

mosexuality is a choice and offering counseling services, gay-rights activists literally screamed bloody murder.

In retrospect, it seems almost inevitable that 21-year-old Matthew Shepard would become the poster boy martyr of the “hate crimes” movement. A 105-pound, slightly effeminate student at the University of Wyoming, Shepard was an intelligent lad who wanted to become a diplomat and dreamed of being famous. He was also a homosexual with a troubled history of depression and suicidal tendencies. According to his mother, Judy Shepard, Matthew “wasn’t a saint. He was just a young man in search of himself.”

That search ended in a Laramie, Wyoming, bar, from which Matthew voluntarily accompanied two young thugs to their truck. According to the testimony of one of the thugs’ girlfriends, Shepard made an advance to the two young men. News accounts describe Shepard as having been “lured” out of the bar. Whoever lured whom, Shepard was murdered, and the gruesome details were broadcast far and wide. Gay activists immediately adopted Shepard as their official martyr, pointing to the grisly sight as an example of why hate-crimes legislation is needed.

But far from bolstering the case for such legislation, the Shepard incident only dramatizes its inapplicability to the ambiguity and complexity of real life. Matthew’s instant elevation to martyrdom was assured by the story that went out over the newswires: The gentle would-be diplomat, product of a warm and loving middle-class home, who had gone to school in Europe and spoke four languages, had been brutally bludgeoned to death by two homophobic brutes. To ask why such a smart young man would get into a truck with two brutish-looking strangers twice his size is “blaming the victim,” a hate crime in itself.

According to the prosecutors, the two defendants, Aaron McKinney and Russell Henderson, told Shepard they were gay. After getting Shepard into McKinney’s pickup, they told him, “We’re not gay—you’ve been jacked.” Shepard already had been beaten twice that year, although few have asked whether this was due to a proclivity for rough trade. In an interview with Katie Couric on NBC’s *Dateline*, Judy Shepard said that her son had been involved in a series of violent incidents, including a gang rape in Morocco when he was a high-school senior.

The defendants, on the other hand, hardly fit the role of the villains that a show trial requires. McKinney and Henderson are a couple of small-time losers who saw, in the slightly drunk and routinely reckless young Matthew, a chump waiting to get jumped. The only evidence of their alleged crime of “homophobia” is hearsay based on the testimony of one of the girlfriends—both of whom are also being charged with hiding evidence and providing false alibis—who says McKinney and Henderson wanted to “teach him a lesson” not to make passes at heterosexuals. But the bartender who served them remembers that they paid for their five-dollar pitcher of beer with change. Two high-school dropouts sitting in the middle of nowhere, going nowhere, and in walks Matthew Shepard, well dressed, well traveled, well versed in such subjects as international law and the history of American diplomacy. Far from having been incited by the religious right, McKinney and Henderson seem to have been inspired more by economics: The police maintain that their plan was to burglarize Shepard’s apartment. Who is to say whether their motive was envy, greed, hatred of homosexuals, or boredom?

That justice is the last thing on the minds of those pushing hate-crimes legislation was starkly dramatized by the statement of a coalition of 11 gay-rights groups denouncing Wyoming prosecutors as “barbaric” for seeking the death penalty for McKinney and Henderson. Apparently the groups’ preferred punishment is a lifetime of “re-education” and gay sensitivity training—although some would say that is a fate worse than death.

Justin Raimondo writes from San Francisco.

America’s Race Paradigm

by William H. Peterson

The *Economist* brands racism as “America’s constant curse,” and the question of race unnerves almost everybody, as the Civil Rights Act of 1964 airily outlaws discrimination in government, commerce, and schooling on grounds of race, gender, age, religion, or national origin, and the new, openly politicized

White House policy on affirmative action (“mend it, don’t end it”) puts on hold the past 35 years of racial strife—strife that has compounded, not caused, the racial problem.

But what is race? How is it defined? And, as an official policy tool, is race lending itself to the law of unintended consequences, spawning racial disharmony rather than harmony?

In my view, the concept of “race” is fatally flawed, both in and out of law. As the Census Bureau gets set to take the 2000 census, check out its oblique definition (which can be found in the 1998 *World Almanac*):

The concept of race as used by the Census Bureau does not reflect any clear-cut scientific definition of biological stock. The data for race represent self-classification by respondents. Persons could identify their race by classifying themselves in one of the categories listed on the census form—that is, white, black, American Indian, Eskimo, Aleut, Chinese . . .

. . . and so on through a long list of racial boxes ending with an exception for Hispanic. The Census Bureau concedes that no specific race can be inferred from the category “Hispanic”; a person of “Hispanic origin may be of any race.” Of course, the Bureau supplies an “other race” category that “includes persons not included in the race categories described above.” But doesn’t this catch-all phrase marginalize those who check off this box, relegating them to outsider status? Indeed, doesn’t the whole race-by-race approach of the Census Bureau make for a race-by-race undercount, overcount, or—certainly—miscount? Doesn’t this approach yield doubtful quota formulas for the Equal Employment Opportunity Commission and its army of allied lawyers who “prove” racial underrepresentation in employee staffs, college admissions, bank lending patterns, etc.?

The Census Bureau says that the diversity of America’s population will continue to increase; by 2050, based on current trends, the non-Hispanic white share of the population is projected to fall from the current 73 percent to 53, the African-American share to increase from 13 to 15 percent, and the Hispanic share to more than double, from 11 to 24 percent. The implications of increasing population diversity for American employers, lenders,

universities, and others operating under the federalized affirmative-action program are portentous. Civil-rights advocates and their lawyers should find their business booming.

Yet consider Ward Connerly, business entrepreneur, vice chairman of the University of California board of regents, and chief advocate of California's Proposition 209, which bars the state from favoring minorities in such matters as state contract awards and college entrance ratios. Connerly sees himself as an unhyphenated American and asks other states to follow California's race-blind lead, as Washington State did in 1998. Still, in the matter of affirmative action, who is in charge: the states or the feds? Ultimately, the U.S. Supreme Court will decide—one hopes on the grounds of the First, Ninth, and Tenth Amendments, which reserve such decision-making to the states or the people themselves. But however the Court rules, the question of different "races" will remain.

As Connerly says:

There are those who say that race matters, that we have to use race to get beyond race. Then, there are those of us who believe, as President Kennedy said in 1963, "Race has no place in American life or law."

Ludwig von Mises attacked Nazi Aryan race theory in his *Omnipotent Government* (1944): "It is certain that there are today no pure stocks within the class or race of white-skinned people." Richard Dawkins, lecturer in zoology at Oxford University and author of the best-selling *The Selfish Gene* (1989), holds that

conceivably racial prejudice could be interpreted as an irrational generalization of a kin-selected tendency to identify with individuals physically resembling oneself, and to be nasty to individuals different in appearance.

"Race," as you can gather, defies precise definition—apart from *Homo sapiens*, the human race. Alone among the Earth's species, man possesses *sui generis* characteristics: among them, vertebrate backbone, upright posture, hands, distinguishing hair, and advanced nervous systems. The striking system is the human brain, which empowers spoken and written language, abstract thought, rational

intelligence, economic calculation, and the development of a culture of the arts.

"Races" (in the sense of variegated subdivisions of the human family) are complicated by the fact that every individual in that family is himself unique, distinct, dissimilar from each of his fellows, and yet broadly similar to them. Further complications arise through the association of racial classifications with different languages, cultures, and regions.

Today, some scholars are challenging the politically correct race concept. For example, Mary Lefkowitz, a professor of classics at Wellesley College, writes: "In ancient Greece, slaves could be of any color depending on who had been conquered. There was no Greek word for race." And Kenneth K. Kidd, professor of genetics and psychiatry at Yale's Medical School, claims:

When I look at DNA, I see no racial differences. There tend to be more DNA variations within each population group than between groups, and such variation is present broadly around the world within every population.

Yes, affirmative action rightly targets discrimination. But it uses the wrong methods: state coercion and numerical quotas. It also ignores many of the important problems that face minorities today, problems that the government itself has caused: disastrous public schools, the disintegration of the family through welfare, the subsidization of out-of-wedlock births, a sorry criminal-justice system, and disincentives and moral hazards targeted at black neighborhoods, including relief payments, public housing, food stamps, and minimum wages.

Above all, government intervention in "racial" matters contravenes the First Amendment right of freedom of association and the entire Bill of Rights philosophy of free choice under the rule of law. Uncle Sam seems to be saying, "Love thy neighbor—or else." In a nutshell, the official view of "race" makes for a weak reed to enforce a national policy of racial "diversity." Force doesn't square with due process. Affirmative action is wrong-headed and counterproductive. It mocks the very civil rights that it purports to uphold and lends itself to racial polarization. It hits at voluntarism, choice, and consent, and meddles in free markets which could otherwise ease racial tension and result in greater social mobility,

harmony, and, in the broadest sense, community.

The answer to forced affirmative action is "end it, don't mend it." The answer is, broadly, unforced affirmation—an era of good will for all *Homo sapiens*: mutual grace, mutual compassion, mutual respect, and mutual cooperation all around.

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FILM

Reel Crimes, True Illusions

by George McCartney

True Crime

Produced by Malpas Productions
Directed by Clint Eastwood
Screenplay by Andrew Klavan
and Larry Gross
Released by Warner Bros.

The Matrix

Produced by Groucho II Film Partnership
and Silver Pictures
Directed by Andy Wachowski
and Larry Wachowski
Screenplay by Andy Wachowski
and Larry Wachowski
Released by Warner Bros.

Clint Eastwood's *True Crime* lives up to its name: It is a truly criminal assault on our credulity. With numbing predictability, it recycles the old death-row execution-eve story.

The condemned man is Frank Bechum, the quintessential victim, an innocent black man in the wrong place at the wrong time. He is played by Isaiah Washington with a studied, almost airless nobility that is, amazingly, one of the few convincing touches in this otherwise pre-