

# Give the Kid a Break—But Only if He’s Straight: Retributive Motives Drive Biases Against Gay Youth in Ambiguous Punishment Contexts

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Two studies addressed how people punish juvenile sex offenders in ambiguous punishment contexts. Sex offender registry laws now make voluntary sexual activity between juveniles a registration-worthy offense in the U.S. Using contemporary prejudice theories as a theoretical framework, we tested whether the ambiguity surrounding the application of these laws to juveniles provides a context for expression of prejudice against gay youth. In the ambiguous context of 2 juveniles having consensual sex, people supported sex offender registration more for gay, versus heterosexual, offenders. This punishment discrimination did not emerge, however, in the societally less ambiguous context of an adult having sex with a juvenile. Study 2 revealed that punishment discrimination again emerged against gay male juveniles but not lesbian juveniles. Across both studies, punishment discrimination against gay juveniles was consistently mediated by retributive motives (moral outrage), but less consistently by utilitarian motives (concern about protecting society)—the stated legislative purpose of registration.

*Keywords:* prejudice, discrimination, homosexuality, juvenile justice, punishment

Kaitlyn Hunt, an 18-year-old high school senior, was recently charged with lewd and lascivious battery for engaging in voluntary sexual activity with her 14-year-old freshman girlfriend (Harrison, 2013). After Kaitlyn turned 18, her girlfriend’s parents reported the relationship to the police. Kaitlyn first rejected a plea bargain for a lesser child abuse charge to avoid house arrest and public stigmatization on the sex offender registry. Supporting her decision, her parents described sex offender registration as “life-changing . . . a death sentence to all her future goals.” Eventually, Kaitlyn pled “no contest” to a set of charges that would not require her to register as a sex offender (battery, interference of child custody, and contributing to the dependency of a child). As a result, Kaitlyn is under house arrest for 2 years and on probation for 3 years (Corcoran & Lane, 2013).

Is public, and perhaps lifelong, stigmatization as a sex offender an appropriate punishment in a case like Kaitlyn’s? Similar cases of teenagers being registered as sex offenders for consensual

sexual activity with peers have sparked a national debate in the media (Feyerick & Steffen, 2009) and academia (Trivits & Reppucci, 2002) regarding appropriate punishment in these cases. Convicted sex offenders must register information (e.g., name, address, offense, photograph) with the police that is publicly available online for 15 years to life. Sex offender registries were designed to protect the public from dangerous, repeat sex offenders preying upon children (Office of the Attorney General, 1999). Yet, consensual sexual activity among juvenile peers also qualifies as a sex offense under these laws (Adam Walsh Act, 2006)—even if both parties are underage and participating voluntarily (James, 2009). Further, juveniles are indeed registered in these cases (Human Rights Watch, 2007). Sex offender registration is a very severe punishment resulting in pervasive negative consequences, including job loss, home eviction, harassment, physical assault, property damage, isolation, loss of close relationships, shame, embarrassment, hopelessness, and so forth (e.g., Levenson, D’Amora, & Hern, 2007). Although we are unaware of scientific evidence regarding the frequency of this occurrence, advocacy organizations and news stories have reported several instances in which teenagers have committed suicide after being required or threatened with the requirement to register as a sex offender (Bellware, 2014; Human Rights Watch, 2007; News.com.au, 2013). Juvenile sex offender registration is particularly controversial because many critics argue that juveniles are less likely to recidivate and are more amenable to treatment, compared to adult sex offenders (Trivits & Reppucci, 2002).

As a result of these issues, there is considerable ambiguity surrounding whether it is appropriate to apply these extremely harsh sex offender registration laws to juveniles in these cases. In the current studies, we tested whether this ambiguity surrounding

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juvenile (but not adult) cases would lead to discrimination against a stigmatized group: gay youth. First, we will review contemporary prejudice theories to explain why prejudice is particularly likely to be expressed in ambiguous punishment contexts. Second, we will explain how the application of sex offender registry laws to juveniles engaged in voluntary sexual activity with a peer qualifies as a relatively ambiguous context. Third, we will review and propose punishment motives as potential psychological mechanisms underlying contemporary discrimination against gay youth in punishment decisions.

### Theoretical Framework: Contemporary Prejudice Theories

Crandall and Eshleman (2003) reviewed and incorporated several contemporary “two factor” models of racial prejudice (e.g., aversive racism [Gaertner & Dovidio, 1986], modern prejudice [McConahay, 1986], regressive racism [Rogers & Prentice-Dunn, 1981], automatic and controlled processes [Devine, 1989]) into their Justification-Suppression Model of Prejudice. The authors highlight (a) that people acquire prejudice toward racial outgroups, but also motivation to avoid expressing that prejudice, (b) suppression factors that reduce people’s expression of prejudice, and (c) justification factors that facilitate people’s expression of prejudice. In support of the current study predictions, the motivation to suppress prejudice is released when the situation is ambiguous because it is easier to justify prejudicial responses to the situation. As a result, discrimination is more likely to manifest when the situation is ambiguous (Crandall & Eshleman, 2003). Within their aversive racism framework, Dovidio and Gaertner (2004) similarly argue that, although blatant racial prejudice expression has declined in contemporary American life, many people maintain negative feelings about historically stigmatized groups. Given that it is less socially acceptable to express overtly racist sentiments in contemporary society, they find that discrimination is more likely to manifest in ambiguous contexts because the discrimination is less obvious to oneself and others. Thus, contemporary forms of racism are characterized by more subtle, indirect expressions of prejudice, such as disadvantaging minorities in nonobvious ways. Investigating these contemporary prejudice processes is particularly important given that they might contribute to the institutionalization of prejudice against stigmatized groups through selective punishment and incarceration in our legal system. Previous studies have indeed demonstrated a pattern of racial discrimination in legal decision making consistent within the aversive racism framework (for review, Dovidio, Gaertner, Penner, Pearson, & Norton, 2009). Specifically, people will judge a Black (vs. White) defendant more harshly if they have an excuse unrelated to race (e.g., incriminating evidence). Discrimination is eliminated, however, when people’s concerns about appearing racist are triggered during the trial.

What about sexual prejudice? Although there have been investigations of sexual prejudice (e.g., Herek, 2000, 2009; Pettigrew & Tropp, 2006; Pirlott & Neuberg, 2014; Whitley & Kite, 2006), contemporary forms of prejudice against gays and lesbians have received limited empirical attention (Massey, 2009) relative to investigations of contemporary forms of racism. Similar to racial prejudice, blatant prejudice against gay individuals is somewhat subsiding. In the past, registration laws blatantly discriminated

against gay individuals by making consensual gay sex a registration-worthy offense—even among consenting adults. Although these laws were overturned, many individuals remain registered publicly due to past convictions. Further, explicit antigay prejudice is declining more broadly (for review, Herek, 2009). In fact, the decline of explicit opposition to gay marriage reflects one of the largest changes in public opinion on a policy issue in the last decade—although many remain opposed (43%) (Pew Research Center, 2013).

Yet, subtle bias against gay individuals persists. One study demonstrated that confederates wearing a hat stating “Gay and proud” (vs. “Texan and proud”) did not experience blatant discrimination when inquiring about job opportunities. The gay (vs. control) confederates did, however, experience more subtle discrimination during interactions with store employees (e.g., the interactions were shorter and perceived more negatively, Hebl, Foster, Mannix, & Dovidio, 2002). In a similar study, store clerks helped confederates wearing a progay t-shirt less than confederates not wearing the progay t-shirt (Hendren & Blank, 2009). Although there have been some demonstrations of discrimination against gay individuals in legal settings (e.g., Quas, Bottoms, Haegerich, & Nysse-Carris, 2002; Salerno et al., in press; Stawiski, Dykema-Engblade, & Tindale, 2012; Walsh, 1994; Wiley & Bottoms, 2009, 2013), we know little relative to the decades of research investigating racial discrimination in our legal system (e.g., Meissner & Brigham, 2001; Mitchell, Haw, Pfeifer, & Meissner, 2005; Sommers & Ellsworth, 2001; Sweeney & Haney, 1992). Further, there is no research, to our knowledge, investigating factors that might exacerbate contemporary forms of sexual discrimination specifically (i.e., ambiguous legal punishment contexts). The current research addresses this gap in the literature.

### Ambiguous Punishment Context: Juvenile Sex Offender Registration

What makes the sex offender registration for juvenile offenders a relatively more “ambiguous” punishment context than for adult offenders? To be clear, we are not arguing that the law itself is ambiguous: it is clear that anyone (a juvenile or adult) who has sex with an underage individual has broken the law. Nor are we arguing that there is anything inherently ambiguous about the offense itself (i.e., engaging in sexual activity with an individual under the age of consent). What is ambiguous, we argue, is whether it is appropriate to apply these harsh sex offender registration laws (designed for adult offenders who have sex with children) to juveniles engaged in voluntary sexual activity with similarly aged peers.

Judgments about whether sex offender registration is appropriate for adults who have sex with minors are relatively unambiguous. These are the type of offenders for whom the registry was designed: adults who take advantage of and abuse children (Trivits & Reppucci, 2002). It is less clear, however, whether juveniles engaged in voluntary sexual activity with a peer should be registered for these offenses. Sex offenses between juvenile peers fit the letter—but not necessarily the spirit—of the registry laws (i.e., protecting the public from dangerous, repeat offenders [Office of the Attorney General, 1999]). Some states have taken action to disambiguate whether sex offender laws should be applied in these juvenile cases, enacting “Romeo and Juliet” laws that provide

immunity to statutory rape prosecution for “perpetrators” close in age to “victims.” Note, however, that three states explicitly exclude homosexual activity from this immunity, [Higdon, 2008](#). When Romeo and Juliet exceptions are not available, however, deciding whether juvenile sex offenders in these cases should be registered is a more ambiguous punishment context, compared to more straightforward punishment decisions regarding adult sex offenders. In fact, there is significantly less public consensus for registering juveniles for voluntary sexual behavior with peers (e.g., consensual oral sex, “sexting” naked photographs) compared to more serious, nonconsensual offenses (rape) committed by juveniles ([Salerno, Najdowski et al., 2010](#)).

### Discrimination Against Gay and Lesbian Juvenile Sex Offenders

The public might, however, support sex offender registration more for juveniles—even in the less severe cases—if they are gay. Kaitlyn Hunt’s case has received international attention because many believe that her prosecution was a direct result of antigay prejudice. Many additional cases have raised accusations that consensual sexual activity among underage teenagers is selectively prosecuted to target LGBT youth ([Brydum, 2013](#)). Unfortunately, there are no statistics available, that we are aware of, regarding the percentage of gay versus heterosexual registered sex offenders. One study provides some indirect evidence, however, that gay youth might be especially likely to be registered compared to gay adults. Comparing characteristics of juvenile versus adult sex offenders on the Texas Sex Offender Registry revealed that a significantly larger percentage of juvenile offenders, relative to adult offenders, had male victims ([Craun & Kernsmith, 2006](#)). Because most offenders were men in this study (98%), this at least suggests that male juvenile offenders who offend against other boys might be particularly likely to be registered. Although the authors did not address the possibility of antigay discrimination, one intuitive explanation for these effects is that stigmatized juveniles might be more likely to be registered than nonstigmatized juveniles—whereas sexual orientation might have less impact for adult offenders. The current study experimentally tests this hypothesis and addresses legal scholars’ concern that gay youth might be selectively prosecuted and punished for voluntary sexual activity among similarly aged juveniles (e.g., [James, 2009](#); [Sutherland, 2003](#)).

Consistent with contemporary “two factor” prejudice theories ([Crandall & Eshleman, 2003](#)), we expected punishment discrimination to reflect prejudice that participants may be unwilling or unable to report on explicit measures. If the hypothesized discrimination effect were driven by old-fashioned, blatant prejudice, we would expect that only participants who are willing and able to explicitly endorse antigay stereotypes would discriminate against gay offenders. Instead, we expected the discrimination effect to emerge as a result of more contemporary prejudice, held among many American heterosexuals (e.g., [Jellison, McConnell, & Gabriel, 2004](#))—regardless of their explicit endorsement of antigay stereotypes. That is, similar to contemporary prejudice effects, we suspected that discrimination against gay youth would be a result of subtle biases against gay people, and therefore would not be isolated to old-fashioned bigots who explicitly endorse gay stereotypes.

### Potential Mediators of Contemporary Sexual Prejudice: Punishment Motives

Demonstrations of aversive racism in legal contexts have not yet investigated mediators that reflect the psychological processes that underlie those effects ([Dovidio, Smith, Donnelly, & Gaertner, 1997](#); [Hodson, Hooper, Dovidio, & Gaertner, 2005](#); [Johnson, Whitestone, Jackson, & Gatto, 1995](#); [Knight, Giuliano, & Sanchez-Ross, 2001](#); [Sommers & Ellsworth, 2000](#)). The present research also contributes to the literature theoretically by examining mediators of contemporary antigay discrimination in ambiguous punishment contexts. That is, why might people discriminate against gay juveniles in punishment decisions? Psychological research suggests two potential motives underlying punishment decisions: retribution and utilitarian behavior control ([Vidmar & Miller, 1980](#)).

#### Retributive Motives

The retributive perspective believes the value of punishment is restoring the balance of justice. Punishment is the important outcome, in and of itself. The goal is to determine punishment proportionate to the amount of harm committed. People react to these harms with moral outrage, which has been utilized as a measure of retributive motives ([Carlsmith, Darley, & Robinson, 2002](#)). People report experiencing moral outrage when transgressions violate their values ([Skitka, Bauman, & Mullen, 2004](#)), which can predict legal punishment ([Salerno et al., 2010](#)). Because gay sex remains condemned as morally wrong by many ([Herek, 2000](#)), people might experience more moral outrage (a retributive motive) toward gay (vs. heterosexual) offenders and in turn punish the offender more harshly.

#### Utilitarian Motives

In contrast, the utilitarian perspective believes that the value of punishment lies in the downstream effects of punishment: prevention of future harm to society. Punishment is not an end in and of itself, but instead a means to controlling future criminal behavior. This perspective is more concerned with subsequent outcomes of the punishment, such as incapacitation (i.e., punishing an offender to deter him/her from reoffending). Because gay men have historically been stereotyped as sexually deviant and child molesters ([Herek, 1991, 2002](#)), people might perceive gay (vs. heterosexual) offenders as more likely to reoffend in the future (a utilitarian motive), and in turn punish the offender more harshly.

Although the legislative purpose of sex offender registration is explicitly utilitarian (i.e., to help parents protect their children from dangerous, repeat sex offenders, SORNA; 42 U.S.C. § 16911), reading about gay juvenile offenders might increase both utilitarian and retributive motives for punishment. In general, whether laypeople’s punishment decisions are driven by retributive or utilitarian motives is debatable. Some studies demonstrate that people punish because of utilitarian motives rather than retributive motives ([Graham, Weiner, & Zucker, 1997](#)), while others find the opposite ([Carlsmith & Darley, 2008](#)), and still others find that both motives predict punishment severity (e.g., [Darley, Carlsmith, & Robinson, 2000](#)). Both motives explain why juvenile rape offenses are punished more harshly than less severe offenses (e.g., sexting;

Salerno et al., 2010). We tested whether discrimination toward gay (vs. heterosexual) juvenile offenders would be driven by retributive motives, utilitarian motives, or both.

### Current Research

In two experiments, we examined whether people would discriminate against gay (vs. heterosexual) offenders when the context is ambiguous (i.e., juveniles engaged in consensual sexual activity with underage peers), but not when the context is less ambiguous (i.e., adult sex offenders engaged in sexual activity with underage minors). We also tested whether discrimination would occur independent of participants' explicit endorsement of gay stereotypes. In line with critiques of "one-size-fits-all" research that assumes people's reactions to one target of discrimination will generalize to another (Sommers & Babbitt, 2010), we tested whether reactions to gay male juveniles would extend to lesbian juveniles (Study 2). Across both studies, we empirically examined the psychological mechanisms that might explain discriminatory punishment (i.e., retributive and utilitarian punishment motives).

### Study 1

#### Method

**Participants and procedure.** Participants were 212 voter-eligible adults recruited from Study Response (<http://studyresponse.syr.edu/studyresponse>) and Mechanical Turk ([mturk.com](http://mturk.com); Paolacci, Chandler, & Ipeirotis, 2010). Forty-five participants were excluded because they failed to correctly report the offender's age and/or the victim's gender (i.e., the two experimental manipulations). The remaining 167 participants were 54% women; 51% White, 38% Asian, 7% Black, 2% Hispanic; with a mean age of 30 years ( $SD = 8$ ).

Participants read a brief description of sex offender registration laws and a case vignette based on an actual case (Wilson v. State, AL 2006), in which "David" is charged with a sex offense for videotaping a 14-year-old performing oral sex on him (see Appendix). They read that David was either 16 (ambiguous peer sex) or 35 years old (nonambiguous adult-child sex), and the act was performed by either a female (heterosexual sex) or male (gay sex) 14-year-old.

#### Measures.

**Punishment.** Participants indicated whether David should, in order of increasing punitiveness: not be registered as a sex offender; be registered as a sex offender, but not publicly online; or be registered as a sex offender publicly online. This variable has been utilized in previous research (Salerno, Najdowski et al., 2010) and was treated as an ordinal outcome in all analyses.

**Mediators.** Participants completed a utilitarian motives scale ( $\alpha = .83$ ) and a retributive motives scale ( $\alpha = .89$ ), which were related but not redundant,  $r = .65$ ,  $p < .001$ . Although utilitarian and retributive motives are often correlated, previous researchers have argued that conceptualizing them as distinct constructs and comparing their role in punishment is grounded in well-established and developed theories of punishment and has been empirically validated (Carlsmith et al., 2002).

The 3-item utilitarian motives scale assessed the extent to which participants perceived the offender to be a dangerous threat from which to protect society: (a) "David poses a danger to society," (b) "David is at a high risk for reoffending," and (c) "David is a cold and calculating 'superpredator'." Participants indicated their agreement on 5-point scales ranging from *Not at all* to *Very much*. This is a scale utilized in previous research (Salerno, Najdowski et al., 2010), which was initially adapted from items used in prior research about juvenile offenders in general (Haegerich, Salerno, & Bottoms, 2013; Vidal & Skeem, 2007) and sex offenders specifically (Proeve & Howells, 2006).

Moral outrage is a critical component of retributive motives (Carlsmith & Darley, 2008), and is used to assess retributive motivation (Carlsmith et al., 2002). Thus, the 4-item retributive motives scale was composed of the following items: (a) "I feel morally outraged by what David did to his alleged victim," (b) "I feel a desire to hurt the defendant David," (c) "I feel a compelling need to punish David," and (d) "I believe David is evil to the core." Participants indicated their agreement on 5-point scales ranging from *Not at all* to *Very much*. This scale was adapted from items used in previous research (Carlsmith & Darley, 2008; Darley et al., 2000; Salerno, Najdowski, et al., 2010; Salerno & Peter-Hagene, 2013; Skitka et al., 2004).

**Explicit gay stereotypes.** Endorsement of explicit, sexually relevant antigay stereotypes was measured with a reliable scale ( $\alpha = .85$ ) comprising two items from the Stereotypes about Gays and Child Abuse Scale (Wiley & Bottoms, 2013, "Homosexual men are likely to sexually abuse children," and "Gay men should never be given positions of trust in caring for children") and a third item ("Gay men are promiscuous.") Participants indicated their agreement on 5-point scales ranging from *Strongly Disagree* to *Strongly Agree*.

**Manipulation checks.** Participants reported David's age and the victim's gender.

**Demographics.** Participants indicated (a) their race, (b) their gender, (c) their political orientation on a 7-point scale ranging from *Extremely liberal* to *Extremely conservative*, and (d) whether a friend, family member, or close acquaintance had revealed that he or she is gay.

### Results and Discussion

To test our hypothesis that participants would exhibit discrimination against gay (vs. heterosexual) juvenile offenders—but not adult offenders—we conducted an ordinal regression predicting punishment with dummy codes for offender age (0 = 16 years old, 1 = 35 years old) and sexual orientation (0 = heterosexual sex, 1 = gay sex), and the interaction. Odds ratios are reported below, which reflect the ratio of the odds of supporting harsher registry laws in one condition (e.g., a gay offender) compared to another (e.g., a heterosexual offender).<sup>1</sup> Given the greater diversity of our

<sup>1</sup> For example, if participants who read about a gay juvenile demonstrated a 60% probability of supporting registration and a 40% probability of not supporting registration, their odds of supporting registration for this individual would be  $.60/.40 = 1.5$ . If participants who read about a heterosexual juvenile demonstrated an odds of supporting registration (versus no registration) of  $.5$ , the *odds ratio* would be  $1.5/.5 = 3$ . The interpretation of this odds ratio would be that participants who read about a gay juvenile were 3 times more likely to support harsher registry laws than participants who read about a heterosexual juvenile.

sample relative to student samples (Buhrmester, Kwang, & Gosling, 2011), we controlled for demographic variables in all analyses to increase the sensitivity of our tests by accounting for the variance that the demographics explain in the dependent variable (Cohen, Cohen, Aiken, & West, 2002).

This model revealed that offender age,  $OR = 5.97$ ,  $Wald = 14.88$ ,  $p < .0001$ , and offender sexual orientation,  $OR = 2.78$ ,  $Wald = 5.69$ ,  $p = .02$ , were significant predictors of punitiveness. These effects were qualified, however, by the predicted offender age by sexual orientation interaction,  $OR = .28$ ,  $Wald = 4.03$ ,  $p = .04$ .<sup>2</sup> Simple slope analyses confirmed that participants showed no discrimination against gay (vs. heterosexual) adult offenders (i.e., 35 years old) who had sex with a 14-year-old,  $OR = .78$ ,  $Wald = .28$ ,  $p = .59$ . However, in the more ambiguous case of sex between juvenile peers (i.e., the 16-year-old offender), participants were significantly more punitive when the juveniles engaged in gay versus heterosexual sex,  $OR = 2.78$ ,  $Wald = 5.69$ ,  $p = .02$  (see Table 1).<sup>3</sup> These results are consistent with contemporary prejudice theories (e.g., aversive racism, Dovidio & Gaertner, 1986). Although the legal system requires that laws be applied equally (U.S. Const. art. XI, & 1), the ambiguity surrounding punishment decisions for juveniles engaged in consensual peer sex resulted in more severe punishment of gay, compared to heterosexual, youth. However, when the context was normatively unambiguous (i.e., adult–juvenile sex) discrimination against gay offenders did not manifest.

Examining the interaction in this fashion (i.e., by comparing the effect of sexual orientation for juvenile vs. adult offenders) tests our theoretical hypothesis that in ambiguous (but not clear-cut) contexts, people would discriminate against gay offenders. Reexamining the interaction pattern the other way (i.e., testing the effect of offender age for heterosexual vs. gay offenders) reveals the practical importance of these findings by demonstrating the power of discrimination against gay offenders in eliminating what should normatively be a very strong offender age effect. That is, one would expect that people would assign significantly greater punishment to a 35-year-old offender who had sex with a 14-year-old victim, compared to a 16-year-old offender who had sex with a 14-year-old victim. For heterosexual offenders, this was the case: participants were, not surprisingly, much more punitive toward the 35- (vs. 16-) year-old who had sex with a 14-year-old,  $OR = 183.09$ ,  $Wald = 14.88$ ,  $p < .001$ —a very large effect. Indeed, this age difference reflects the difference between more prototypical sex offenders (i.e., an older adult targeting a minor) versus two

peers engaging in a consensual sexual relationship. When the offender was gay, however, this age effect disappeared. People were equally punitive toward the 16- and 35-year-old gay offenders who had sex with a 14-year-old boy,  $OR = 5.97$ ,  $Wald = 1.47$ ,  $p = .22$ . People gave the heterosexual 16-year-old offender “a break” relative to the 35-year-old offender because he engaged in consensual sex with a peer; however, this leniency was not afforded to gay youth—they were punished just as harshly as a 35-year-old offender preying on an underage minor.

#### Moderation by explicit endorsement of gay stereotypes?

To test our hypothesis that the antigay discrimination in punishment would be independent of participants’ willingness to endorse explicit gay stereotypes, we conducted an ordinal regression predicting punishment with all of the same predictors as the last analyses, but with the addition of participants’ centered explicit stereotype scores and all potential interactions with the manipulations. The explicit stereotype scale was a significant predictor of punitiveness overall (regardless of the offenders’ sexual orientation),  $OR = 2.07$ ,  $Wald = 5.87$ ,  $p = .02$ . Critically—and consistent with our predictions—explicit endorsement of gay stereotypes did not moderate the sexual orientation main effect, or the predicted offender age by offender sexual orientation interaction reported above,  $Walds < 1.58$ ,  $ps > .21$ . Further, the offender age by offender sexual orientation interaction, reported above, remained significant with explicit endorsement of gay stereotypes and its interactions in the model,  $OR = .22$ ,  $Wald = 6.60$ ,  $p = .02$ .<sup>4</sup> Thus, although explicit endorsement of antigay stereotypes appears to be related to general punitiveness overall, it did not predict differential discrimination against a gay versus heterosexual offender. In other words, discrimination against gay (vs. heterosexual) juvenile offenders was not limited to those who were willing to endorse explicit gay stereotypes.

**Mediation analyses: Punishment motives.** Next, we conducted mediation analyses to test whether utilitarian and/or retrib-

<sup>2</sup> Some of the demographics significantly explained unique variance in registry support. Racial minorities were more likely to support harsher registry laws than were White participants,  $OR = 2.32$ ,  $Wald = 6.40$ ,  $p = .01$ . Women are more likely to support harsher registry laws than were men,  $OR = 1.95$ ,  $Wald = 4.30$ ,  $p = .04$ . Political orientation, and having a friend/family member who is gay did not significantly explain unique variance,  $Bs < .41$ ,  $ps > .23$ .

<sup>3</sup> Anti-gay prejudice is often stronger in men versus women (Herek, 1988). We tested whether our effects were moderated by participant gender by conducting an ordinal regression predicting punishment with the same dummy codes for offender age and sexual orientation, the interaction, participant gender, all potential gender interactions with the manipulations, and all other demographic covariates. Neither participant gender, nor any interactions with gender were significant,  $Walds < .44$ ,  $ps > .50$ . The offender age by offender sexual orientation interaction, however, was no longer significant,  $OR = .45$ ,  $Wald = .77$ ,  $p = .38$ . There was a significant main effect of offender age, such that participants were more punitive toward the 35- versus 16-year-old offender,  $OR = 6.62$ ,  $Wald = 8.61$ ,  $p = .003$ . There was also a marginal effect of offender sexual orientation, such that participants were more punitive toward a gay (versus heterosexual) offender overall,  $B = 2.56$ ,  $Wald = 2.94$ ,  $p = .09$ .

<sup>4</sup> Explicit anti-gay prejudice unexpectedly interacted with offender age,  $OR = 2.69$ ,  $Wald = 6.01$ ,  $p = .01$ , such that explicit anti-gay prejudice predicted punitiveness when the offender was a juvenile,  $OR = 2.07$ ,  $Wald = 5.87$ ,  $p = .02$ , but was not predictive when the offender was 35 years old,  $OR = .78$ ,  $Wald = .82$ ,  $p = .36$  (regardless of sexual orientation). Thus, endorsement of anti-gay stereotypes was associated with punitiveness toward all juveniles—not just toward gay juveniles.

Table 1  
Study 1. Number (%) of Participants Who Chose Each  
Registration Outcome

	Heterosexual offender	Gay offender
16-year-old offender		
Should not register	16 (43%)	12 (27%)
Should register, but not online	12 (32%)	12 (27%)
Should register online	9 (24%)	21 (47%)
35-year-old offender		
Should not register	6 (14%)	7 (17%)
Should register, but not online	11 (25%)	9 (22%)
Should register online	27 (61%)	25 (61%)

utive motives explain the effect of juveniles' sexual orientation on punishment decisions. Given that we have found support for both in previous research (Salerno, Najdowski et al., 2010), we examined a dual-mediator model testing whether the two punishment motives independently drive the effect of offender sexual orientation on punishment in parallel processes. We used MPlus to conduct indirect path analyses based on 5,000 bootstrapped samples. All of the following mediation analyses include the same main effects (offender gender and sexual orientation) and demographic controls as the analyses reported above. Significant indirect effects are indicated by confidence intervals (CIs) that do not include zero (Hayes, 2013)—that is, the lower and upper bound confidence interval values are both negative or both positive and therefore do not bridge zero. All utilitarian and retributive motivation means and standard deviations are reported in Table 2.

This analysis revealed that the indirect effect of offender age by sexual orientation interaction on punishment through retributive motives was significant,  $B = -.29$ , 95% CI =  $-.60, -.01$ . In contrast, the indirect effect of the interaction on punishment through utilitarian motives was not significant,  $B = -.18$ , 95% CI =  $-.42, .02$ .<sup>5</sup> Thus, discrimination against gay juvenile (but not adult) offenders was driven by retributive motives (i.e., moral outrage), rather than utilitarian motives (i.e., concern about protecting society)—despite the latter being the stated legislative purpose of the registry.

In summary, we found that participants were more supportive of sex offender registration for gay (vs. heterosexual) juveniles (i.e., a more ambiguous judgment)—but not for adult offenders (i.e., a less ambiguous judgment). Consistent with the aversive racism framework, with an adult offender the normatively clear choice was to punish an adult who has sex with a child harshly—regardless of offender sexual orientation. It is when the appropriateness of applying these laws was ambiguous (i.e., when the offender was also a child) that participants' prejudice against gay individuals affected their judgments. The dual-mediator model confirmed that this bias was driven by increased moral outrage toward the gay (vs. heterosexual) juvenile offender rather than believing the gay juvenile offender was more of a threat to society.

We argue that these discrimination results are driven by participants' prejudice against a gay (vs. heterosexual) offender. Study 1 leaves room for a few alternative explanations, however, that we address in Study 2. First, one could argue that—as a previous reviewer pointed out—because the gay sex act was videotaped in Study 1, participants' retributive motives and punishment might be driven by participants' perceptions that a gay (vs. heterosexual) sex videotape might be more socially stigmatizing for the victim in the future. Thus, in Study 2 we used a different scenario to ensure that the antigay discrimination we saw in Study 1 was not idiosyncratically confined to a case in which a record (i.e., a videotape) of the gay sex act existed. Second, one could argue that perhaps people's judgments were influenced by the victim's gender rather than the offender's sexual orientation. That is, perhaps people are more protective of a male victim than a female victim—regardless of the offender's gender. There have been very few victim gender effects on case judgments about sexual abuse cases of children in the literature—if anything, people are more skeptical of boy victims of child sexual abuse than girl victims (Bottoms, Golding, Stevenson, Wiley & Yozwiak, 2007). Even still, we fully crossed offender and victim gender to address this possibility and to test

whether people have different reactions to gay versus lesbian juvenile offenders.

## Study 2

In Study 2, we examined whether the discrimination against gay (vs. heterosexual) juveniles in Study 1 would replicate to another sex offense punishment context that is relatively ambiguous when applied to juvenile offenders: sexting (i.e., sending naked photographs via cellphone). Although sexting is fairly common among teenagers (Strassberg, McKinnon, Sustaita, & Rullo, 2013), juveniles have been registered as sex offenders for sexting (Eraker, 2010; e.g., *A.H. v. State of Florida*, 2007). Sexting cases have sparked a national debate regarding whether this punishment fits this crime (e.g., Hoffman, 2011). We expected to replicate the finding that people would punish a gay (vs. heterosexual) male juvenile more harshly and that this punishment bias would be mediated by retributive, but not utilitarian, motivation in a sexting scenario.

We also extend Study 1 in several ways. First, we extended contemporary prejudice theories by testing whether discrimination against gay male juveniles would generalize to lesbian juveniles in ambiguous punishment contexts. Similar to racism research that often assumes biases and their underlying mechanisms targeting one subgroup (e.g., Black men) will generalize to another (e.g., Black women; Sommers & Babbitt, 2010), social psychology has expended much less empirical attention on lesbians as targets of discrimination than gay men. We predicted that the discrimination against gay male juveniles in Study 1 would not extend to lesbian juveniles for several reasons. First, people's explicit attitudes toward lesbians are less negative than toward gay men (e.g., Herek, 2000), thus they might be less punitive of sexting by lesbian juveniles relative to gay male juveniles. Second, conceptions of manhood are grounded in "antifemininity"—that is, men demonstrate their masculinity by avoiding femininity in their behavior, whereas conceptions of femininity are not grounded in "antimascularity." As a result, cross-gender behaviors are punished more harshly for men than for women (for review, Vandello & Bosson, 2013). Thus, people might punish boys for same-gender sexual behavior (sexting another boy) more harshly than girls (sexting another girl).

<sup>5</sup> We found the same pattern of results when we conducted two single-mediator models that did not control for the two mediators' overlapping variance. Further, previous reviewers have expressed curiosity regarding alternative models, specifically serial models in which these two punishment motives affect punishment through a serial process (rather than independent effects working in parallel). We did not find support for these models. Specifically, we conducted path analyses to explore two alternative serial indirect effect models. In both models we included offender age, offender sexual orientation, the interaction, and demographic controls as predictors, and punishment as the ordinal dependent variable. As mediators, we included retributive and utilitarian motives. The two separate serial mediator models tested the indirect effect of the offender age by sexual orientation interaction on punishment through (a) retributive motives and then utilitarian motives and (b) utilitarian motives and then retributive motives. The results from these two models revealed that the indirect effect of the interaction on punishment through retributive and then utilitarian motives was not significant,  $B = -.14$ , 95% CI =  $-.89, .02$ . The indirect effect of the interaction on punishment through utilitarian and then retributive motives, was also not significant,  $B = -.32$ , 95% CI =  $-.89, .03$ .

Table 2  
*Mean (SD) Utilitarian and Retributive Motives in Studies 1 and 2 as a Function of Offender Characteristics*

	Study 1			Study 2		
	Offender age		Marginal	Offender gender		Marginal
	16 YO	35 YO		Boy	Girl	
<b>Utilitarian motives</b>						
Heterosexual offender	3.36 (2.03)	4.72 (1.95)	4.09 (2.09)	1.92 (1.10)	2.07 (1.00)	1.99 (1.06)
Gay offender	3.57 (1.67)	4.02 (1.55)	3.78 (1.62)	2.29 (1.10)	1.83 (.93)	2.09 (1.05)
Marginal	3.48 (1.83)	4.38 (1.79)	3.93 (1.86)	2.10 (1.12)	1.97 (.98)	2.04 (1.05)
<b>Retributive motives</b>						
Heterosexual offender	2.60 (1.37)	3.94 (1.11)	3.32 (1.40)	2.06 (1.44)	2.11 (1.21)	2.08 (1.33)
Gay offender	2.92 (1.33)	3.42 (1.39)	3.16 (1.38)	2.45 (1.27)	1.70 (.96)	2.13 (1.20)
Marginal	2.77 (1.35)	3.68 (1.27)	3.23 (1.39)	2.25 (1.37)	2.25 (1.37)	2.10 (1.27)

Second, we extended Study 1 by examining whether retributive motives would not only increase punishment of the perpetrator (as in Study 1), but would also carry over to increase punishment of the victim of the offense. From a utilitarian perspective, there is no obvious utility in punishing the victim and therefore we would not expect the victim of a gay offender to be punished more harshly than a victim of a heterosexual offender. Yet, Study 1 identified retributive motives as the impetus for punishing a gay offender more severely than a heterosexual offender. Moral outrage is fueled by a combination of anger and disgust toward moral transgressions (Salerno & Peter-Hagene, 2013). The effects of emotions—and in particular, anger—can be transferred to subsequent judgments or targets (e.g., Goldberg, Lerner, & Tetlock, 1999). Inspired by these findings, punishment researchers have theorized that perhaps the moral emotions fueling retributive motives might carryover from punishment of the perpetrator to other judgments (Darley & Pittman, 2003). We tested the hypothesis that moral outrage toward a gay offender might activate generalized retributive motivations that could be satisfied not only by punishing the perpetrator, but also by punishing the victim.

Sexing cases provide an interesting context in which to test this hypothesis. In the prosecution of these cases, the legal system often designates one juvenile as the “perpetrator” (e.g., often the sender of a naked photograph) and one juvenile as the “victim” (e.g., often the receiver of a naked photograph), even though both juveniles involved in this kind of scenario can be prosecuted as sex offenders (e.g., *A.H. v. State of Florida*, 2007; Eraker, 2010). The sender is technically guilty of producing and distributing child pornography and the receiver is technically guilty of possessing child pornography. To be clear, we are not arguing that it is appropriate to label the sender as the perpetrator—doing so denies the possibilities that sexting can be consensual and mutual or that a sender can be coerced by a receiver into sending the message in the first place. Regardless of the appropriateness of these prosecution labels and strategies, we focus on investigating the public’s reaction to these scenarios, because the sexting context provides an interesting extension of the victim blame literature given that the legal victim can technically be prosecuted and punished. Further, this legal implication enabled us to test the hypothesis that reading about gay (vs. heterosexual) juvenile perpetrators would increase participants’ retributive motives and, in turn, punitiveness toward not only the legally designated perpetrator (the sender), but would also spill over to the legally designated victim (receiver).

## Method

**Participants and procedure.** Participants were 167 voter-eligible adults recruited from Mechanical Turk. Seventeen participants were excluded for failing to correctly report the offender and/or victim gender. The remaining 151 participants were 42% women; 54% White, 34% Asian, 4% Black, 3% Hispanic; with a mean age of 35 ( $SD = 12$ ) years. Participants read a description of sex offender registries from Study 1 and current child pornography laws designed to make it clear that both juveniles’ actions legally constituted child pornography. Next, they read one of four versions of a vignette based on an actual case (Feyerick & Steffen, 2009) depicting one juvenile texting a naked self-portrait photograph to another juvenile (see Appendix). The participants read that either a girl or boy sent the photograph (sender gender) to either a different-sex or same-sex peer (sender sexual orientation).

**Measures.** Participants completed the same measures from Study 1 with a few exceptions. First, because both the sender and the receiver of the text were charged with sex offenses, participants completed all measures twice—once about each juvenile. Thus, ratings about the sender and receiver constituted a repeated measure, within-subjects variable. This allowed us to test whether the effect of sender gender and sender sexual orientation would increase punitiveness toward just the sender (i.e., the perpetrator) or spill over to the victim and increase punitiveness toward both juveniles equally.

## Results and Discussion

Unlike Study 1, the current study includes nested data (i.e., repeated measures about the sender and receiver within individual participants) and therefore required ordinal multilevel modeling. The model included the between-subjects dummy codes for sender gender and sexual orientation (Level 2) and all interactions, along with—similar to Study 1—participant gender, racial minority status, and political orientation as demographic controls. This analysis revealed the predicted interaction between sender gender and sexual orientation,  $OR = 4.18$ ,  $z = 2.21$ ,  $p = .03$ . Consistent with Study 1, simple slopes analyses revealed that, when a boy sent a sexting message, participants were marginally more punitive when he was gay (i.e., sexted another boy) than when he was heterosexual (i.e., sexted a girl),  $B = 1.76$ ,  $z = 1.73$ ,  $p = .08$ . This punishment bias against same-gender sexting did not manifest when the perpetrator was a girl,  $OR = 1.95$ ,  $z = 1.51$ ,  $p = .13$ .

Removing the demographic controls revealed even stronger effects. The interaction between sender gender and sexual orientation was significant,  $OR = 4.62$ ,  $z = 2.73$ ,  $p < .01$ .<sup>6</sup> Simple slopes analyses revealed that, when a boy sexted, participants were significantly more punitive when he was gay than when he was heterosexual,  $OR = 2.08$ ,  $z = 2.00$ ,  $p = .04$ . When a girl sexted, this effect somewhat reversed: participants were marginally less punitive toward the juveniles when she was gay versus heterosexual,  $OR = .45$ ,  $z = -1.90$ ,  $p < .06$ .<sup>7</sup> Thus, in a sexting scenario, the punishment bias replicated for gay boys but not lesbian girls—participants were actually somewhat more *lenient* when a girl sent a sexting message to another girl (vs. boy) (see Table 3).

**Do punishment biases extend to the victim?** Next, we tested whether the interactive effect of sender gender and sexual orientation would be significant for only punishment of the sender (i.e., the perpetrator), or alternatively on the punishment of both the sender and the passive receiver (i.e., the victim). The model included a within-subjects dummy code indicating the participants' ratings of the sender versus receiver (Level 1), between-subjects dummy codes for sender gender and sexual orientation (Level 2), and all interactions. Participants were, not surprisingly, more punitive toward the sender than the receiver of the text overall,  $OR = .39$ ,  $t(271) = 2.53$ ,  $p = .02$ . More critical to our hypothesis, however, the juvenile's role (sender vs. receiver) did not interact with any predictors, all  $z$ s  $\leq 1.17$ ,  $ps \geq .24$ . In other words, the effects of the sender gender and sexual orientation on punishment did not depend on whether the participant was rating the sender or receiver (see Table 3 for percentages). The predicted interaction between sender gender and sexual orientation remained marginally significant in this model,  $OR = 4.53$ ,  $t(136) = 1.82$ ,  $p = .07$ . Thus, although people were (not surprisingly) more punitive toward the perpetrator than the victim overall, reading about a gay (vs. heterosexual) male perpetrator tended to increase punitiveness toward both the gay perpetrator and his victim—even though there was no indication that the receiver of the message did anything to contribute to the situation (aside from perhaps failing to delete the text message before being caught). This suggests that perhaps individuals who violate moral values (i.e., a gay boy sexting another boy) are more likely to inspire retributive punishment motives that are satisfied by punishing not only the perpetrator, but also the passive receiver of the sexting message.

**Mediation analyses: Punishment motives.** We ran a model conceptually similar to the dual-mediator model from Study 1. Because the data were nested, however, we had to change our analysis strategy. We again tested a model in which both retributive and utilitarian goals are simultaneous mediators of the significant interaction effect on punishment. We were unable to conduct bootstrapping analyses again, however, given that MPlus cannot accommodate bootstrapping with multilevel data. As a result, we conducted more traditional mediation analyses (Baron & Kenny, 1986; MacKinnon, 2008) that can accommodate nested data with multilevel ordinal regression equations. (Means and standard deviations for the utilitarian and retributive motive scales are reported in Table 2).

The sender gender by sexual orientation interaction significantly predicted retributive,  $OR = 2.25$ ,  $z = 2.20$ ,  $p = .03$ , and utilitarian motives,  $OR = 1.82$ ,  $z = 2.10$ ,  $p = .04$ . When the interaction and mediators were included in the same equation, the effect of the interaction on punishment was no longer significant,  $OR = 4.81$ ,

$z = 1.52$ ,  $p = .13$ . Retributive,  $OR = 2.23$ ,  $z = 3.13$ ,  $p = .002$ , and utilitarian,  $OR = 1.73$ ,  $z = 2.35$ ,  $p = .02$ , motives both significantly predicted punishment. Thus, punishment bias was again driven by retributive motives, but in this situation, also by utilitarian motives.<sup>8</sup>

## General Discussion

These findings are the first to apply contemporary prejudice theoretical frameworks to sexual prejudice in punishment contexts by demonstrating discrimination against gay (vs. heterosexual) juvenile—but not adult—sex offenders. That is, people exhibited discrimination against gay offenders when the punishment judgment was ambiguous (i.e., consensual peer sex), but not when the judgment was unambiguous (i.e., adult–juvenile sex). Specifically, people were willing to “give the kid a break” for having consensual oral sex with a peer (even though it is technically illegal)—but this accommodation was extended only to heterosexual juveniles. In fact, gay juveniles who had peer sex were punished as harshly as gay 35-year-old offenders who had sex with a 14-year-old.

Further, we contributed to the prejudice literature by demonstrating differential discrimination reactions to gay versus lesbian juveniles engaged in prosecutable sexual activity. In Study 2, antigay discrimination replicated for gay boys but not lesbian girls in a sexting case. In fact, the gay discrimination effect reversed, such that people were somewhat less punitive toward a lesbian (vs. heterosexual) girl who sent a sexting message. The punishment discrimination was driven by retributive motives in both studies, and utilitarian motives also played a mediating role in Study 2. This research extends previous demonstrations of the importance of retributive punishment motives (e.g., Carlsmith & Darley, 2008) to their role, specifically, in extralegal bias against stigmatized offenders. The sexual discrimination effect was not limited to participants who explicitly endorsed gay stereotypes (Study 1).

<sup>6</sup> Racial minorities were again more likely to support harsher registry laws than were White participants,  $OR = 3.82$ ,  $z = 4.48$ ,  $p < .001$ . Participant gender and political orientation did not significantly explain unique variance,  $B$ s  $< .42$ ,  $ps > .14$ . Due to experimenter error, familiarity with gay individuals was not assessed in this study.

<sup>7</sup> We again reran our model with participant gender and all possible gender interactions to test whether the gender by sexual orientation interaction was moderated by participant gender. Consistent with Study 1, participant gender, nor any interactions with gender were significant,  $z$ s  $< 1.31$ ,  $ps > .10$ . However, as in Study 1, when participant gender and its interactions are included in the model, the interaction of interest (i.e., sender gender by sexual orientation interaction), is no longer significant,  $OR = 2.83$ ,  $z = 1.34$ ,  $p = .18$ . Instead there was a significant main effect of sexual orientation, such that overall, participants were less punitive toward a gay (versus heterosexual) offender,  $OR = .03$ ,  $z = -1.98$ ,  $p = .05$ .

<sup>8</sup> To be consistent with Study 1, we also conducted bootstrapping analyses similar to the mediation analysis from Study 1—even though this analysis is not ideal because it does not account for the non-independence of the nested data. Based on 5,000 bootstrapping samples, the indirect effects of the offender sender by sexual orientation interaction on punishment through retributive motives,  $B = .16$ , 95% CI = .15, .59, and utilitarian motives,  $B = .14$ , 95% CI = .11, .55, were both significant. Thus, both traditional Baron and Kenny mediation analyses using multilevel models, and bootstrapping analyses that do not utilize multilevel models both consistently reveal that retributive and utilitarian motives mediate the effect of offender sender and sexual orientation on punishment.

Table 3  
*Study 2. Number (%) of Participants Who Chose Each Registration Outcome, as a Function of Sender Versus Receiver Ratings and Sender Characteristics*

	Ratings of sender (“Perpetrator”)		Ratings of receiver (“Victim”)	
	Heterosexual sender	Gay sender	Heterosexual sender	Gay sender
Girl sender				
Should not register	22 (59%)	23 (80%)	28 (78%)	26 (92%)
Should register, but not online	8 (22%)	3 (10%)	5 (14%)	2 (7%)
Should register online	7 (19%)	3 (10%)	3 (8%)	0 (0%)
Boy sender				
Should not register	25 (64%)	19 (51%)	34 (87%)	25 (68%)
Should register, but not online	9 (23%)	7 (19%)	3 (8%)	5 (13%)
Should register online	5 (13%)	11 (30%)	2 (5%)	7 (19%)

Either people’s bias against gay offenders was strong enough to override individual differences in prejudice, or—consistent with theories of contemporary prejudice—the punishment decisions tapped into more contemporary forms of bias that are not reflected in explicit measures. Finally, we found that reading about gay juvenile offenders activated a retribution-based desire to punish, which was satisfied by harsher punishments of both the sender of a sexting message (i.e., the perpetrator), as well as the receiver of the sexting message (i.e., the victim). The perpetrator and the victim both received harsher punishments when the perpetrator was gay.

What is it about an offense that involves sexual activity between two male juveniles that results in a more punitive response than any other gender combination? One could argue that the effect might be driven by a desire to protect the male victims from gay offenders, rather than by a particularly punitive response toward gay offenders. People might be more concerned and sympathetic toward male victims of a gay offense compared to either female victims of a gay offense, or victims of heterosexual offenses. We would argue, however, that if this were the explanation, it would be difficult to explain why people (a) were not also more punitive toward an adult male offender with an underage male (vs. female) victim (Study 1), and (b) wanted to punish male victims of gay sexting more than male victims of heterosexual sexting (Study 2).

We would argue that negative reactions to gay male offenders constitute a better explanation for the current findings. Although the gay discrimination effect did not depend on the participants’ explicit endorsement of gay stereotypes, the current findings do not necessarily rule out stereotypes and prejudice as an explanation. Indeed, researchers have documented not only that gay men are stereotyped as child molesters (Herek, 1991, 2002; Wiley & Bottoms, 2013), but also that endorsement of these stereotypes increases mock jurors’ prosecution judgments against gay defendants charged with child sexual abuse (Wiley & Bottoms, 2013). Stereotypes and negative attitudes can be activated and affect our behavior outside of our awareness—even if we do not endorse the stereotypes on explicit measures (Devine, 1989). This is especially the case when prejudice against a group becomes less normatively acceptable. The current studies were not designed to test the role of implicit stereotypes in punishment biases, but this is a compelling future direction that would build on the punishment findings.

Although it plays a clear role, antigay discrimination alone cannot fully account for our findings, which are also consistent

with “intersectional” approaches to social identity research. Intersectional research demonstrates the limitations of investigating gender, sexual orientation, race, and other aspects of social identities independently, and instead focuses on the unique effects that emerge when researchers examine combinations of these identities (e.g., Purdie-Vaughns & Eibach, 2008; Reid & Comas-Diaz, 1990; Warner & Shields, 2013). Indeed, sexual prejudice can stem from negative reactions to violations of traditional sexual orientation (i.e., engaging in same-gender sexual activity), but also to violations of traditional gender roles (i.e., men acting feminine, women acting masculine; Lehavot & Lambert, 2007). Discriminatory punishment of gay male juveniles in our study appears to be a result of both sexual and gender discrimination. That is, we did not find discrimination against all gay individuals—only gay male offenders; and, we did not find discrimination against all male individuals—only gay male offenders. Thus, it appears that offenders who are gay and male are particularly stigmatized.

Why might people be more punitive toward gay male juveniles than other groups? These results are conceptually consistent with previous research indicating that cross-gender behaviors are punished more harshly for men than for women. These previous findings have been explained by differences in conceptualizations of masculinity (which include antifemininity) versus femininity (which do not include antimasculinity) (Vandello & Bosson, 2013). Thus, our findings might be due to differential expectations of what it means to be masculine and what it means to be feminine. Inversion theory argues that gay men are perceived as feminine and lesbians perceived as masculine (Schneider, 2004). Because expression of sexuality is less acceptable from women than from men (Crawford & Popp, 2003), gay boys might be punished more for expressing sexuality (i.e., sexting) than straight boys because they are expected to be more feminine. Their “sexually aggressive” behavior (i.e., sexting) is in violation of this expected (more feminine) gender role, and thus they may be punished harshly. In contrast, lesbians may be punished less than straight girls for expressing sexuality because lesbians are expected to be more masculine (Schneider, 2004). Acting within masculine gender-consistent roles by behaving in a sexually aggressive manner (sending a sext) is thus less likely to engender harsh punishment. That is, perhaps straight boys (relative to gay boys) and lesbian girls (relative to straight girls) are punished less for sexting because they are expected to be the more “masculine” groups, for which being sexually aggressive is more acceptable. Thus, it is important to acknowledge that reactions to gay targets might

depend on additional aspects of the target's social identity, such as gender.

The finding that people treat gay and lesbian individuals differently contradicts previous studies that demonstrate equal discrimination against gay and lesbian offenders (e.g., Hebl et al., 2002; Hendren & Blank, 2009). One potential explanation is that the present study is the only one to focus on sexual situations, which heighten the salience of gender norms (Hundhammer & Mussweiler, 2012). In contexts where gender norms are not particularly salient, as in previous studies, gay men and women may experience similar prejudice because both groups violate traditional sexual orientation (i.e., Hebl et al., 2002; Hendren & Blank, 2009). Yet, in a sexual context like the present study, salient gender norms might influence people's judgments of gay men differently than lesbians.

More research is needed to explore additional potential explanations for leniency toward lesbian (vs. heterosexual) girls, such as the trivialization of harm elicited by lesbian sex, the eroticizing of lesbian sex (Whitley, Wiederman, & Wryobeck, 1999), or beliefs that girls' sexuality is more malleable than boys' sexuality (Peplau, 2003). That is, people might perceive a gay male juvenile's sexuality as more fixed—interpreting a sexting message as an indication of inherently deviant sexuality. In contrast, people might perceive a lesbian girl's sexuality as more malleable or changeable—interpreting a sexting message as an indication of experimentation or “goofing around.” These differential perceptions of girls' and boys' same-gender sexual activity might lead people to view it as differentially harmful or threatening, and in turn, worthy of different degrees of punishment.

### Law and Policy Implications

Supreme Court decisions recognize that adolescents should be spared from serious punishment because their psychological immaturity should reduce culpability (Steinberg, Cauffman, Wooland, Graham, & Banich, 2009). Sex offender registration is associated with often debilitating lifelong outcomes (Levenson et al., 2007), yet many participants decided this harsh level of punishment was appropriate for juveniles engaging in consensual activities with peers. Sixty-five percent of participants believed a juvenile who engaged in consensual oral sex with a peer should be registered in some form (57% when the juvenile was heterosexual, 73% when the juvenile was gay); and over a third of participants thought the juvenile should be registered publicly online (24% when the juvenile was heterosexual, 47% when the juvenile was gay). Given that roughly 40% of 15 to 17-year-olds report engaging in oral sex (Mosher, Chandra, & Jones, 2005), the majority of our participants supported the most extreme form of sex offender registration for an activity in which close to half of teenagers engage.

The level of overall punitiveness toward the juvenile offenders were somewhat higher in Study 1 than in Study 2,  $B = .373$ , Wald = 2.68,  $p = .10$ . For example 29% chose the harshest registry option in Study 1, whereas only 18% chose this option in Study 2. This finding is not surprising, given the severity differences between sexting and oral sex cases. This punishment difference between case types is consistent with previous research demonstrating that support for juvenile sex offender registration laws depends on offense severity (Salerno, Najdowski et al., 2010). Mandatory sex offender registration for any sex offense

(i.e., not allowing judges to take offense severity into account) is required in 26 states (Salerno, Stevenson et al., 2010). The current findings suggest that this requirement is not in line with public sentiment—as long as the offenders are heterosexual. Yet, a substantial percentage of participants still thought juveniles should be registered as sex offenders for sexting (37%) and even merely receiving a sexting message (20%), which do not even involve physical contact. Given that roughly 20–40% of high school students admit to sexting (Strassberg et al., 2013), a substantial percentage of our participants support sex offender registration for an activity in which roughly a third of teenagers engage. Particularly concerning is the fact that many teenagers engaged in sexting report not having considered the legal ramifications at all (Strassberg et al., 2013). In fact, almost half of young adults sampled were even unaware that juveniles could be registered for having consensual oral sex with an underage peer (Stevenson, Najdowski, & Wiley, 2013).

This surprising punitiveness might be a reflection of our society's visceral moral outrage toward crimes labeled as “sex offenses.” When people are asked to give their opinion about punishment policies for sex offenders in general and afterward report what kind of crime they had been envisioning, most people spontaneously envisioned a severe, violent, coercive sex offense (e.g., rape)—including when they are asked about juvenile offenders. In turn, those who spontaneously envision more (vs. less) severe offenses were four times more likely to support sex offender registration (Salerno et al., 2010). Reading about an act that is characterized as a sex offense might increase moral outrage and, in turn, punitiveness. Future research could test whether participants are less punitive if the same behavior is framed as a parental or school disciplinary issue, rather than a “sex offense.”

This research demonstrates that the ambiguity surrounding whether laws and punishments designed for adults should be applied to juveniles provides a vehicle for discrimination against stigmatized youth. To the extent that judges and attorneys hold similar biases, gay youth might be particularly vulnerable to public stigmatization on sex offender registries, thereby potentially contributing to institutionalized prejudice against gay youth. These experiments bolster previous archival evidence that gay youth may be particularly vulnerable to sex offender registration (Craun & Kernsmith, 2006) by providing the first experimental evidence for a causal effect of juveniles' sexual orientation on punitiveness. Our findings are also relevant for nations with similar registries (e.g., Australia, United Kingdom) and similarly negative attitudes toward homosexuality that affect law (Ottosson, 2010).

### Conclusion

This research reveals how contemporary sexual prejudice can manifest in the criminal justice system, causing serious and potentially lifelong consequences for juveniles: public stigmatization as a sex offender. While there is much controversy and moral debate surrounding the prosecution and registration of teenagers for consensual sexual activity in general, the present findings are the first to reveal that current sex offender laws provide a context that disadvantages gay youth because their sexual behavior rouses moral outrage in community members. This research not only

demonstrates that gay juveniles are particularly at risk for discriminatory punishment for their consensual sexual activity with peers, but also demonstrates that people have different levels of punitiveness toward gay versus lesbian youth.

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## Appendix

### Study 1 and Study 2 Vignettes

#### Study 1

David, a [16/35]-year-old male, attended a party at a friend's house, during which he and an underage [girl/boy] videotaped the [girl/boy] performing oral sex on David. Although the victim stated that the act was consensual, because [she/he] was 14 years old, [she/he] could not legally provide consent. David was convicted of aggravated child molestation.

#### Study 2

[Jen/David] is a high school sophomore. One night at a party [she/he] met [Joanna/Scott], a sophomore at a neighboring high

school. The next night [Jen/David] took a naked photograph of [herself/himself] and texted it to [Joanna's/Scott's] cell phone. The photograph depicted [Jen/David] in a very explicit pose with full frontal nudity. The photograph was discovered on [Joanna's/Scott's] phone by a teacher, who reported it to the police. Because [Jen/David] was underage, [Jen/David] was charged with the production and distribution of child pornography and [Joanna/Scott] was charged with possessing child pornography.

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