

SODOMY IN THE LONE STAR STATE: A CONTENT ANALYSIS OF TEXAS NEWSPAPER COVERAGE OF LAWRENCE V. TEXAS

By R. Christopher Burnett
Assistant Professor of Journalism
California State University at Long Beach
June 7, 2003

And Carlos Godoy, Esq.
Ph.D. candidate, Annenberg School For Communication, University of Southern California

In Collaboration with the [Program for the Study of Sexual Orientation Issues in the News](#) at the [USC Annenberg School of Journalism](#)

The focus of the nation's news media was on gay rights at the U.S. Supreme Court on March 26, 2003, as justices heard [oral arguments](#) in the case of [Lawrence v. Texas](#). John Lawrence and Tyron Gardner are challenging the constitutionality of a law that makes it a crime to engage in same-sex intercourse in their home state of Texas.

The case arises out of what started out as a low-profile arrest. On September 17, 1998, Harris County sheriff's deputies, responding to a false report of an armed intrusion in an apartment, found Lawrence and Gardner engaging in sex in Lawrence's apartment. Deputies charged the men with "homosexual conduct" and took the men to jail, where they were held for several hours before being released on \$200 bail. The arrest got little publicity at the time, and after the two men paid their fines, they initially faded out of public view (*Houston Chronicle*, November 6, 1998, p. A-1).

In November 1998, however, the two men decided to appeal their case. They argued that Texas was violating the constitutional rights of gays by "prosecuting them for engaging in behaviors that are not illegal under Texas law if practiced by heterosexual couples" (*Christian Science Monitor*, March 24, 2003).

Lawrence v. Texas may or may not alter the legal landscape on the sodomy issue. The ruling, expected by the end of June 2003, may only specifically impact those states -- Texas, Kansas, Missouri, and Oklahoma -- that bar homosexual sodomy. (Nine states --Alabama, Florida, Idaho, Louisiana, Mississippi, North Carolina, South Carolina, Utah and Virginia-- ban consensual sodomy for everyone.). In the oral arguments in March, the Justices, as is often the

case, gave no real indication what direction their ruling might take. Nevertheless, a lot of attention is attached to the case, since there is widespread anticipation that the court will overrule a decision made seventeen years ago. In 1986, in *Hardwick v. Bowers*, a Georgia case, the Supreme Court ruled 5-4 that consenting adults have no constitutional right to private gay sex.

Regardless of the how the case is decided, however, the debate over the issue provides an excellent opportunity to examine news coverage at the local level. In the weeks and months leading up to the justice's decision to hear the case, how were attitudes toward homosexuality reflected in news coverage in Texas? In this paper, this research question is tested using content analysis. Has greater societal tolerance towards homosexuality been reflected in coverage by Texas print media as the case has wound its' way to the high court? Have stories on the issue treated the incident as a serious breach of morality, or an unnecessary intrusion into two men's private lives? In other words, did the media see the police as going too far for breaking into the apartment of one of the men on a false report of an armed intruder, and arresting them after discovering them engaged in sex?

This research monograph will (1) review print stories in the media in Texas, and (2) provide a list of resources and study questions for educators who want to discuss the issue in their classroom. Print stories reviewed are from four daily papers with morning editions on weekdays, and Saturday and Sunday editions. They include the *Houston Chronicle* (Sunday circulation, 744,935 on September 30, 2002), *Abilene Reporter-News* (Sunday circulation, 34,007 on September 30, 2002), *Amarillo Globe-News* (Sunday circulation 64,106 on September 30, 2002), and the *Lubbock Avalanche-Journal* (Sunday circulation 62,569 on September 30, 2002). The coverage in the *Chronicle*, owned by the Hearst Corporation, is anticipated to reflect more liberal societal attitudes toward homosexuality, as well as more intense coverage of the issue since Houston is where the arrest of the two men occurred. Houston also has a relatively high gay population. Coverage in the *Abilene*, *Amarillo* and *Lubbock* newspapers was examined to see if more conservative attitudes toward homosexuality were reflected in news coverage in more rural areas of the state.

Stories were examined over the period between the date of the two men’s arrest, September 17, 1998, and March 26, 2003, the date of the oral arguments in the Supreme Court. The source of the stories was the Internet archive of the four newspapers. Keywords used were “gay” and “sodomy.” Articles were coded in April 2003. Content was assessed using the following question and rating schema. The headline and article was examined, with the question asked, “Overall, how are gays and tolerance toward sodomy portrayed:”

A. In the Headline?	B. In the Article?
1. Strongly Anti-Gay	1. Strongly Anti-Gay
2. Somewhat Anti-Gay	2. Somewhat Anti-Gay
3. Balanced/Neutral	3. Balanced/Neutral
4. Somewhat Pro-Gay	4. Somewhat Pro-Gay
5. Strongly Pro-Gay	5. Strongly Pro-Gay
6. No Position	6. No Position

Stories where most of the space in the article was used to either oppose or support the issues involved in the sodomy case were rated a 1 (Strongly Anti-Gay) or a 5 (Strongly Pro-Gay). Somewhat more neutral language rated a 2 or 4, with 2 meaning homosexuality and sodomy was treated somewhat negatively, and 4 meaning homosexuality and sodomy was treated somewhat positively. Likewise, balanced, neutral coverage drew a rating of 3. A code of 6 means no position was evident either in the headline or article.

Findings

Little bias against gays was evident in the media. Coverage of the arrest in 1998 and subsequent court proceedings demonstrated tolerance toward homosexuality in the media and in some cases advocacy for dropping the sodomy statute. Overall, the metropolitan *Houston Chronicle* covered the issue much more intensely, and exhibited a more liberal tone on its editorial page. Even the smaller-town dailies that were examined, however, showed a lot of tolerance. Most of the stories in small dailies were wire-service stories exhibiting a more balanced approach. These papers ran far fewer stories.

The tables below indicate how stories were coded. A graphical summary of results is presented and a qualitative examination follows in the discussion section.

Houston Chronicle (45 stories)

Examination of Headlines	Examination of Articles
Strongly Anti-Gay – 2 stories	Strongly Anti-Gay – 2 stories
Somewhat Anti-Gay – 3 stories	Somewhat Anti-Gay – 5 stories
Neutral – 6 stories	Neutral – 12 stories
Somewhat Pro-Gay – 5 stories	Somewhat Pro-Gay – 7 stories
Strongly Pro-Gay – 16 stories	Strongly Pro-Gay – 19 stories
No Position – 8 stories	No Position – 0 stories

Abilene Reporter News (7 stories)

Examination of Headlines	Examination of Articles
Strongly Anti-Gay – 1 story	Strongly Anti-Gay – 1 story
Somewhat Anti-Gay – 0 stories	Somewhat Anti-Gay – 0 stories
Neutral – 2 stories	Neutral – 1 story
Somewhat Pro-Gay – 1 story	Somewhat Pro-Gay – 2 stories
Strongly Pro-Gay – 2 stories	Strongly Pro-Gay – 3 stories
No Position – 1 story	No Position – 0 stories

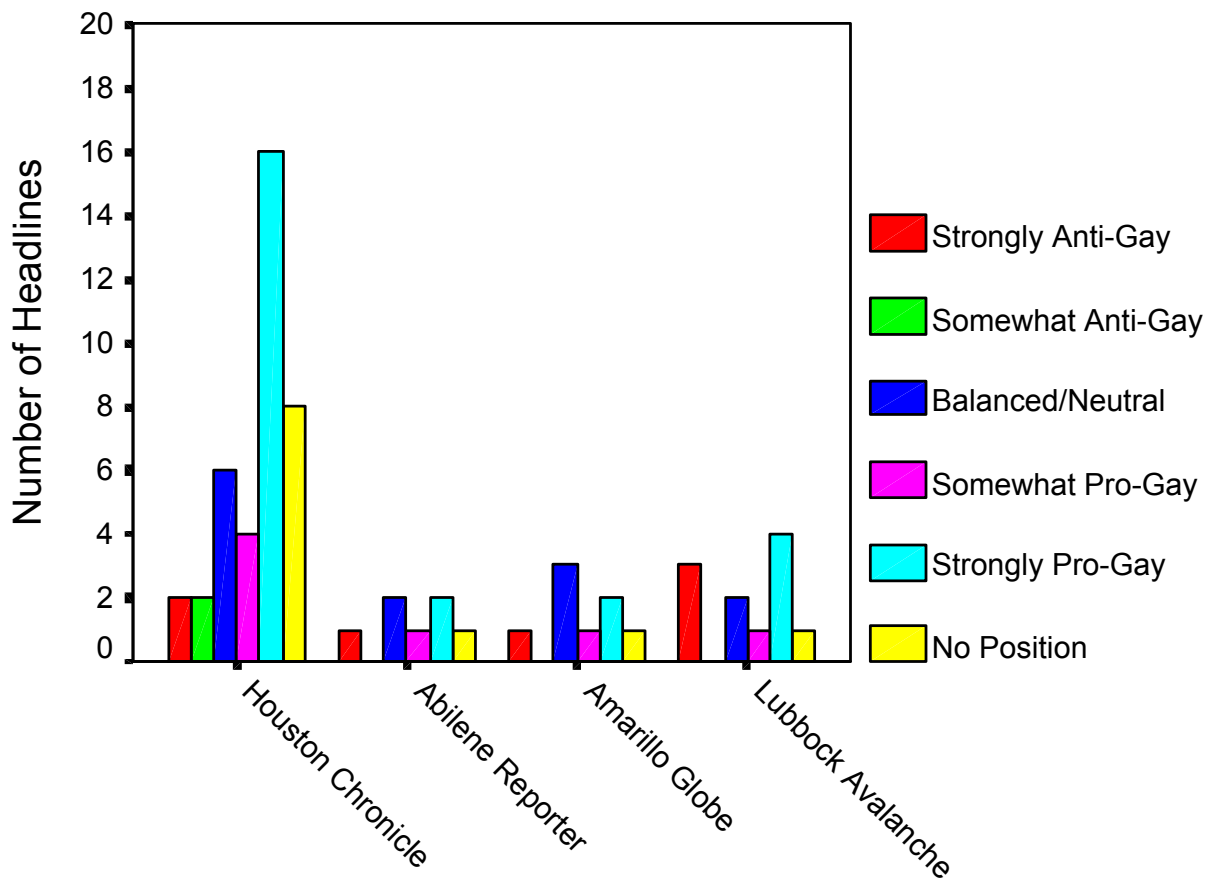
Amarillo Globe News (8 stories)

Examination of Headlines	Examination of Articles
Strongly Anti-Gay – 1 story	Strongly Anti-Gay – 1 story
Somewhat Anti-Gay – 0 stories	Somewhat Anti-Gay – 0 stories
Neutral – 3 stories	Neutral – 3 stories
Somewhat Pro-Gay – 1 story	Somewhat Pro-Gay – 1 story
Strongly Pro-Gay – 2 stories	Strongly Pro-Gay – 3 stories

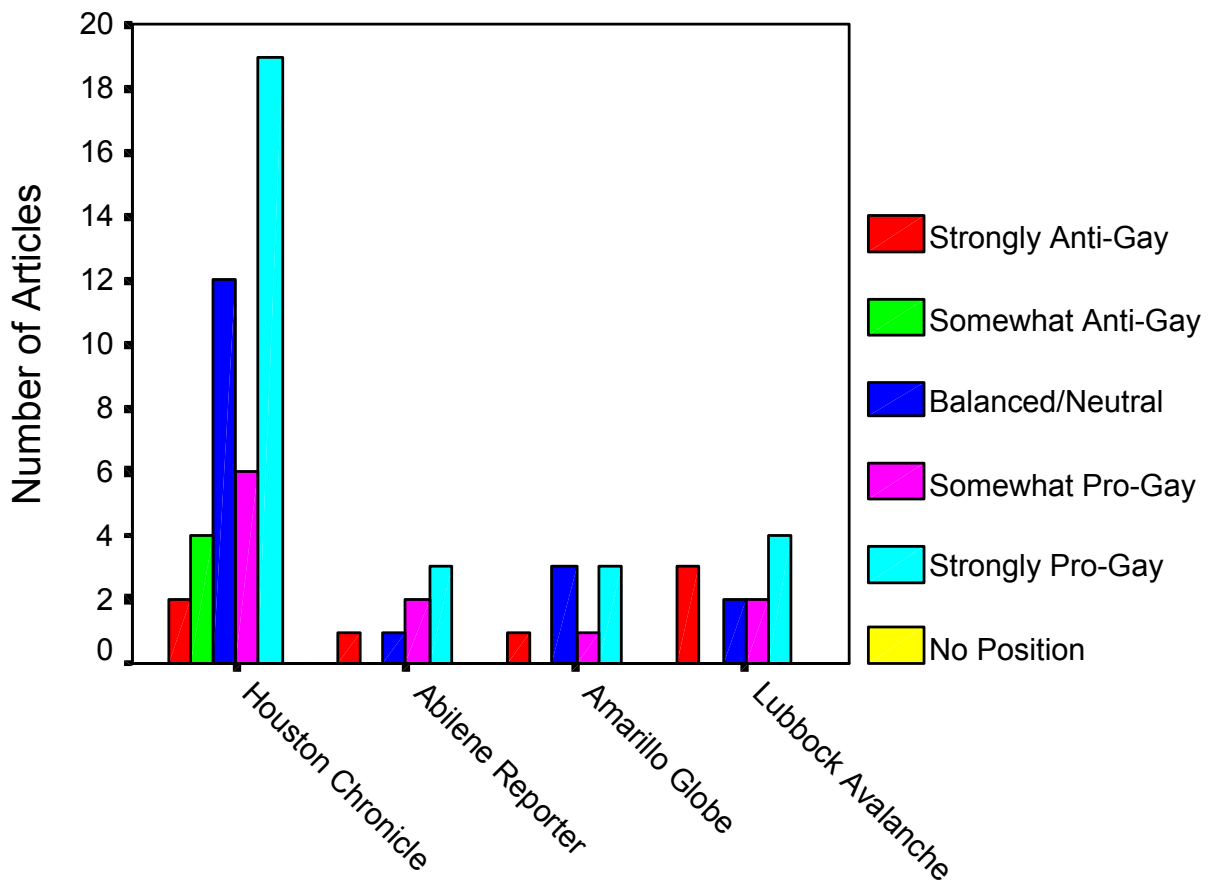
No Position – 1 story	No Position – 0 stories
-----------------------	-------------------------

Lubbock Avalanche Journal (11 stories)

Examination of Headlines	Examination of Articles
Strongly Anti-Gay – 3 stories	Strongly Anti-Gay – 3 stories
Somewhat Anti-Gay – 0 stories	Somewhat Anti-Gay – 0 stories
Neutral – 2 stories	Neutral – 2 stories
Somewhat Pro-Gay – 1 story	Somewhat Pro-Gay – 2 stories
Strongly Pro-Gay – 4 stories	Strongly Pro-Gay – 4 stories
No Position – 1 story	No Position – 0 stories



Texas Newspaper Content Analysis of Headlines



Texas Newspaper Content Analysis of Articles

As expected, the *Chronicle* was the most tolerant newspaper toward homosexuality and sodomy. Nineteen of the 45 articles (42.2 percent of the articles) approached homosexuality and sodomy very positively. None of the papers examined, however, had much anti-gay coverage on the period surveyed. The Morris Communications Group, headquartered in Augusta, Georgia, owns the Amarillo and Lubbock newspapers, while Abilene is owned by the E.W. Scripps Company. This corporate ownership may have muted less liberal attitudes toward homosexuality in these areas of central and western Texas.

Discussion

While all of the Texas newspapers have covered the sodomy case in a fairly balanced fashion, a clear distinction exists between the *Chronicle* and the more rural newspapers. That distinction exists not so much in tone but in sheer number of articles devoted to the issue.

The *Chronicle* also has run a number of editorials opposing the Texas anti-sodomy statute. Typical of these editorials is one that ran on December 10, 2002, that called the Texas law “archaic and discriminatory” (*Houston Chronicle*, Dec. 10, 2002, p. A-26). The editorial continues:

The Texas Legislature has missed a number of opportunities to head off the Supreme Court by striking the state’s archaic and discriminatory sodomy law from the books. It’s not likely that lawmakers will be ready this session to recognize the injustice of regulating conduct in the bedroom...People, including Supreme Court justices, make mistakes. The justices should correct the court’s previous ruling (1986 Hardwick case) by striking down odious sodomy laws in Texas and 12 other states.

The *Chronicle* also demonstrated pro-gay bias in a number of its headlines. A story on the June 2000 state Republican convention, which featured criticism of two Republican appeals court judges who had ruled against the Texas law, began with the headline, Bizarre Double Standard Permeates GOP Convention. *Chronicle* reporter Julie Mason reported that conservative Republicans often criticize activist judges who they say have a liberal agenda.. But these same conservatives also criticize judges who pass up the opportunity to promote a conservative agenda. After two Republican judges on the Houston-based 14th Court of Appeals ruled the law banning homosexual sex violates the Equal Rights Amendment of the state Constitution, Republicans singled them out for reprimand in the state party platform (*Houston Chronicle*, June 25, 2000, p. A-32).

Another story headlined Local Politicians Provided Us Plenty of Entertainment in 2000"

noted that Gary Pollard, the chairman of the Harris County (Houston area) Republican Party, endured moments of infamy in 2000 in attempting to mastermind an unsuccessful plan to get county chairmen to condemn Republican appeals court judges who issued the ruling against the state anti-sodomy law. Reporter Julie Mason noted that the attack on the Republican judges was scuttled after some of the other chairmen either could not find or did not sign the letter drafted by the local party (*Houston Chronicle*, Local Politicians Provided Us Plenty of Entertainment in 2000, December 31, 2000, p. A-32).

Earlier in the coverage of the issue, the *Chronicle* leaned toward the gay-rights side of the debate with the headline on another Mason story titled, "GOP Chairman Raises Eyebrows With Letter to Appeals Judge" (*Houston Chronicle*, "GOP Chairman Raises Eyebrows With Letter to Appeals Judge," July 7, 2000, p. A-34). The story was just as one sided, as evidenced by the lead and first few paragraphs.

Power and politics never take a holiday. The Harris County Republican Party chairman is keeping busy these days, flexing his influence in various chambers of might. That's fine, particularly if that's what his party wants him to do. Certainly, he was re-elected in March without opposition. But recently, Pollard has been meddling in legal areas that raise questions about whether his activities on behalf of the party are really what the party wants to stand for.

The *Chronicle* provided coverage of local State Representative Debra Danburg's effort to make a court ruling unnecessary by nullifying the law first in the legislature. Danburg, D-Houston, said the law banning anal and oral sex between homosexuals is archaic and keeping it on the legal books forces the state to launch to mount costly defenses against challenges (*Houston Chronicle*, Danburg Again Files Bill Seeking Sodomy Law's Removal, January 20, 2001, p. A-31).

The *Chronicle*, in an editorial appearing on March 20, 2001 headlined Time for Texas to

Let Go of Archaic Anti-Sodomy Law, echoed this theme of Danburg's that the state law is archaic. The newspaper criticized the one judge, J. Harvey Hudson, who had argued in favor of the state anti-sodomy law, noting his written dissent from the 2-1 appeals court ruling was weak.

The editorial said:

The fact that he wrote in the opinion that homosexual sex is widely perceived to be destructive and immoral, is evidence of the judge's personal view, as such intimate encounters also are widely perceived in our society to be no one else's business. (*Houston Chronicle*, Time for Texas to Let Go of Archaic Anti-Sodomy Law, March 20, 2001, p. A-22)

Similarly, when the U.S. Supreme Court in December 2002 agreed to decide the case, the *Chronicle* noted what it saw as the importance of the case on the front page, reporting it most likely would lead to the most important gay rights decision in two decades. In the second paragraph, reporter Patty Reinert quoted Mitchell Katine, a Houston lawyer representing the two men who had brought the suit, as saying, "We are having a good morning here!" (*Houston Chronicle*, Supreme Court takes Houston Sodomy Case, December 3, 2002, p. A-1).

Some of the only coverage against the gay-rights position was connected with another appellate ruling, a 7-2 decision by the full 14th Court of Appeals on March 15, 2001, that resurrected the sodomy law from the earlier smaller judicial panel from the same court. In a story headlined, Appeals Court Upholds Sodomy Ban/Panel Overrules Gay-Rights Issue, Judge Hudson in his majority opinion is quoted as saying that "while the modern trend has been to decriminalize many forms of consensual sexual conduct even when such behavior is widely perceived to be destructive and immoral, our concern, however, cannot be with cultural trends and political movements because these can have no place in our decision without usurping the role of the Legislature" (*Houston Chronicle*, Appeals Court Upholds State Sodomy Ban/Panel Overrules Gay-Rights Issue, March 16, 2001, p. A-1).

Abilene and Lubbock, for the most part, provided its readers coverage from the Associated Press wire service. This perhaps reflected a lack of interest in the issue, since no company resources were devoted to assigning a reporter to the issue, and the long distance between these cities and Harris County, where the arrests took place. The stories in these papers tended to be neutral or pro gay rights. One of the exceptions was a wire story that quoted Texas Governor Rick Perry, a Republican, stating “the sodomy law is appropriate” (*Abilene Reporter News*, Perry Says Texas Sodomy Law is Appropriate, December 4, 2002). However, even this story did not go beyond quoting the governor’s brief statement, which could be construed largely as him fulfilling his constitutional responsibility to support state laws in cases before the courts.

The *Amarillo Globe-News* also used the wire story on the governor’s statement, but like the other out-state papers, its coverage reflected a neutral or pro-gay rights tone. The *Globe-News* was the only one of the three newspapers to editorialize on the issue, and it issued a strong pro-gay rights stand. In an editorial headlined Rights Create State of Confusion: Bedroom is No Place for Government, the paper stated:

Government at any level should not determine the legality of the sexual activity of private citizens and consenting adults. Certain segments of society, or even the majority, may frown on such behavior, but it is simply not the government’s business to regulate private sexual activity between consenting adults that does not harm the participants or anyone else (*Amarillo Globe-News*, Rights Create State of Confusion: Bedroom Is No Place For Government,” December 4, 2002).

Conclusion

The discussion of the articles and findings clearly show there was little anti-gay bias evident in the articles in the Texas media during the period examined. In fact, most of the coverage and all of the editorials demonstrated antipathy toward the anti-sodomy statute.

Several reasons for this relative support appear to exist. First, according to Philip Berkebile, executive vice president of the Texas Daily Newspaper Group, newspapers in the state have a reputation for avoiding extreme positions and providing what they consider as fair coverage of local and state issues. “I’ve never really ever heard papers labeled (as liberal or conservative),” Berkebile said in an interview (June 2003). Rather, most newspapers, including the four included in this study, try to steer toward a moderate position, Berkebile said.

Second, out-state newspapers, including the papers in Abilene, Amarillo, and Lubbock, are assisted in providing this fair coverage by utilizing the resources of the Associated Press, which provides extensive coverage in Texas of state issues. This often substitutes for lack of news bureaus in other major Texas cities, with the exception of the state capital in Austin. “They (papers) don’t have bureau access,” Berkebile said. “They really rely on the AP out-state,” Berkebile said. The Associated Press has a reputation for providing thorough and balanced coverage, and rewriting stories that appear in member papers and distributing them statewide. The coverage in the three out-state papers shows this relative neutrality and even a slight positive tilt as a result of the issue being on the political agenda, and journalists more or less being obliged to cover developments in the fight to strike down the sodomy law. The fact that only one paper, Amarillo’s *Globe-News*, wrote an editorial on the issue likely demonstrates the lack of local political importance the gay rights issue has in out-state communities.

Third, group ownership might play a limited role in neutralizing coverage. *The Houston Chronicle* is owned by Hearst Corporation, hardly liberal yet with a reputation

for giving local editors autonomy. The three out-state newspapers (*Amarillo Globe-News* and *Lubbock Avalanche- Journal* with Morris Communications, and *Abilene Reporter News* with the E.W. Scripps Company) also are known as middle of the road papers, Berkebile said. Hearst, Scripps, and Morris are among the twenty largest newspaper groups in the country, according to Audit Bureau of Circulation figures. One can speculate that newspaper executives and reporters, trained to reach out to readers of all kinds, try to strike a middle of the road stance. One should not, however, attribute this to group socialization among Texas media. According to Berkebile, there is not a tendency within the Texas Daily Newspaper Association for editors and publishers to socialize. Instead, the papers draw their strength from their ties to local communities. Without a significant, visible gay community in these cities, gay rights can easily get lost, Berkebile added. “I just don’t think they (editors) get caught up or has interest been expressed in these (gay rights) issues,” Berkebile said. In Texas, the largest gay populations are in Austin, Dallas-Fort Worth, Houston, and San Antonio. Thus, it makes sense that *Houston Chronicle* readers would have the greatest concentration of stories and passion on the issue, since it affects local readers and was a local story to begin with.

Whatever the U.S. Supreme Court rules this month, then, it appears unlikely that Texas newspapers will either be leading a drumbeat for change for or against gay rights. Despite the strength of the religious right in Texas, the traditions of Texas journalism likely will steer daily newspapers like those studied here toward a middle of the road stance.

Study Questions

1. Is this finding a result of the “liberal media” being out of step with readers, especially in more conservative West Texas?
2. Does this finding reflect greater societal acceptance of homosexuality, as evidenced through public opinion polling? Have attitudes changed since the 1986 Hardwick ruling?
3. As in all news stories, coverage attitudes are masked by the desire for “objectivity.” Is it possible to be objective in covering gay rights or other controversial social issues?
4. Is more variety of opinion reflected among national media sources? (Students might check national publications and Web sites.)
5. How do changing societal attitudes on gay sodomy compare with changing attitudes on other issue areas, such as gay marriage or hate crimes associated with sexual orientation? (Students might check national publications and Web sites on these issues as well.)

Informational Resources

Murdoch, Joyce and Deb Price. *Courting Justice: Gay Men and Lesbians v. the Supreme Court*. Basic Books, 2001. The book contains an excellent narrative description of the 1986 Bowers v. Hardwick debate in the Supreme Court.

Christian Science Monitor, March 24, 2003. “Court Test of Gay Rights vs. Traditional Values,” by Warren Richey, staff writer. <http://www.csmonitor.com>

The New Yorker, December 16, 2002. “Comment: Unnatural Law,” by Hendrik Hertzberg. <http://www.newyorker.com>

The complete text of briefs in the case is available on the World Wide Web at http://supreme.lp.findlaw.com/supreme_court/docket/2002/march.html

This includes friend of the court briefs from groups on both sides of the Lawrence v. Texas case.