncategorized murders where the victim's transgender identity was not clear in news or community accounts. There have unquestionably been countless other acts of physical violence, such as assault, against transgender people. These crimes against transgender people often bear the characteristic signs of hate motivated violence, including the viciousness of the attacks and the use of biased and brutal epithets by the perpetrator during the attack.

The statistics that are available show staggering rates of violence. For example, according to the GLSEN, the Gay, Lesbian, Straight Education Network, a recent study shows that 53% of transgender students have been physically harassed in school, while 26% were assaulted, including being punched, kicked or injured with a weapon. The majority of those students did not report the incidents to school authorities.<sup>2</sup>

Crimes against transgender individuals remain underreported for a myriad of other reasons. Transgender people fear that police will not take the crime seriously, that their perpetrator will find them and retaliate, or that the police themselves will be violent or disrespectful. Transgender individuals may underreport crimes because they fear the additional violence and discrimination they may face if they are subsequently "outed" as transgender during the reporting of the crime or a trial.

Finally, it is very clear that multiple types of bias come into play in anti-transgender hate crimes, including race, age, economic status, and other factors. Transgender people who live at the intersection of multiple identities face higher risks of being the victim of bias-motivated crime. A look at the victims of anti-transgender murders, for example, show a highly disproportionate number of young transgender women of color.

The Matthew Shepard Hate Crimes Prevention Act will enable the federal government to assist local and state agencies in reporting accurate data on hate crimes against transgender individuals, which is vital to the efforts to respond to and prevent such crimes. It will also send a message to transgender people that reports of hate crimes against them will be taken more seriously by authorities.

## **EFFECTS OF THE ACT**

The July 2008 murder of transgender teenager Angie Zapata in Greeley, Colorado was the first and only time that any state applied a state hate crime law to an anti-transgender crime.<sup>3</sup> Currently, only 12 states have transgender-inclusive hate crimes laws.

The Matthew Shepard Hate Crimes Prevention Act would expand the Department of Justice's jurisdiction to investigate bias-motivated crimes. It also would enable the federal government to give

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<sup>1</sup> Source is the Remembering our Dead project, a community-based effort to count and memorialize transgender people who have been murdered because of their gender identity. <http://www.transgenderdor.org/>

<sup>2</sup> Harsh Realities: The Experiences of Transgender Youth in Our Nation's Schools, Gay, Lesbian and Straight Education Network, 2009.

<sup>3</sup> A state crime charge was made in the October 2002 murder of transgender teenager Gwen Araujo. While the jury convicted the assailants of murder, the hate crime charge failed. Research shows there are no other known cases in the United States of prosecutors applying a hate crime charge in an anti-transgender act of violence.

financial and technical assistance to local and state agencies to assist them in responding to hate crimes. The Act would not create sentencing enhancements, nor would it criminalize any additional behavior not already addressed under current law. And, despite misinformation from opponents of the Act, it would not and cannot criminalize “hate speech” or infringe on First Amendment protections.

This Act is important for the transgender community because it will enable the federal government to assist local and state law enforcement agencies in investigating and prosecuting acts of violence against transgender individuals. Additionally, the Act gives the federal government the authority to intervene when local and state officials are responding inadequately to anti-transgender violence.

The need for the Act to educate law enforcement about hate violence against transgender people and how to address it is obvious to transgender people. In a soon-to-be released study of 6,456 transgender people in the United States, 45% of transgender individuals in the survey reported being uncomfortable seeking police help. Also telling is that 71 % of survey respondents who have interacted with police reported being treated with disrespect by officers.<sup>4</sup> With the help of the Matthew Shepard Hate Crimes Prevention Act, the federal government will be able to provide much needed education and training programs to local and state authorities regarding violence against transgender individuals so that officials will be adequately prepared to identify and respond to all such acts of violence against transgender individuals.

It is also apparent to transgender people and our allies that the Act is needed to send a clear statement to the public that anti-transgender violence is not acceptable. Ironically, the intentionally provocative arguments of the opponents of this legislation help prove the need for the bill. Opponents inaccurately claim that the bill would criminalize hate speech and thought. This legislation clearly does not do that and, in fact, The National Center for Transgender Equality would not support it if it did. Still, it is telling of the need for public education that opponents of bill proudly defend their right to think and speak hate about transgender and other people covered by this legislation. While NCTE strongly defends their right to hate and to speak their hate, however deplorable, it is not surprising that hate crimes against transgender people are so rampant when such extremists openly defend their right in front of Congress to specifically hate transgender, lesbian, gay and bisexual people.

Without the passage of this legislation, the public will continue to learn about violence against transgender people, but perversely, it would too often continue to be a message that it is acceptable to commit this violence. For example, last month, two hosts of a popular radio show in Sacramento, California referred on the air to transgender children as “freaks” and “idiots” with “mental disorders” and encouraged parents of transgender children to verbally degrade them and physically abuse them. The hosts applauded the fact that transgender high school students “go out into society and society beats them down.” This transphobic discourse is all too common and insults our society at its core.

Passage of S.909, while strongly protecting free speech and thought, will help counter the pervasive public misunderstanding of transgender people and send a strong message that actual physical violence is never an acceptable response to differences among us.

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<sup>4</sup> Prevalence of Discrimination Against Transgender People in the U.S. (July 2009) was conducted by the National Center for Transgender Equality and the National Gay and Lesbian Task Force.

## **CONCLUSION**

The Matthew Shepard Hate Crimes Prevention Act will not end frequent, vicious hate crimes against transgender people, but it will allow the federal government to help ensure that violence targeted at an individual based on that individual's gender identity will not be tolerated. It will also help educate law enforcement and the public about this horrible form of violence and provide needed resources to assist local law enforcement to investigate and prosecute acts of violence when they do occur.

In the United States of America we believe that all acts of violence based on intolerance are unacceptable. In particular, hate crimes remind us that bigotry and ignorance have far-reaching and dangerous consequences. By passing the Matthew Shepard Hate Crimes Prevention Act, the United States will demonstrate its longstanding commitment to eradicating hate in all its forms.

Thank you.