

Back  
Left temple to jaw. Broused [sic]  
both eyes [sic]

### Attorney General's Office and State Police

Attached to the list in George Smith's file is a letter from Steven Pitonyak, identified as a "Civil Rights Investigator" on letterhead from the Office of the Attorney General and dated October 25, four days after the assault. Pitonyak thanked "Mr. Smith" for talking with him about the experience at the Longhorn Trout and enclosed a brochure on hate crimes produced by the Attorney General's Civil Rights Unit. Pitonyak said he would speak to Ron Goff (the local police chief) and request copies of any reports.

A month later, Investigator Pitonyak wrote to George Smith again, enclosing a copy of the affidavit filed with the Franklin County State's Attorney by Senior State Trooper Craig Gardner of the St. Albans barracks.

In the affidavit, Trooper Gardner (at the time a four-year veteran) relates his interview with George on the night of the assault, including a breathalyzer test showing George's blood alcohol content to be at .108 percent, above the legal limit for driving – but George had walked to and from the bar.

The trooper reports that George said he was talking to one man in particular at the end of the evening, but that "he was not 'hitting on the man and was not trying to bring him home to have sex.'" The rest of the reported interview with George Smith matches in most details the way George related the incident to me – except that no mention is made of the sexual assault.

A few days later, Gardner had interviewed the owner of the bar, Dennis Deuso, who was present that night. According to the affidavit, Deuso agreed to be interviewed but refused to give a written and sworn statement. Deuso said that George (whom he called "Steven") often came into the bar and "stares at men." Deuso suggested that George had "nudged" a man sitting near him, who then moved to the other end of the bar. Later, near closing, Deuso said he heard a disturbance by the door and thought perhaps Adam Fortier had "taken a poke" at George Smith, but says Smith was not injured or bleeding, and that he helped separate the two.

Montgomery Police Chief Ron Goff participated in Trooper Gardner's interview with Adam Fortier, the man George identifies as his primary attacker. Fortier's first question to the trooper was whether he was under arrest, his second whether he should have a lawyer. In Gardner's affidavit, Fortier accused George of "hitting on him all evening," "making suggestive and rude sexual comments to him," offering him a place to stay since Fortier was too drunk to drive, and then grabbing his buttocks.

Fortier admitted grabbing George and shoving him into the door, which was locked, but denied kicking or punching him. He also refused to give the trooper a sworn

written statement without the advice of an attorney.

Another man, James Blodgett, was interviewed as a witness to the event, and – as related by Trooper Gardner – his statement roughly matches Fortier's, with the additional observation that a woman he didn't know pushed George (whom he also called "Steven") to the floor near the door. Blodgett also suggested that another altercation involving George occurred outside the bar, but that he did not witness it.

Senior Trooper Craig Gardner's affidavit concludes that there is "probable cause to charge Adam T. Fortier with the crime of Simple Assault." The affidavit was submitted to the Franklin County State's Attorney.

Brian Miller, a member of the Northwest Unit on Special Investigations who had spoken with George, said at press time that there was no active investigation, that the results of the investigation had been sent on to the Franklin County State's Attorney's office, and that he could not otherwise comment on the case.

George received a letter in mid-March from Franklin County Victim Advocate Cathy Waltz, saying that the State's Attorney had declined to prosecute. No other explanation was offered.

### The Human Rights Commission

George Smith didn't stop there. In January of 2002, three months after the assault, he filed a complaint with the Vermont Human Rights Commission charging the owners of the Longhorn Trout with discrimination in public accommodations on the basis of his sexual orientation and disability.

That complaint charges that Susan Deuso (Dennis's wife and co-owner), a bartender, and several patrons verbally harassed him, that a patron restrained him and struck him, that bar owner Dennis Deuso held him down on the floor and several patrons struck him. According to copies of documents George provided to *OITM*, within three days, Human Rights Commission Case Manager Carol Bliss was writing to Dennis Deuso to inform him of the complaint, provide a copy of George's charge, and request a long list of information: names, phone numbers and addresses of the bar's owners, employees, and patrons present on October 20; training manuals and orientation materials; and any information about the "alleged incident of physical assault."

As of press time – nearly a year after George Smith's initial complaint to the HRC – an investigator is still conducting interviews, and no hearing has been scheduled.

### The Longhorn Trout's Response

Within two weeks of receiving their letter from the Human Rights Commission, Susan and Dennis Deuso responded to the discrimination charge, providing the requested names and addresses (although no training manual or orientation materials were listed) and giving their ver-

sion of the evening's events: "Dennis see Steven [George] push Celeste, and so I went over and grabbed Steven and put him to the floor and told him he didn't want anybody to get punched and to go home.

"Earlier in the evening he was harassing Adam Fortier and a few others and making obscene gestures with suckers [lollipops].

"No one called him a Fag and he knows that, we are not that kind of people. We have all kinds of people in here and no one cares about his or her sexuality." The statement was signed by Susan Deuso, and a copy was forwarded to George Smith by the HRC.

### The American Civil Liberties Foundation of Vermont

Running out of options and feeling that no one was helping, Steven George Smith called and then wrote to the ACLU Foundation of Vermont: "Is the ACLF of V the same as ACLU?" George wrote. He explained why he couldn't afford a long distance call and asked for someone to call him. Then he responded to questions: "911 was called to my home – I don't know if charges were pressed – I don't know if the matter is going to court. I've been told because I remember being sexually assault [sic] in my nightmares that I'm not so pose [sic] to talk about it. If you have 1-800 # send it Benson – hope I answered some of you Qs [sic]."

In his reply, Executive Director Benson Scotch explained that the ACLU focuses primarily on "violations of civil liberties under the Bill of Rights" that had been "committed by the State of Vermont or the federal government."

Scotch added that although George had requested a phone interview, he did not have the staff or volunteers to accommodate him, and asked for more written information.

### Waiting for Justice

At the end of January, George Smith went back to see Dr. Robert Zelazo at the Richford Health Center and was diagnosed with Post Traumatic Stress Syndrome. Since then he's been waiting, rarely going out at night, worried that the people he says assaulted him in the Longhorn Trout might attack him again. He calls the various agencies – on their 800 numbers – and waits for some action. He finds new agencies that might get involved: the Liquor Control Department to consider suspending the bar's license; SafeSpace to get help for himself and his case.

George Smith is still waiting, though he's not quite so alone now that SafeSpace is helping him track his case. George says that SafeSpace Advocate Mike Bensel listens to his frustration with the system, helps him find other agencies to enlist, is working on getting him a lawyer who will take on a civil case against the bar, and is trying to get answers from the law enforcement agencies that have so far let him down. But it's slow work.

Perhaps for one outsider living in eastern Franklin County justice is coming – but then again, so's Christmas. ▼

## How the Human Rights Commission Works

The Human Rights Commission, among other agencies mentioned in this article, has very specific rules about disclosure: specifically, Executive Director Robert Apel said, no disclosure or acknowledgment of the particulars – or even the existence – of a case until an official finding is made. All documents from the Human Rights Commission quoted here were copies provided to *OITM* by Steven George Smith.

The investigatory process for any given case takes one to two years on average, Apel said.

And, with limited staff, certain kinds of cases are of a higher investigational priority than others, admitted Apel. Where there's a continuing relationship between the complainant and the respondent – employees and employers, students and school officials, tenants and landlords – investigations move more quickly.

The Commission has received 69 employment-related sexual orientation discrimination cases – 10 percent of its employment caseload – in the last 5 years; in the same period, there have been 16 public accommodations cases related to sexual orientation, about 6 percent of the cases in that category.

Even after a finding of discrimination, the case is open for at least another 6 months, said Apel, as the Commission offers the parties a chance to settle without litigation. If there is no settlement (better training for employees or reinstatement to a job, for example), the Commission may direct Apel to litigate the case, especially if a class of people (gay or lesbian people, school children, or disabled renters, for example) might be affected by the outcome.

The decision of whether or not to litigate follows its own priorities, according to a draft set of criteria Apel cited: racism, school harassment, and disability access. George Smith's "public accommodations-sexual orientation" case doesn't apparently fit into either of the commission's priority lists.

If the Commission issues a finding of discrimination but does not elect to litigate, their investigation, said Apel, "provides a blueprint" for the complainant's own lawyer to build a case for a civil action – if the complainant can afford one. – EB

## State's Attorney: Will This Evidence Convince a Jury?

Franklin County State's Attorney Jim Hughes said he declined to prosecute Adam Fortier because he didn't think he could convince all 12 jurors to convict him. "Number one," he said, "I have a pretty hard time getting convictions for a simple assault in a bar. Number two, I have to deal with a lack of resources. I have to triage my cases. In this case the evidence was not solid. There were conflicting stories, including a suggestion that Steven Smith had acted inappropriately – not that that means anyone should be punched for it."

Hughes recalled some of the bar's history: "This place used to be called the Slovakia Inn, nicknamed the Slugout. It was just a rough and tumble place."

But, he continued, "Whenever anyone gets hurt we try to look at it seriously. Trooper Gardner did a very thorough investigation – sometimes in a bar fight, a simple assault, you get a one-pager for a report." Gardner's affidavit ran to three-and-a-half pages.

"And we made sure some of Steven [George] Smith's expenses got paid through Victim's Compensation," Hughes concluded. – EB