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# Potential Juror Credibility Evaluations Of Gay And Lesbian Witnesses

Lisa Mae Olson

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POTENTIAL JUROR CREDIBILITY EVALUATIONS OF  
GAY AND LESBIAN WITNESSES

by

Lisa Mae Olson  
Bachelor of Arts, University of Hawaii, 2005  
Juris Doctorate, University of North Dakota, 2008

A Dissertation  
Submitted to the Graduate Faculty

of the

University of North Dakota

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for the degree of

Doctor of Philosophy

Grand Forks, North Dakota  
August  
2014

c 2014 Lisa Mae Olson

This dissertation, submitted by Lisa Mae Olson in partial fulfillment of the requirements for the Degree of Doctor of Philosophy from the University of North Dakota, has been read by the Faculty Advisory Committee under whom the work has been done and is hereby approved.

---

Dr. Roni Mayzer, Chairperson

---

Dr. Bruce DiCristina

---

Dr. Wendelin Hume

---

Dr. Martin Gottschalk

---

Dr. Karyn Plumm, Member at Large

This dissertation is being submitted by the appointed advisory committee as having met all of the requirements of the School of Graduate Studies at the University of North Dakota and is hereby approved.

---

Dr. Wayne Swisher  
Dean of the School of Graduate Studies

---

Date

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Department    Criminal Justice

Degree         Doctor of Philosophy

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To Moe, Kai, & Solomon.  
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## ABSTRACT

This study looked at whether the sexual orientation of a witness has an effect on a potential juror's determination of the witness's credibility, and examined traits such as respondent gender and college major, that may predict high levels of sexual prejudice. The sample consisted of 379 undergraduate students at a medium sized, upper Midwestern university. Results did not reveal an overall link between witness credibility ratings and sexual orientation, with the gay male witness receiving the highest credibility rankings followed by the heterosexual male witness, heterosexual female witness, and lastly, the lesbian female witness. It does not appear that the sexual orientation of the witness alone had any influence on the juror verdicts or on the respondents' belief in the guilt of the defendant.

Lower credibility ratings of the witness were predicted by the witness's gender. Female witnesses were rated as significantly less credible than male witnesses. The lesbian female witness received lower credibility scores than did the heterosexual female witness.

Three variables emerged as predictive of high levels of sexual prejudice. Male respondents reported the highest levels of sexual prejudice against both gay men and lesbian women. An examination of the means of male respondents' scores suggests higher levels of prejudice against gay men. The second predictor of high levels of sexual prejudice was the respondent being a criminal justice or other, non-

social science major. Respondents in both of these categories held significantly higher levels of sexual prejudice against gay men than do students of other social sciences. Finally, respondents who do not have gay friends and/or family members had higher levels of sexual prejudice than respondents who do have ties to the gay community.

Based upon the results obtained in this study, it does not appear that the sexual orientation of a witness who has no stake in the outcome of the case will have any bearing on the ultimate outcome of a case. However, certain demographics of the college students surveyed here hold high levels of sexual prejudice, with respondent gender, college major, and lack of ties to the gay community being predictive of high prejudice. Study strengths and weaknesses are discussed, as are implications for reducing sexual prejudice among college students, with an emphasis on criminal justice students.

## CHAPTER I

### INTRODUCTION

The term “homophobia,” coined by George Weinberg (1972, p. 4) to describe the social issue of antigay hostility, is defined as “the dread of being in close quarters with homosexuals – and in the case of homosexuals themselves, self-loathing.” However, the term has drawn criticism in that it implies an irrational fear that falls more into the category of a disorder rather than a belief that is the result of socially constructed norms (Herek, 2000a). The error in classifying an antigay attitude as a phobia is the assumption that fear forms the basis of the prejudice as seen with other phobias, an assumption that has not been supported by empirical evidence (Herek & McLemore, 2013). Additionally, emotions other than fear, such as anger and disgust, are likely more responsible for antigay attitudes (Giner-Sorolla, Bosson, Caswell, & Hettinger, 2012; Herek, 2002; Parrott, Peterson, Vincent & Bakeman, 2008). A second problem with classifying antigay attitudes as a phobia is that the nature of phobias suggests an irrational fear, whereas many of those who hold negative attitudes toward gays and lesbians do so with justifications that they consider rational (Herek & McLemore, 2013).

Herek (2000a, p. 20) instead offers the term “sexual prejudice” as an alternative to “homophobia,” a term that encompasses the negative attitudes that heterosexuals may hold towards homosexual behavior, persons who identify as

homosexual or bisexual orientation, and lesbian, gay, and bisexual communities without suggesting fear of lifestyles other than heterosexual ones. Terms such as heterosexism, homonegativity, and sexual prejudice reflect more contemporary views regarding those with prejudice against persons of nontraditional sexual orientation (Hetzl, 2011). These terms do not indicate a fear of homosexual persons or behaviors, as the term “homophobia” does, but instead “place[s] the responsibility for prejudice with those who hold negative views” regarding gay men and lesbian women (Herek, 2011, p. 1422).

Historically, adults in the United States have held negative attitudes towards homosexuality, but over recent decades, the attitude of the public has become more accepting of homosexual relationships and behavior (Yang, 1997). Though most Americans may be in favor of granting basic civil rights and liberties to gays and lesbians, there is still resistance toward giving them the same rights that are afforded to heterosexuals, specifically in the area of family matters, such as marriage and adoption (Yang, 1997). Poll data from 2006 reflects that the trend toward acceptance continues to increase, but there is still some hesitancy among the American people to fully accept the rights of gay and lesbian citizens as being on par with heterosexual rights (Becker & Scheufele, 2011).

Mid-2012 public opinion polls for the first time in history revealed that a majority of Americans supported gay marriage (“Poll: 53% of Americans,” 2013; Saad, 2013). Public opinion was strongly reflected in the 2012 election, where voters in three states, Maryland, Maine and Washington, were the first in electorate



history to cast votes which effectively legalized gay marriage, and Minnesota voters became the first to reject the addition of a constitutional amendment that would have defined marriage as being between a man and a woman, clearing the way for legalizing same-sex marriage in their state (Crary, 2012). There currently are 19 states, plus the District of Columbia, that have legalized gay marriage, eight through court decisions, eight through state legislation and three through popular vote (“19 States,” 2014). Same-sex marriage bans in twelve states have been ruled unconstitutional by federal judges, but same-sex marriages in those states have been put on hold pending appeals.

In the realm of the military service, recent years have seen the defeat of the “Don’t Ask, Don’t Tell” policy, enacted in 1993 as a compromise by President Clinton to the conservative attitude that homosexuality had no place in the military service (“A history of,” 2013). The policy was officially repealed in December of 2010 and took effect the following September, opening the doors to gay and lesbian members serving openly in the military. A 2012 study of post-repeal military readiness found that there were no adverse effects of allowing gays and lesbians to serve openly on military readiness and no decrease in morale, nor was there any decrease in the recruitment or retention of service members, despite the predictions of outspoken opponents to the repeal (Belkin, Ender, Frank, Furia, Lucas, Packard, Schultz, Samuels, & Segal, 2012).

Though trends may be leaning towards acceptance of gay and lesbian individuals and lesbian, gay, bisexual, and transgender (LGBT) equality in general,

prejudice against gays and lesbians still exists and has been referred to as being the last socially acceptable form of prejudice that exists in today's society (Brower, 2002; Noga-Styron, Reasons, & Peacock, 2012). Other types of prejudice, such as those based in race, ethnicity and religion, are more widely condemned, and individuals holding such beliefs are often restricted by social norms from expressing them (Herek & McLemore, 2013). Discrimination based upon race, ethnicity, or religion is outlawed and has been greatly reduced, but sexual orientation prejudice is still acceptable by many social norms, included those embedded in culture, religion, and the law.

One arena where every citizen of the United States would expect equal treatment regardless of sexual orientation is within the court system. Every criminal defendant whose case is before the court is presumed innocent until proven guilty of a crime, one of the oldest basic tenets of our modern day law, observed in ancient Greek and Roman law and traceable back to the Bible (*Coffin v. United States*, 1895). However, the rules of fairness observed in court do not always apply, especially when the issue of sexuality comes into the courtroom (Hill, 2000; Russell, Ragatz, & Kraus, 2009; Smyth, 2006).

The issue of sexuality may come to light during a trial in a several different ways; any of the trial participants, from defendant to attorney to witness, may be gay or lesbian. In some circumstances, the prosecutor brings up sexuality as part of a trial strategy (Goldstein, 2001; Smith, 2002). This may be an attempt to create a divide between the defendant and the jurors (Haney, 1996; Shortnacy, 2001).

An important duty entrusted to jurors involves making credibility determinations of the witnesses who testify during trial. Witnesses may play any of a number of different roles during a trial. They may be expert witnesses who are completely unrelated to the case, but called to the stand to share a professional opinion or assessment of the evidence. A witness may be an eyewitness who has some valuable information to share with the court. Alibi witnesses provide testimony that would suggest that the defendant could not have committed the crime for which he is on trial. In some cases, witnesses are called to the stand to testify about the character of the defendant. Witnesses may be neutral parties or they may have a stake in the outcome of the case. In some cases, the defendant himself or herself is a witness.

Witnesses in a criminal trial serve an important function, and the jury is tasked with weighing the credibility of each witness. In some instances, the jury will find a witness to be very believable and in others, the jury will determine that the witness was untruthful. The jury's determination regarding the credibility of the witnesses is key to the outcome of many cases (Dahl, Enemo, Drevland, Wessel, Eilertsen, & Magnussen, 2007; Wessel, Bollingmo, Sonsteby, Nielsen, Eliersten, & Magnussen, 2012).

It is important to understand the dynamics of a juror's assessment of credibility. To effectively determine the proper functioning of our legal system, we must understand the factors that play into a juror's determination. Special consideration should be paid to the effect of extralegal factors. Extralegal factors

are factors that are not legally relevant and should not be considered by jurors when making a decision, but are not always ignored. They may cause a juror to have strong feelings about a witness or a litigant and may include characteristics such as physical attractiveness, race, perceived sexuality, disability, emotional display, and gender.

A witness's sexuality can sometimes be ignored. Having not been told otherwise, jurors typically would assume that a witness is heterosexual (e.g., Herek, 2007). It is not generally proper to question a witness as to his or her sexuality, unless it is somehow related to the case. However, in many instances, the sexuality of a witness cannot be ignored (Clemens, 2005). For example, a defendant may be accused of killing a same-sex intimate, and an ex-lover is called to testify about their relationship. A defendant may be the child of a homosexual couple, who are called as witnesses to attest to their child's character. Perhaps a witness who happens to be a feminine male or a masculine female is called to testify and the witness's outward appearance and mannerisms causes jurors to make assumptions about his or her sexuality, regardless of the accuracy of those assumptions. A witness may be the victim of the defendant's alleged actions, and where sexual orientation is an element of the crime, such as in hate or bias crimes, there is no way to avoid the issue of sexual orientation.

Anti-gay animus becomes a problem in the courtroom when it affects the outcome of cases. If a gay witness is not found credible when a heterosexual witness giving the same testimony would be, there is the danger of swaying the

outcomes of trials. It is important that we better understand sexual orientation bias and the way that it functions within the court system, and especially with our jury system.

By studying juror prejudice against gay and lesbian witnesses and how it can adversely affect our justice system, we can better understand this type of prejudice and hopefully produce some viable methods by which to combat it. It is quite possible that sexual orientation prejudice is a minor issue that does not have a significant impact upon trial outcomes. However, our justice system subscribes to the Blackstone ratio, which states that it is better that ten guilty men go free than to cause one innocent to suffer (Voloikh, 1997). If just one person is wrongfully convicted based upon sexual orientation prejudice, then it is an issue that needs to be remedied.

The purpose of this study is to gauge the level of sexual orientation prejudice among a sample of potential jurors with regards to a gay or lesbian witness who has no stake in the outcome of the case, and to determine whether this prejudice has the potential of affecting case outcomes.

## **CHAPTER II**

### **LITERATURE REVIEW**

This chapter will introduce the reader to the issue of gay and lesbian treatment within the court system. The treatment of gay and lesbian witnesses by jurors has not been studied, but research relating to the treatment of gay and lesbian persons in general will help to guide expectations as to what a gay or lesbian witness would expect in court. First, history of the struggle toward LGBT equality is discussed. The theoretical framework within which the current study is grounded is detailed. Next, discrimination is considered, including how discrimination manifests in different settings, such as on campus and within the workplace, and some characteristics that are known to predict discriminatory attitudes are described.

Before considering the court system itself, it is important to understand criminal justice education and how it relates to sexual prejudice. Many criminal justice students become law enforcement professionals, who are the gatekeepers to the criminal justice system itself. Prejudice among criminal justice students and criminal justice professionals is contemplated before moving into a discussion of juror assessment of witnesses. Different types of witnesses are looked at, as are the ways that jurors evaluate the credibility of their testimony.

Finally, the treatment of gay and lesbian players within the courtroom is examined. Gay and lesbian victims of crime and their treatment is discussed,

followed by a discussion of the treatment of gay and lesbian defendants. Trial strategy is considered, including the ways that trial strategy can damage the case of a gay or lesbian criminal defendant, and be used to discredit accounts by gay or lesbian victims. Lastly, past studies on juror evaluations of credibility are examined, including the methods used by the researchers.

### **The Struggle For Equal Rights For Gay And Lesbian Citizens**

The movement for LGBT equality in the United States was in existence for many years prior, but began to build steam in the 1960's alongside the larger civil rights movement (D'Emilio, 1983; Hall, 2010). The raid of New York City's Stonewall Inn, a popular Greenwich Village gay bar, on June 27, 1969 and the riot that ensued is widely recognized as the beginning of the movement towards LGBT equality in the United States (Poindexter, 1997). What was meant to be a routine raid on a gay bar was met with resistance that included burning the building to the ground, vandalism, attacks against police officers and their vehicles, and a crowd estimated at over 2,000 (D'Emilio, 1983).

Within the four years following the Stonewall riots, the number of gay and lesbian organizations in the U.S. increased from 50 to 800, including a number of organizations based on university campuses, with tens of thousands of individuals becoming involved in the movement for equality (Hall, 2010). The movement gained momentum in the decade following the Stonewall Riot with informal protests, marches, and sit-ins. The largest organized protest against the unequal treatment of LGBT persons to date occurred on October 14, 1979 where 100,000

protesters attended the first national march for LGBT equality in Washington D.C., with similar larger marches held in 1987, 1993 and 2000 (Williams & Retter, 2003).

In the 1970s, the movement made significant gains in terms of achieving legal protections, but these gains were met with opposition from fundamentalist Christians and conservatives (D'Emilio, 1992). Between the late 1970s and early 1990s, several municipalities enacted ordinances offering protected class status to gay and lesbian residents with varying degrees of success (Gossett, 1999). Between 1977 and 1980, bills offering protection to citizens based upon sexual orientation were rejected by voters in popular votes in Wichita, Kansas, St. Paul, Minnesota, and Eugene, Oregon (Hall, 2010). Wisconsin passed the country's first comprehensive law prohibiting discrimination based upon sexual orientation in 1981, becoming the first state to legislate such protection (Williams & Retter, 2003).

The U.S. Supreme Court's ruling in *Bowers v. Hardwick* (1986) served to set back the movement towards LGBT equality. Hardwick's home was entered by police officers responding to a false report of a crime in progress when the defendant was found to be engaging in sexual intercourse with another man. He was cited for violation of a state law prohibiting sodomy. The Court upheld the Georgia state law, finding that there is no fundamental right to participate in homosexual activities, regardless of whether those activities occur in the privacy of the home. This decision served to reaffirm the problematization of sexual minorities, grounded itself in religion and heteronormative morality, and made parallels between same-sex sexuality and deviant, even criminal sexual activity (Herek, 2007).



In 1994, Colorado voters passed a constitutional amendment prohibiting any legal protections for persons based upon sexual orientation, challenged in *Romer v. Evans* (1996). This was in response to a number of local ordinances passed in various parts of the state that extended protection against sexual orientation discrimination in a number of arenas such as housing, employment and education. The U.S. Supreme Court ruled that the amendment was unconstitutional in that it denied the equal protection of the law to a group of people based upon sexual orientation, “not to further a proper legislative end but to make them unequal to everyone else” (p. 635). There is currently a patchwork of different types of protections for different categories of LGBT persons, with most states offering at least some protection (Map of State Laws, n.d.). These protections cover a range of topics such as hospital visitation, adoption, hate crimes, anti-bullying, marriage, employment and housing with a conspicuous absence of legislation throughout most of the southern United States and upper Midwest.

In response to an “orchestrated legal assault being waged against traditional heterosexual marriage by gay rights groups and their lawyers” (United States House, 1996, p. 2), Hawai‘i voters in 1994 approved a constitutional amendment that gave the state legislature the power to restrict marriage to opposite-sex couples (Haw. St. Const.). This ballot measure was the culmination of a protracted legal battle that began with three same sex couples who had been denied marriage licenses filing suit against the State on equal protection grounds (*Baehr v. Miike*, 1996). The State prevailed at the trial court level, but the plaintiffs appealed the case to the Hawai‘i Supreme Court. On remand, the Circuit Court held that the State’s denying marriage

licenses to gay couples solely as a function of gender did not meet the high burden of strict scrutiny, required by the courts when making distinctions based upon characteristics such as gender. Despite the fact that the Court determined that there was a denial of the equal protection of the law, the case was ultimately dismissed as moot, as the decision on gay marriage in Hawai'i had been put in the hands of the electorate during the pendency of the appeal.

Fear of the Full Faith and Credit Act's power to force states to recognize gay marriages performed legally in other jurisdictions caused a wave of states to adopt some version of a Defense of Marriage Act (DOMA) ("19 States," 2014). Within the three years following Hawai'i's vote on the issue, 21 states adopted constitutional amendments and state laws banning gay marriage and three other states enacted legislation for the purpose of denying gays the right to marry. The federal government legislated its own DOMA in 1996, which not only denied federal recognition of gay marriage but also provided the sole exception to the Full Faith and Credit Clause, allowing states to choose whether to recognize gay marriages performed in other states (United States House, 1996).

In the 2003 *Lawrence v. Texas* decision, the U.S. Supreme Court overturned its 1996 decision in *Bowers v. Hardwick*. The Court recognized its error in framing the issue as one of a right to engage in homosexual behavior as opposed to a right to engage in private behavior in the home and even stated, "*Bowers* was not correct when it was decided and it is not correct today" (p. 578). The effect of the *Lawrence v. Texas* ruling was that the Texas sodomy law was struck and the remaining sodomy laws throughout the country were invalidated.

The first state to recognize gay marriage was Massachusetts, which decided to legalize gay marriage rather than appeal the Massachusetts Supreme Court ruling in *Goodridge v. Department of Public Health* (2003). Among the plaintiffs in *Goodridge* were couples who had been partnered for decades, couples who were raising children together, bankers, lawyers, teachers, and business executives. The Court defined marriage as “the voluntary union of two persons as spouses, to the exclusion of all others” (p. 969) and ruled that the denial of marriage licenses solely on the basis that the applicants are the same sex was in violation of the State Constitution.

Similar court decisions followed in Connecticut in 2008, Iowa in 2009, California, New Jersey, and New Mexico in 2013, and Oregon and Pennsylvania in 2014 (“19 States,” 2013). Other states followed suit but did so through legislation, with Vermont being the first in 2009, followed by New Hampshire in 2010, New York in 2011, and Rhode Island, Minnesota, Delaware, Hawai‘i, and Illinois (effective June 1, 2014) in 2013. Popular votes in Maine, Maryland and Washington legalized same sex marriage in their states in late 2012 and early 2013. Same-sex marriage is currently stayed pending appeals in Utah, Oklahoma, Kentucky, Virginia, Texas, Michigan, Arkansas, Idaho, Indiana, Colorado, Florida, and Wisconsin.

Attorney General Eric Holder announced in early 2011 that the Justice Department would no longer defend DOMA against challenges filed in court (Pepper, 2013). This announcement came following President Obama’s determination that the language of DOMA denied same sex couples equal protection under the Fifth Amendment. The administration would continue to enforce the law,

including denying federal benefits to same sex couples, until it was either repealed by Congress or struck down by the Supreme Court.

The legal challenge of the federal DOMA made its way to court through an elderly woman, Edith Windsor, who had been with her same sex partner, Thea Spyer, for nearly five decades (*United States v. Windsor*, 2013). The couple met in 1963, registered as domestic partners in 1993 in New York, and legally married in Canada in 2007. Ms. Spyer passed away in 2009 and left a sizeable estate to Ms. Windsor, for which Ms. Windsor was taxed in excess of \$363,000. Had the couple been a legally married heterosexual couple, no such estate tax would have been levied, as there is a federal exemption for surviving spouses. Ms. Windsor paid the tax bill and then filed suit for a refund, claiming that DOMA denied her equal protection of the laws on the basis of her sexual orientation by denying her the surviving spouse exemption. The Court held that DOMA is unconstitutional and invalidated the federal statute as serving no legitimate purpose, that it singles out people whom individual states, through legalized same sex marriage, have deemed to be deserving of certain protections, and imposes a disability upon those persons by refusing to recognize their union, deeming that union as less worthy than other unions.

Though the battle for equality for gays and lesbians has a long and animated history in the United States and significant gains have been achieved, there is still not equality. There have been laws passed to confer equal treatment of gay and lesbian families, to protect against bullying and criminal acts based upon sexual orientation, and to ensure equal access to housing, education, and employment, but

there are still many areas of the country where no protections are available (Maps of State Laws, n.d.). Though this country appears to be on track to provide legal recognition and protection to gays and lesbians, discrimination still exists as individual thoughts cannot be regulated and there are a lot of actions that, though discriminatory, are legal (Herek, 2009).

### **Theoretical Framework**

This research is grounded in Herek's (2007) sexual stigma and prejudice theory. Goffman (1963) defines stigma as referring to "an attribute that is deeply discrediting" that causes the person possessing the attribute to be "reduced in our minds from a whole and usual person to a tainted, discounted one" (p. 3). Those possessing stigmatized traits may be seen by others as "not quite human" (p. 5). The result of stigma can be discriminatory treatment toward the holder of these traits.

Goffman (1963, p. 4) identified three different types of stigma, the first of which he describes as "abominations of the body." An example of this stigma would be a physical disability, such as being in a wheelchair or blindness. The second type of stigma described by Goffman is "blemishes of character," which are characteristics that may be perceived as being undesirable. Some examples of these character blemishes include a person having a criminal record or mental illness. "Tribal stigma" is a stigma that can be passed on through generations, such as race and religion. A homosexual orientation, according to Goffman, would fit into the second category.

One dimension that may affect the interpersonal roles of the stigmatized person is concealability, which refers to the degree of visibility of the stigmatized characteristic (Jones, Farina, & Hastorf, 1984). According to Jones et al. (1984), the visibility of a stigmatized characteristic is an important element to the formation of negative perceptions. Homosexuality is an example of a characteristic that is not particularly visible, but may be signified by certain outward indicators, such as an individual wearing certain clothing, symbols, or jewelry (Frable, Wortman, & Joseph, 1997). A person's sexual orientation will most frequently be made known to others through the individual disclosing this information rather than through outward indicators (Garnets & Kimmel, 2003; Hooker, 1965).

The attributional theory of stigma may be used to explain stigma and discriminatory treatment of those who have stigmatized characteristics (Corrigan, River, Lundin, Wasowski, Campion, Mathisen, Goldstein, Bergman, & Gagnon, 2000; Piliavin, Rodin, & Piliavin, 1969; Weiner, 1995). The perceptions about the person with the stigmatized characteristic may cause others to have emotional reactions that will dictate the treatment of that person, which may include helping or punishing behaviors (Corrigan, Markowitz, Watson, Rowan, Kubiak, 2003; Weiner, 1995). When people encounter an individual who possesses such a characteristic, there will often be an attempt to determine fault for that characteristic, and in the process, attributions will be made as to the cause of the characteristic and the holder's level of controllability over it (Weiner, 1995).

The perceived controllability of the stigma, or the extent to which a stigmatized person may be thought responsible for the stigma, may dictate others'

treatment of him or her (Corrigan, et al., 2000; Crandall & Eshleman, 2003; Weiner, Perry, & Magnusson, 1988). The degree of blame assigned to an individual for his or her condition may be dictated by attributions of controllability over the condition (Krendl & Wolford, 2012; Weiner, 1993; Weiner, 1995, Weiner, 1996). When the cause of the stigmatized characteristic is believed to be biological, and beyond the control of the actor, the person will experience more positive and supportive treatment than when the cause is thought to be a result of the individual's shortcomings or bad decisions (Hegarty & Golden, 2008). For example, possessing a characteristic such as a birth defect will often be seen as something that is beyond the individual's control. As a result, the individual who was born with a birth defect will be less likely to be blamed for that birth defect and is less likely to be stigmatized (Krendl & Wolford, 2012; Weiner, et al., 1988). Alternatively, an alcoholic may be thought to be responsible for the alcoholism because alcoholism may be perceived to be the result of the individual making bad choices. The alcoholic will often be assumed to have a high level of controllability over his or her drinking habits, and as a result, will have a high likelihood of stigmatization. One who believes that sexual orientation is based in biology is less likely to blame a homosexual person for his or her sexual preference and will be less likely to treat sexual orientation as a stigmatizing characteristic, in contrast to one who believes that homosexuality is a choice.

Herek's (2007, pp. 906-907) sexual stigma and prejudice theory is based in the paradigm of sexual stigma, defined as "the negative regard, inferior status, and relative powerlessness that society collectively accords to any nonheterosexual

behavior, identity, relationship, or community.” Nonheterosexual behaviors and culture are devalued in the United States and have negative connotations when compared with the heterosexual culture.

Sexual stigma, according to Herek (2007), is a cultural phenomenon that exists within society as a collective concept, rather than one centered on the individual. Similar to other types of prejudice, sexual stigma was developed and maintained through the unequal distribution of power within society, where those with fewer resources, influence, and control become marginalized (Link & Phelan, 2001). Several related concepts must be present for stigma to emerge. These concepts include distinguishing differences and labeling those differences, the dominant culture linking the labeled person to undesirable characteristics and developing negative stereotypes related to those differences, placing labeled persons into a distinct category to create an “us” versus “them” mentality, and the labeled persons losing their status and experiencing discrimination which results in disparate outcomes. The final element that allows for the development of stigmatization is an unequal power distribution that permits the separation between dominant and subordinate groups to continue and deepen.

Heterosexism, supported through societal norms that uphold heterosexuality as the ideal, is one manifestation of sexual stigma (Herek, 2007). Heterosexism is supported through social institutions such as religion, the law, and medicine in two different ways. First, members of the general population will assume that all others are heterosexual unless they are informed otherwise. Second, when sexual orientation other than heterosexual becomes known, society views the behavior as



abnormal, unnatural, and inferior. Nonheterosexual individuals, because of their differences, are seen as deserving of lesser treatment, including discrimination.

Sexual stigma also manifests in the behavior of individuals through enacted stigma, felt stigma, and internalized stigma (Herek, 2007). Enacted stigma involves the acting out by individuals against nonheterosexual persons. This acting out can be through words or actions, including violent actions.

Felt stigma emerges from a person's expectation that enacted stigma will affect him or her (Herek, 2007). It does not require that the person experience enacted stigma, but he or she may change behaviors to avoid enacted stigma being directed at him or her. Lesbians and gay men may cope with sexual stigma through passing, conversion, or covering (Yoshino, 2002).

Kanuha (1999) suggests that gay passing, where a homosexual individual does not reveal his or her true sexual identity and an example of felt stigma within Herek's (2007) framework, is a technique employed by individuals to escape society's oppression. Kanuha (1999) likens gay passing to a person claiming to be more youthful than they actually are and a person who cannot read who orders from a picture menu to avoid exposing his illiteracy. Similarly, a domestic violence (DV) victim may blame her own clumsiness for her injuries rather than admitting to being victimized and exposing herself to the negative stereotypes associated with DV victims. These individuals seek to avoid the societal stigmas of ageism, illiteracy, and intimate partner violence by "passing" as a member of the in group, similar to the way a gay male may pretend to be interested in women. She argues that this is not necessarily the individual embracing the stigma, but rather a strategy to avoid

oppression. Passing may be a source of stress for the individual as he or she may worry about being discovered and the implications of being perceived as a fraud (Goffman, 1963).

Covering refers to the downplaying of characteristics (Goffman, 1963). A stigmatized person may engage in covering to detract attention from the stigma. Covering is a method by which a nonheterosexual person may assimilate with heterosexual others (Goffman, 1963, Yoshino, 2002). The individual does not alter nor hide the characteristic, but rather tempers it (Yoshino, 2002). A lesbian woman who engages in covering does not deny her sexual identity or attempt to pass as a heterosexual woman, but may refuse to hold hands with her same-sex partner in public.

The third type of stigma, internalized stigma, or self-stigma when experienced by sexual minorities, occurs when an individual, regardless of sexual orientation, accepts that sexual stigma is “a part of her or his own value system and self-concept” (Herek, 2007). When a nonheterosexual person reflects a self-stigma, he acknowledges that society devalues his sexual identity and feels that the devaluing is proper and deserved, and will hold negative perceptions regarding his own sexuality and desires. When a heterosexual person reflects a self-stigma, it manifests as a sexual prejudice and may result in the person engaging in discriminatory behavior.

## **Discrimination Against Gays And Lesbians**

### **Discrimination on campus**

There have been numerous studies completed for the purpose of examining anti-gay bias among heterosexuals. In the college setting, it appears that heterosexual students discriminate against their gay and lesbian cohorts to some extent (Chonody, Siebert, & Rutledge, 2009; Cotten-Huston & Waite, 1999; Cramer, Miller, Amacker, & Burks, 2013).

Studies of campus climate at institutions of higher learning nationwide indicate that a significant minority of LGBT students reports a hostile environment due to the attitudes and treatment from other students (Brown, Clarke, Gortmaker, & Robinson-Keilig, 2004; Gortmaker & Brown, 2006; Rankin, 2004). Negative experiences are still fairly common on college campuses and LGBT respondents experience harassment at greater rates than heterosexual students (Rankin, Weber, Blumenfeld, & Frazer, 2010).

In their 2013 study, Tetreault, Fette, Meidlinger and Hope found that most of the perceived unfair treatment experienced by LGBT college students was treatment by other students (64%) but 14% of respondents reported unfair treatment by faculty. One-fourth of respondents had considered leaving school, a result that was predicted by the student hiding his or her sexual orientation, rejection by friends as a result of disclosure of sexual identity, and unfair treatment by an instructor. The majority (60%) of LGBT students reported that they had not attended any LGBT events on campus and that the primary reason for nonattendance was the fear of being labeled (Rankin et al., 2010).

Antigay discrimination on campus may extend to bias against gay and lesbian faculty members as well, according to a study conducted by Anderson and Kanner

(2011). LGBT faculty respondents indicated that they were less comfortable with the overall campus climate at their institutions (Rankin et al., 2010). They were also found to be significantly more likely to perceive harassment at their schools than were the student or staff respondents.

Participant students were asked to evaluate syllabi for a proposed Psychology of Human Sexuality course (Anderson & Kanner, 2011). Sixteen versions of the syllabus were created to vary “professor political ideology, typographical errors, professor sexual orientation, and professor gender” (p. 1545). Political ideology was inferred through the recommended texts for the classes and by using conservative or liberal wording throughout the syllabi (e.g., endorsing sexual restraint and abstinence in conservative syllabi and celebrating the variety of human sexual behaviors in liberal syllabi). Sexual orientation was inferred through a short biographical statement and through the professor’s credentials, which described his or her membership in either a gay and lesbian professional organization or a sexual orientation neutral professional organization. The researchers found that knowledge of the professor’s nonheterosexual orientation when reviewing a class syllabus dictated a belief that the professor had a political agenda for teaching the course, had personal biases, and intended to force their views regarding sexuality upon students in the class.

Studies have also shown some degree of sexual orientation bias against instructors who have identified as being gay males during in person lecture (Crandall & Cohen, 1994; Russ, Simonds & Hunt, 2002). Interestingly, the same bias has not been present for instructors who self-identify as being lesbian women

(Ewing, Stukas & Sheehan, 2003; Liddle, 1997). A recent study did not find a difference in student opinion of gay or lesbian instructors but did find that male students tended to retain less knowledge when the instructor was a gay male, suggesting an implicit prejudicial bias by male students against gay male instructors (Oberle, Nagurney & Lee, 2011).

### **Workplace discrimination**

Workplace discrimination can start before hiring even takes place, and those job applicants who choose to disclose their sexual orientation may have a more difficult time securing employment than those who do not. A 2002 study found that potential employers were “more standoffish, nervous, and hostile and less interested and helpful” toward applicants who wore hats that read “Gay and Proud” versus hats that read “Texan and Proud” (Hebl, Foster, Mannix, & Dovidio, 2002). However, these results only reflect the initial reactions to the job applicants who entered stores at a shopping mall to inquire about open positions. Drydakis (2009) found that when job applicants in Athens, Greece disclosed volunteer work with a gay organization, the employer was less likely to contact them for an interview and that applicants who did charity work in sexual orientation neutral organizations were twice as likely to be contacted. This study mirrors the findings of an earlier study on discrimination against lesbian job applicants in Germany which found that disclosure of an applicant’s status as a lesbian woman resulted in a 12-13% decrease in interview invitations (Weichselbaumer, 2003).

Tilcsik (2011) conducted the first extensive study of this nature in the United States, sending resumes to employers in geographically dispersed states in each

region of the country. He found that male applicants who listed membership in gay service organizations on their resumes were 40% less likely to be offered a job interview over applicants who identified sexual orientation neutral volunteer experience. Interviews were more likely to be extended to gay applicants in states where anti-discrimination laws offered protection based upon sexual orientation.

In contrast, Bailey, Wallace, and Wright (2013) conducted a similar study and found no antigay prejudice in employer hiring practices. The researchers submitted 4,600 applications over the Internet for positions in San Francisco, Dallas, Philadelphia and Chicago and considered any interview invitations or requests for more information as positive responses from the target companies. Resumes represented gay and straight men and women, and contained similar information varied by geographical location, with sexual orientation being implied through college volunteer work. Though there was some variation in employer contact of applicants, none of the variation rose to the level of statistical significance. Notable, however, was a very low overall contact rate at 10%, possibly due to a still depressed job market, which may have affected the results of this study.

Discrimination within the workplace has been studied to some extent and also suggests that gays and lesbians often closet themselves, hiding their sexual identities to avoid negative repercussions that they perceive may result if it were to become known (Ferfolja, 2007; Losert, 2008; Willis, 2011). Approximately 10% of the respondents in Herek's 2009 study on sexual prejudice reported having been a victim of workplace or housing discrimination. Ragins, Singh, and Cornwell (2007) found in a study aimed at disclosure and fear of disclosure of sexual identity by

lesbian, gay, and bisexual workers that 37% of workers have experienced workplace sexual orientation discrimination based upon their actual or perceived sexual orientation and that 11% reported having left their last positions as a result of discrimination.

Among LGBT physicians, nearly two-thirds had been exposed to negative remarks about LGBT patients while at work (Eliason, Dibble, & Robertson, 2011). Over a third of respondents reported either witnessing discriminatory treatment of an LGBT patient or disrespectful treatment of an LGBT patient's partner. A small but significant percentage of respondents had personally experienced treatment that they perceived to be discriminatory, such as being denied referrals (10%), being harassed (15%), and feeling socially ostracized (22%).

Blackwell (2008) found a correlation between homophobia and support or nonsupport of a workplace nondiscrimination policy by registered nurses, with respondent level of homophobia being negatively correlated with support of such a policy. Negative views of homosexuality among nurses were predicted by a belief that homosexuality is an acquired trait (Rondahl, Innala, & Carlsson, 2004).

In a study of long-term care providers, Hinrichs and Vacha-Haase (2010) found that workers had the highest negative response to same sex sexual contact between residents of the nursing facility, as compared to the reaction to heterosexual sexual contact between residents. Respondents reported that they would be more surprised to discover two male residents engaging in sexual contact than two female residents or opposite sex residents engaging in the same conduct.

## **Factors That May Affect Perceptions Of Gay And Lesbian Individuals**

Persons who are intolerant towards gays and lesbians “are typically high in authoritarianism, are traditional in their attitudes toward gender roles, have relatively low levels of education, are negative toward other minority groups, and are male” (Kite & Whitley, 1996, p. 336).

### **Gender**

Research has consistently found that heterosexual males hold more negative attitudes towards gay men than do heterosexual females, but both sexes share similar attitudes towards lesbian women (Herek, 1988; Kite & Whitley, 1996; LaMar & Kite, 1998; Whitley & Kite, 1995). Kite and Whitley (1996) hypothesize that this relates to gender stereotypes and a negative view of individuals who are perceived to be in violation of expected societal roles.

Negative perceptions of a homosexual individual may occur for a perceived violation of expectations in one or both of following ways: an individual, simply by being gay or lesbian, is violating expectations about sexuality; when a gay or lesbian person acts in a way that is generally associated with the opposite sex (e.g. feminine male), an individual is violating gender roles (Lehavot & Lambert, 2007). People will normally assume that a person’s traits are consistently masculine or feminine, for example, a male who displays feminine traits will be thought to be feminine in other unseen traits (Deaux & Lewis, 1984). College students associate the label *male homosexual* to a male having characteristics that are similar to a female heterosexual (Kite & Deaux, 1987). The social construct of masculinity includes



heterosexuality as an essential component (Herek, 1986). Heterosexual masculinity insists that true men are heterosexual, a belief that has been linked to homophobia.

Because the prescribed societal roles for males tend to be more rigid, a male violating his expected role is a much more serious violation than a female violating her expected role (Kite & Whitley, 1996). There is more pressure on males to conform to societal expectations, and this pressure may result in negative attitudes towards gays and lesbians, and gay males in particular due to their perceived nonconformity (Herek, 1986). Thus, sexual prejudice is a tool that males use to reaffirm their own masculinity while also punishing those males whom they believe do not conform to gender roles prescribed by social norms (Herek & McLemore, 2013). Other possible causes of antigay prejudice include a negative history with gays and lesbians, fears related to homosexuality that may be based within the individual's own sexuality, reflections of peer group prejudice, or feeling that homosexuality is in contrast with one's own belief system (Herek, 2000a).

A negative attitude towards those perceived to be in violation of gender roles is most pronounced among persons who rigidly observe their own gender roles (Kite & Whitley, 1996). Individuals who do not identify themselves as being strictly bound by societal stereotypes are more tolerant of gays and lesbians than those who view themselves stereotypically (Herek, 1988). Negative attitudes are most pronounced when a homosexual person most closely mirrors expected behaviors of the opposite sex (Levahot & Lambert, 2007).

A recent study conducted by Morrison and Morrison (2011) surveyed 1,161 university employees to evaluate their levels of homonegativity. Their findings

suggest that there continues to be higher levels of bias against gays and lesbians amongst males than found with females. Income and education were both found to be negatively correlated with homonegativity while religiosity and political conservatism were both found to be positively correlated with homonegativity.

A study of college students revealed that the negative reaction to gay males varied across situations with male respondents being much more uncomfortable in situations that required them to interact with gay males in public, and that they would feel “devastated” if a sibling were to become involved in a same-sex relationship (Engstrom & Sedlacek, 1997). This may be explained in part by early findings by Larsen, Reed and Hoffman (1980) that males’ feelings towards gays and lesbians were influenced by peers’ attitudes towards gays and lesbians. Herek (2002, p. 43) argues that heterosexuals “wish to avoid being labeled gay.” Talley and Bettencourt (2008) found that heterosexual males paired with gay males in workgroups tended to distance themselves from their work partners, and when threats were made to heterosexual males’ masculinity, regardless of their levels of sexual orientation bias, they tended to react with hostility and aggression toward the gay men.

Hudepohl, Parrott, and Zeichner (2010) tested anger in males with high and low antigay prejudice after viewing a video depicting either explicit erotic or non-erotic interaction, with some participants viewing videos featuring a gay male couple and others watching heterosexual interactions. Anger was measured through a self-report scale administered to the subjects both before and then after viewing the video. They found that all males exhibited a level of anger following the

erotic gay male video, though males reporting high prejudice through two scales designed to measure sexual prejudice displayed significantly more anger than did the males reporting low prejudice. However, the males high in prejudice also became angry after viewing the non-erotic video depicting a gay male couple, whereas the males low in prejudice did not display a significant level of anger after seeing the non-erotic gay male video. These findings were contrary to the researchers' a priori expectation that males low in prejudice would not become angry after viewing gay homosexual erotic videos.

Curiously enough, males do not tend to hold these same negative attitudes towards lesbian women. This may be a product of a fantasized eroticism placed upon lesbian sexual activity by heterosexual men (Louderback & Whitley, 1997; Whitley, Wiederman, & Wryobeck, 1999). Interestingly, heterosexual men's eroticism of lesbianism was not predicted by a belief that lesbian women were hypersexual or sexually interested in both sexes (Whitley et al. 1999). Eroticism of lesbianism was predicted by recent pornography usage, less traditional sexual values, a preoccupation with sex, more sexual experience, and acquaintance with a lesbian (Whitley et al. 1999).

### **Authoritarianism**

Authoritarianism is another trait that is positively correlated with higher levels of sexual prejudice (Haddock, Zanna & Esses, 1993; Herek, 1988; Larsen et al. 1980). The authoritarian personality is thought to "idealize social authority and strict discipline" as well as hold conventional stereotypes and admire those people perceived as being "good" over "bad" (Bronson, 1970, p. 5). This type of person will

distrust others, holding “a view of the world as basically threatening, chaotic, or irrational” (Bronson, 1970, p. 5). Cramer et al. (2013) found that right wing authoritarianism mediated the positive effects of openness, where antigay prejudice is concerned.

Wilkinson (2004) used a multi-dimensional approach in examining the relationship of authoritarianism and religiosity to four dimensions of homophobia: contact apprehension (social interaction with gays and lesbians), morality beliefs (related to traditional moral proscriptions against homosexual behaviors), civil rights intolerance (limitations on basic rights of gays and lesbians), and stereotypic beliefs. Intrinsic, or fundamental, religiosity was closely associated with the morality dimension of homophobia. Authoritarianism was significantly correlated with civil rights intolerance and stereotypic belief. Homophobic prejudice was predicted by male gender and correlated with contact apprehension and stereotypic beliefs (Wilkinson, 2004).

Studies of police officers have found that they tend to be higher in authoritarianism and more prejudiced than members of the general population (Gatto, Dambrun, Kerbrat, & Oliveira, 2010; Rubinstein, 2006). Career selection toward an authoritarian, or hierarchy-enhancing, career may be guided by an attitude that supports social stratification (Gatto et al., 2010; Sidanius, Liu, Pratto, & Shaw, 1994; Sidanius, van Laar, Levin, & Sinclair, 2003). Persons who select careers that endorse social stratification tend to support the subordination of other persons deemed to be deserving of such treatment.

Sidanius, Liu, Pratto, and Shaw (1994) argue that the criminal justice system is a system that would be considered hierarchy enhancing, as it protects members of the socially dominant group while assessing punishments to subordinate groups for the purpose of maintaining social order and stratification. Within a criminal justice agency, specifically a law enforcement agency, authoritarian attitudes are further supported through a new police officer being socialized into the police culture (Gatto & Dambrun, 2012). The socialization of police officers can be troubling when that socialization process embraces and reinforces authoritarian attitudes, as authoritarianism is a predictor of high levels of sexual prejudice.

### **Criminal Justice Students and Professionals and Homosexuality**

The first contact that many citizens have with the criminal justice system is through dealings with police officers. As such, police officers may be seen as being representatives of the criminal system. It is especially important for law enforcement agents to be fair and impartial to all citizens, as they are the gatekeepers of the criminal justice system, so to speak. In addition, officers are often looked up to as role models for our citizens, especially our young people. “[T]here is no room for any criminal justice employee to be prejudicial or discriminatory, let alone harmful, to any law-abiding member of society” (Ventura, Lambert, Bryant, & Pasupuleti, 2004, p. 166).

### **Criminal justice majors**

There have been relatively few studies that have examined antigay prejudice among students majoring in criminal justice, but those that have endeavored to discover the level of prejudice in this regard suggest that criminal justice students are more apt to hold antigay attitudes than students focusing on other disciplines (Cannon, 2005; Cannon & Dirks-Linhorst, 2006; Miller & Kim, 2012; Olivero & Murataya, 2001; Ventura et al., 2004). While criminal justice students typically do learn about multicultural policing issues, there is a notable lack of discussion on gay issues within most college textbooks used in law enforcement classes (Olivero & Murataya, 2001). Cannon and Dirks-Linhorst's 2006 exploratory study of the curriculum offered to criminal justice students found that only one program out of 188 offered a class solely focused on sexual orientation and the law, and that class did not address interactions between members of the LGBT community and the police. Less than half of the classes offered in the areas of race/ethnicity, women, and hate crimes included components specific to gay and lesbian issues, and nearly 80% of programs offered no instruction on these issues within their required curriculum (Cannon & Dirks-Linhorst, 2006).

Students majoring in social sciences other than criminal justice, such as psychology, tend to experience more direct education focused on human interactions, which may help students be more comfortable with issues regarding sexual orientation and prejudice, in contrast to criminal justice curriculum that generally does not emphasize interactions with homosexual individuals (Cannon & Dirks-Linhorst, 2006). Criminal justice students whose negative views regarding homosexuality have not been explored or challenged through education may have

inaccurate information and beliefs about gay and lesbian issues, leading these students to buy into common stereotypes and develop prejudicial views (Ventura et al., 2004).

Ventura et al. (2004) compared students majoring in criminal justice with students majoring in other areas. Non-criminal justice students' attitudes towards LGBT individuals tended to change over time, with upperclassmen having less homophobic views, being more supporting of equal treatment of LGBT persons under the law and being more likely to have gay friends compared to underclassmen. Within the criminal justice discipline, there was no difference when comparing students of varied class standing.

Jayakumar (2009), in a longitudinal study of nearly 15,000 students, found high levels of homophobia in the incoming freshman class but that 2/3 of those students had become accepting of gays and lesbians by their senior year. The researcher found that diversity coursework during the college years played a large part in the evolving attitudes of students (Jayakumar, 2009). The stagnancy in attitude towards gays and lesbians within criminal justice may be directly related to a lack of education in issues related to homosexual citizens, as education focused on other service-oriented majors, such as social work, nursing, and education have found to have a positive impact upon students' attitudes towards these issues (Cannon & Dirks-Linhorst, 2006).

Cannon (2005), in the largest study to date comparing criminal justice to non-criminal justice students, surveyed over 1,000 students at four large universities. It was found that being a criminal justice major was a significant

predictor of having a negative attitude towards gays and lesbians, regardless of the gender of the student.

Speaker panels have been found to reduce homophobia in college students, as they give students the opportunity to interact with LGBT students, and to ask questions that will help them to discredit popular myths and stereotypes related to gays and lesbians (Rogers, McRee, & Arntz, 2009; Walch, Sinkkanen, Swain, Francisco, Breaux, & Sjoberg, 2012). Similarly, students taking classes that specifically teach about LGBT issues, such as classes focusing on human sexuality, tend to complete the class with lower levels of homophobia than those held prior to taking the class (Cannon, 2005; Rogers et al. 2009; Wright & Cullen, 2001). Rye and Meaney (2009) conducted a study at a Canadian university and found that homonegativity awareness workshops for college students reduced overall homonegativity and erotophobia (sexual conservatism) among college students. These studies suggest that increased interaction with members of the gay community and the opportunity to develop a level of understanding of homosexual relationships have the effect of decreasing sexual orientation bias.

It is very important to consider the education of future police officers when looking at current officer conduct because today's students are tomorrow's criminal justice professionals. If we are ignoring gay and lesbian issues within the criminal justice curriculum, we cannot reasonably expect our new law enforcement officers to be fully equipped to interact with members of the LGBT community, especially given the higher levels of homonegativity found in criminal justice students. As argued by Ventura et al. (2004, p. 177):



Criminal justice professionals are obliged by virtue of their office to defend the freedom and personal integrity of gays and lesbians as members of the community. This should be enough, standing alone, to motivate criminal justice educators to teach criminal justice students accurate information and tolerance of people who are gay or lesbian. If tolerance is not taught, criminal justice as a discipline has failed in one of its primary duties.

### **Police officers and discrimination**

According to Burke (1994), homophobia is built into policing on a number of levels. First, the police represent a conservative segment of society. Conservative ideals have been correlated with high levels of sexual prejudice (Barth and Parry 2009; Haslam and Levy 2006; Poteat and Mereish 2012). The police serve as regulators of social order and strong conservative values do not always recognize homosexuality as having a place in that social order (Burke, 1994). Second, the police culture contains an element of machismo, which celebrates masculinity and may discourage police acceptance of homosexuality. An officer may fear that acknowledging and accepting gays as a normal part of society may indicate a loss of masculinity on the officer's part, and result in "a rapid transformation into some grotesque, handbag carrying ambisexual" (Burke, 1994, p. 194). Finally, homosexuality may be seen as a representation of social disorder, which is the antithesis of a properly functioning police organization.

This negative attitude of police officers can also extend to fellow police officers who do not identify as being heterosexual (Burke, 1994; Myers, Forest, & Miller, 2008). There may be more acceptance of lesbian officers by heterosexual male officers as lesbians are stereotypically considered to be masculine and this masculinity might be seen as beneficial in the police occupation (Burke, 1994). Gay

and lesbian officers may feel the need to be hyperaware of the gender cues that they are sending out while on the job and may act more forcefully and assertively than other officers to demonstrate that they do fit into their roles as officers (Myers et al., 2008).

Research on homophobic victimization suggests that in some instances, officers may be a part of the problem, sometimes exercising discretion in discriminatory ways towards gay and lesbian citizens, engaging in harassing behaviors, and even perpetrating criminal acts such as assaults against members of the gay community (Amnesty International, 2005; The National Coalition of Anti-Violence Programs, 2011). Bernstein and Kostelak (2002) found that police officers were more negative toward gay men than toward lesbian women and that one in five officers admitted to participating in antigay or antilesbian behaviors. These behaviors were identified as avoiding contact, objecting to working with a gay or lesbian person, calling a gay man or lesbian woman an insulting name, making negative comments or asking intrusive questions about someone's personal life, and leaving notes, pictures, or other objects of a sexual nature with the intent to draw attention to a person's sexuality. Police officers may allow anti-gay bias to guide their decisions about which citizens to stop, question or detain, and may choose to selectively enforce laws against some citizens, but not others (Amnesty International, 2005).

Police officers who respond to reports of intimate partner violence (IPV) may have some difficulty with accurately assessing the situation and identifying which

party is the perpetrator and which is the victim where same sex couples are involved. (Hirschel, Buzawa, Pattavina, Faggiani, & Reuland, 2007). Officers are more likely to arrest same sex battering victims than victims in heterosexual battering incidences, and LGBT couples frequently experience dual arrests, where both parties involved in IPV are arrested. Same-sex couples are 30 times more likely to experience a dual arrest for IPV than a heterosexual couple with a male perpetrator and female victim (Hirschel et al., 2007). In contrast, Pattavina, Hirschel, Buzawa, Faggiani, and Bentley (2007) found that there was no difference in the rates of arrest between same-sex and heterosexual incidences of IPV when analyzing National Incident Based Reporting System (NIBRS) data.

When LGBT individuals are targeted by law enforcement officials due to their gender or sexuality, they tend to exhibit similar emotions to racial minorities who have been victims of official racial profiling, including “feeling humiliated, depressed, helpless and angry” (Amnesty International, 2005, pp. 16-17). These experiences have the effect of dividing citizens and the police, causing a degree of fear and mistrust, and fostering an environment where citizens are loath to report crime or provide assistance to the police.

Himmelstein and Brückner (2011), in a nationally representative longitudinal study, found that nonheterosexual youth were more likely to be punished through criminal justice means, such as being stopped by the police. Nonheterosexual youth were also found to have a higher odds than heterosexual youth of being expelled from school, arrested as a juvenile and subsequently arrested, and were also more likely to be convicted of a criminal offense as an adult.

These results were particularly pronounced for nonheterosexual females. In general, the punishments were found to be harsher than necessary considering the offenses.

In some instances, gay and lesbian citizens are profiled as criminals by virtue of their sexual identity, as was the case reported by local Cleveland media, where a gay couple was twice targeted by city police officers, including being beaten and arrested (Jovic, 2012). The first incident involved an argument that the couple was involved in where an off-duty police officer who failed to identify himself viciously beat both of the men following one's attempt to push past him to get home; he was seemingly enraged because the gay couple was arguing near his home. A few days later when arrested by SWAT/Warrant Service officers pursuant to arrest warrants for assaulting a police officer, the men requested the officers allow them to get dressed, as they had just gotten out of bed. One of the officers present responded that "faggots don't deserve to wear pants in jail" and the couple was forced to remain in only boxer shorts and undershirts for over a day and a half while in custody (Jovic, 2012). They were both eventually acquitted of the charges.

Instances of abuse against gay and lesbian citizens often have the effect of humiliating or even endangering them (Amnesty International, 2005). Some examples may include removing clothing or conducting strip-searches to determine the biological gender of an individual, policing public restroom usage (to include arresting transgendered individuals for using the facilities that they identify with), or securing them in inappropriate holding cells based upon biological gender, which may place them in danger of physical and sexual attacks. Fourteen percent of 244

transgendered women in Los Angeles reported physical abuse at the hands of police officers on at least one occasion.

The most concerning part about police officers engaging in sexual orientation bias is that we are taught from an early age to trust officers; children are told to look for an officer when they are lost. The police officer should be a person upon whom we can rely to be fair and unbiased towards every citizen, who investigates an incident thoroughly before making a decision. A police officer who engages in the mistreatment of gay and lesbian citizens is sending off signals that his or her actions are official business, allowed and sanctioned by the organization that he or she represents. Another important consideration when police officers engage in discriminatory behavior against gay and lesbian persons is that officers often have the discretion to choose whom they will send through the formal procedures of the criminal justice system. A police officer, therefore, will normally be the person who decides which citizens will have to answer to formal charges in court.

### **Juror Assessment Of Witnesses**

When a case proceeds to the trial stage, it is likely that the parties will call a number of witnesses to support their version of events. Witnesses may serve in any number of different capacities in this regard, but usually will fall into one of several categories, based upon the type of testimony that they will give at trial. When available, eyewitness testimony is very important within the context of a criminal trial, and jurors tend to be most persuaded by eyewitness testimony over other evidence (Devenport, Penrod, & Cutler, 1997; Shermer, Rose, & Hoffman, 2011).

However, eyewitness testimony is often unavailable in criminal cases and trials frequently depend upon circumstantial evidence that suggests the defendant's guilt.

Expert witnesses often testify at criminal trials and may serve to inform the jury on matters of medical knowledge, mental health, or other areas that are relevant to the determination of guilt. Alibi witness testimony suggests innocence to the jury, as a defendant with an alibi could not have committed the crime for which he or she is on trial. When presented with witness testimony, especially conflicting testimony, jurors must make determinations of credibility for each witness and decide whether the testimony is to be believed. There is a multitude of components that a juror may consider when making a credibility determination of a witness, and the role being played by that witness may also come into play. Finally, jurors may sometimes consider extralegal factors, which are elements that should not be considered, but frequently do arise during deliberations.

### **Expert witnesses**

In a study of witness credibility that used a student sample of potential jurors, Neal, Guadagno, Eno and Brodsky (2012) found that there was no difference between perceived credibility of expert witnesses unless the expert was lacking in either knowledge or likeability. The researchers measured knowledge through credentials, experience, expertise, assertiveness, and content and clarity of testimony. Likeability was measured through the use of "we" or "us" when discussing the scientific community as a whole, smiling during testimony, modesty, eye contact, informal speech and a humble presentation style. Female experts who were low in either knowledge or likeability were rated as less credible than

similarly situated male experts. Brodsky, Griffin, and Cramer (2010) found that the four factors that best predicted perceived witness credibility were confidence, likeability, trustworthiness and knowledge.

The gender of an expert witness is another characteristic that may affect the way that members of the jury perceive the expert, but there are many factors that may play into this determination. In a simulated case involving products liability where an automotive engineer testifies about a perceived vehicle defect (Couch & Sigler, 2002) and a case that used a polygrapher as an expert witness (Vondergeest, Honts & Devitt, 1993), the expert's gender was not found to have any effect on the jury verdict. A limitation common to both of these studies is that their respondents were undergraduate students playing the role of jurors. However, undergraduate students are not necessarily representative of the population, or of jury pools as a whole.

To remedy the limitation of previous studies and in an attempt to represent an actual potential jury, Memon and Shuman (1998) utilized a sample of citizens who had been called for jury service in Dallas Criminal District Court. They likewise found in their hypothetical case, a medical malpractice case where the race and gender of the expert were manipulated, that jurors thought the female experts to be as trustworthy as the male experts and that the black female was found to be most credible (Memon & Shuman, 1998).

However, according to Memon and Shuman (1998), jurors may respond differently to the same testimony coming from experts of different sexes, even when the experts have equivalent qualifications. When an expert provides testimony on

matters that are particularly complex, jurors tend to find male expert witnesses more persuasive than they find female expert witnesses (Schuller, Terry & McKimmie, 2001). Larson and Brodsky (2010) suggest that jurors may adhere more strictly to traditional gender roles, and may have difficulty accepting a female as an expert witness whose function within the courtroom setting is to educate and inform the jury.

A recent study on the effects of intrusive questioning on expert witnesses and juror perceptions resulting therefrom found that potential jurors rated the female expert as lower in each of the four components of credibility (believability, likeability, trustworthiness, and confidence) and lower in overall credibility than the male expert (Larson & Brodsky, 2010, p. 824). The authors posit that the respondents perhaps saw the female expert as overstepping her bounds in assuming a position of authority.

However, there are some types of cases where it appears that female expert witnesses appear to be more credible than male expert witnesses. For example, in a simulated child custody case, potential jurors rated the female experts as “more expert” than the male experts (Swenson, Nash, & Roos, 1984). It may also be of benefit for female criminal defendants who are using battered woman syndrome as the basis of a self-defense claim to present expert testimony through a female expert witness, as jurors may find females more convincing when presenting testimony of this nature (Schuller & Cripps, 1998). The use of a female expert in a workplace sexual discrimination case may be an effective trial strategy for the plaintiff in that



where female experts were used, potential jurors placed more blame for the sexual discrimination on the employer than when male experts were used (Carson, 2008).

Couch and Siegler (2002) suggest that jurors may consider the gender of the expert in the context of the case, placing higher confidence in female experts where the case is in the realm of female-centric issues. They may feel that a female expert may have particular insight into the issues that a male expert would not. This factor may be at play where cases involve family matters, domestic violence and sexual discrimination as females may be thought by jurors to have a special knowledge and ability to provide insight that a male would not.

Jurors' ratings of expert witness believability may have more to do with the expert's communication skills rather than his or her gender. To measure juror understanding of complex expert testimony, the American Bar Association (1989) conducted a study of juror decision-making by observing deliberations of mock juries comprised of alternate jurors. The jurors studied rejected the testimony of experts perceived to be "hired guns" but believed the testimony of the experts who either had a personal relationship with the case (e.g. party's personal physician) or those whose testimony they found understandable. When presented with particularly complex testimony, jurors may disregard the testimony and simply evaluate the credibility of the expert based upon the expert's personal characteristics (Ivkovik & Hans, 2003).

Ivkovik and Hans (2003) studied a group of citizens who had served as jurors in civil cases in which expert testimony was utilized, for the purpose of evaluating the methods by which jurymen assess and process the expert testimony that is

presented in the trial setting. Their research revealed that jurors rated experts as more credible when the expert spoke in lay terms that were presented clearly and in a focused manner, was unbiased, and was familiar with the case. The believability of an expert witness may be more about the presentation made by the witness than by the field or line of work that the expert represents, as results were not significant when comparing experts in a variety of occupations including interior designer, police officer, lawyer and medical doctor (Shuman, Champagne, & Whitaker, 1996). These findings suggest that it is not the oversimplification of terms that jurors find most believable, but rather the logic of an expert's testimony.

### **Alibi Witnesses**

When the witness is an alibi witness, there are other factors that are important in the minds of jurors, such as the witness's relationship or non-relationship to the defendant, which could support the testimony or cast suspicion on a witness with a motive to lie (Dahl & Price, 2012). Mock jurors were much less likely to convict a defendant when the alibi witness was not related to the defendant than if a relationship did exist (Lindsay, Lim, Marando, & Cully, 1986). Closer relationships whether by blood (e.g., identical twin, sibling, etc.) or by marriage (e.g., spouse, sister-in-law, etc.), increased skepticism by mock jurors when an alibi was provided, with skepticism decreasing as the relationship became more distant (Hosch, Culhane, Jolly, Chavez, & Shaw, 2011).

When making comparisons of alibi testimony of a witness who is related to a party in interest versus an unrelated witness, the witness's age may play into his or her credibility when providing an alibi (Dahl & Price, 2012). In a study of mock

investigators, Dahl and Price (2012) found that an adult neighbor provided a more credible alibi than the suspect's adult son, but that a 6-year old child provided the most believable alibi, regardless of the existence of a relationship between the child and defendant.

When the alibi witness is not a relative of the defendant, but in a romantic relationship with him, jurors were less inclined to believe the alibi testimony (Culhane & Hosch, 2004). Olson and Wells (2004) found that students who were asked to assume the role of police investigators were equally likely to believe an alibi from a stranger as that from a person who is known to the defendant but has no motivation to lie. This is despite the fact that a stranger providing an alibi is more likely to be mistaken in his or her identification of the defendant than is a person known to the defendant. However, the alibi was only considered when there was a lack of physical evidence in the case and was outweighed by even very weak, easily fabricated physical evidence.

### **Extralegal factors**

When assessing the testimony of witnesses, jurors may sometimes consider extralegal factors in determining the reliability and credibility of a witness. Age is an example of an extralegal factor that jurors may consider when making decisions as to the believability of a witness (Ross, Dunning, Toggia, & Ceci, 1990). However, the actual effect of witness age is unclear as studies on the topic have found vastly differing results, with some studies suggesting that jurors find child witnesses more credible than adult witnesses, and other studies suggesting that jurors find children less credible than adult witnesses (Leippe & Romanczyk, 1989; Ross, Jurden,

Lindsay, & Keeney, 2003). There is some suggestion that the delivery method of the testimony (e.g. videotaped presentation versus written synopsis) may be an important factor for jurors when evaluating the credibility of a witness (Newcombe & Bransgrove, 2007).

Jurors may inappropriately consider the emotional display made by a witness when determining whether to believe a witness' testimony, and may find a highly emotional rape victim as more credible than a rape victim who does not display a high level of emotion (Dahl et al. 2007; Kaufmann, Drevland, Wessel, Overskeid, & Magnussen, 2003). In a study of how a defendant's emotions may affect jurors, the researchers found that emotional defendants were thought to be more credible when testifying, but this had no bearing on the jury's determination of guilt (Wessel et al., 2012).

Another example of an extralegal factor that may come into play is the ethnicity of a witness, as a juror may find a member of his or her own ethnic group more believable than an out-group member (Lindholm, 2005). Phillips's (2010) study revealed that most citizens felt that many others hold biases against minority attorneys and witnesses, but did not feel that they themselves held those same biases. However, approximately 1 in 5 respondents said that they would be distrustful of testimony from a witness with a heavy foreign accent. One-fifth of respondents also reported that they did not trust the testimony of witnesses who testified with the aid of an interpreter. Nearly half of the respondents stated that they would believe an English-speaking witness over a non-English speaking witness.

Regardless of the witness's status as an expert, gender often comes into play in the jury's decision making process, whether it is the gender of the witness, victim, defendant, juror, attorney, or some combination thereof. Nunez, Kehn and Wright (2010) found an interesting interaction between the gender of the witness and the gender of the juror, with jurors having less confidence in same sex witnesses. Men are typically found to be more negative towards child victims as witnesses in sexual abuse cases, finding them less credible than do females (Back & Lips, 1998; Broussard & Wagner, 1988; Davies & Rogers, 2009; Rogers & Davies, 2007). In Carson's 2008 study of gender in a workplace sexual discrimination case, he found that jurors treated all victims in a similar fashion, regardless of whether the occupation was traditionally staffed by persons of the opposite gender than the plaintiff (e.g. male midwife), but that the respondents were disapproving of people who acted in contrary to their prescribed social gender roles, even when the actions are consistent with the occupational role.

Jurors may hold biases against female attorneys as well, finding that male attorneys are more credible and are preferable to females (Hodgson & Pryor, 1985). Results are mixed, however, when examining whether attorney gender has any bearing on the ultimate outcome of a case being decided by a jury. In some studies, jurors find male attorneys more credible and are more likely to vote in favor of the male attorney's client (Hahn & Clayton, 1996; Hodgson & Pryor, 1985). In other studies, the gender of the attorneys was found to have no relation to the verdict in the case (Cohen & Peterson, 1981; Johnson, 1985).

Rather than looking at individual characteristics of a witness when determining how credible a juror may find that witness, it may be more useful to look at the witness as a whole and how similar he or she is to the jury. People tend to empathize more and to a greater degree with persons of the same race as themselves (Linder, 1995). Phillips (2010) found support for same-race bias when looking at juror ratings of attorneys as African-American attorneys received higher ratings than Caucasian attorneys only from African-American respondents.

Race is not the only characteristic that can produce a connection between a trial participant and a juror, but other traits such as status (elderly, being a parent, teacher, etc.), membership in a religious organization or experience with a disease or other affliction can also create an empathetic response in a juror (Linder, 1995). Similarities between jurors and trial participants may generate sufficient empathetic responses within the jurors that the outcome of a trial may be affected (Linder, 1995). "Vicariously identifying with another's feelings, volitions, or ideas is most often accomplished with respect to a person whose experiences, values, and appearance are similar to one's own" (p. 900). Empathic responses can be also be generated through juror observation of physical or emotional distress in a trial participant. Linder (1995) believes that high acquittal rates in urban trials can be attributed in part to empathetic jurors who are hesitant to convict criminal defendants with whom they are sympathetic.

### **Homosexuality In The Courtroom**

There is little research in the area of how jurors perceive a gay or lesbian witness and whether negative perceptions decrease a juror's confidence in the witness's testimony. Studies on gender role violations in sexual discrimination cases focus on the defendant's behavior and how expert testimony may play into a jury's decision, but do not look at the sexual orientation of the witness but rather the litigant (e.g. Carson, 2008). In studies on sexual assault, there is a notable effect of victim blame, especially among male respondents, that is more pronounced with homosexual assaults (Burczyk & Standing, 1989; Davies, Pollard, & Archer, 2006). When a sexual assault victim is a male child and the perpetrator is also male, victim blame increases with the child's age (Davies, Rogers, & Whitelegg, 2009). However, none of these types of studies touches on the possible effects of a neutral witness's perceived sexual orientation.

Some of the findings of the Judicial Council of California (2001) study on sexual orientation fairness within the California Court System support the possibility of sexual orientation bias among jurors, which may impact how cases are resolved. Two of the survey respondent court users specifically indicated that sexual orientation was used against a gay witness to discredit his testimony (Judicial Council of California, 2001). One respondent shared the comments of a fellow juror who felt that a witness's homosexuality equated to untrustworthiness. Another respondent who had testified in court commented that "they said I was probably 'out at a club or something' before I witnessed the accident," in what he felt was an attempt to devalue his credibility based upon his sexual orientation (p. 33). It appears that the respondent is referring to statements made by attorneys rather

than jurors, but the attorney comments likely would have been made in open court and heard by the jurors in the case.

The New Jersey Judiciary (2001) conducted a study similar to that completed in California and likewise found that gay or lesbian respondents were more likely than heterosexual respondents to experience or observe biased behavior towards themselves or others within the court setting. A drawback of their findings is that they do not separate sexual orientation discrimination by role in the courtroom, so we do not know whether the bias is coming from jurors or from others in the court setting. Approximately 10% of gay and lesbian court users in the New Jersey study felt that sexual orientation had an effect on the outcome of a case. However, respondents who were participants in a court case were more likely to believe that sexual orientation came into play in a verdict than did non-litigants.

### **Gay and lesbian victims**

Perceptions of gay and lesbian victims can provide some additional guidance to what we may expect as far as treatment of gay and lesbian witnesses by jurors. National polls indicate that potential jurors feel that they cannot treat gay or lesbian litigants fairly (Rovella, 1998). The expectation of not receiving a fair outcome may explain, in part, the vast underreporting of gay and lesbian victimization, especially where bias/hate crimes are concerned. In 2010, there were 1,277 reported hate crimes targeting sexual orientation, which comprised 19% of the total number of hate crimes reported (FBI, 2010). In a study of hate crimes experienced by gay, lesbian, and bi-sexual (LGB) adults, Herek (2009) found in a national probability sample that about 1 in 5 respondents had experienced a sexual orientation-based



victimization and half had experienced verbal harassment since the age of 18. Herek's estimation of approximately 20% of the LGB population alone having experienced a hate crime would equate to a figure that greatly overshadows the FBI's figure of 1,277. The contrast between these figures demonstrates the possibility of a great underestimation of the true number of hate crimes perpetrated against sexual minorities in the official data, likely due to the hesitancy of gays and lesbians to report hate crimes as opposed to crimes that do not involve bias (Herek et al., 1999). Gay and lesbian victims of hate crimes may not be reporting up to 90% of bias crime incidents (Herek, Cogan, & Gillis, 2002). A study of hate crime in the Sacramento area, using a convenience sample of sexual minority adults, revealed that approximately one-third of participants had been the victim of a sexual orientation-related bias crime. Nearly all of the 450 respondents reported having been a victim of crime and most reporting being victims of multiple crimes.

A study of male rape in the United Kingdom revealed that only two sexual assault victims out of 37 had reported their victimization to the authorities (Coxell, King, Mezey, & Gordon, 1999). Other studies place the reporting rate of male rape and sexual assault at between 8% and 44% (Rumney, 2009). A primary reason for nonreporting is the fear of a revictimization at the hands of law enforcement officials or by being publicly outed (Herek et al., 2002). British studies found similar reasons for nonreporting, noting a common belief amongst victims that, "the police would challenge survivors' masculinity, be unsympathetic and uncaring" (Rumney, 2009, p. 235). Canter and Hodge (1998) found that many homosexual male rape

victims conceal their sexual orientation when reporting the crime due to fears of being mistreated.

Hill's (2000) study of rape found that respondents were less likely to vote to convict a male assailant when the victim was a gay man or a lesbian woman than when the victim was a heterosexual man or woman. The lowest conviction rate was found when a heterosexual assailant raped a homosexual male (Hill, 2000). Victim blaming in sexual assaults is most common when the victim is a gay man versus when the victim is a heterosexual man or female (Burt & Demello, 2003; Davies, et al., 2006; Doherty & Anderson, 2004). Victim blaming of homosexual males who are victims of sexual assault holds consistent even when the victim is portrayed as a gay adolescent male, who by virtue of his age is legally incapable of consenting to sexual relations (Davies et al., 2009).

These studies tend to suggest that juries, like the general public, may be making assessments of victim credibility partially based upon the sexual orientation of the victim. Court studies suggest that sexual minorities may avoid using the court system as they feel that they are not welcome, or will be treated poorly as a court participant, which could mean that crime victims are not finding justice for their victimizations (Brower, 2010). In some cases where a member of the gay and lesbian community reports a domestic violence victimization, the person who is perceived as acting contrary to his or her biology is treated poorly by law enforcement, including being arrested and charged for the incident despite not being the aggressor (Smith, 2002).

## **Gay and lesbian defendants**

The existing literature on juror perceptions of gay and lesbian defendants in criminal cases may provide further insight into the treatment a gay or lesbian witness may expect from jurors.

Where sexual orientation is known, most gay and lesbian individuals who are processed through the court system are criminal defendants who are there pursuant to a prostitution-related arrest (Smith, 2002). LGBT criminal defendants facing sex-work related charges are “notoriously badly treated” through every facet of the criminal justice system, beginning with their initial police contact and continuing through disrespectful and mocking contact with court officials (Smith, 2002, p. 103). The large volume of cases regarding gay and lesbian prostitution-related offenses may be a corollary of police officers’ general categorization of gays, lesbians, and transgendered females in particular as sex workers who are either addicted to sex or who engage in prostitution for survival, increasing the incidences where transgendered women are stopped and questioned, and increasing their arrest rates (Amnesty International, 2005). Most courts offer diversionary programs for prostitution offenses, but these diversionary programs are generally not available to gay defendants, causing gay defendants to endure the full formal court processes (Smith, 2002).

Though the California study revealed that sexual discrimination was not usually engaged in by judges (Judicial Council of California, 2001), it certainly is not unheard of that rulings from the bench include homophobic statements (Shortnacy, 2001). A U.S. District Court judge repeatedly used the term “homos” when referring

to gay men in a case challenging a soldier's dismissal from the U.S. Naval Academy (*Steffan v. Cheney*, 1991). In a different case, when pronouncing sentence upon a lesbian probationer cohabiting with a female lover, a Florida judge decried her lifestyle as "a sick situation" and stated that it was the most offensive scenario that he had encountered during his 27 years on the bench (*Rucks v. Florida*, 1997). In other cases, judges have cited passages from the Bible or referred to court participants in derogatory terms related to their sexuality (Shortnacy, 2001).

Sexual orientation has the potential to be raised in any number of different types of cases (Goldstein, 2001). For example, in family court a judge may assume that children living in a homosexual household will witness sexual activity. In criminal cases, the defendant's sexuality may play into the availability and terms of a potential plea bargain. The court system is thought to be fair and unbiased by the public, based in part on the belief that decisions are made impartially by neutral factfinders (Brower, 2010). However, juror and juror-simulation studies suggest that sexual identity may dictate the treatment a defendant receives in the courtroom (Brower, 2010).

In capital cases, the differences that a heterosexual juror may perceive between himself or herself and a homosexual defendant may allow a pronouncement of a sentence of death, which may vary from the sentence pronounced against a similarly situated heterosexual defendant (Shortnacy, 2001, p. 317). Haney (1996) suggests that capital jurors engage in a process of moral disengagement that allows them to return a conviction that will send a defendant to his or her death. The five methods of moral disengagement are as follows: 1)

dehumanization, which allows jurors to see the defendant as something other than a fellow human being; 2) exaggeration of difference, which makes the defendant seem deficient or defective and more deserving of punishment; 3) using capital punishment as a method of self-defense, where jurors are motivated by fear and the desire to protect themselves and their communities; 4) minimizing the consequences of one's actions; and 5) diffusing responsibility through reliance on instructional authorizations for capital violence.

Prosecutors may include the sexual orientation of a capital defendant as a part of their trial strategy, using the defendant's sexuality in ways that may unfairly prejudice the jury into pronouncing a death sentence (Goldstein, 2001). In addition, they may present arguments that are stereotypical and degrading to gays and lesbians (Goldstein, 2001). Prosecutors may purposely introduce evidence of a defendant's homosexuality for the purpose of appealing to the jury's prejudices, increasing the likelihood of a death sentence (Shortnacy, 2001).

Brown's (2000) framework can be used to categorize bias by prosecuting attorneys against gay and lesbian criminal defendants. Three categories of bias are described: normative bias, where personal views on sexual orientation cause a legal professional to misinterpret the laws and include sexual orientation as relevant when it is not; positive bias, where a litigant is described inaccurately through stereotypes and common misconceptions; and disrespectful references, where the legal professional exhibits personal bias through her own words and behavior (Brown, 2000). Shortnacy (2001) believes that a prosecutor's prejudice has the potential of influencing the outcome of a case, even in capital cases.

In capital cases, the very process of death qualification for jurors systematically excludes those who would be most sympathetic to a gay or lesbian criminal defendant (Butler, 2007). Potential jurors will be excluded if they feel that they are unable to render a death sentence in a capital case. Butler (2007) found that death qualified jurors held more negative attitudes towards gays and lesbians, were more likely to hold negative perceptions of gays and gay equality, and were more likely to have damaged the property of a suspected gay person or to have used homophobic slurs. They were also found to be less likely to enjoy the company of gay persons and to disagree with gay marriage.

One example of a capital case where prosecutorial bias was used to help gain a conviction against the defendant was the Illinois murder case of Bernina Mata, a bisexual woman who killed a man she had brought home from a bar for a sexual encounter (*People v. Mata*, 2006). The Mata case is significant in that similar cases involving heterosexuals resulted in convictions for voluntary manslaughter, with a sentence of a term of years rather than a death sentence (Robson, 2004). The prosecutor in Mata's case, who made the charging decision, repeatedly made references to the fact that Mata is a man-hating lesbian whose purpose was to kill a man who made sexual advances to her in a bar. Rather than stipulate to Mata's sexuality, which would have precluded the need to present evidence to that effect, the prosecutor insisted on presenting evidence of her sexual orientation that, in his opinion, proved her motive "to commit this crime in that she is a hard core lesbian" (p. 184). Mata was convicted and sentenced to death in her case, later commuted to life in prison by Governor Ryan.

An egregious example of a homophobic statement used in a capital case for the purpose of inflaming the jury was made during the State's closing argument of *State v. Burdine*, a Texas case involving a gay man being tried for the murder of a former lover (1986). The prosecutor proclaimed that "[s]ending a homosexual to the penitentiary certainly isn't a very bad punishment for a homosexual" (*Burdine v. Johnson*, 1999). The scenario described by the prosecutor was that sending this gay defendant to prison was akin to "setting a kid loose in a candy store" (Goldstein, 2001). Burdine's own trial counsel failed to object to statements made by the prosecutor that exhibited sexual orientation bias, failed to dismiss three jurors who admitted to homosexual bias, slept during the trial, and even used homophobic slurs himself during the trial and previous trials (Shortnacy, 2001).

### **Trial strategy**

Defendants appearing in federal court are entitled to a jury that is representative of the community, but this is not always the case in state courts (Bronson, 1970). At the state level, the court must apply a due process test when a criminal defendant is a member of a class of persons excluded from his or her jury. However, without being party to the excluded class, a defendant must show that the exclusion prejudiced him in some way (Bronson, 1970). Where a gay defendant is concerned, this would mean that the defendant would have to "out" himself to show that he is part of the excluded group or find some other way that he could be prejudiced by the exclusion of gays or lesbians on the jury.

Jury selection can be problematic for sexual minority defendants who are hoping to get a fair trial by a jury of their peers. Potential juror's sexual identity

often comes to light during voir dire (Brower, 2010). In some cases, jurors have been excluded specifically because of their sexuality. One venire person noted that it was clear to him that the defense attorney did not want any gays or lesbians on the jury and asked him a pointed question designed to get at the issue of the respondent's sexuality (Judicial Council of California, 2001).

An attorney may decide to use or not use the issue of sexual orientation as part of a trial strategy (Smith, 2002). This strategy may include a prosecutor using the defendant's sexuality against him or her at trial, or may involve a criminal defense attorney choosing to mask his or her client's sexual orientation as a means of protecting the client. Trial strategy may also include a degree of victim blaming for the injuries suffered by a victim at the hands of a criminal defendant. Trial strategies may play on the phobias of society, regardless of the origin, nature, or manifestation of the phobia, without crossing the line into unethical behavior, and a zealous advocate will recognize these biases and use them to the client's best advantage (Smith, 2002).

In the criminal case surrounding victim Abner Louima, a Haitian immigrant who was brutally attacked by a New York City police officer, the defense's explanation for Louima's injuries was consensual homosexual sex (Smith, 2002, p. 107). The injuries included a ruptured bladder and colon and required Mr. Louima to spend two months in the hospital (Chan, 2007). The officer, Justin Volpe, later admitted that the injuries were caused by repeatedly ramming a broken broomstick into Louima's rectum and then into his mouth for the purpose of humiliating Louima (Chan, 2007).



In the case of Abner Louima, one commentator felt that the defense attorney's victim-blaming position was an effective strategy because most Americans are uncomfortable with the idea of two men engaging in sexual relations and may believe that violence is normal in sexual encounters between men (Smith, 2002). This strategy offered an alternative explanation for Louima's internal injuries beyond the truth of the situation, a violent attack by a homophobic police officer.

It is not uncommon for prosecutors to target the dominant member of a lesbian couple as the primary aggressor in a murder case while allowing the more feminine woman to plead to a lesser charge (Goldstein, 2001). It may be easier for jurors to condemn a masculine female, especially when she presents a hard exterior. This strategy may come into play where gay couples are concerned as well. In Calvin Burdine's murder trial, his attorney depicted the victim in that case as a "middle aged, king homosexual" who preyed upon younger men, in an attempt to garner sympathy for Burdine, who had been taken advantage of by the victim, by blaming the victim for his own murder (*Burdine v. Johnson*, 1989).

A court case that drew national attention was the San Francisco dog-mauling case involving a lesbian woman who was killed by two Presa Canario dogs owned by a pair of attorneys (Egelko, 2008). The dog owner's attorney's strategy was to involve politics in the case, specifically claiming that the prosecutor was pandering to the gay community, in an attempt to bring forth any potential anti-gay bias from the jury (Gallagher, 2002). Ultimately, the attorney's strategy aimed at inciting gay panic was not successful and the defendant was convicted.

In other cases, defense attorneys have used a dead victim's sexuality as a criminal defense strategy by suggesting that the dead victim deserved the treatment he received in retaliation for making advances toward the heterosexual defendant (Minkowitz, 1992). One such case involves the murder of Julio Rivera, a 29-year old bartender from the South Bronx who was lured to a secluded location and then beaten to death with a hammer, knife, and wrench by three assailants who were looking for a "homo" to "tune up" (p. 368). Attorneys for two of three co-defendants accused of Rivera's murder repeatedly made public and in-court statements blaming the victim for his own death due to his own promiscuity. At sentencing, one of the defendant's attorneys acknowledged his client's participation in the murder, but asked for leniency because his client had only planned to assault the victim, not kill him.

Many attorneys use sexuality as a part of trial strategy in a number of different ways. Unfortunately, the American Bar Association's Model Rules of Professional Conduct (1998), which guide attorney action, command that an attorney act as a zealous advocate, and many defense attorneys interpret the term "zealous advocate" as a requirement that every possible avenue be explored if there is a chance that it will result in acquittal in a criminal case. This may include incorporating homosexuality into a trial, and playing on irrational fears and/or stereotypes commonly held by jurors. Not only is this allowed, but frequently encouraged in the attorney's role as a zealous advocate, and can apply to either the defense or prosecution, or either party in a civil case. The solution to excluding homophobia from the courtroom must include a formula for allowing attorneys to

fulfill their roles without violating mandated rules while at the same time maintaining respect for gay and lesbian individuals who are involved in the court process.

### **The Study Of Juror Credibility Ratings**

Researchers interested in looking at how jurors assess the credibility of witnesses often use Likert scale ratings (Cutler, Dexter, & Penrod, 1989; Shermer et al., 2011). Similarly, juror studies that address the strength of prosecution's case (Cutler et al., 1989) and the degree of guilt of a defendant (Ragatz & Russell, 2010; Russell et al., 2009) also use Likert scales. In some instances, potential jurors are asked questions related to the issue being studied as well as unrelated questions, to prevent respondents from determining the true nature of the study (e.g. Nunez et al., 2010). Hosch et al. (2011) took a more direct approach to the issue of motivation of witnesses to lie by asking potential jurors (students) which of 15 different possible relations would be likely to lie for a defendant on the witness stand.

Videotaped mock trials are commonly used to present testimony or to present mini trials to respondents (Lynch & Haney, 2011; Plumm & Terrance, 2009; Shermer et al., 2011), as are vignettes describing case summaries (Couch & Sigler, 2002; Davies et al., 2009; Guy & Edens, 2003; Ragatz & Russell, 2010). In some cases, researchers implement a combination of both videotape and scripts that set up the videos (Larson & Brodsky, 2010). These "scripts" may be a simulated transcript (Plumm, Terrance, Henderson, & Ellingson, 2010), closing statements, or

summaries of a case (Carson, 2008; Couch & Sigler, 2002) and may be based upon an actual case (Russell et al., 2009), or may be fictional (Carson, 2008; Davies et al. 2009). Carson (2008) framed his hypothetical court case as a case summary penned by the judge in the case, describing the positions taken by each side and an account of each expert witness's testimony. When studying juror perception of expert witness credibility, Neal, Guadagno, Eno and Brodsky (2012) used videotaped testimony that had been adapted from actual expert testimony at a criminal sentencing proceeding.

When gauging juror assessments of expert witnesses, it is not uncommon for researchers to draw from actual trial experiences of respondents who were jurors in real court cases (Ivkovic & Hans, 2003; Shuman et al. 1996). Shuman et al. (1996) obtained a list of jurors from all civil cases in Dallas County for a specified time period and condensed that list based upon the criteria for their study (live testimony, one to four experts.) The researchers then contacted each juror and asked questions about the expert witnesses who had testified before them with the responses being based upon each juror's recollection of the case, the witness, and the testimony. Ivkovic and Hans (2003) utilized similar methods to locate a sample of actual jurors in past civil cases, but obtained their data through semi-structured in person interviews of the jurors, who also filled out questionnaires to determine their general attitudes about business, litigation and responsibility.

Lindholm (2008) used videotaped statements of mock witnesses to evaluate perceived credibility in a study of bias based upon the ethnicity of a mock witness. Each of the mock witnesses watched a video depicting a staged crime, and was then

interviewed on videotape regarding their individual recollection of the crime. Participants were asked to evaluate the witnesses in a variety of categories related to accuracy, confidence, and truthfulness with a 7-point scale, with a score of 1 signifying that the juror did not find the witness at all credible and a score of 7 representing that the juror found the witness very credible.

Plumm and Terrance (2009) utilized a personal belief scale where potential jurors were asked about their own opinions of whether the defendant should be convicted in a simulated trial scenario where battered woman syndrome was brought forth as an affirmative defense. Each potential juror was asked to rate his or her personal opinion on the appropriate outcome of the case, with a score of +5 meaning that the juror felt there should be a conviction and a score of -5 meaning there should not.

Similarly, Neal et al. (2012) asked mock jurors whether they would sentence a criminal defendant to the death penalty or to life in prison without parole, measured with a Likert scale. Respondents were also asked to assign a percentage (1-100%) to the defendant's likelihood of future violence, which was actually an assessment of the expert witness's credibility in that this percentage reflected the mock jurors' confidence in the expert's prediction for future violence of the offender. These techniques may be useful tools for extricating a juror's personal belief regarding a particular criminal defendant from his or her legal duty as a juror.

It appears from the research on mock jurors' assessments of witnesses that a number of different methods for presenting information have been used, but the actual assessments of witness credibility are best measured using a 5- or 7-point

scale. The Witness Credibility Scale (WCS), developed by Brodsky, Griffin, and Cramer (2010), a useful tool in assessing juror assessment of expert witness credibility when respondents are presented with live or videotaped testimony, uses a 10-point Likert scale where jurors rate 20 adjectives in regards to the expert.

When possible, it appears that researchers prefer using subjects who are or have been actual jurors in criminal cases (Butler, 2007; Ivkovic & Hans, 2003; Magnussen, Melinder, Stridbeck, & Raja, 2010; Shuman et al. 1996). However, it is also common practice to utilize college students as respondents when researching juror decision-making (Couch & Sigler, 2002; Larson & Brodsky, 2010; Nunez et al., 2010; Plumm & Terrance, 2009).

### **Conclusion**

Though there is little research specifically into the perception of a gay or lesbian witness in the courtroom setting, research into other witnesses in general and research into the treatment of gays and lesbians in different roles within the courtroom setting was used to guide expectations within the present research. It was hypothesized that potential jurors would find the heterosexual witnesses most credible and the gay male witness least credible, based upon prior research that reflects the highest levels of prejudice against gay males. It was predicted that this effect would be most pronounced among male and student respondents who are criminal justice majors. It was suspected that these credibility determinations would have some effect on the outcome of a hypothetical criminal trial.

Specifically, twelve hypotheses were tested:

- Hypothesis 1: The testimony of the gay male witness will be found least credible overall.*
- Hypothesis 2: Testimony of homosexual witnesses will be found less credible in general than testimony from heterosexual witnesses.*
- Hypothesis 3: Male respondents will assign lower credibility ratings to the homosexual witnesses than will female respondents, with the lowest ratings assigned to the gay men.*
- Hypothesis 4: Students who are majoring in criminal justice will find homosexual witnesses less credible than will students of other majors.*
- Hypothesis 5: Respondents with higher levels of sexual prejudice will assign lower credibility ratings to homosexual witnesses than those with lower levels of sexual prejudice.*
- Hypothesis 6: The conviction rate of defendants with homosexual witnesses (and beliefs that the defendant killed the victim) will be higher than that of defendants with heterosexual witnesses.*
- Hypothesis 7: Based on expectations about credibility, male respondents will be more likely to convict when there is a homosexual witness (and to believe that the defendant killed the victim) than will female respondents, and this result will be most pronounced when the witness is a gay male.*
- Hypothesis 8: Based on expectations about credibility, students who are majoring in criminal justice will be more likely to convict when there is a homosexual witness (and to believe the defendant killed the victim) than students of other majors.*
- Hypothesis 9: Respondents with higher levels of sexual prejudice will be more likely to convict the defendant (and to believe the defendant killed the victim) when there is a homosexual witness than respondents with less prejudice.*
- Hypothesis 10: Male respondents will have the highest levels of sexual prejudice, which will be most pronounced in their attitudes toward gay men.*
- Hypothesis 11: Criminal justice students will score higher than students in other majors on the Attitudes Toward Lesbians and Gay Men Scale.*
- Hypothesis 12: Respondents with ties to the gay community will have lower levels of sexual prejudice, regardless of their major.*

**CHAPTER III**  
**RESEARCH METHODS**

**Participants**

Data were collected through written surveys administered to 522 undergraduate students at the University of North Dakota. The survey was given during the last two weeks of January 2014, using a nonrandom convenience sample of students who were included by virtue of their attendance in selected classes, with classes selected either due to high enrollment or because they were part of the criminal justice curriculum. Some respondents were given partial course credit for participating in the survey. Lists of students receiving credit were kept separately from the physical surveys so that it was impossible to discern which responses belonged to whom. Respondents' participation in the survey was anonymous and confidential.

Of the 522 respondents, 379 were included in the final sample. Missing and excluded data are discussed later in this chapter. Respondents were almost evenly split by gender (male: 51.2%,  $n=194$ ; female: 48.8%;  $n=185$ ). Respondent ages ranged from 18 to 51, with 91.5% of respondents being age 18-22 (see Table 1). The largest group of respondents (39.8%,  $n=151$ ) reported being freshmen, 29.8% ( $n=113$ ) were sophomores, 17.4% ( $n=66$ ) were juniors, 12.7% ( $n=48$ ) were seniors, and one student reported being a transfer student but did not indicate his year in



Table 1

*Distribution of Respondent Ages*

Respondent Age	<i>n</i>	Percent of Total	Cumulative Percent
18	89	21.2	21.1
19	120	31.7	53.1
20	75	19.8	72.9
21	50	13.2	86.2
22	20	5.3	91.5
23-29	24	6.3	97.9
30+	8	2.1	100.0
Missing	2	.5	
Total	379		

school. The respondents were primarily Caucasian (90.8%,  $n=344$ ), which is expected given the demographic of the institution as a whole. Of those reporting races other than Caucasian, one student was black, six were Hispanic, one was Native American, thirteen were Asian or Pacific Islanders, two reported races other than those listed, and twelve students were multiracial.

The major most represented in this sample was criminal justice (26.4%,  $n=100$ ), followed by natural and health sciences, business-related majors, education, and aviation. Twenty-two respondents (5.8%) indicated that they either had not declared a major or were undecided. See Table 2.

Table 2

*Respondent Major*

Major	<i>n</i>	Percent of total	Cumulative Percent
Undeclared	22	5.8	5.8
Criminal Justice	100	26.4	32.2
*Psychology	20	5.3	37.5
Forensic Science	20	5.3	42.7
*Social Work	8	2.1	44.9
Aviation	29	7.7	52.5
Education	34	9.0	61.5
Business	42	11.1	72.6
Political Science	2	.5	73.1
*Sociology	3	.8	73.9
Natural/Health Sciences	69	18.2	92.1
Engineering	12	3.2	95.3
Communications/ Languages	8	2.1	97.4
Theater	1	.3	97.6
Athletics/Kinesiology	9	2.4	100.0
TOTALS	379		100.0

*Note: Majors included in "other social sciences" indicated by an \*).*

A separate category, “other social sciences”, was created so that comparisons could be made between criminal justice students and students of other social sciences. This category included psychology, sociology, and social work majors. As prior research has revealed that criminal justice students tend to be high in levels of sexual prejudice (Cannon, 2005; Cannon & Dirks-Linhorst, 2006; Miller & Kim, 2012; Olivero & Murataya, 2001; Ventura et al., 2004), which is unlike students of other social sciences (Cannon & Dirks-Linhorst, 2006; Ventura et al., 2004), comparisons between criminal justice students and other students of the social sciences would be useful. Further, it would allow social science students, who are the most likely to have had educational experiences meant to sensitize them to sexual prejudice issues, be analyzed separately from those students who are less likely to have had such experiences. (Refer to Table 3 for the distribution of respondents by major category and gender.)

### **Materials**

A survey packet (Appendix A) was distributed to individuals who agreed to participate. The packet consisted of: (1) a cover page; (2) summary of the prosecution’s case in a hypothetical trial; (3) summary of the defense’s case; (4) manipulation checks; (5) questions regarding the respondent’s perceptions of the witness and the guilt of the defendant; (6) demographic questionnaire; and (7) Herek’s Attitudes Toward Lesbians and Gay Men (ATLG) scale (short form) (Herek, 1988). A post-survey handout (Appendix B) was also given to each study participant after turning in the survey packet.

Table 3

*Distribution of Respondents by Major Category and Gender*

Major	<i>n</i>	<i>n</i> Male Respondents	<i>n</i> Female Respondents
Undeclared/ Undecided	22	10	12
Criminal Justice	100	68	32
Other Social Science	31	5	26
Other	226	111	115
TOTAL	379	194	185

**Cover page**

Respondents were instructed orally that they were not to turn back to previous pages once a page was turned. This instruction was also printed in bolded capital letters at the bottom of each page. The purpose of not allowing students to turn back to previous pages was meant to simulate a juror’s experience during a trial, as closing statements are heard once and not repeated. Participants were told that the purpose of the study was to assess juror decision-making in a criminal case, but they were not informed that the study’s focus was on perceptions of gay and lesbian witnesses in a criminal trial.

Students were informed that their participation in the study was voluntary and they were free to decline participation or to change their minds and discontinue the survey at any time. They were told that completing the survey would be taken

as their consent to participate. Respondent anonymity and confidentiality was assured. In the one class where class credit was offered for completing a survey, the list of students earning the credit was kept separately from the surveys and no comparison was ever made between the two.

### **Trial summaries**

The trial summaries were structured as bulleted lists, which highlighted the relevant facts that should be considered when making a decision about the case. These trial summaries were designed to mirror closing statements in actual criminal trials, which generally are a summation of the evidence in the light most favorable to the presenting side. A bulleted list rather than a more detailed narrative was utilized due to time constraints. The bulleted trial summaries appear in Table 4.

The prosecution's summary is designed to suggest the defendant's guilt to the reader. The defense's summary negates some, but not all, of the evidence against the defendant. Based upon the summaries alone, this verdict should be a close call for most respondents. The defense witness's testimony negates the identification of the defendant as the killer. Should a respondent believe the testimony of this witness, the respondent should return a verdict the defendant is not guilty of the murder. The defense witness's gender and sexual orientation were manipulated so that the witness would be a gay man, a heterosexual man, a lesbian woman, or a heterosexual woman. The witness's gender was suggested through his or her first name (Joshua or Linda) and through either masculine or feminine pronouns (he/she, his/her). The witness's sexual orientation was suggested through a description of the witness walking a boyfriend or girlfriend to the door

Table 4

*Summary of Prosecution's and Defense's Cases*

---

Important points in the Prosecution's case:

- Amanda Gregory and Jack Joseph were formerly in a romantic relationship
- Jack ended their relationship on January 15 and Amanda had a hard time getting over him
- Amanda frequently texted, emailed, and called Jack following the breakup, up until the time of her death on October 10
- Jack told at least two co-workers that he wished Amanda would "just go away"
- Amanda was shot and killed in her apartment on October 10 at approximately 8:15 p.m.
- The murder weapon was a firearm registered to Jack Joseph
- Mary Peters, who lives building next to Amanda's building, heard the gunshot and looked outside of her window to see what had happened. She saw a man running out of Amanda's building within 1-2 minutes of hearing the gunshot. She described the man's clothing as being a gray sweatshirt and faded jeans. She described the man as being "a Caucasian man, close to 6 feet tall with dark hair."
- Mary Peters testified that Jack Joseph looks like the person that she saw but that she was not 100% certain that it was him
- Jack Joseph is a Caucasian man, 6' 1", with brown hair
- A gray sweatshirt and faded jeans similar to the ones seen by the witness were located in Jack Joseph's apartment and the clothing had been recently washed
- Jack Joseph has no alibi for the time of the murder – he claims to have been at home alone. There are no witnesses who support Jack's claim that he was at home at 8:15 p.m. on October 10.

Important points in the Defense's case:

- Following their breakup, Amanda harassed Jack, sometimes calling and texting him up to 200 times a day and emailing several times a day
- Jack changed his telephone number nine times between January 15 and October 10 and set up four new email accounts during that time
- Jack told co-workers that he wanted Amanda to go away because he was so frustrated with her harassment and the way she kept getting his new phone numbers and email addresses by tricking his friends and family members
- Jack's apartment was burglarized on September 17 and one of the items that was stolen was the handgun that turned out to be the murder weapon
- Amanda was the primary suspect in the burglary but there were never any charges filed in the case

Table 4 cont.

- Jack was home alone at the time of the murder, which occurred at 8:15 p.m. on a weekday. A neighbor saw him picking up his mail in the building lobby at about 6:30 p.m. and they rode upstairs in the elevator together. Jack told the neighbor that he had brought home a lot of paperwork to do that evening. Jack seemed to be his regular self during the conversation and did not seem agitated or upset.
  - There was no physical evidence located at the murder scene or at Jack's apartment that connected Jack to the murder
- 

and hugging and kissing him or her. The highlights of this witness's testimony appear in Table 5. The distribution of survey forms by witness type appears in Table 6.

### **Manipulation check**

Four questions served as a manipulation check to ensure that respondents actually read the summaries and were able to accurately recall the facts of the hypothetical trial. Respondents were asked the name of the murder victim and her cause of death. The purpose of these first two manipulation check questions was to ensure that respondents would not discern that sexual orientation was the focus of the study, so incorrect responses did not result in exclusion from analysis. The third question asked respondents about the gender (male/female) of the manipulated witness. The final question asked about the witness's sexual orientation (heterosexual/homosexual). It was important for respondents to understand the witness's gender and sexual orientation to accurately gauge sexual orientation bias, so any surveys that contained incorrect responses to the third or fourth manipulation check questions were excluded from analysis.

Table 5

*Defense Witness's Testimony*

---

Summary of defense witness [Joshua/Linda] Murphy's testimony:

- [Joshua/Linda] moved into Amanda's building about 6 weeks before the murder and lives in the apartment directly below Amanda's apartment
  - [Joshua's/Linda's] apartment door faces the stairs so anyone coming down the stairs would pass directly in front of [his/her] door. There is an elevator in the building, located at the opposite end of the building from [Joshua's/Linda's] apartment
  - [Joshua/Linda] was walking [his/her] [boyfriend/girlfriend] out when they heard a loud popping sound and then a thud, which they thought was something falling and breaking upstairs
  - [Joshua/Linda] hugged and kissed [his/her] [boyfriend/girlfriend] in the doorway with the door open
  - [Joshua/Linda] saw a man in a gray sweatshirt run down the stairs
  - The man was approximately 6' tall and had sandy brown hair.
  - [Joshua/Linda] does not think the man in the gray sweatshirt saw them because the man seemed to be in a rush
  - [Joshua/Linda] testified that [he/she] does not know Jack Joseph
  - [Joshua/Linda] did not pick Jack Joseph out of a photo lineup
- 

Table 6

*Distribution of Survey Forms by Witness Type*

---

Witness Type	<i>n</i>	Percent	Cumulative Percent
Gay Male	96	25.3	25.3
Heterosexual Male	85	22.4	47.8
Lesbian Female	102	26.9	74.7
Heterosexual Female	96	25.3	100.0
Total	379		100.0

---



## **Respondents' perceptions**

This study looks to the sexual orientation of the witness to determine whether a juror's verdict may be swayed by a witness's status as a gay man or lesbian woman.

Respondents were first asked to decide whether they believed one or both of the main witnesses lied about what they saw. Jurors were then asked three questions about how credible they found the witness statements, which included questions addressing the witness' believability, trustworthiness, and credibility. These measures were each scored on a 7-point Likert scale, with 1 representing the lowest credibility determination and 7 representing the highest. The development of these three questions and an aggregate credibility scale is described below.

There is not any pre-existing scale that would be suitable for making determinations on witness credibility under the conditions that were utilized in this survey. The WCS, though useful in evaluating credibility of witness testimony, would not be an appropriate tool to use in its entirety in this research, as it is intended for use in evaluating expert testimony (Brodsky et al., 2010). In addition, the structure of the scale requires that respondents are able to view either live or recorded testimony. Some of the adjective pairs rated with the WCS are unfriendly/friendly, ill-mannered/well-mannered, unpleasant/pleasant, and shaken/poised. Many of these adjectives cannot be adequately rated with the use of a written description of a witness's testimony (Brodsky et al., 2010).

However, two questions were used to rate the witness's veracity using components of the WCS that could apply to a written scenario. The four categories

of witness credibility identified by Brodsky et al. (2010) were confidence, likeability, trustworthiness, and knowledge. As confidence, likeability, and knowledge would be difficult to rate on a paper and pencil survey, the element of trustworthiness was focused upon. Respondents were asked to rate the witness's trustworthiness and believability (an element of trustworthiness). Finally, respondents rated the witness's overall credibility.

Brodsky et al. (2010) found that their Witness Credibility Scale had good internal consistency, with a Cronbach alpha coefficient reported at .95. The Cronbach alpha for the trustworthiness subscale was .93. In the present study, a mean score was calculated for each witness based upon the respondent's ratings of believability, trustworthiness, and overall credibility, which was then used to conduct the analyses, hereinafter referred to as the aggregate credibility score. The Cronbach alpha coefficient was .84 for the three items. Analysis of the aggregate credibility score as applied to the control witness yielded similar internal consistency with a Cronbach alpha coefficient of .85.

The respondents were also asked to rate their private belief on whether they believed the defendant committed the crime for which he is on trial on a scale of -5 to +5. A private belief rating of -5 indicated that a respondent has a strong feeling that the defendant did in fact commit the crime. A rating of +5 indicates a strong belief that the defendant is innocent of the crime. Respondents were asked to rate their private belief regardless of the weight of the evidence in the case, but solely upon their own personal feelings. Finally, jurors were asked to return a verdict upon the defendant. The verdict was a forced-choice response of guilty or not guilty.

## **Demographic items**

Demographic items that were collected included respondent gender, age, year in school, race, major/minor, and sexual orientation. Respondents were also asked whether they have any gay friends or family members.

Most respondents (69.4%,  $n=263$ ) reported having gay friends and/or gay family members while 116 respondents (30.6%) denied having any gay friends or family members. Seventy-six respondents (20.1%) reported having both gay friends and family members, 21 (5.5%) reported having gay family members only and 166 (43.8%) reported having gay friends only.

Associations with the gay community is an important consideration in research of this nature, as contact with gay and lesbian persons has been found to reduce levels of sexual prejudice (Collier, Bos, & Sandfort, 2012; Herek & Capitano, 1996; Smith, Axelton, & Saucier, 2009). As contact with the gay community increases, levels of sexual prejudice decrease. Those respondents reporting that they have gay friends and/or family members would be expected to reflect lower levels of sexual prejudice.

## **ATLG Scale**

Herek's (1988) Attitudes Toward Lesbians and Gay Men (ATLG) scale (short form), consisting of two subscales, the Attitudes Toward Lesbians (ATL) scale and the Attitudes Toward Gay Men (ATG) scale, was utilized to gather information about respondents' levels of sexual prejudice. This item appeared last in the survey packet to avoid the possibility of respondents discerning the true nature of the survey and

altering responses to be politically correct or to fit what they felt the researcher was looking for.

Several previous studies have utilized the ATLG scale or its short form (Herek, 2000b; Kwok, Wu, & Shardlow, 2013; Morrison & Morrison, 2011). The short form of the scale includes five items intended to assess respondent attitudes towards gay men and five items intended to assess respondent attitudes towards lesbian women. Items include statements such as “I think male homosexuals are disgusting,” “Homosexual behavior between two men is just plain wrong,” “Female homosexuality is a sin,” and “Lesbians are sick” (Herek, 1988). Four items such as “Just as in other species, male homosexuality is a natural expression of sexuality in human men” and “Female homosexuality in itself is no problem, but what society makes of it can be a problem” are reverse coded.

Respondents were asked to rate their agreement with such statements on a 7-point Likert scale. The scale was initially designed using a 9-point Likert scale (Herek, 1988), however subsequent administrations of the scale use Likert scales of varied size (Cárdenas & Barrientos, 2008; Kwok et al., 2013). In this particular administration, a 7-point scale was chosen to maintain a consistent measurement scale between witness ratings and the ATLG.

Responses were divided into three groups for purposes of analysis, with the groups reflecting respondents’ levels of sexual prejudice as being high, medium, or low. Those respondents whose scores fell into the lowest quartile were categorized as having low prejudice while the respondents in the highest quartile were

categorized as having high prejudice. The remainder of the respondents fell into the medium prejudice category.

Internal consistency for this measure typically exceeds .80. The short form of the ATLG Scale has been found to correlate highly with the full ATLG (Herek, 1994). For the present study, the internal consistency coefficients were .73 for the ATL scale and .86 for the ATG scale, with an overall internal consistency of .89.

### **Procedure**

The survey was pilot tested on a group of fourteen volunteers. The purpose of conducting a pilot of this survey was three-fold. First, it was important to ensure that the survey was understandable and worded appropriately. The respondents must be able to easily discern their objective and be able to respond appropriately to the questions. Second, the survey must be realistic enough for respondents to step into their role as potential jurors in a criminal trial. Third, as the survey is lengthy, a time test was required. As the administration of the survey relied upon the kindness of professors allowing the researcher access to their classes, the survey needed to be as brief as possible to achieve its objectives. Respondent fatigue was also a concern.

The average time to complete the survey during the pilot was just over thirteen minutes, with times ranging from 9.2 minutes to 16.5 minutes. There were some minor adjustments to the survey layout following the suggestions of some of the volunteers, but no substantial changes were necessary.

The respondents were selected by virtue of attendance at a class selected for inclusion in the study. Two large intro-level essential education courses (Introduction to Sociology and Introduction to Fine Arts) were selected, as were five larger classes within the Criminal Justice curriculum, each with an enrollment of at least 35 students. The researcher personally administered and collected all of the surveys except for those administered to her own class. Another graduate student administered and collected the surveys distributed to the researcher's class.

Those students who consented to participate received the survey packet and were given oral instructions. They were also asked to read the cover page, which included detailed instructions that expanded upon the oral instructions. When students handed in their completed surveys, they were thanked and given a handout that disclosed the true aim of the study and contained the researcher's contact information and the contact information and location for the on-campus counseling center.

### **Missing and Excluded Data**

There were 143 surveys excluded from analysis. Ninety-four were excluded due to one or both manipulation checks being answered incorrectly. There were twenty-seven surveys excluded due to multiple missing items on the Attitudes Toward Lesbians (ATL) and Attitudes Toward Gay Men (ATG) Scale (collectively the ATLG Scale). Five surveys were excluded due to missing demographic data, and seven surveys were excluded for both missing ATLG responses and demographic data. Those respondents who completed at least four of the five items for each

subscale of the ATLG were included in analysis, as a mean score was used for the ATL and ATG scores (Cárdenas & Barrientos, 2008). All five of the students excluded for incomplete demographic information failed to indicate their sexual orientation and ten additional surveys were excluded due to the respondent indicating a sexual orientation other than heterosexual. Those who did not indicate a heterosexual orientation were excluded from analysis as the ATLG scale is designed to assess heterosexual attitudes towards gay men and lesbian women (Herek, 1988).

A series of t-tests were conducted to determine whether any significant difference existed between the respondents who were ultimately included in analyses and those who were excluded due to missing data or indication of nonheterosexual orientation. The groups were compared based on the mean scores for their private belief rating, verdict, ATL, ATG, ATLG, and aggregate credibility score of the witnesses. No significant difference was found on any of the aforementioned measures between those included and those excluded from analysis, as referenced in Table 7.

Analyses were also conducted to ensure that the included respondents did not vary from the excluded respondents on the witness manipulation. Chi-square tests of independence were used to compare the included and excluded respondents on the form of survey ( $\chi^2 (3, 428) = 3.17, p = .37, \phi = .09$ ) and the sexual orientation of the witness ( $\chi^2 (1, 428) = 1.53, p = .22, \phi = -.06$ ). These analyses yielded results that were not statistically significant. The excluded respondents did

Table 7

*Comparison of Included and Excluded Responses*

		<i>n</i>	<i>M</i>	<i>SD</i>	<i>t</i>	<i>Sig.</i>
ATL	Included	379	2.41	1.28		
	Excluded	18	2.49	1.49	-.27	.78
ATG	Included	379	2.65	1.70		
	Excluded	16	2.58	1.74	.17	.87
ATLG	Included	379	2.53	1.40		
	Excluded	16	2.32	1.19	.59	.56
Aggregate Credibility Score	Included	379	5.26	1.06		
	Excluded	49	5.07	1.18	1.16	.25
Personal Belief Rating	Included	379	.31	2.68		
	Excluded	48	.13	2.84	.45	.66
Verdict	Included	378	1.82	.39		
	Excluded	47	1.85	.36	-.57	.57

\* $p < .05$ *Note.* *M* = Mean. *SD* = Standard Deviation.



not significantly vary from the respondents that were ultimately included in the analyses based upon the type of witness that they evaluated.

### **Statistical Analyses**

Chi-square tests of independence were used to examine relationships between two categorical variables, specifically on the verdict measure (guilty/not guilty). Independent samples t-tests and one-way analyses of variance (ANOVAs) were used to analyze group mean differences for continuous outcome measures (e.g., a t-test was used to compare ATLG scores for those who convicted versus acquitted the defendant; a one-way ANOVA was used to compare mean ATLG scores across respondent majors). Two-way ANOVAs were used to analyze mean group differences across two variables, looking for main effects and interaction effects (e.g., a 4 x 2 to look at continuous dependent variables across both respondent major and witness sexual orientation, and a 3 x 2 to look at continuous dependent variables across both level of prejudice and witness sexual orientation). Factorial ANOVAs were used to analyze mean group differences where there were more than two independent variables. For example, a 2 x 2 x 2 factorial ANOVA was used to look at witness gender, witness sexual orientation, and respondent gender for the continuous dependent variables.

Tukey's Honestly Significant Different Test (HSD) was selected as the appropriate post-hoc measure of association for this study. It was applied where significant results were attained on an ANOVA when there were more than two categories of the dependent variable, such as where groups were being compared by

level of prejudice. Simple effects analyses were performed where a significant interaction effect was achieved on an ANOVA in order to further examine the interaction (e.g., looking at the effect of one factor at each level of the second factor).

Where an independent samples t-test or an ANOVA revealed a statistically significant difference between the groups being compared, eta squared was calculated to determine the effect size. An eta squared value of 0 represents that there is no relationship between the variables while a value of 1 indicates a perfect relationship (Bachman & Paternoster, 2004). Eta squared values that fall between 0 and .29 are interpreted as a weak relationship, with those between .30 and .59 being a moderate relationship. Values of .60 and greater represent a strong relationship between the variables (Bachman & Paternoster, 2004).

## CHAPTER IV

### RESULTS

The data analysis was conducted by focusing on four variables: witness aggregate credibility scores, verdict, private belief ratings, and respondent prejudice, measured through ATLG scores.

A Spearman's rank order correlation coefficient (Spearman's rho) was performed to assess the correlations between the variables. The Spearman's rho revealed a statistically significant negative relationship between the witness credibility scores and respondent level of prejudice and a statistically significant relationship between the private belief ratings and the verdict. See Table 8 for the full Spearman's Rho analysis.

Table 8

*Spearman's Rho Correlation Coefficients*

Measure	1	2	3	4
1. Aggregate Credibility	--			
2. Verdict	0.16	--		
3. Private Belief	0.02	0.52**	--	
4. Prejudice	-0.17**	-0.00	0.03	--

\*\* Correlation is significant at the .001 level

## Credibility Ratings

Five of the hypotheses for this study address witness credibility. These look for differences in credibility by characteristics of the witness, gender and major of the respondent, and levels of prejudice.

The overall mean aggregate credibility score assigned to the manipulated witness in the hypothetical case for the full sample was 5.26 ( $SD = 1.06$ ). The scores ranged from a low score of 1.0 to a high score of 7.0.

*Hypothesis 1: The testimony of the gay male witness will be found least credible overall.*

*Hypothesis 2: Testimony of homosexual witnesses will be found less credible in general than testimony from heterosexual witnesses.*

*Hypothesis 3: Male respondents will assign lower credibility ratings to the homosexual witnesses than will female respondents, with the lowest ratings assigned to the gay men.*

A 2 (witness gender: male/female) by 2 (witness sexual orientation: heterosexual/homosexual) by 2 (respondent gender: male/female) factorial ANOVA was performed to test Hypotheses 1-3, with aggregate credibility scores as the dependent variable. Means are shown in Table 9. This model was not statistically significant,  $F(7, 379) = 1.64, p = .12$ . Results indicated a significant main effect for the witness gender variable,  $F(1, 379) = 4.42, p = .04, \eta^2 = .030$ . Male witnesses were rated as more credible ( $M = 5.38, SD = 1.02$ ) than female witnesses ( $M = 5.15, SD = 1.08$ ).

The main effects were not significant for witness sexual orientation ( $F(1, 379) = .47, p = .49$ ) or for respondent gender ( $F(1, 379) = 2.14, p = .15$ ). The

Table 9

*Aggregate Credibility Scores by Respondent Gender*

Respondent Gender	Witness	<i>n</i>	Mean ACS	<i>SD</i>
Male				
	Heterosexual Witness			
	Male	40	5.20	1.16
	Female	48	5.25	1.05
	Homosexual Witness			
	Male	56	5.32	1.03
	Female	50	4.97	1.11
Female				
	Heterosexual Witness			
	Male	45	5.41	.93
	Female	48	5.35	.86
	Homosexual Witness			
	Male	40	5.58	.95
	Female	52	5.04	1.24

\* $p < .05$ *Note.* ACS = Aggregate Credibility Score. SD = Standard Deviation

interaction effect between witness gender and witness sexual orientation was significant,  $F(1, 379) = 4.08, p = .04, \eta^2 = .023$ .

Simple effects analyses were conducted on witness sexual orientation at each level of witness gender to investigate this interaction. These analyses revealed that there was a significant difference between the scores assigned to the heterosexual female witness and the lesbian female witness,  $F(1, 379) = 3.87, p = .05, \eta^2 = .010$ .

Lesbian female witnesses received significantly lower aggregate credibility scores than heterosexual female witnesses. Simple effects analyses conducted on witness gender at each level of witness sexual orientation revealed that respondents' aggregate credibility scores were significantly higher when the witness was a gay male than when the witness was a lesbian female,  $F(1, 379) = 9.04, p = .003, \eta^2 = .024$ . This interaction is plotted in Figure 1, which zooms in on a limited range of scores to examine the effects. None of the other interaction effects were significant in this model.

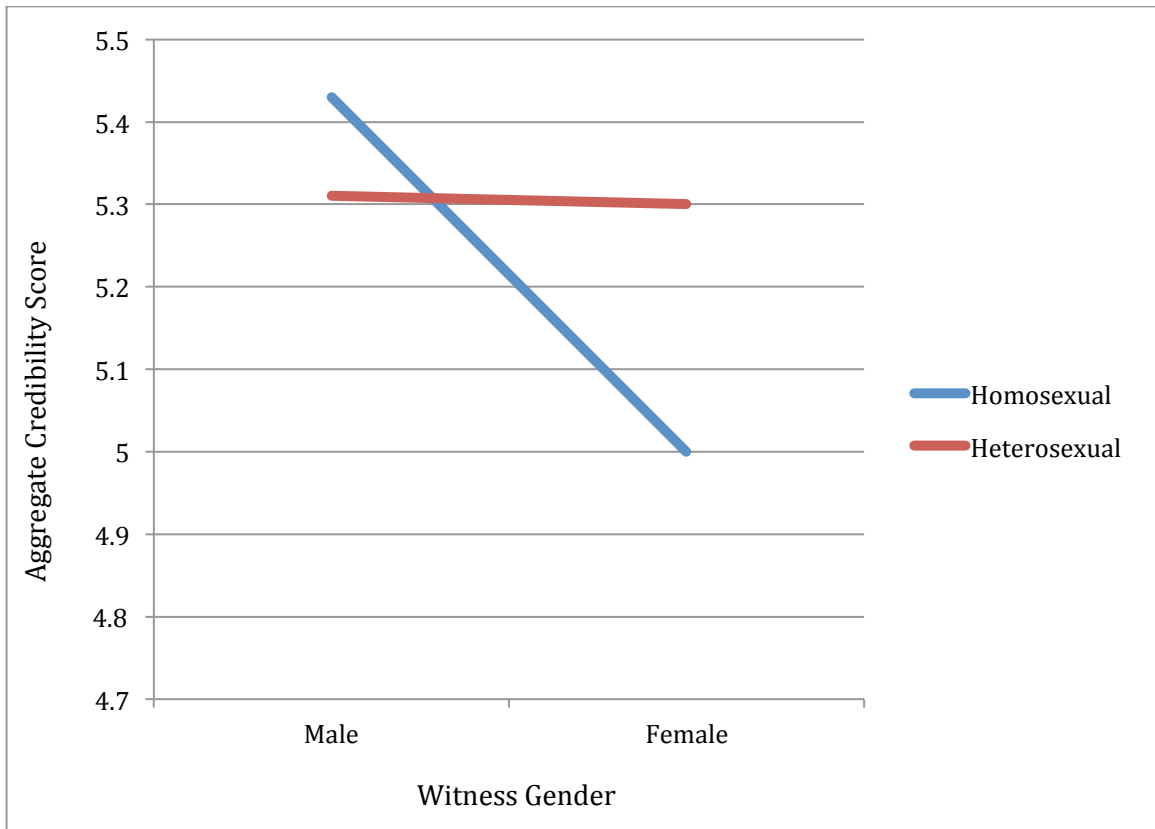


Figure 1. Aggregate Credibility Scores by Witness Gender and Sexual Orientation.

*Hypothesis 4: Students who are majoring in criminal justice will find homosexual witnesses less credible than will students of other majors.*

A 4 (respondent major: criminal justice, other social science, other, undecided/undeclared) by 2 (witness sexual orientation: heterosexual/homosexual) two-way ANOVA was conducted to investigate this hypothesis, utilizing the aggregate credibility scores as the dependent variable. This model was not statistically significant,  $F(7, 379) = .76, p = .62$ . Neither of the main effects was significant (witness sexual orientation,  $F(1, 379) = .18, p = .68$ ; respondent major,  $F(3, 379) = .40, p = .75$ ). There was no significant interaction effect in this model. The means from this analysis are displayed in Table 10.

Table 10

*Distribution of Aggregate Credibility Scores by Witness Sexual Orientation and Respondent Major Category*

Witness Sexual Orientation	Major Category	<i>M</i>	<i>SD</i>
Homosexual	Undeclared/Undecided	5.30	.87
	Criminal Justice	5.29	1.08
	Other Social Science	5.18	1.42
	Other	5.18	1.10
Heterosexual	Undeclared/Undecided	5.00	1.11
	Criminal Justice	5.16	1.09
	Other Social Science	5.69	.77
	Other	5.36	.96

*Note.* *M* = Mean. *SD* = Standard Deviation

*Hypothesis 5: Respondents with higher levels of sexual prejudice will assign lower credibility ratings to homosexual witnesses than those with lower levels of sexual prejudice.*

A 3 (ATLG group: low prejudice, medium prejudice, high prejudice) by 2 (witness sexual orientation: heterosexual/homosexual) two-way ANOVA was conducted to explore the differences in aggregate credibility scores given to homosexual witnesses when respondents were grouped by their ATLG scores. This model approached statistical significance,  $F(5, 379) = 2.07, p = .07$ . The main effect for ATLG group was significant,  $F(2, 379) = 4.49, p = .01, \eta^2 = .024$ . The scores assigned by those in the low prejudice group were significantly higher than the scores assigned by respondents in the high prejudice group, and approached significance when compared to the scores assigned by respondents in the medium prejudice group. This pattern of results is not surprising given the significant, negative Spearman's rho between aggregate credibility and sexual prejudice (i.e., with higher ATLG scores correlated with lower credibility scores). The distribution of scores appears in Table 11.

The main effect for witness sexual orientation was not significant,  $F(1, 379) = 1.54, p = .22$ , nor was the interaction effect between witness sexual orientation and ATLG group,  $F(1, 379) = .46, p = .64$ .

### **Summary of Credibility Results**

In summary, the aggregate credibility scores assigned to the witnesses varied based upon the witness's sexual orientation and gender and the respondent's level of prejudice. The highest scores were assigned to the gay male witness and the



Table 11

*Aggregate Credibility Scores by Respondent ATLG Group*

Witness Sexual Orientation	Prejudice Group	Mean	Standard Deviation
Homosexual	Low	5.41	.82
	Medium	5.21	1.06
	High	4.99	1.41
Heterosexual	Low	5.64	.83
	Medium	5.22	.96
	High	5.18	1.13

lowest to the lesbian female witness. Female witnesses were assigned significantly lower scores than the male witnesses. Those respondents highest in sexual prejudice assigned the lowest aggregate credibility scores to the witnesses, with lower scores being assigned to the homosexual witnesses, though this result was not statistically significant. Respondent major was not statistically significant for variations in aggregate credibility scores.

**Verdict and Private Belief Ratings**

Four of the hypotheses for this study address whether the respondents would convict the defendant. These look for differences in conviction based upon characteristics of the witness, gender and major of the respondent, and levels of sexual prejudice.

Most respondents ( $n = 309$ ; 81.5%) voted to acquit the defendant. Sixty-nine respondents (18.2%) voted to convict the defendant. One respondent did not indicate a verdict.

The same hypotheses were also tested using respondent's private personal beliefs about whether the defendant killed the victim, which is another outcome measure. Respondents' private belief ratings scores spanned the full range of possible scores, with the minimum assigned score being a -5 (defendant killed the victim) and the maximum a +5 (defendant did not kill the victim). The distribution of private belief ratings appears in Figure 2.

These two outcome measures were related. As reported earlier, the Spearman's rho correlation was significant. Respondents with the lowest private belief scores were most likely to vote to convict the defendant. The likelihood of conviction based upon private belief scores is plotted in Figure 3.

*Hypothesis 6: The conviction rate of defendants with homosexual witnesses (and beliefs that the defendant killed the victim) will be higher than that of defendants with heterosexual witnesses.*

*Hypothesis 7: Based on expectations about credibility, male respondents will be more likely to convict when there is a homosexual witness (and to believe that the defendant killed the victim) than will female respondents, and this result will be most pronounced when the witness is a gay male.*

A chi-square test of independence was conducted to determine whether potential jurors' verdicts (guilty/not guilty) varied significantly based upon which witness they were evaluating (gay male, heterosexual male, lesbian female, heterosexual female). Respondents were least likely to convict the defendant when

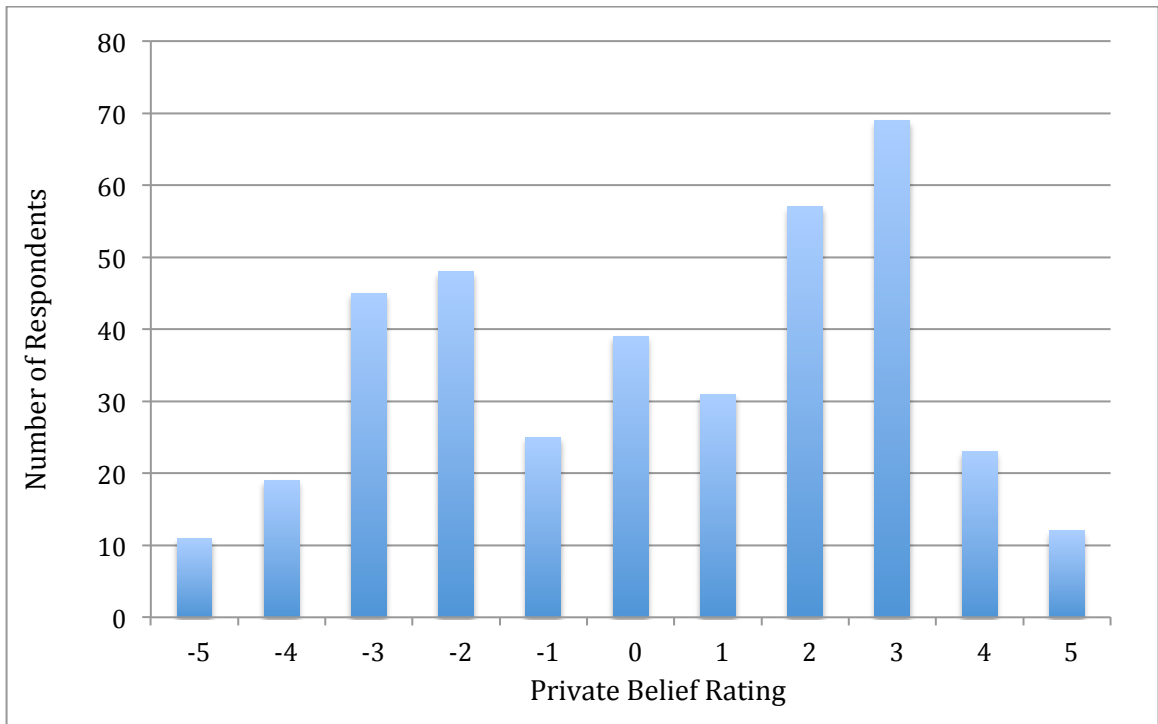


Figure 2. Distribution of Respondent Private Belief Ratings.

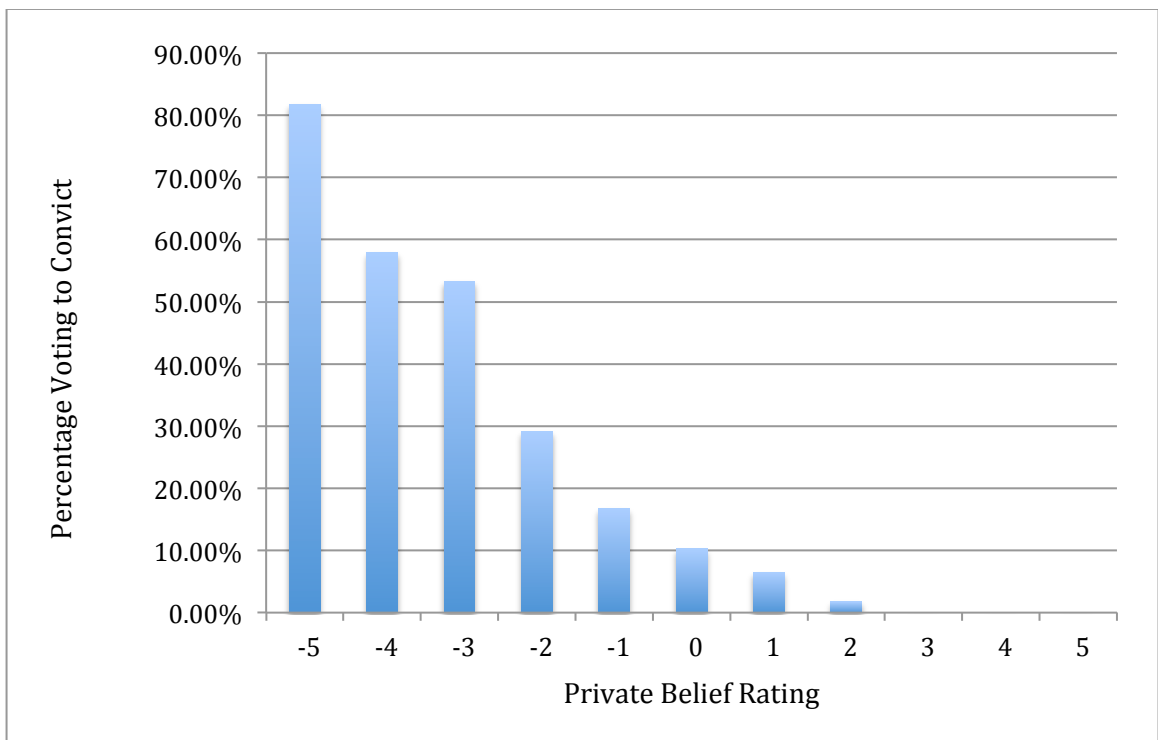


Figure 3. Likelihood of Conviction Based Upon Private Belief Scores.

the witness was a heterosexual female (14.6%) or a gay male (15.8%). When the witness was a heterosexual male, the defendant was convicted by 21.2% of respondents and when the witness was a lesbian female, the defendant was convicted 21.6% of the time. No significant association between the witness and the verdict was found,  $\chi^2(3, 378) = 2.5, p = .48, \phi = .08$ .

A chi-square test of independence was then utilized to examine sexual orientation more broadly, to determine whether the conviction rates varied when the witness was heterosexual versus homosexual. This analysis was not significant,  $\chi^2(1, 378) = .08, p = .78, \phi = .01$ . Conviction rates were nearly identical regardless of whether the witness was homosexual (18.8%) or heterosexual (17.7%).

Additional chi-square analyses were conducted separately for male and female respondents to determine whether their verdicts differed depending upon the witness's characteristics (e.g., gay male, heterosexual male, lesbian female, heterosexual female). Neither of these analyses was statistically significant (male respondents:  $\chi^2(1, 195) = 1.20, p = .75, \phi = .08$ ; female respondents:  $\chi^2(1, 184) = 1.90, p = .59, \phi = .10$ ). Male respondents' conviction rates remained relatively stable, but dropped sharply when a heterosexual female witness was presented. Female respondents' conviction rates varied greatly depending upon the witness type, from a low conviction rate with a gay male witness (17.9%) to a high conviction rate with a lesbian female witness (28.8%). The results of these analyses appear in Table 12.

It was obvious from this pattern of results that male respondents were not more likely than female respondents to convict when there was a homosexual

witness. In fact, regardless of witness characteristics, male respondents were significantly more likely to acquit the defendant than the female respondents were,  $\chi^2(1, 378) = 7.69, p = .01, \phi = -.14$ . Female respondents were nearly twice as likely to convict the defendant, with a 23.9% conviction rate. The rate of conviction by male respondents was 12.9%.

A 2 (witness sexual orientation) by 2 (witness gender) by 2 (respondent gender) factorial ANOVA was performed to assess the differences in private belief ratings based upon the respondent gender and witness characteristics. The model was statistically significant,  $F(7, 379) = 3.45, p = .001, \eta^2 = .061$ . The main effects for witness sexual orientation and witness gender were not significant (witness sexual

Table 12

*Conviction Rates Based Upon Respondent Gender and Witness Characteristics*

Respondent Gender	Witness Sexual Orientation	Witness Gender	<i>n</i>	Conviction %	Acquittal %
Male	Homosexual	Male	56	14.3%	85.7%
		Female	50	14.0%	86.0%
	Heterosexual	Male	40	15.0%	85.0%
		Female	48	8.3%	91.7%
Female	Homosexual	Male	39	17.9%	82.1%
		Female	52	28.8%	71.2%
	Heterosexual	Male	45	26.7%	73.3%
		Female	48	20.8%	79.2%

orientation,  $F(1, 379) = .91, p = .34$ ; witness gender,  $F(1, 379) = 38, p = .54$ ). The main effect for respondent gender was significant,  $F(1, 379) = 16.02, p = .001, \eta^2 = .041$ . Male respondents were significantly more likely to assign a higher private belief rating to the defendant, which indicates that the male respondents were more inclined to hold a personal belief in the defendant's innocence than female respondents (see Table 13).

The interaction effect for witness sexual orientation and witness gender was significant,  $F(1, 379) = 3.78, p = .05, \eta^2 = .010$ . Simple effects analyses were conducted on witness sexual orientation at each level of witness gender to

Table 13

*Respondent Private Belief Ratings Based Upon Witness Gender and Sexual Orientation*

Respondent Gender	Witness Sexual Orientation	Witness Gender	<i>M</i>	<i>SD</i>
Male	Homosexual	Male	.66	2.85
		Female	.82	2.41
	Heterosexual	Male	.58	2.59
		Female	1.33	2.68
	Total (Male Respondents)		.85	2.64
Female	Homosexual	Male	.05	2.64
		Female	-.83	2.23
	Heterosexual	Male	-.40	2.78
		Female	.23	2.75
	Total (Female Respondents)		-.26	2.61
TOTAL			.31	2.68

*Note.* M = Mean. SD = Standard Deviation

investigate this interaction. These analyses revealed that there was a significant difference between the private belief ratings, with lower ratings when the witness was a lesbian female than when the witness was a heterosexual female,  $F(1, 379) = 4.44, p = .04, \eta^2 = .012$ . Simple effects analyses conducted on witness gender at each level of witness sexual orientation yielded no significant result. The means are plotted in Figure 4, which focuses on the mean scores, which fell within a limited range. No other interaction effects were significant in this model.

*Hypothesis 8: Based on expectations about credibility, students who are majoring in criminal justice will be more likely to convict when there is a homosexual witness (and to believe the defendant killed the victim) than students of other majors.*

A chi-square test of independence was utilized to determine whether criminal justice students differed from non-criminal justice students on their



Figure 4. Private Belief Ratings Based Upon Witness Gender and Sexual Orientation.

conviction rates. Criminal justice students convicted the defendant at a lower rate (14.0%) than non-criminal justice students (19.8%), although this difference was not significant,  $\chi^2 (1, 378) = 1.65, p = .20, \phi = .07$ . A chi-square test of independence was also conducted with majors separated by categories (e.g., criminal justice, other social science, other, undecided/undeclared). Again, the result was not statistically significant ( $\chi^2 (3, 378) = 3.92, p = .27, \phi = .10$ ). However, criminal justice students again convicted at the lowest rates, with students of other social sciences convicting at the highest rates (see Figure 5).

A chi-square analysis was then conducted to determine whether there was any difference in the conviction rates based upon respondent major when the witness was homosexual. The result of this analysis was not significant,  $\chi^2 (3, 197) = 2.49, p = .48, \phi = .11$ . However, low *ns* in some categories may have skewed the results. See Table 14.

A 4 (respondent major category: criminal justice, other social science, other, undecided/undeclared) by 2 (witness sexual orientation: heterosexual/homosexual) two-way ANOVA was conducted to determine whether significant differences exist on respondent private belief ratings when respondents were separated into major categories, depending upon the witness's sexual orientation. The result of this ANOVA was not statistically significant,  $F (7, 379) = 1.66, p = .12$ .

The main effect for witness sexual orientation was not significant,  $F (1, 379) = .69, p = .41$ . The main effect for respondent major was significant,  $F (3, 379) = 3.26, p = .02, \eta^2 = .026$ . Students of other social sciences' private belief ratings ( $M = -$



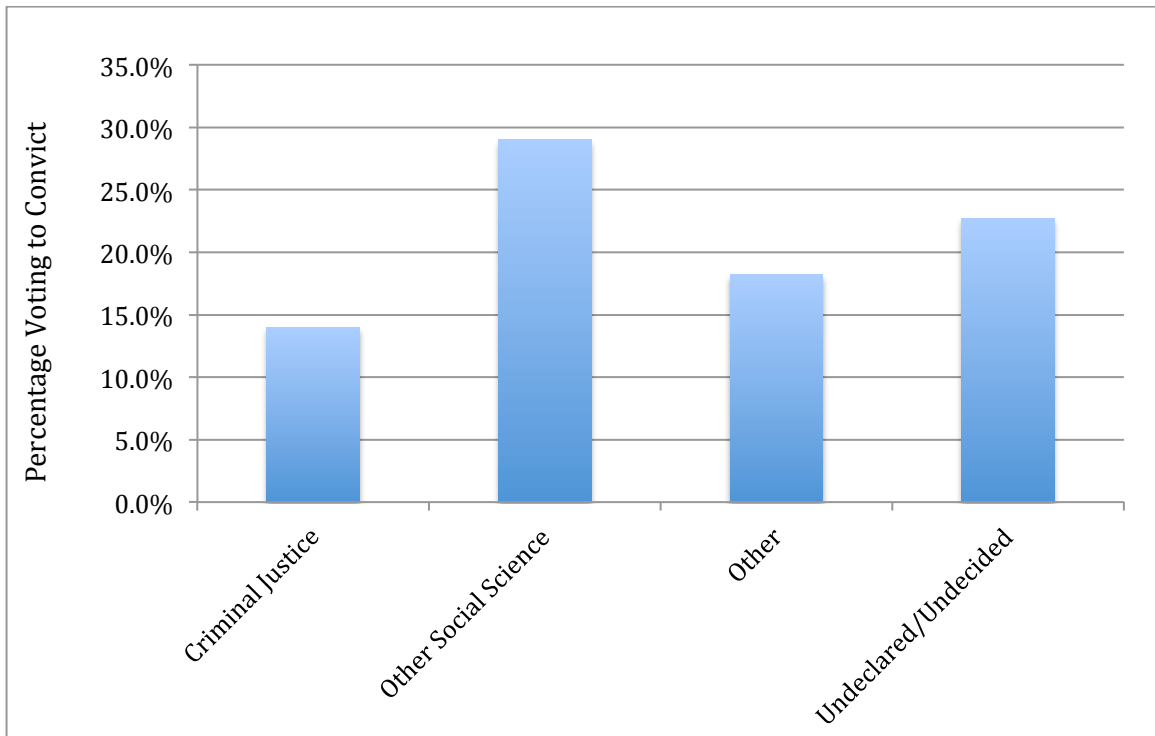


Figure 5. Percentage of Respondents Voting to Convict Defendant by Major.

Table 14

*Conviction Rates by Major Category When the Witness is Homosexual*

Verdict	Major Category	<i>n</i>	Percent Within Major
Guilty	Criminal Justice	7	13.5%
	Other Social Science	4	23.5%
	Other	23	19.3%
	Undecided/Undeclared	3	33.3%
Not Guilty	Criminal Justice	45	86.5%
	Other Social Science	13	76.5%
	Other	96	80.7%
	Undecided/Undeclared	6	66.7%

1.13,  $SD = 2.45$ ) were significantly lower than the private belief ratings of the criminal justice students ( $M = .35$ ,  $SD = .35$ ) and the other students ( $M = .45$ ,  $SD = 2.66$ ). The distribution of respondent private belief ratings by major is illustrated in Figure 6. The interaction effect was not significant in this model.

*Hypothesis 9: Respondents with higher levels of sexual prejudice will be more likely to convict the defendant (and to believe the defendant killed the victim) when there is a homosexual witness than respondents with less prejudice.*

An independent samples t-tests was performed to compare the mean ATLG scores between those voting to convict and those voting to acquit the defendant to determine whether there were differences in the conviction rates based upon the respondent's level of sexual prejudice. There was no statistically significant difference between the mean ATLG scores of those who voted guilty ( $M = 2.57$ ,  $SD = 1.49$ ) and those who voted not guilty ( $M = 2.52$ ,  $SD = 1.38$ );  $t(378) = .25$ ,  $p = .80$ .

A chi-square test of independence was then conducted to determine whether the likelihood of conviction varied based upon level of prejudice (high/medium/low) when the witness was homosexual. The result of this analysis was not statistically significant, but an interesting pattern emerged nonetheless,  $\chi^2(2, 197) = 1.52$ ,  $p = .47$ ,  $\phi = .09$ . The low prejudice respondents had the lowest conviction percentage, at 13.7%, followed by the medium prejudice respondents at 19.2%, and finally, the high prejudice respondents with a conviction percentage of 23.4%.

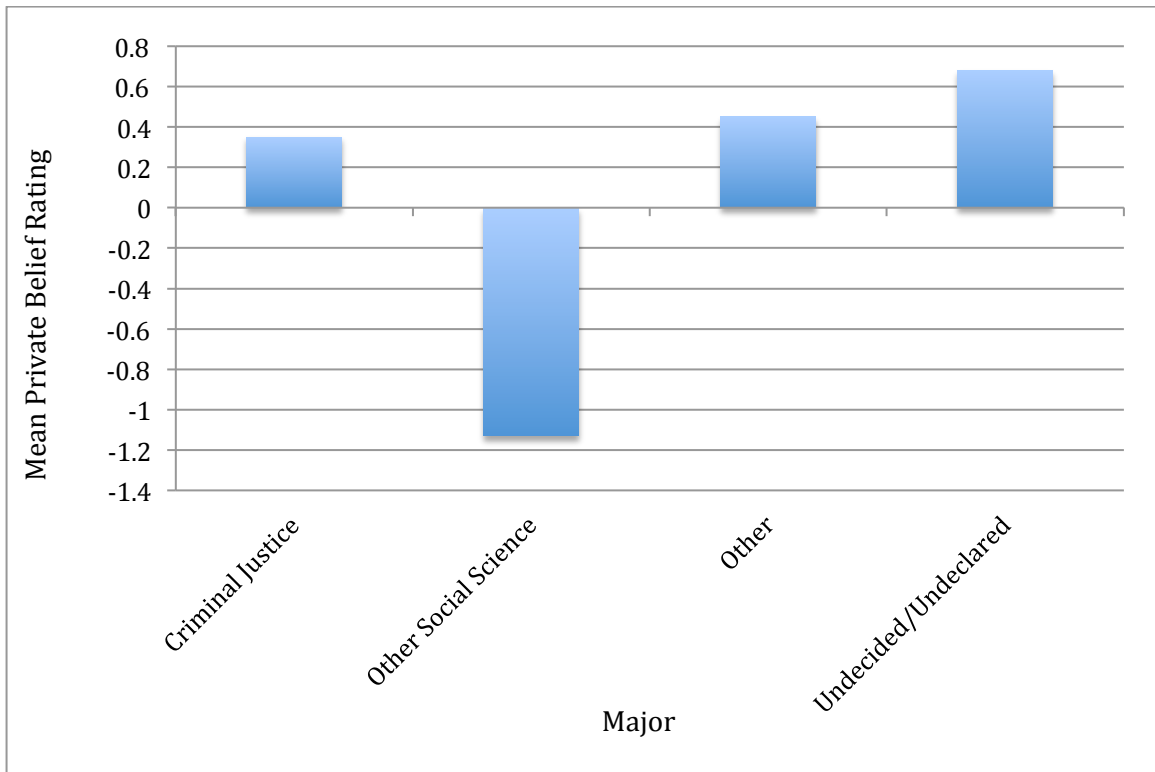


Figure 6. Private Belief Ratings by Major.

The lack of significant findings here is not surprising given that the Spearman's rho did not reveal a significant correlation between verdict and sexual prejudice.

A 3 (level of sexual prejudice: high/medium/low) by 2 (witness sexual orientation: heterosexual/homosexual) two-way ANOVA was conducted to compare the private belief ratings based upon respondent level of sexual prejudice. This model did not achieve significance,  $F(1, 379) = 1.24, p = .29$ . There were no significant main or interaction effects: witness sexual orientation,  $F(1, 379) = .13, p = .72$ ; prejudice group,  $F(1, 379) = .45, p = .64$ . The means from this ANOVA appear in Table 15.

Table 15

*Private Belief Ratings Compared by ATLG Scores and Witness Sexual Orientation*

Witness Sexual Orientation	Prejudice Group	M	SD
Homosexual	Low	.65	2.27
	Medium	-.13	2.63
	High	.34	2.87
Heterosexual	Low	-.07	2.82
	Medium	.54	2.67
	High	.70	2.83

*Note.* M = Mean. SD = Standard Deviation

As there was no statistically significant correlation between private belief ratings and sexual prejudice revealed by the Spearman's rho, it is not surprising that there were no significant findings in these analyses.

**Summary of Verdict and Private Belief Ratings Results**

The most consistent factor in predicting the verdict decision made by a respondent was gender. Female respondents were the most likely to convict the defendant, regardless of the witness characteristics. Private belief is closely tied to the verdict, as a respondent with a high private belief rating would be expected to acquit and one with a low private belief rating would be expected to convict. Female respondents had lower private belief ratings, which is consistent with their higher

likelihood of conviction. The other variable that was important in predicting private belief ratings was respondent major. Students of social sciences other than criminal justice were more likely to have lower private belief ratings. However, verdicts rendered by these students did not significantly differ from those returned by other students.

### Levels of Prejudice

Three hypotheses speak to characteristics of respondents that might be related to higher sexual prejudice, regardless of how they responded to the manipulations in this study. These hypotheses look to the level of sexual prejudice of the respondent and make comparisons when respondents are separated by gender, major, and level of contact with the gay community. See Table 16 for the distribution of ATLG scores for the full sample.

Table 16

*ATLG Score Distribution*

Measure	<i>n</i>	Min. Score	Max. Score	M	SD
ATL	379	1.0	7.0	2.41	1.28
ATG	379	1.0	7.0	2.65	1.70
ATLG	379	1.0	7.0	2.53	1.40

*Note.* M = Mean. SD = Standard Deviation

*Hypothesis 10: Male respondents will have the highest levels of sexual prejudice, which will be most pronounced in their attitudes toward gay men.*

Independent samples t-tests were conducted to compare male and female respondents on their ATL, ATG, and ATLG scores, with significant results attained for all measures. Though these results did achieve statistical significance, the effect sizes, calculated using eta squared, were small (ATL: .021; ATG: .077; ATLG: .035). Results for these analyses are detailed in Table 17.

On the measures of sexual prejudice, male respondents scored consistently higher, indicating higher levels of prejudice, than female respondents. Based upon an examination of means, it appears that male respondents' level of prejudice against gay men exceeds their level of prejudice against lesbian women.

Table 17

*Mean ATL, ATG, & ATLG Scores by Respondent Gender*

	Gender	<i>M</i>	<i>SD</i>	<i>t</i>	Sig.
ATL	Male	2.05	.73	2.88	.004*
	Female	1.84	.72		
ATG	Male	2.15	.73	5.63	.000*
	Female	1.74	.70		
ATLG	Male	2.14	.71	3.70	.000*
	Female	1.88	.70		

\* $p < .05$

Note. M = Mean. SD = Standard Deviation

*Hypothesis 11: Criminal justice students will score higher than students in other majors on the Attitudes Toward Lesbians and Gay Men Scale.*

One-way between-groups ANOVAs were conducted to compare mean ATL, ATG, and ATLG scores between criminal justice, other social science, other majors, and undeclared/undecided majors. There was statistical significance in mean scores for the ATG, but not for the ATL or the full ATLG. The effect size for the ATG comparison yielded an eta squared value of .027. A post-hoc analysis was conducted using Tukey's HSD, which revealed that the ATG scores of the other social science majors were significantly lower than ATG scores in all other categories of majors, as shown in Figure 7 and Table 18.

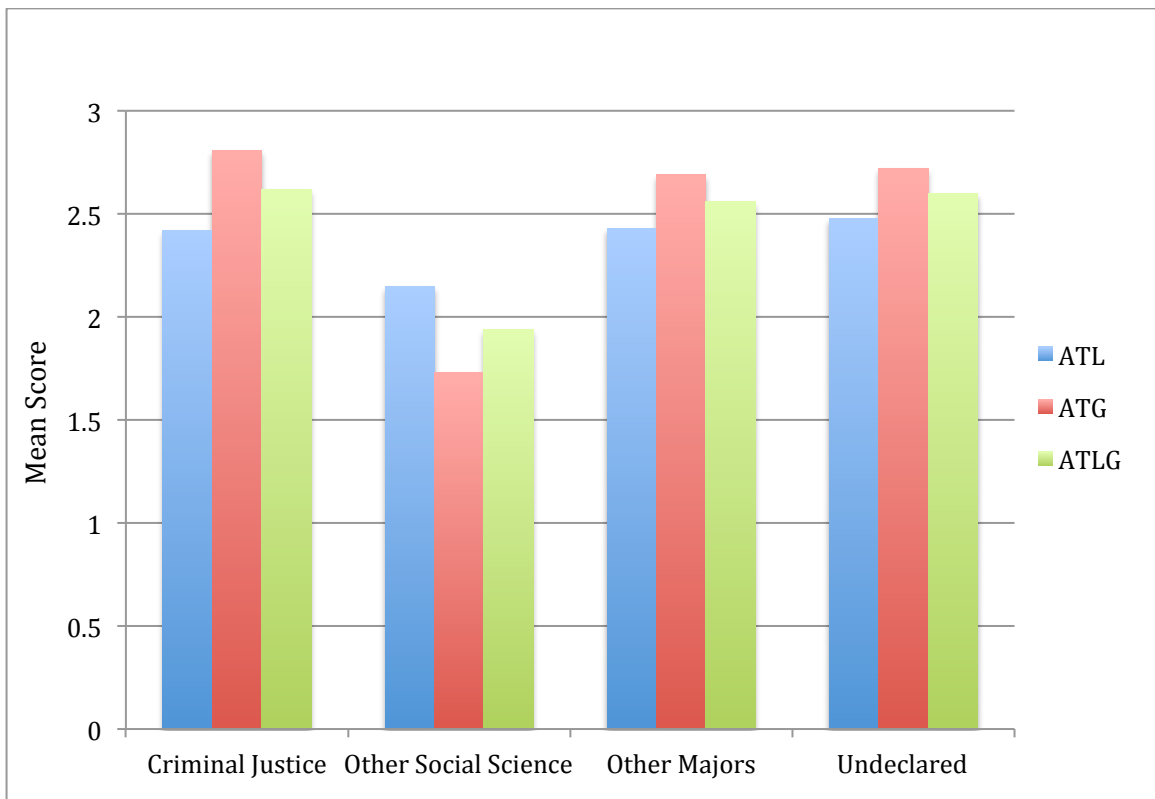


Figure 7. Differences in ATLG Scores Based Upon Respondent Major.

Table 18

*Differences in Mean ATLG Scale Scores Based Upon Major*

Measure	Criminal Justice	Other Social Science	Other Majors	Undeclared	<i>F</i>	Sig.
ATL	2.42	2.15	2.43	2.48	.47	.71
ATG	2.81	1.73*	2.69	2.72	3.48	.02*
ATLG	2.62	1.94	2.56	2.60	2.06	.11

\**p* < .05

*Hypothesis 12: Respondents with ties to the gay community will have lower levels of sexual prejudice, regardless of their major.*

One-way between-groups ANOVAs were conducted to explore the impact of having gay friends and/or family members on mean ATL, ATG, and ATLG scores. For this analysis, the respondents were placed into four groups: those with gay friends only, those with gay family members only, those with both gay friends and family members, and those with no gay friends or family members. Their mean scores were compared on each measure of sexual prejudice (ATL, ATG, ATLG). The results of this analysis appear in Table 19 and Figure 8.

Eta squared indicated a weak effect size for each of the three analyses (ATL: .18; ATG: .175; ATLG: .20). A post-hoc analysis was conducted using Tukey's HSD test. Those respondents with no ties to the gay community had significantly higher



Table 19

*Differences in Mean ATLG Scale Scores Based Upon Ties to the Gay Community*

	Gay Friends & Family	Gay Family	Gay Friends	None	F	Sig.
ATL	1.97	2.06	2.08	3.21*	27.43	.000*
ATG	2.02	2.62	2.20	3.70*	26.58	.000*
ATLG	1.99	2.36	2.14	3.46*	31.33	.000*

\* $p < .05$

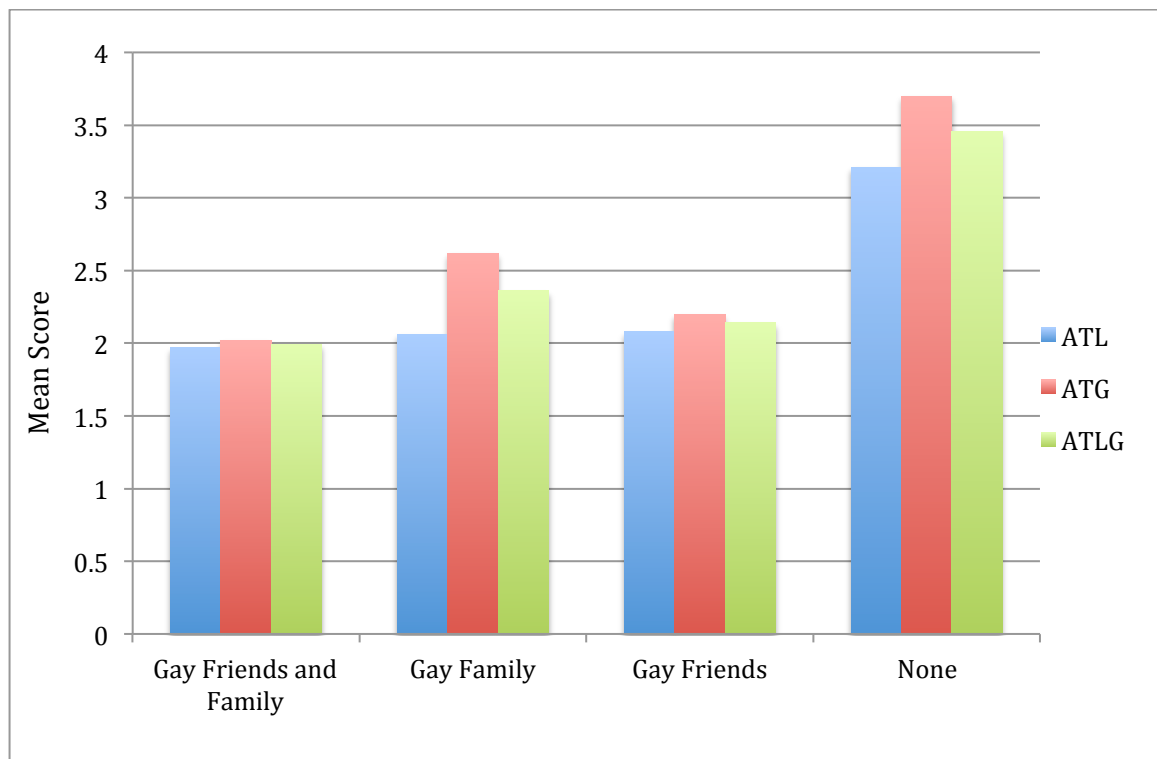


Figure 8. Differences in ATL, ATG, & ATLG Scale Scores Based Upon Contacts With the Gay Community.

scores on both parts of the ATLG scale and had overall higher scores on the full scale than respondents with gay friends and/or family members.

### **Summary of Sexual Prejudice**

Sexual prejudice was predicted by a male gender, with male respondents having the highest scores on the three measures of prejudice. Respondent major also appeared as an important variable when comparing students on levels of sexual prejudice. Students of social sciences other than criminal justice had lower levels of prejudice than did all other students, which significantly differed from criminal justice students where gay men were concerned. The third variable that had a significant relationship to respondent sexual prejudice was the respondent's relationships with persons who are members of the gay community. Respondents with ties to the gay community had lower scores on all measures of sexual prejudice than respondents with no ties. Those respondents with both gay friends and family members had the lowest scores across the measures, followed by those with gay friends only, and those with gay family members only. Respondents with no contacts with the gay community reflected the highest levels of sexual prejudice.

## CHAPTER V

### DISCUSSION

This study has presented results from the first known study of juror bias against gay and lesbian witnesses who have no stake in the outcome of the trial. Twelve hypotheses were tested to explore sexual orientation prejudice and the ways in which it may come into play within the courtroom, including in juror credibility assessments of witnesses and in the jurors' verdicts. The analyses took into account a number of factors, such as the characteristics of the witness, respondent gender, major, and levels of sexual prejudice, and respondents' ties with members of the gay community and how these ties may be related to levels of prejudice.

*Hypothesis 1: The testimony of the gay male witness will be found least credible overall.*

*Hypothesis 2: Testimony of homosexual witnesses will be found less credible in general than testimony from heterosexual witnesses.*

Hypothesis 1 and Hypothesis 2 were not supported. There was no main effect of witness sexual orientation for credibility determinations of the witnesses. There was an unexpected result of potential jurors finding the gay male witness most credible and the lesbian female witness least credible. Based upon prior studies that examined perceptions of gay men and lesbian women (Herek, 1988;

Kite & Whitley, 1996; LaMar & Kite, 1998; Whitley & Kite, 1995), it was expected the gay male witness would be found least credible followed by the lesbian female witness, with the heterosexual witnesses being found most credible.

Prior recent research indicates that sexual prejudice and discrimination can still be found on college campuses (Chonody et al., 2009; Cramer et al. 2013; Rankin et al., 2010). Many studies of prejudice on college campuses deal with respondents interacting with gay students or students who are perceived to be gay (Engstrom & Sedlacek, 1997; Herek, 2002; Talley & Bettencourt, 2008), which may be the reason the expected negative perceptions of the gay witnesses were not found here. This study did not ask respondents to associate with any other persons, but respondents were simply asked to evaluate testimony.

Another possible explanation for the lack of significant findings with regard to witness sexual orientation may be related to the witness's role in the trial. The witness had no stake in the outcome of the trial. Prior research on the evaluation of witnesses based upon their relationship to the defendant suggests that this type of witness would be found the most credible by jurors (Dahl & Price, 2012; Hosch, et al., 2011 Lindsay, et al., 1986). The defense witness (Joshua/Linda) did not know either the victim or the defendant and the verdict would not have a direct impact, positive or negative, on his or her life.

The male witnesses were found to be more credible overall than the female witnesses, regardless of sexual orientation. Though not a predicted outcome, this outcome is consistent with prior research on perceptions of gender credibility that show higher confidence ratings assigned to males (Aries, 1987; Hodgson & Pryor,

1985; Kenton, 1989; Nagle, Brodsky, & Weeter, 2014; Weibel, Wissmath, & Groner, 2008). In the courtroom setting, female attorneys have been found to be less effective by mock jurors, when measured by conviction rates (Hodgson & Pryor, 1985). When witnesses in actual trials are assessed, jurors tend to assign higher credibility ratings to male witnesses than female witnesses (Nagle, et al., 2014).

*Hypothesis 3: Male respondents will assign lower credibility ratings to the homosexual witnesses than will female respondents, with the lowest ratings assigned to the gay men.*

Hypothesis 3 was not supported. There was no significant main effect for respondent gender. The gay male witness did not receive the lowest aggregate credibility scores as expected, from either male or female respondents, but was rated as the most credible witness by both genders.

Though the results failed to achieve statistical significance, an interesting pattern emerged with regard to respondent gender and credibility scores nonetheless. Male respondents assigned lower aggregate credibility scores to every witness in comparison to the female respondents' scores. Male respondents rated the homosexual male as most credible, followed by the heterosexual female, heterosexual male, and lastly, the lesbian female. This result is similar to the female respondents' ratings where the gay male witness received the highest scores and the lesbian female received the lowest.

Males with sexual prejudice, especially those who hold rigid stereotypical beliefs of gender appropriate behavior, would be expected to have the highest levels of prejudice against gay males (Herek, 1986; Herek, 1988; Kite & Whitley, 1996;

LaMar & Kite, 1998; Whitley & Kite, 1995). Therefore, male raters would be expected to give lower scores to gay male witnesses. Again, the contrary results found here may be a product of the study design that asked respondents to evaluate witnesses but did not require any interaction with those witnesses.

*Hypothesis 4: Students who are majoring in criminal justice will find homosexual witnesses less credible than will students of other majors.*

There was no support for Hypothesis 4. No significant differences existed between the aggregate credibility scores given to the homosexual and heterosexual witnesses by criminal justice students and students of other majors. This result is interesting given that criminal justice students were found to have significantly higher levels of prejudice against gay men than students of other social sciences (under Hypothesis 11). Though not statistically significant, criminal justice students also displayed higher ATL scores than the other social science students, suggesting higher levels of prejudice against lesbian women as well.

This result may be explained by a number of factors. It is possible that sexual prejudice does not bear any relationship to the manifestations of prejudice studied here. Persons high in prejudice may be able to set aside their prejudices when the situation calls for them to do so, such as when acting as a juror in the courtroom setting. Criminal justice students may be showing deference to the court process by considering the witness testimony on its face and not making determinations based upon the characteristics of the witness. Another possibility is that students,

regardless of major, recognized that the witnesses had no stake in the outcome of the case and treated them thusly.

*Hypothesis 5: Respondents with higher levels of sexual prejudice will assign lower credibility ratings to homosexual witnesses than those with lower levels of sexual prejudice.*

Support was found for this hypothesis. There was a significant main effect for ATLG group, which represented the respondent level of prejudice. The high prejudice group consistently assigned the lowest aggregate credibility scores to all witnesses, regardless of the characteristics of the witness.

Those with high levels of sexual prejudice were expected to be less confident in the testimony of gay and lesbian witness. Prior research indicates that persons who self-identify as gay or lesbian are frequently treated with suspicion or hostility (Anderson & Kanner, 2011; Hebl, et al., 2002; Hudepohl, et al., 2010). However, respondents with high levels of prejudice were less confident in all witnesses in comparison to the respondents with low levels of prejudice, regardless of the witness's sexual orientation. This result is suggestive of another factor driving responses of those with high levels of sexual prejudice. These respondents may possess a higher overall level of suspicion of witness testimony.

*Hypothesis 6: The conviction rate of defendants with homosexual witnesses (and beliefs that the defendant killed the victim) will be higher than that of defendants with heterosexual witnesses.*

*Hypothesis 7: Based on expectations about credibility, male respondents will be more likely to convict when there is a homosexual witness (and to believe that the defendant killed the victim) than will female respondents, and this result will be most pronounced when the witness is a gay male.*

There was no support found for either Hypothesis 6 or Hypothesis 7. There was no discernable difference in the conviction rates, regardless of which of the four witnesses testified. None of the analyses comparing respondents' verdicts based upon witness sexual orientation suggested that the presence of a gay or lesbian witness had any bearing on the verdict. There was no significant main effect for witness sexual orientation on respondent private belief ratings. Contrary to expectations, male respondents had the strongest belief in the defendant's innocence.

This result, that respondents were as likely to convict the defendant when there was a heterosexual witness as when there was a homosexual witness, could be explained by several factors. Again, the conviction rate was very low in this study, with only 18.2% ( $n = 69$ ) of respondents voting to convict the defendant. The low number of those voting to convict could have skewed the results. It is also possible that the sexual orientation of the witness truly had no bearing on the verdict.

The respondent's gender was an important factor in the conviction rates, but not with male respondents being more likely to convict, as anticipated. Female respondents convicted the defendant at much higher rates than did male respondents. Male respondents' conviction rates were lower than female respondents' conviction rates across every witness category.

Male respondents had a significantly lower belief in the defendant's guilt than the female respondents did. This is an interesting result given that aggregate credibility scores of the witnesses did not differ significantly by respondent gender. Credibility ratings of witnesses were very similar between the male and female



respondents. It would be expected that respondents who believed the witness would vote to acquit the defendant.

This result may be explained by social identity theory, which postulates that an individual will characterize others as members of the same social group as himself or herself (in-group) or as members of an out-group (Tajfel & Turner, 1986). People desire to be perceived as positive in relation to others, which may be accomplished by treating other in-group members favorably. In the alternative, a person may behave negatively or punitively to persons who are members of the out-group. This bias is referred to as in-group bias.

In-group bias can manifest in the courtroom setting, with jurors identifying more or less strongly with a criminal defendant, depending upon the defendant's membership or non-membership in the in-group (Kerr, Hymes, Anderson, Weathers, 1995). Kerr et al. (1995) found that jurors were more lenient toward in-group members when the trial evidence was weak. However, the opposite effect, a black sheep effect, was found when the evidence was strong, with jurors being more punitive toward in-group members. Taylor and Hosch (2004) examined similarity-leniency in a trial setting and found that jurors adjudged guilt based upon the weight of the evidence and not based upon similarities or differences between themselves and the defendant.

In the current study, male respondents may have identified with the male defendant. If they considered the male defendant to be a member of the in-group and believed that the evidence against him was weak, they may have demonstrated a similarity-leniency that is similar to the result found by Kerr et al. (1995). The

female respondents may have considered the male defendant a member of the out-group, which would have allowed them to judge him more critically than if he had been a member of the in-group.

Alternatively, this outcome may have been a function of the crime that was described in the murder trial. A male defendant was on trial for the killing of a female victim who happened to be his ex-girlfriend. The scenario suggests that the victim may have had some mental health issues, as she was stalking and harassing the defendant. It is possible that the female respondents in this study identified more with the female victim than the male respondents did, and felt the need to mete out justice for her. This outcome is consistent with prior studies that have evaluated gender differences in trial verdicts where the victim is female and the defendant is male (Dunlap, Hodell, Golding, & Wasarhaley, 2011; ForsterLee, ForsterLee, Horowitz, & King, 2006; Pozzulo, Dempsey, Maeder, & Allen, 2010).

In addition, the crime depicted was a crime of violence, which may have had an effect on the verdicts, especially those returned by female respondents. Females have consistently been found to hold higher levels of fear of violent victimization than males do (Chui, Cheng, & Wong, 2012; Cops & Pleysier, 2011; Dunlap, et al., 2011). Though women have a much lower actual risk of violent victimization than men, they report the highest levels of fear of crime, a contradiction known as the “fear of crime paradox” (Cops & Pleysier, 2011). Fear of crime, and specifically of violent victimization, may have come into play in the current study, as female respondents may have felt the need to convict the defendant, a man whom they

perceived as dangerous, as a means of protecting themselves and protecting other women.

*Hypothesis 8: Based on expectations about credibility, students who are majoring in criminal justice will be more likely to convict when there is a homosexual witness (and to believe the defendant killed the victim) than students of other majors.*

Hypothesis 8 was not supported. There was no significant result when making comparisons on the verdicts based upon respondent major, including when the scenario involved a homosexual witness. When examining private belief ratings, there was a significant main effect for respondent major. Students of other social sciences reported significantly lower private belief ratings than criminal justice students and other students. This indicates that the other social science students held a strong belief in the guilt of the defendant, but this belief did not affect the verdicts returned by these students.

The majority of the other social science students were female (86%), which may help to explain their lower private belief ratings, as discussed above (see Hypothesis 7). There may be some relationship with social science education and the description of the offense in the hypothetical trial that would cause social science students to judge the defendant more harshly. As female respondents may feel the need to mete out justice to a dangerous offender, so might students of disciplines where helping others is a primary concern (psychology, sociology, and social work).

These outcomes suggest that students of social sciences other than criminal justice have a high level of trust in the criminal justice system, to the extent that persons made to stand trial for serious criminal offenses are actually guilty of those offenses. It is also important to note where the verdicts are concerned, relatively few respondents voted to convict the defendant. Therefore, the result attained here with the respondents who returned guilty verdicts could simply be a function of the mechanics of this particular study.

*Hypothesis 9: Respondents with higher levels of sexual prejudice will be more likely to convict the defendant (and to believe the defendant killed the victim) when there is a homosexual witness than respondents with less prejudice.*

This hypothesis was not supported. Mean ATLG scores did not significantly vary between those voting to convict and those voting to acquit the defendant. When only those respondents whose trial scenarios involved a homosexual witness were examined, the relationship between verdict and different levels of prejudice was not significant. Private belief ratings also did not differ significantly between those in the high, medium, and low prejudice groups.

Though there was no statistically significant result here, there was an interesting pattern noted in the conviction rates. Respondents with ATLG scores in the lowest quartile range were more likely than other respondents to acquit the defendant when the witness was gay or lesbian, which would suggest that they are more likely to believe the testimony of the homosexual witnesses. On the other hand, respondents whose ATLG scores placed them into the highest quartile range

were the most likely to convict the defendant under those conditions. This result is consistent with the expectation that a juror with high levels of sexual prejudice would be less apt to believe the testimony of a gay or lesbian witness and thus would be more likely to convict the defendant.

*Hypothesis 10: Male respondents will have the highest levels of sexual prejudice, which will be most pronounced in their attitudes toward gay men.*

Hypothesis 10 was supported. Males in this study had consistently higher ATLG scores than females on every measure, indicating higher levels of sexual prejudice against both gay men and lesbian females. Male respondents scored the highest on the ATG measure, indicating the highest level of prejudice against gay men. Again, this is consistent with prior research (Herek, 1988; Kite & Whitley, 1996; LaMar & Kite, 1998; Whitley & Kite, 1995) and was an expected outcome in the current study.

*Hypothesis 11: Criminal justice students will score higher than students in other majors on the Attitudes Toward Lesbians and Gay Men Scale.*

Hypothesis 11 was supported with statistically significant results on the ATG measure when criminal justice students were compared to students majoring in other social sciences. Criminal justice students were found to hold higher levels of prejudice against gay men than students in other social sciences (psychology, sociology, and social work). Criminal justice students were found to be more similar to students in other majors, such as business, aviation, and education, than students in psychology, sociology, and social work, based upon their scores on the ATLG

scale. One factor that may have contributed to the significant result found here was the number of male criminal justice students in comparison to female criminal justice students. Approximately 2/3 of the criminal justice respondents were male, who would be expected to hold higher levels of sexual prejudice against gay men than females (see Hypothesis 10). This result is consistent with prior research looking at sexual orientation prejudice in criminal justice students (Cannon, 2005; Cannon & Dirks-Linhorst, 2006; Miller & Kim, 2012; Olivero & Murataya, 2001; Ventura et al., 2004).

*Hypothesis 12: Respondents with ties to the gay community will have lower levels of sexual prejudice, regardless of their major.*

Hypothesis 12 was supported and was found to be statistically significant for each of the three measures of sexual prejudice. Respondents with no ties to the gay community held significantly higher levels of prejudice against both lesbian women and gay men. Consistent with prior research, those students who have interaction with members of the gay community were less likely to hold prejudices than those students with no interactions, regardless of major (Cannon, 2005; Rogers et al., 2009; Rye & Meaney, 2009; Walch et al., 2012; Wright & Cullen, 2001). This finding may be explained with the intergroup contact hypothesis, which postulates that contact with minority group members may decrease a person's level of prejudice against that group (Allport, 1954; Ellison & Powers, 1994; Jackman & Crane, 1986). This principle was originally applied to interracial relations between blacks and whites (Allport, 1954; Branton & Jones, 2005), however, intergroup contact has

been found to reduce prejudice against sexual minorities as well (Herek & Capitano; Herek & Glunt, 1993).

### **Sexual Stigma and Prejudice**

The results found in this study do not appear to be consistent with the expectations of the treatment of homosexual witnesses based upon Herek's (2007) sexual stigma and prejudice theory. According to Herek (2007), some people believe that the differences between "us," the heterosexual segment of society and "them," the homosexual segment, are great and warrant disparate treatment and even discrimination. In this study, there was no relationship to the witness's sexual orientation and the credibility scores assigned to the witness or the verdict in the case. Disparate treatment of homosexual witnesses was not found.

Some respondents reported high levels of sexual orientation prejudice, and this was predicted by male gender, non-social science or criminal justice major, and lack of ties to the gay and lesbian community. However, this prejudice did not manifest in the expected way, which would be to assign low aggregate credibility scores to the gay and lesbian witnesses, and to convict the defendant due to a lack of confidence in the homosexual witness. It is possible that the respondents in this study do not see a homosexual orientation as a stigmatizing characteristic. It is also possible that the respondents have not embraced a self-stigma in regards to sexual orientation, which could help explain the lack of discriminatory behavior towards the witnesses.

Though the results of this study do not provide support for the sexual stigma and prejudice theory, results relating to respondent prejudice and ties to the gay community do provide support for the intergroup contact hypothesis. A respondent's level of sexual prejudice was found to be significantly lower when the respondent had contacts with the gay community. Additionally, it did not appear to matter whether the contact with the gay community was through a familial relationship or a friendship. This finding suggests that the contacts an individual has with the gay community may play an important role in reducing stigmas associated with nonheterosexual behaviors, in turn reducing the individual's levels of sexual prejudice.

### **Limitations**

There are several limitations to this study. The respondents were undergraduate students who are primarily aged 18-22. Such a demographic is not representative of the general population or the potential jury pool in most communities, and is especially not representative of the typical person who holds prejudices against gay men and lesbian women (Butler, 2007). In general, the highest levels of prejudice will be found in white middle-class, middle-aged men with lower levels of education who are politically conservative and identify with either the Catholic or Protestant religions (Butler & Moran, 2007; Johnson, Rowatt, Barnard-Brak, Patock-Peckham, LaBouff, & Carlisle, 2011; Kite & Whitley, 1996; Morrison & Morrison, 2011; Saucier & Cawman, 2004). In the present study, though there was a fairly diverse age respondent range (18-51), there were only three male



respondents over the age of 30 and all of the respondents were pursuing higher education, resulting in few, if any individuals who fit into the demographic where sexual prejudice is most likely to emerge. As this study was concentrated at one university that cannot be said to be representative of the entire population of university students, or even the student population of this particular university, the results cannot necessarily be generalized to any other students other than those surveyed here.

This study assumed that all respondents are potential jurors, however, not all students surveyed would be qualified to sit on a jury. It is possible that there were international students who participated in this study. Most jurisdictions have residency requirements for jury service as well, which would disqualify out of state and/or out of county residents. It is also possible that there were respondents who have been convicted of a felony, which would result in disqualification from jury service. A murder trial may go on for weeks, even months, unlike the surveys here, which took less than twenty minutes to complete. The length of service expected in an actual trial would be prohibitive for some potential jurors and would lead to exclusion in many cases.

Comparisons were made between respondents grouped by major. In the case of the other social science majors, the majors grouped together were similar; in the case of the “other” majors, they were not. The “other” category included students of education, nursing, aviation, math, theater, kinesiology, and a whole host of other disciplines, which may or may not be similar to one another. Two of the

categories, other social sciences and undeclared/undecided, had very low *ns* in comparison with the other two groups.

Thirty-one students of psychology, sociology, and social work cannot be said to be representative of the whole of the social science student body. Some disciplines within the social sciences, such as anthropology and geography, were not represented at all in this sample. A survey of 100 criminal justice majors (a substantial percentage of the criminal justice students at the university) would produce results that would be much more representative of the expected results of the whole of the criminal justice student population than a survey of 31 social science students would reflect the whole of the (other) social science student population.

The pool of potential jurors did not experience voir dire, where the attorneys on the case would question them and exclude those whom the attorneys felt were not fit to serve on this particular jury. For example, if the scenario utilized described an actual case for which a jury was being selected, it is probable that the prospective jurors would be questioned about experiences that include stalking, harassment, domestic violence, and violent victimization. Jurors would likely be asked about friends and/or family having these types of experiences as well. No such questions were asked of the respondents in this study. Therefore, some of the respondents may have been victims or perpetrators of stalking or harassing behaviors similar to those described in the trial summaries. Some respondents may have been victims or perpetrators of violent crimes, including domestic violence, and some respondents may have ties to a person who was killed under similar circumstances

to the victim in the trial summary. Respondents with such experiences certainly would be disqualified from a trial similar to the case described in the summaries.

The format of the study, though designed to mimic the closing arguments in a criminal trial, was very different from what an actual juror in a real criminal trial would experience in a courtroom. An actual juror would not be limited to a summary of important points made by each side, but would have the benefit of a wide array of evidence that would include viewing and evaluating each witness as they testified.

Actual jurors would have the benefit of seeing witnesses in person and making credibility judgments based upon the testimony given and the person's mannerism. They would see physical evidence, such as the gray sweatshirt and faded jeans and the murder weapon. Jurors would have a multitude of documents to look over. In some jurisdictions, the jurors are allowed to ask questions of witnesses or the judge if they desire clarification, or have parts of the record repeated for them. Jurors may hear closing arguments only one time in a criminal trial, but the closing arguments are a summation of evidence and testimony that the jury has already seen and heard. Therefore, though a respondent may take his or her duty as a potential juror very seriously, this experience cannot be reasonably compared to the experience a juror would actually have while serving on an actual criminal jury.

Respondents' scores on the ATLG measures tended to be very low in general. The lowest quartile range for the ATG scale, for example, included only those who scored 1.2 or lower on a scale whose range was 1-7. The respondents included in

the highest quartile range were more varied, with scores ranging from 3.3-7 (ATL), 4-7 (ATG), and 3.44-7 (ATLG). It is likely that this concentration on the lower range of the scales was a function of the demographics of this study. A more effective measurement of sexual prejudice would include a more even distribution of scores across the scale, rather than such a heavy concentration at the low end.

Finally, it may be beneficial to vary the defendant/victim dynamic. Respondent gender and/or major may be closely tied in with the scenario as written. It would be interesting to see whether the results would differ if the defendant was female and the victim was male. It may also be beneficial to use a random crime scenario where there is no suggestion of domestic violence, which likely had an impact on the result.

Though the limitations of this study are many, certain trends may be noted that would likely be magnified in a sample that is more representative of an actual jury pool. For example, though not statistically significant, males did rate gay and lesbian witnesses lower in credibility than females rated them.

### **Implications and Directions for Future Research**

Sexual prejudice is a real threat to the proper functioning of a fair and impartial justice system. Just as other types of prejudice are actively screened out in jury pools, so should sexual prejudice. The results of this study indicate that sexual orientation prejudice alone may not be an issue with regards to the credibility assessments of homosexual witnesses who have no stake in the outcome of the case and that witness sexual orientation has little to do with the ultimate verdict.

The sample used in this study was primarily comprised of heterosexual Caucasian college students, aged 18-22. There was variation in the levels of sexual prejudice reported by these respondents, but in general the levels of prejudice did not appear to have any effect on the outcome of the trial. This suggests that this demographic would be desirable in an actual trial where the issue of sexual orientation may arise.

At first blush, students of criminal justice may not appear to be good candidates to serve as jurors due to their extensive knowledge of judicial processes. However, the criminal justice students in this study were comparable to other students in their treatment of the witnesses (measured through aggregate credibility scores) and their verdicts, regardless of the witness's characteristics. As a result, it would appear that a criminal justice student's performance as a juror would be similar to that of other students. Alternately, students of other social science students and female students in general were much more punitive than other students. These may be important considerations for attorneys when selecting jurors, especially where violence is an element in the trial.

Future studies on the topic of bias against gay and lesbian witnesses would benefit by the use of a sample that is representative of actual jury composition. It is possible that the expected results were not found due to the drastic demographic departure from the general population. An ideal sample would include respondents who either will be serving on a jury or have served on a jury in the past. It may also be beneficial to use videotaped testimony so that participants can evaluate the mannerisms of each witness when weighing his or her credibility.

A small group format would be a plausible method by which to simulate juror deliberation, which was not present in this study. It has been suggested that the jury deliberation process mediates biases such as sexual orientation prejudice (Bernard, 1979). If true, then the biases of jurors who hold high levels of prejudice would not have an outcome on the trial because other, nonbiased jurors would act as a control against the biases. Another possible small group study would involve a confederate with high levels of sexual prejudice; this scenario would test the theory of bias mediation within juries.

Further exploration into credibility ratings of witnesses based upon gender and sexual orientation would be useful. It is not known why the gay male witness was found to be most credible and the lesbian female witness was found to be least credible. Further research would help to determine whether this result was simply an anomaly with this study, or if this is indicative of a growing trend.

It is a troubling result that students of criminal justice, who are the future law enforcement officials and custodians of the courtroom and prisons, were found to hold higher levels of sexual prejudice against gay men than students of other social sciences. In addition, criminal justice students' scores also had a higher mean score on the ATL scale, which would be indicative of higher prejudice against lesbian women as well, though this result was not statistically significant. That students of psychology, sociology, and social work were found to have the lowest overall rates of sexual prejudice implies a benefit to the type of education that these students are receiving. This suggests that there would be an advantage to compelling all students to take a class in LGBT issues as a part of their essential

studies core requirements. Teaching students about LGBT issues and exposing them to members of the LGBT community could help to mediate bias within the university community and hopefully will teach students lessons that they will remember long after their university experience is completed.

Students of criminal justice seemingly would specifically benefit from such educational experiences, as employment within the field of criminal justice, regardless of whether it is in law enforcement, corrections, or the court system, demands that an employee is able to treat everyone fairly. A criminal justice student's future career will likely require him or her to put aside personal biases and beliefs and this may be a foreign concept to a student whose biases have not been challenged through education.

A possible vehicle by which criminal justice students can be sensitized to LGBT issues would be through curriculum within the department. Previous study of criminal justice students noted the lack of opportunities for criminal justice students to be exposed to LGBT issues (Cannon & Dirks-Linhorst, 2006; Olivero & Murataya, 2001). Very few criminal justice programs offer any courses that even touch on issues that concern the LGBT community (Cannon & Dirks-Linhorst, 2006). Criminal justice programs may be missing out on an ideal opportunity to prime future criminal justice professionals in sensitivity skills and expose them to members of the LGBT community, especially given that many issues that relate to the LGBT community would be well-suited to a criminal justice program.

Where financial or personnel constraints prevent the development of new courses in the criminal justice curriculum itself, a requirement could be

implemented that criminal justice majors complete at least one three-credit course that focuses on human sexuality. Courses of this nature are frequently offered by other social sciences departments, such as sociology or psychology. Alternatively, LGBT issues can be injected into modules within existing courses, such as policing, courts, or corrections. Education on the gay and lesbian community would find a natural home in courses on hate crimes, gender-related courses, or courses where disparate treatment is looked at within the justice system.

The higher levels of prejudice found with persons who lacked relationships with the gay and lesbian community is another troubling finding, but one that could be mediated through educational experiences. This finding provides support for the contact hypothesis and suggests that those who have not had personal experiences with persons of varied sexualities hold biases that have not been subject to challenges. Educational experiences designed to expose all students to members of the LGBT community could be an effective way of reducing bias. For example, if a student has a high level of prejudice against transgender women but has never met a transgender woman, his bias has not been challenged. Educational experiences that expose the student to transgender women may help this student to realize that transgender women are just like other women and are real people with thoughts and dreams and challenges.

### **Conclusion**

Sexual prejudice is still in existence in today's society on college campuses, despite negative correlations between prejudice and educational attainment (Kite &



Whitley, 1996, Morrison & Morrison, 2011; Ohlander, Batalova, & Treas, 2004).

Levels of sexual prejudice are higher in criminal justice students than in other social science students, suggesting that criminal justice students are missing out on an important element of their education within the social sciences. This missing element likely addresses interpersonal communications and sensitivity training, a component that is not normally covered in criminal justice classes.

Prior research show that sexual prejudice still exists within the criminal justice field (Bernstein and Kostelak, 2002; Burke, 1994; Myers, Forest, & Miller, 2008), including in police departments and courtrooms. It is logical that, if criminal justice students are not receiving exposure to issues that would mediate their biases, these biases will persist into the students' professional careers. As educators, we have a duty to ensure that we are producing the most fit candidates for positions within our field, and this should include education aimed at mitigating bias.

It may be impossible to completely eliminate sexual prejudice from the jury box. Some jurors will never reveal their true beliefs in this regard. Though sexual orientation prejudice did not affect outcomes in the current study, this may not always be the case on every jury. There are methods that could be implemented by the courts to help ensure that sexual prejudice will not have a significant impact on jury decisions. For example, the Model Rules of Professional Behavior could be amended to prevent attorneys from using damaging stereotypes in trial. Courts could use a rigorous voir dire meant to get at a juror's prejudices, especially when it is known that a defendant, victim, or witness in a trial is a member of the LGBT

community. Finally, study needs to be conducted on jury mediation of bias amongst jury members during deliberation. There are criticisms of studies that lack the element of deliberation (Bernard, 1979, Sommers & Ellsworth, 2000), but there is evidence that suggests that the deliberation process does not have a great impact upon a juror's perceptions (ForsterLee, et al., 2006; Kalven & Zeisel, 1966; Kerr & Bray, 2005; MacCoun, 1987). The belief in the mediating effects of deliberation may simply be a way of placating those who speak out against bias on juries.

It is doubtful that we will ever live in a society in which there is no sexual orientation bias. However, there are many methods by which we may combat sexual prejudice. It is especially important that the field of criminal justice undertake such solutions when then are available and practical. By ignoring such issues, the criminal system loses its ability to refer to itself as a system of justice.

## **APPENDICES**

## Appendix A The Survey

This study was designed to assess juror decision making in criminal trials. You will play the role of a juror in a homicide trial. It is your job to hear the evidence presented by each side and to make a decision about how believable the witnesses were. For purposes of this study, you will read summaries of the case from the perspectives of the prosecutor and the defense. You will also read a detailed summary of the primary defense witness' testimony. You will decide, based upon the summaries, which side you think is more believable and return a verdict of guilty or not guilty.

This survey guarantees respondent confidentiality and anonymity. All data will be used in a form that will make it impossible to determine the identity of the individual responses; responses will not be integrated, analyzed, or reported in any way in which the confidentiality and anonymity of the survey responses is not absolutely guaranteed. Access to raw data will be tightly restricted to only those individuals directly involved in data analysis. Please do not write your name anywhere on this survey packet. If your name has been collected for purposes of class credit, signup lists and/or class rosters will be kept separately from completed surveys.

Your participation in this research study is voluntary. I will assume that you are consenting to participate if you complete the survey. You may choose not to participate and you may withdraw your consent to participate at any time, even after beginning your packet. If you decide that you no longer wish to participate after beginning to answer some questions, please return the packet to the researcher. You will not be penalized in any way should you decide not to participate or to withdraw from this study.

There is a slight risk that you may have an adverse reaction to some items contained within this packet. Adverse reactions could include sensitivity or discomfort. If you feel that you need to speak with someone regarding an adverse reaction, you are urged to meet with the researcher and/or the University Counseling Center (UCC), located in McCannell Hall. The UCC provides counseling services free to students, funded through student fees. You will be provided with the researcher's and UCC's contact information prior to leaving today.

Once you have turned a page in this packet, *please do not turn back to look over previous pages*. This will replicate juror experiences during an actual trial where evidence is only presented once.

Important points in the Prosecution's case:

- Amanda Gregory and Jack Joseph were formerly in a romantic relationship
- Jack ended their relationship on January 15 and Amanda had a hard time getting over him
- Amanda frequently texted, emailed, and called Jack following the breakup, up until the time of her death on October 10
- Jack told at least two co-workers that he wished Amanda would "just go away"
- Amanda was shot and killed in her apartment on October 10 at approximately 8:15 p.m.
- The murder weapon was a firearm registered to Jack Joseph
- Mary Peters, who lives building next to Amanda's building, heard the gunshot and looked outside of her window to see what had happened. She saw a man running out of Amanda's building within 1-2 minutes of hearing the gunshot. She described the man's clothing as being a gray sweatshirt and faded jeans. She described the man as being "a Caucasian man, close to 6 feet tall with dark hair."
- Mary Peters testified that Jack Joseph looks like the person that she saw but that she was not 100% certain that it was him
- Jack Joseph is a Caucasian man, 6' 1", with brown hair
- A gray sweatshirt and faded jeans similar to the ones seen by the witness were located in Jack Joseph's apartment and the clothing had been recently washed
- Jack Joseph has no alibi for the time of the murder – he claims to have been at home alone. There are no witnesses who support Jack's claim that he was at home at 8:15 p.m. on October 10.

Important points in the Defense's case:

- Following their breakup, Amanda harassed Jack, sometimes calling and texting him up to 200 times a day and emailing several times a day
- Jack changed his telephone number nine times between January 15 and October 10 and set up four new email accounts during that time
- Jack told co-workers that he wanted Amanda to go away because he was so frustrated with her harassment and the way she kept getting his new phone numbers and email addresses by tricking his friends and family members
- Jack's apartment was burglarized on September 17 and one of the items that was stolen was the handgun that turned out to be the murder weapon
- Amanda was the primary suspect in the burglary but there were never any charges filed in the case
- Jack was home alone at the time of the murder, which occurred at 8:15 p.m. on a weekday. A neighbor saw him picking up his mail in the building lobby at about 6:30 p.m. and they rode upstairs in the elevator together. Jack told the neighbor that he had brought home a lot of paperwork to do that evening. Jack seemed to be his regular self during the conversation and did not seem agitated or upset.
- There was no physical evidence located at the murder scene or at Jack's apartment that connected Jack to the murder

Summary of defense witness [Joshua/Linda] Murphy's testimony:

- [Joshua/Linda] moved into Amanda's building about 6 weeks before the murder and lives in the apartment directly below Amanda's apartment
- [Joshua's/Linda's] apartment door faces the stairs so anyone coming down the stairs would pass directly in front of [his/her] door. There is an elevator in the building, located at the opposite end of the building from [Joshua's/Linda's] apartment
- [Joshua/Linda] was walking [his/her] [boyfriend/girlfriend] out when they heard a loud popping sound and then a thud, which they thought was something falling and breaking upstairs
- [Joshua/Linda] hugged and kissed [his/her] [boyfriend/girlfriend] in the doorway with the door open
- [Joshua/Linda] saw a man in a gray sweatshirt run down the stairs
- The man was approximately 6' tall and had sandy brown hair.
- [Joshua/Linda] does not think the man in the gray sweatshirt saw them because the man seemed to be in a rush
- [Joshua/Linda] testified that [he/she] does not know Jack Joseph
- [Joshua/Linda] did not pick Jack Joseph out of a photo lineup

Please answer the following questions related to the closing statements that you just read.

1. What is the first name of the person who was murdered? \_\_\_\_\_
2. How was the victim killed? \_\_\_\_\_
3. What is [Joshua/Linda] Murphy's (victim's downstairs neighbor) gender?  
 Male  Female
4. What is [Joshua/Linda] Murphy's sexual orientation? \_\_\_\_\_
5. Do you believe that either of the primary witnesses may be lying about what they saw or heard? (Check only one.)

I believe that both witnesses testified truthfully.

I believe that Mary Peters (the neighbor in the next building) lied about what she saw and/or heard.

I believe that [Joshua/Linda] Murphy (downstairs neighbor) lied about what [he/she] saw and/or heard.

I believe that both witnesses lied about what they saw and/or heard.

6. Please rate how **believable** you believe the witness testimony is on a scale of 1 to 7.

	<b>Not Very</b> Believable					<b>Very</b> Believable	
	1	2	3	4	5	6	7
Mary Peters (neighbor in the next building)	1	2	3	4	5	6	7
[Joshua/Linda] Murphy (downstairs neighbor)	1	2	3	4	5	6	7

7. Please rate the **trustworthiness** of the witnesses in the case on a scale of 1 to 7.

	<b>Not Very</b> Trustworthy					<b>Very</b> Trustworthy	
	1	2	3	4	5	6	7
Mary Peters	1	2	3	4	5	6	7
[Joshua/Linda] Murphy	1	2	3	4	5	6	7



8. Please evaluate the **overall credibility** of the witnesses in the case on a scale of 1 to 7.

	Not Very Credible					Very Credible	
	1	2	3	4	5	6	7
Mary Peters	1	2	3	4	5	6	7
[Joshua/Linda] Murphy	1	2	3	4	5	6	7

9. **Private Belief Rating Scale**

Indicate the one number that best describes your private belief that Jack Joseph did or did not kill the victim. You are not being asked to state whether you believe there is sufficient evidence to convict in a court of law. Rather, it is asking about your personal and private belief.

-5	-4	-3	-2	-1	0	+1	+2	+3	+4	+5
Jack Joseph									Jack Joseph	
DID kill the victim									DID NOT kill the victim	

10. The prosecution must prove that Jack committed the murder by proof beyond a reasonable doubt. In other words, if you have a reasonable doubt that Jack murdered the victim, then you must find him not guilty. The prosecution is not required to prove guilt beyond all doubt, but beyond a reasonable doubt. You should find Jack Joseph guilty only if you have a firm and abiding conviction of his guilt based on a full and fair consideration of the evidence presented in the case and not from any other source.

If you were to vote on a verdict right now, how would you vote?

Guilty       Not guilty

1. What factors were most important in your decision? \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

---

Please answer the following questions about yourself.

Gender:     \_\_\_ Male     \_\_\_ Female     \_\_\_ Transgender

Age: \_\_\_\_\_

Year in School:     \_\_\_ Freshman     \_\_\_ Sophomore     \_\_\_ Junior     \_\_\_ Senior  
                          \_\_\_ Other (specify) \_\_\_\_\_

Race (check all that apply):     \_\_\_ Caucasian                   \_\_\_ Black/African American  
                          \_\_\_ Hispanic             \_\_\_ Native American         \_\_\_ Asian/Pacific Islander  
                          \_\_\_ Other (Specify) \_\_\_\_\_

Major(s): \_\_\_\_\_

Minor(s): \_\_\_\_\_

Sexual Orientation:     \_\_\_ Heterosexual     \_\_\_ Homosexual     \_\_\_ Bi-sexual  
                          \_\_\_ Other             \_\_\_ Unsure

Do you have friends or family members whose are gay, lesbian, or bisexual?

      \_\_\_ Yes, friends and family members                   \_\_\_ Yes, friends  
      \_\_\_ Yes, family members                               \_\_\_ No

Please rate your agreement with the following statements on a scale from 1-7, with 1 representing *strongly disagree* and 7 representing *strongly agree*.

- \_\_\_\_\_ 1. Lesbians just can't fit into our society.
- \_\_\_\_\_ 2. State laws regulating private, consenting lesbian behavior should be loosened.
- \_\_\_\_\_ 3. Female homosexuality is a sin.
- \_\_\_\_\_ 4. Female homosexuality in itself is no problem, but what society makes of it can be a problem.
- \_\_\_\_\_ 5. Lesbians are sick.
- \_\_\_\_\_ 6. I think male homosexuals are disgusting.
- \_\_\_\_\_ 7. Male homosexuality is a perversion.
- \_\_\_\_\_ 8. Just as in other species, male homosexuality is a natural expression of sexuality in human men.
- \_\_\_\_\_ 9. Homosexual behavior between two men is just plain wrong.
- \_\_\_\_\_ 10. Male homosexuality is merely a different kind of lifestyle that should *not* be condemned.

## Appendix B Post-Survey Handout

Thank you for participating in my study. The purpose of my study was to determine whether a neutral witness's sexual orientation might affect a juror's determination of credibility. If you have any questions or would like to speak with me about my research, my contact information is as follows:

Lisa Olson  
lisa.olson3@my.und.edu  
O'Kelly 304  
(701) 777-2010 or (701) 777-2066

If you feel that you have experienced any negative effects from participating in this study, I urge you to contact me as soon as possible. You may also choose to talk to a counselor. The UND Counseling Center (UCC) provides free counseling services to students. They are located at McCannell Hall, Room 200 and can be reached at (701) 777-2127. The UCC does accept walk-ins if you feel that you need to talk to someone urgently.

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