

April 24, 2007

The Honorable Lamar Smith
Ranking Member, Committee on the Judiciary
U.S. House of Representatives
B-351 Rayburn House Office Building
Washington, DC 20515

cc:

The Honorable Louie Gohmert
The Honorable F. James Sesenbrenner, Jr.
The Honorable Howard Coble
The Honorable Elton Gallegly
The Honorable Bob Goodlatte
The Honorable Steve Chabot
The Honorable Dan Lungren
The Honorable Chris Cannon
The Honorable Ric Keller
The Honorable Darrell Issa
The Honorable Mike Pence
The Honorable Randy Forbes
The Honorable Steve King
The Honorable Tom Feeney
The Honorable Trent Franks
The Honorable Jim Jordan

Dear Ranking Member Smith:

On behalf of the millions of individuals represented by our organizations, we strongly oppose H.R. 1592, the Local Law Enforcement Hate Crimes Prevention Act of 2007.

Our concerns about this legislation are numerous. Hate crimes legislation is unnecessary, unjust, constitutionally suspect, and opens the door for religiously based prosecutions.

Hate crimes legislation is unnecessary. H.R. 1592 falsely claims that “the incidence of violence motivated by the actual or perceived...sexual orientation, [and] gender identity...poses a serious national problem.” Yet FBI statistics show otherwise. In 2005, out of 862,947 cases of aggravated assault, 177 were motivated by sexual orientation bias – representing a miniscule 0.000205 percent of all aggravated assaults in 2005. Moreover, of the 8,380 offenses classified as “hate crimes” in the United States, 1,171 (approximately 14 percent) were classified as motivated by “sexual orientation” bias – a marked decrease from both 2004 and 2003. We do not condone any violent acts. But clearly, there is no epidemic of “hate crimes” in the United States and thus legislation is unwarranted.

Hate crimes legislation is unfair and unjust. The 14th Amendment already grants equal protection under the law to all people, yet this legislation grants special protection to individuals based on their sexual orientation or gender identity, either “actual or perceived.”

By treating victims differently based on their identity, this bill creates a constitutionally problematic, preferred-victim ranking system. For example, if a homosexual man and a child are the victims of the same crime, the offender is punished more severely for his motive behind assaulting the homosexual man. Granting this kind of preferred protection based on sexual behavior and identity creates a new class of federal crime.

H.R. 1592 does not even define the class it seeks to protect. "Sexual orientation" remains undefined in the legislation, and "gender identity" only loosely defined. This is likely due to the fact that there exist up to 25 different definitions of "sexual orientation" as described in academic literature. If the law cannot define the class it seeks to protect, then the law is constitutionally suspect.

Passage of H.R. 1592 will also pave the way for future expansions of its scope in ways that could eventually threaten freedom of speech and religion. Hate crimes laws have already been used to target and punish religious speech.

For example:

- The City and County of San Francisco indirectly blamed religious speech as inciting the murder of Billy Jack Gaither in Alabama following a reported unwanted gay sexual advance. Resolution No. 234-99 called for the "Religious Right to take accountability for the impact of their long-standing rhetoric denouncing gays and lesbians, which leads to a climate of mistrust and discrimination that can open the door to horrible crimes such as those committed against Mr. Gaither."
- The 9th Circuit Court of Appeals in the *Poway* case cited a California anti-harassment statute as support for squelching a Christian student's t-shirt message opposing homosexuality, saying that law's purpose was to meet "an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools."

If enacted, this bill has the potential to transform religious beliefs into hate crimes, chilling religious speech and subjecting an untold number of Americans to prosecution.

In addition to these concerns, states are already prosecuting these types of crimes, and there is no evidence that a federal response is necessary.

We urge you to **OPPOSE** H.R. 1592, the Local Law Enforcement Hate Crimes Prevention Act of 2007.

Sincerely,

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Focus on the Family

Tony Perkins, President
Family Research Council

Alan Chambers, President
Exodus International

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Free Market Foundation

John Stemberger, President
Florida Family Action

Phil Burress
Citizens for Community Values

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