

The Death of Ben Brownlee

by Jordan Smith

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When a transgendered Rockdale teen asked for help, was anybody listening?



When Karen Johle arrived home from work on the afternoon of Tuesday, Nov. 18, her youngest son, 13-year-old Christopher Brownlee was there, but her older son, 15-year-old Ben Brownlee, was not. Although it was nearly 5pm and the sun was sinking in the winter sky, she wasn't worried. In the evenings, Ben often gathered his portable CD player and a book or his journal, and made the short walk to Rockdale's city cemetery, less than a mile from his mother's Northeast Rockdale home.

Ben liked hanging out at the cemetery, he told his mother, because it was quiet there and he could escape the taunts and verbal harassment lobbed at him by his fellow Rockdale High School students. School was tough for Ben, not academically the RHS sophomore routinely received high marks but socially, and had been for the nearly five years that he lived in Rockdale, entirely because Ben was transgendered. Ben had always been different not at all athletic, Johle said, and very effeminate. At first Ben told her that he thought he was gay, but she says that she knew that wasn't it. "Later he said that he felt that he was a female trapped in a male body," Johle said. "That sounded right."

Last fall, Ben wrote a letter to each of his teachers and the school counselors. "I am reaching out to you for help," he wrote to his history teacher. "I want to tell you about me so that you will know and remember in situations that require this knowledge. As you already know, I am a bit different," he continued. "Also, you know me as Ben Brownlee, a male ... but I identify mentally as a female. This is not a choice it is a fact and a condition." Although Ben made every effort to educate school personnel about his being transgendered, Johle said the exercise had little effect. "He wrote a letter to each of his teachers, to the administrators, and to the counselors. They were all well aware," she said. Still, he was "humiliated on a daily basis" by other students, she said. "They poked fun at him, called him 'queer boy' and 'weirdo' or 'hair girl.' Just stupid kid shit, anything to hurt him. They pretty much did it openly," without reprimand or consequence, she said. Johle told Ben to "be strong, be yourself," and to ignore "these assholes," she said, and Ben told her he understood and was committed to going to school so that he could graduate and "get the hell out of Rockdale." (School officials maintain

they are unaware of any harassment Ben might have endured and that adequate counseling is provided to students who need it.)

Still, as the sun was setting on Nov. 18, Johle said she was a little anxious about Ben's whereabouts. She and Christopher made a run to the grocery store; when they returned it was dark outside, and Ben still hadn't come home. Now Johle was worried Ben rarely stayed in the cemetery after dark. Johle called one of Ben's friends, who said she hadn't seen Ben since before school let out. It was now after 7pm. "I was thinking this was just too weird," Johle said.

"Then I realized that his headphones and CD player were at the end of the couch; then I realized his shoes were under the coffee table," she said. "Something in my gut told me that something was wrong." Hesitantly, Johle asked Christopher to go out back and see if Ben was in the garage. Ben was there dead, hanging from the rafters by a black leather noose made from a horse lead. His journal and the fuchsia stuffed toy he called Grandma Bear were lying on the ground beneath his feet. Christopher returned to the house and called the police; Johle fell to the living room floor, screaming and crying.

Less than 24 hours after his death, Johle heard a disturbing rumor that, in the weeks since Ben's death, has spread throughout the Milam County town. According to the rumor, two RHS football players assaulted Ben as he walked home alone on the afternoon of his death; the two boys allegedly knocked Ben down and urinated on him. Understandably, the story distresses Johle she said that she believes something out of the ordinary must have happened to her son the day he died. Otherwise, she says, he would never have killed himself.

Two months after Ben's death, Johle is still looking for answers. Rockdale police took Ben's suicide at face value, and failed to process Johle's garage as if it were a crime scene they didn't collect his school clothes as evidence, and no one ordered an autopsy, among other things a circumstance that troubles some national law enforcement experts. And it wasn't until three weeks later, at Johle's urging, that the police initiated a rudimentary inquiry into whether the rumor of an assault was true. After conducting a handful of interviews, police said they found nothing, have no leads to pursue, and have closed the case a cursory investigation that the same experts also find troubling.

School officials have also moved on. Although Ben faced constant harassment at school often a fact of life for gay and transgendered teens that has serious consequences, advocates say Johle says that RHS officials did nothing about it, and won't acknowledge there might have been a problem they didn't address. Instead, they seem officially determined to pretend Ben's death didn't happen. One of Ben's friends recently told Johle that students caught talking about Ben while in school are immediately sent to the principal's office and reprimanded. Nor has Ben's death prompted any internal inquiry or policy review by district officials, Johle says a circumstance that advocates and attorneys aware of the growing number of school harassment lawsuits also find disturbing.

Despite the apparent lack of official interest, Johle is determined to find out what led her son to commit suicide. Who, she asks, really killed Ben Brownlee? "I want some answers," she said. "Maybe there aren't any, but I'm not going to rest until I try."

Just Names

Although he always felt different and was uncomfortable in his own skin, it wasn't until mid-2002 that Ben finally learned about "gender dysphoria," or "gender identity disorder," while watching an episode of The Oprah Winfrey Show that featured an interview with a postoperative transgendered woman named Jenny. Ben was elated to learn that there was a word for people like him and that he wasn't alone. "We taped [the show] and we printed out a transcript," Johle said. "We researched it some more. We were in for the long haul." His mother's support boosted Ben's resolve. He began taking female hormones, and his breasts were beginning to develop; he wore makeup to school and dressed in hip-huggers and baby-doll T-shirts. He began attending weekly counseling sessions at South Austin's Waterloo Counseling Center, and he adopted a new name: Tesía Samara.

"At first I had my doubts whether it was doing any good," Johle said of Ben's counseling sessions. "But in the last few sessions he really started making progress." Ben had signed a contract with his counselor, in which he promised not to harm himself or attempt suicide. The therapy was helping Ben deal with his problems at school, Johle said. "He was dedicated to finishing up his last two years of school and to getting out of Rockdale," Johle said. "He was adamant about going to school every day; he was adamant about graduating."

It was a serious commitment for Ben because school was not a pleasant place for him. Ben faced "a lot" of verbal harassment, said his friend Amanda Curtis. "I was around for a lot of it; I always stuck up for him. I told him not to give a f**k what everybody thought," she said. But that wasn't easy for Ben, says his friend Jessie May. "We'd talk on the [instant] messenger, and he'd tell me things [that other students called him], like 'fag boy,'" he said. "First it was just names." Then, after Ben "got up the courage" to write letters to all of his teachers, explaining that he was transgendered, May said, the students' taunts changed. "I guess the students got wind [of the letters] and harassed him on the basis of his being a boy," he said, "and instead of calling him 'Tesía,' they'd call him 'Benny Boy,' which really hurt him, because he didn't see himself as a boy." Curtis said that there was only one teacher, his freshman Spanish teacher, Lisa Aguilar, who ever reprimanded the students for calling Ben names. "She was pretty blunt, and she would get on people for talking about other people," she said. "I don't know that anyone else really knew or that they cared." (Aguilar did not return phone calls requesting comment.)

There were other school officials who were aware of Ben's troubles. Ben had talked with RHS counselors, RHS Principal Allen Sanders told The Rockdale Reporter newspaper. "Our counselors are available to all of our students and they do an outstanding job," he said. And in a November story, a counselor told the Reporter that she had even provided Johle with a referral to a private counselor an assertion Johle adamantly denies. "We found a counselor on our

own," she said, "because [the RHS staff was] not equipped to help." To the Reporter, RHS counselors described Ben as "someone 'with strong communication skills' who would seek out help when something was bothering him." Indeed, Ben regularly communicated his feelings to his English teacher, Linda Muston, in assigned journal writings. "I'm starting to feel like there is hope for me now because I've started seeing a counselor and she is connecting me to people that can start helping me," Ben wrote on Sept. 8. "Great!" Muston wrote in red ink below the entry, next to a smiley face. In response to a question about what would improve his life: "My life would be perfect if only ... what do you think?" he wrote on Nov. 4. "Honestly? Think of what makes me miserable now." Next to another red smiley face Muston wrote, "Got it." And on Nov. 11 Ben wrote, "Maybe this will turn out pleasantly, perhaps not. You're asking someone who doesn't really value their life" a bleak outlook that Muston noticed: "Don't say that! Are things going OK?" she wrote.

Ben respected and trusted Muston, Johle said, but she doesn't know whether Muston ever told school administrators what she knew about Ben's problems. "He was a wonderful writer, a wonderful kid," Muston said. "I've had a very hard time with this and I just ... need some space from it." She declined to elaborate.

Everything Seemed OK

The harassment at school depressed Ben, Johle said, and he had on at least two occasions made half-hearted attempts at suicide once by taking a fistful of Tylenol PM and once by attempting to hang himself in the garage. Ben's friends say he told them about his previous attempts. "And of course I bitched him out," said 17-year-old Francis Manning, but she was shocked to hear that he'd actually gone through with it. "I thought things were really finally coming together for him," she said. He was taking hormones and she thought that the kids at school "had backed off." Manning was not the only one shocked by Ben's death none of Ben's friends or family saw it coming.

In fact, on the day before his death, Ben, Johle, and Christopher made the two-hour round-trip drive to Austin so Ben could visit with his counselor; the session was extremely encouraging, Johle said. The therapist told Johle that Ben had "talked and laughed" and that Ben reaffirmed his commitment to finishing high school. Additionally, as he was asked to do during each session, Ben's therapist asked him to rank his feelings about suicide on a descending scale from one to 10 ranging from serious contemplation to very little suicidal ideation: Ben chose a seven. Gail Goodman, Waterloo's executive director, says that state law prohibits her from commenting on Ben's case or from even confirming that Ben was a Waterloo patient; however, Johle said that when she contacted Ben's counselor after his suicide, the counselor was stunned. "The counselor said that his outlook was really positive," Johle said. "She said [his suicide] was incredible, that the last session was really good and that there was absolutely no indication "that he would kill himself. The therapist's assessment strengthened Johle's feeling that something out of the ordinary happened to Ben on the day he died. "This wasn't the result of verbal sh*t, I can tell you that. We'd dealt with that sh*t it annoyed him, but we'd been

going through that forever," she said. "But [something] physical something clicked, and he had to have felt that nothing had changed and that nothing would ever be any better."

That morning he was in good mood, Johle said, joking about a TV program, and Ben's friends told her that he seemed to be fine during the day. And Johle said that Muston, who had Ben in her last period English class, told Johle that she talked with him after school and that "everything seemed OK." Ben's friends say they don't know if something happened to Ben after school, though they say it is a possibility. "I think it is ... possible and 100 percent probable that it did happen," said John Dromgoole, who graduated from RHS in 2000 and knew Ben through their mutual friend, Amanda Curtis. Dromgoole said he's seen RHS student-on-student harassment get out of control. In 1997 a fellow student "came out" as gay, but ended up dropping out of school because he couldn't take the constant harassment, he said. "Especially [when kids are] in a group ... and find something 'wrong' [with someone] they just attack," he said. "People will laugh about it and talk about it, and then when they're asked later they'll just say they don't know anything about it."

Something to Talk About

That's the response Rockdale police Lt. J.D. Newlin says he's gotten from nearly every witness he's interviewed in connection with the rumor that Ben's suicide may have been preceded by a violent attack. He first heard the rumor from Johle, he said, shortly after Ben's death. "She actually called me at about 2am the night after, and said what she was hearing, and that she thought it was the fault of the school," he said. Still, no one from the Rockdale Police Department gave him the name of an RHS teacher Lisa Aguilar who, Johle said, "had information on the alleged incident." Newlin went to the high school and, in the presence of Principal Sanders, interviewed Aguilar, who gave him the name of a student from whom she'd heard the rumor. Newlin interviewed that student, he said, who told him that she'd heard the story from her grandmother. Newlin said he interviewed the grandmother a friend of Johle's and that she told him she'd heard the rumor some time the year before. (Johle says her friend later said that Newlin misunderstood what she told him and that she had not heard any rumor about Ben being attacked until after his November death.) "It went downhill from there," Newlin said. "If there were something more than a rumor, I'd investigate that." As it is, he says he has nothing more to go on and has closed the case. "There is nothing more than rumors," he said. "People need something to talk about. This is unfortunate."

Newlin's assessment does not satisfy Johle. He didn't talk to any of the RHS football players, she contends, even though two team members allegedly committed the attack. Newlin said he couldn't do that because he didn't have any specific names. "I am not going to line up the whole football team and question them about a possible crime," he said. "I wouldn't want to accuse any child, and I wouldn't want anyone to accuse my child." But Ben's friend Dromgoole said that the information about the football players was fairly specific. Dromgoole said he and Curtis went to RHS two days after Ben's death to talk to Aguilar. "We'd already heard the rumors. We went up to the school and [Aguilar] brought up the rumor, and we were like, 'Oh, even Ms.

Aguilar knows," Dromgoole said. "And she spit out three names." Dromgoole said that he didn't recognize the names and that he doesn't remember them.

Newlin told the Reporter that the case is definitely closed. "We're done," Newlin said. "I don't know of anything else we can possibly do. We've been given many names and talked to every one of them. No one has any firsthand knowledge of an assault." Reportedly, Georgetown-based Texas Ranger Matt Lindeman told Newlin that the Rangers would not be investigating the alleged attack. "He said we've already done everything he could have done," Newlin told the Reporter.

But two national law enforcement experts say that they don't believe the RPD has done enough digging. "Rumors come up in just about every young juvenile homicide/suicide," said Harry O'Reilly, a retired 20-year veteran homicide and sex-crimes investigator for the New York City Police Department who now works with the Southern Policing Institute in Kentucky. "My concern as an investigator would be in tracking down that rumor it would've had to have started from somebody being told, or somebody would have had to see it." The police need to make a "reasonable effort" to locate the source of the rumor, he said, "but you can't expect [the police] to canvass the whole school."

Eugene O'Donnell, a former NYPD investigator and New York prosecutor who currently teaches law and policing at the John Jay College of Criminal Justice, says the RPD compromised its ability to conduct a thorough inquiry into Ben's death by failing to process Johle's garage as a crime scene. "As an investigator, that is a sin," he said. The integrity of the crime scene should've been maintained, and the police should've collected potential DNA evidence; every suicide should be treated as a homicide "until proven otherwise," he continued. "There should not be a rush to judgment it's not like this has to be finished by Friday. It should be a painstaking process. This is ideal: collection of evidence, interviewing people, and close work with a pathologist."

The RPD, on the other hand, does not usually investigate suicide cases, "if there's not something else going on, or if there's no sign of a scuffle," Newlin said. Ben "was not hung up by anyone else. I could tell by the kind of knot." He said that he did read through Ben's journal, but that he did not collect Ben's school clothes as evidence. (Johle later found the black jeans and red-and-white-striped shirt that Ben wore to school that day and bagged them, in case somebody wanted to look at them. But O'Donnell said that now the clothes have little evidentiary value; they cannot be used as evidence since the chain of custody has been broken.) Newlin said Ben's body wasn't autopsied because the justice of the peace who pronounced Ben dead didn't order one. "We don't order autopsies," he said. "The JP does that." Newlin said that he could suggest an autopsy but in Ben's case he did not do that; Ben's body was subsequently cremated.

Even without physical evidence, O'Reilly said there are plenty of avenues left to investigate. For example, he said, the police could conduct a "psychological autopsy" to try to gain information about Ben's overall mental state as well as his specific emotional state on the day he died. "You get a shrink to do it," he said. "You talk to doctors, speak to kids; it's a postmortem profile." O'Donnell agrees that there are plenty of avenues open to Rockdale investigators that is, if they're really interested in getting to the bottom of the allegations and rumors. "If this were a race-related case, almost anywhere in America, this would be on high alert," he said. "Let's do the race case. If I were the chief of police, I would demand cooperation from school authorities: When I say jump, I want you to say, 'How high?' I want everything, and I want to talk to everyone," he continued. "Where is the investigation going to go? I want to know all about this student. I want to know who he sat next to in class and what they talked about. I want to know who talked about him and what they said." In a case like Ben's, he said, there is actually an "unusually large number" of leads and information that can be gathered, "because it is set in a school setting, where there is structure and you know where people are," he said. "That is, if [an investigator] is willing to upset the apple cart of the town, because there will be problems." Students will tell their parents and some parents will be angry, "and some will need lawyers," he said.

"It's not a pretty process, getting to the truth," O'Donnell said. "But we'd be kidding ourselves if we thought that all cases received the same amount of attention. Some are treated differently. There are victims who are seen as more sympathetic. But we can't ignore reality."

Children Left Behind

The idea that the investigation into Ben's death or his problems at school would not be taken seriously by the Rockdale police or school officials doesn't surprise advocates for school safety and equal treatment for lesbian, gay, bisexual, and transsexual students. "Discrimination against LGBT students is the last form of socially acceptable discrimination," says Randall Ellis, executive director of the Lesbian/Gay Rights Lobby of Texas. "LGBT youth suffer because of harassment in school." According to national studies, 84% of LGBT students report being verbally harassed in school, Ellis said, and 82% report that their teachers do nothing to stop the harassment. In a 2003 survey of 887 LGBT students, researchers with the national Gay, Lesbian, and Straight Education Network found that 39% of LGBT students reported being physically harassed and 64% reported feeling unsafe at school because of their sexual orientation, gender identity, or expression. Also according to the GLSEN study, students who experience frequent harassment at school have grade point averages that are more than 10% lower than other students, and 13% of LGBT students who experience frequent harassment report that they do not plan on attending college, compared to 6% of those who have not been harassed.

The numbers reflect a problem, Ellis said, that neither state lawmakers nor officials with individual school districts have been quick to combat. "It's a no-brainer: Of course people want to protect children leave no child behind, right?" Ellis says. "But unless you put the proper mechanisms in place, it becomes no child left behind unless they're LGBT." There are only nine states with anti-discrimination and harassment laws that include protections based on sexual

orientation and gender identity, Ellis notes. Not surprisingly, Texas is not among the nine, nor is there a mandate from the Texas Education Agency requiring public schools to adopt policies prohibiting discrimination or harassment based on orientation or identity.

There have been two legislative attempts at enacting a Dignity for All Students Act: In 2001, Dallas Democrat Harryette Ehrhardt carried the bill, passed by the House before ending as a sine die casualty; last year Houston Democrat Garnet Coleman picked it up, but the bill (HB 862) died in committee without a public hearing.,/p>

The absence of a state law does not preclude individual school districts from adopting anti-harassment or discrimination policies of their own. "That's the important thing about all of these issues in general," Ellis said. "It is more likely to happen at the local level." So far only five Texas school districts have adopted anti-discrimination or harassment policies including Austin ISD, which added sexual orientation to its harassment policy in the late Nineties. Still, "anti-discrimination is the broader and the better language," Ellis said, because those policies often contain stringent reporting requirements, meaning "teachers can't overlook something that is going on." It's that kind of policy that Ellis and other advocates say likely could've helped Ben Brownlee.

According to the RISD Code of Student Conduct, students "shall not engage in harassment motivated by race, color, religion, national origin, or disability and directed toward another student." Any allegations "shall be investigated and addressed," reads the policy, and any "substantiated charge of harassment against a student shall result in disciplinary action." But the policy does not forbid harassment based on sexual orientation or gender identity. Students are not required to report harassment, but are "encouraged to promptly report such incidents to the campus principal." The RISD personnel policy goes one step further, requiring school employees to report incidents of student harassment to the "principal or immediate supervisor," but does not specifically forbid harassment based on orientation or identity.

Johle says that as far as she knows, the constant harassment of her son was neither reported nor investigated. Ben never reported it, she said, and asked her not to either he was afraid that might make things worse and she didn't think it would do any good. Ben had already written a letter to each of his teachers, explaining that he was transgendered: "It is very agonizing, literally, being this way and I mainly run into sticky situations at school," Ben wrote in one letter. "For instance, when they separate the females from the [males] for the nurse's scoliosis testing, those kinds of things are hell for me. I wanted you to know this so that maybe you can help me to avoid some of the hard and embarrassing times I could have.",/p>

Despite her son's straightforward approach, no adults ever intervened on his behalf. In fact, Johle said that since Ben's death, she's heard several stories that suggest some teachers may have compounded the problem. Two weeks ago, one of Ben's friends told her that several students in one of Ben's classes refused to sit next to him. "She told me that the teacher would just say, 'Yeah, I know,'" to the complaining students, "'but you're just going to have to deal with it.' Now, you're going to tell me that this school was not aware?"

Even in retrospect, that remains the official position. "After something like this happens we always look back and say 'Is there something we could've done?'" said Rockdale ISD Superintendent Walter Pond. School officials investigated "thoroughly" not only the rumor that Ben was attacked, but also the allegations that Ben faced continuous harassment at school, he said, "but we didn't find any evidence" to support any of the stories.

RHS Principal Allen Sanders did not respond to repeated requests for an interview. Earlier this month, Sanders told the Reporter that RHS personnel were "on the alert" for in-school harassment. "I feel we do a proactive job in dealing with student harassment," he said. "Our teachers, counselors, and administrators are monitoring student behavior constantly."

According to advocates familiar with the growing number of lawsuits arising from in-school harassment, Sanders' feelings may not be enough to insulate the district from potential liability in Ben's death regardless of whether an assault ever occurred. "I absolutely think that if the situation is that way, that people in the school knew that [Ben] was being abused and did nothing in response, and that, in contrast, they do respond to other things like boys harassing girls that the school has a very serious equal-protection problem," said James Esseks, director of litigation for the American Civil Liberties Union's lesbian and gay rights project in New York City. Esseks said that while federal law does not specifically prohibit discrimination based on sexual orientation or gender identity, students have successfully sued for harassment claims under Title IX, the Education Code amendment that prohibits discrimination based on sex in schools receiving federal funding, and under the Equal Protection clause of the 14th Amendment. "[Under] the federal Constitution," he said, "the government has to provide equal protection to everyone," or run the risk of legal liability. And while the number of students whose suits have prevailed is growing, advocates say that the lawsuits take time and often get "backlogged" in federal court.

Indeed, on Jan. 6, after five years of litigation, the Morgan Hill Unified School District, outside Palo Alto, Calif., finally settled a suit brought by six students who charged that district employees repeatedly ignored or minimized their claims of harassment based on sexual orientation. As part of the settlement, the district paid the students \$1 million in damages and agreed to implement inclusive and stringent anti-harassment policies and comprehensive, yearly diversity and anti-harassment training for all district personnel groundbreaking terms that advocates hope will have far-reaching effects, said Chris Hampton of the New York ACLU.

Freddie Fuentes, now 24 years old and one of the Morgan Hill Six, said he was elated with the settlement and hopes that it will help other students across the country. He said that what began in elementary school as verbal attacks soon turned into physical assaults, once his assailants realized they would not be punished for their behavior. In junior high, Fuentes was hospitalized after he was attacked while waiting for the school bus. "There were about 10 to 15 people, boys and girls, [who surrounded him] ... and were chanting 'Fag! Fag! Fag!' really loud," he said. "I tried to find a way out, but they kept pushing me. The boys started beating me up. The bus drove up, and everybody left the circle, and I was lying there on the ground," he recalled. "I had bruised ribs, and I couldn't breathe. I could see the bus driver I was looking at

her from the ground and asking her for help, but she closed the door and drove off, and I crawled home." When school administrators learned of the attack, they called Fuentes to the office and told him he was being expelled from school. "Instead of expelling 10 people, they expelled me. So that's how they handled it," he said.

Fuentes said that the harassment was so pervasive that for a long time he didn't know that it was wrong. "It had happened so much that I thought it was just natural," he said. "I thought that this was what school was all about."

Educated and Proactive

Karen Johle knows that harassment isn't what school is all about, and she thinks school officials should know that, too. "How many more kids are we going to have to lose because the adults won't do anything?" she asked. Regardless whether Rockdale police or school officials are interested in discovering whether Ben was assaulted the day he died, she intends to thoroughly investigate her son's death. Johle is designing a flyer and posting a reward for any information that may lead to the truth, she said. And regardless whether school officials are interested in conducting any internal review or contemplating any policy changes, she intends to press forward in the hope of forcing change. She admires the Morgan Hill Six, she said, and wants to see similar policy changes put in place in Rockdale. She is not interested in money. "I don't need their money," she said. "In fact, I hope they choke on that sh*t. There is not a dollar amount that I can place on what I lost, and there is no amount of money that will bring Ben back." All she wants, she said, is for school officials to be educated, sensitive, and proactive. "I want them to be educated. I want all the kids who feel like they have no place to go to find out that there are places they can go, there are people they can talk to," she said.

"And I want to show the school that they don't have a choice this is mandatory. You have to do this so that you're equipped for what's going on in the school," she said, sitting in an easy chair in her living room, Ben's purple journal in her lap. "I do believe that would've made a difference for Ben."