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**Anti-Queer Policy as it Translates to  
Violence Against the LGBT Community**

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### **Abstract**

In recent years, the amount of anti-LGBT policy introduced is rapidly increasing (ACLU, 2023). Contemporary policy focuses mainly on queer youth and gender identity, attacking gender-affirming health care and limiting LGBT discussions in public schools. Although these policies are particularly insidious, they follow a trend of queer persecution in the United States. Within federal policy and across state legislation, the panopticon of anti-LGBT policy ensures that queer bodies are policed and monitored. This paper posits that the increase in anti-queer policy translates to an increase in experiences of external and indirect violence. Based on findings from the UCR and various victimization surveys including the 2015 U.S. Transgender Survey and National Crime Victimization Survey, this paper demonstrates that increases in anti-queer policy correlate with increased violence experienced. This violence includes interpersonal violence, such as hate crimes, as well as self-inflicted violence. Research in this area is critical, as proposed anti-LGBT policy is continually rising. It stigmatizes an already marginalized community, demarcating them from broader society as dangerous and deserving of exclusion and condemnation.

*Keywords:* LGBT policy; queer victimization; LGBT civil rights; queer stigmatization

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As a queer woman with a girlfriend, the recent rise in anti-LGBT legislation and hateful rhetoric is deeply distressing. While monitoring the status of proposed policy in New Hampshire and across the country, I wanted to explore the connection between anti-LGBT policy and violence experienced by the queer community. This includes external violence, such as hate crimes enacted based on sexual orientation and gender identity in addition to indirect violence, where marginalization and stigmatization impact the socioeconomic and mental health conditions of LGBT people. Accordingly, this paper aims to ascertain how anti-LGBT policy impacts violence experienced by the queer community.

With a comprehensive overview of anti-queer policy and rhetoric since 1952, trends in policy and its impact on the LGBT community are documented. Moreover, an in-depth analysis of contemporary anti-queer proposed policy as it compares to external (hate crimes) and indirect (mental health, suicidality) violence is provided. The scope of the data on anti-LGBT proposed policy and anti-LGBT hate crimes enacted spans from 2011-2022, with separate analyses of data from five distinct states and across the country. The methods section of this paper details which specific states are analyzed in tandem with federal trends. This paper demonstrates that anti-LGBT policy emboldens people to enact violence against the queer community. Furthermore, policy that negatively impacts the LGBT community increases the psychological distress and suicidality of queer people, particularly queer youth and transgender people.

## *Politicizing Queer Bodies*

### **DSM Classifications and Stonewall Riots**

This thesis paper begins with the 1952 DSM-I classification of homosexuality, as the language utilized within this text is echoed in contemporary rhetoric and policy. The Diagnostic and Statistical Manual of Mental Disorders (DSM) is recognized as a reputable source of diagnostic criteria of psychological disorders. Beyond containing mental health classifications and diagnoses as outlined by the American Psychiatric Association (APA), the DSM dictates the rhetoric that clinicians utilize to pathologize and communicate with their clients (Hectors, 2023). This endangers the queer community, as heteronormativity and cisgenderism throughout the text delimits access to adequate health care for LGBT people.

In the first edition of the DSM published in 1952, homosexuality was classified as a “sociopathic personality disturbance,” and contained corresponding suggestions of medical treatment (Drescher, 2015). Codified alongside treatable mental illnesses, the DSM-I endorsed electroshock therapy, aversion therapy, and psychoanalytic treatment to “cure” non-normative sexuality and gender identity (Barounis, 2017). This pathology of homosexuality cited atypical gender behavior or sexual feelings as symptoms of the “disorder” caused by an internal defect or external infective agent, including early childhood trauma (Drescher, 2015; Barounis, 2017). While DSM publications are geared towards the medical community to standardize psychiatric diagnosis and treatment, it is imperative to recognize that the DSM is also a bestseller (Barounis, 2017). Consequently, this publication validated and fortified the notion that homosexuality and gender nonconformity are disorders that are unnatural, deplorable, and necessitates a cure. As a well-regarded medical text, the DSM justified LGBT-exclusionary policy.

Within the same year the DSM-I was published, the U.S. Immigration and Nationality Act was passed and signed into law by President Truman. The act barred immigration and citizenship pathways for migrants with psychopathic defects, including homosexuality (Somerville, 2005). Hidden behind anti-communist sentiment, the Immigration Act excluded homosexual people—“sexual perverts”—from naturalization on the basis of lacking the “good moral character” requirement. This rationale was justified by the DSM-I rhetoric. In 1953, President Eisenhower issued Executive Order 10450, banning homosexual people from working for the federal government or private contractors associated with the government (Latimer, 2011). Officials who were openly gay lost their jobs, and those who were not were forced to remain closeted. At the time, this order operated under the assumption that queer people pose a security risk based on their “disorder.” The executive order was not repealed in its entirety until 2017, on President Obama’s last day in office (Lopez, 2019). While there were some alterations of the policy, including President Clinton’s 1994 “Don’t Ask, Don’t Tell” policy, this government-sanctioned exclusion persisted over six decades.

In 1968, the DSM-II reclassified homosexuality as a “sexual deviation” (Drescher, 2015). Viewing queer people as deviant is a moralistic interpretation of sexuality and gender identity, and is rooted in religious contexts. Unfortunately, separation between religious belief and scientific theory was largely absent during this era. Therefore, psychologists infused many of their findings with their subjective religious vantage point and erroneously conflated an opinion of queerness as a social evil with mental illness (Drescher, 2015). This made LGBT people across the country believe they were inherently defective and critically impacted how they interacted with and were treated by the medical community.

At the same time the LGBT community experienced sanctioned medical maltreatment, calculated law enforcement efforts targeted queer sanctuaries. Safe spaces for LGBT people were rare and concentrated in markedly progressive cities. Despite their scarcity, queer bars and clubs were routinely raided by police, citing public disturbances or alcohol service infractions as their excuse for entry (Duberman, 2019). In June 1969, police raided the Stonewall Inn gay bar in New York City. After decades of mistreatment, this particular raid sparked protests outside of the establishment and surrounding areas by LGBT people—especially young people and people of color—against law enforcement (Library of Congress, 2019).

This protest included prominent queer rights activists like Martha P. Johnson and Sylvia Rivera, and marked the birth of the modern queer rights and liberation movement (Duberman, 2019). Pride Month is widely celebrated in the United States in June in honor of the Stonewall Riots. Commemorative parades first began on the anniversary of Stonewall in New York City, Los Angeles, and Chicago (Library of Congress, 2019). Moreover, Stonewall underscores the deep mistrust that still exists between the LGBT community and law enforcement.

With a more organized movement, LGBT activists were able to address mistreatment in other public sectors. Gay rights activists began protesting the APA and the American Medical Association in 1970 for engineering the psychiatric medicalization of queer people (Barounis, 2017). By 1973, homosexuality was removed as a psychiatric disorder from the DSM-II after twenty years of advancing anti-LGBT rhetoric (Drescher, 2015). However, that did not completely remove homosexuality from the DSM. In an updated version of the DSM-II, homosexuality was pathologized as sexual orientation disturbance and as ego-dystonic in the DSM-III until it was removed altogether in 1987 (Barounis, 2017). Although homosexuality is ostensibly de-pathologized in contemporary editions of the DSM, heteronormativity is still



embedded in psychological discourse. According to Hectors (2023), gender identity disorder and transvestic disorder exemplify that normative and binary rhetoric is still pervasive.

### **AIDS Epidemic**

According to the Mayo Clinic, Acquired immunodeficiency syndrome (AIDS) is caused by the human immunodeficiency virus (HIV) which, when contracted, deteriorates the immune system and depletes the body's ability to fight disease. Although there is no cure for HIV, people who contract the virus can reduce its symptomology by pursuing antiretroviral therapy (ART) treatment (CDC, 2021). Untreated HIV can increase the risk of HIV progressing to AIDS, at which point a person's immune system is so severely compromised that they are more likely to suffer from "opportunistic infections," develop complications as their body cannot fight infection as quickly, and face an increased risk of severe sickness or death (Mayo, n.d.).

HIV can be transmitted sexually, by blood transfusions, or prenatally (CDC, 2021). Additionally, sharing needles that contain infected blood can spread HIV (Mayo, n.d.). According to the World Health Organization (2022), most people today with HIV who undergo ART will not progress to AIDS or transmit HIV to their partners. Furthermore, people who may be at risk of contracting HIV can take Pre-exposure prophylaxis (PrEP) which is a course of HIV-preventative antiretroviral drugs. Access to these treatments dramatically reduced the amount of AIDS-related deaths, shifting HIV/AIDS from a fatal diagnosis to a manageable disease (Winston & Beckwith, 2011). While increased knowledge about transmission and prevention and the development of life-saving medication allows for the de-stigmatization of HIV/AIDS, misinformation and hateful rhetoric since the beginning of the epidemic altered how the LGBT community was viewed and treated.

AIDS was first officially reported in 1981, after five previously healthy gay men in Los Angeles were hospitalized for what was initially classified as *Pneumocystis pneumonia* (CDC, 2021). At first, there was limited knowledge about how AIDS could be contracted and who was most vulnerable. However, reported trends noted that men who have sex with men in particular became infected. Consequently, towards the beginning of the crisis, AIDS was referred to as Gay-Related Immune Deficiency (GRID) until late 1982 (Platt & Platt, 2013). Miller (1995) highlights that AIDS was also called “gay cancer” and that the religious right believed it reflected God’s judgment on LGBT people. Even the CDC used “the four Hs” to identify high-risk groups—homosexuals, heroin addicts, hemophiliacs, and Haitians—which further stigmatized vulnerable groups (Gonsalves & Staley, 2014). People were understandably fearful of this unknown deadly disease, but they used these fears to fuel their preexisting homophobic beliefs.

The Reagan administration fortified these misperceptions, and its inaction in the crucial early stages of the epidemic cost the lives of thousands of people. Seattle Municipal Archives cite that Ronald Reagan’s communications director, Pat Buchanan, asserted that AIDS was “nature’s revenge on gay men.” Because early understanding of AIDS believed the disease only impacted gay men and people who inject drugs, the conservative administration did not recognize this as a health crisis. The federal response to AIDS was negligible and failed to adequately fund AIDS research, education, and healthcare for patients (Lee & Arno, 1986). Funding that was allocated to address AIDS only came based on state-based initiatives and some measures passed by Congress which, according to the Office of Technology Assessment, could not rely on a stable or secure budget (Fox, 2005).

Pro-public health policy that was passed was met with delayed implementation because of the administration's inability to actualize a unified response to the epidemic (Lee & Arno, 1986). Existing programs, as aforementioned, could not appropriately or efficiently respond to the epidemic because their funding was not guaranteed (Lee & Arno, 1986). To the Reagan administration, AIDS was eradicating an undesirable population and thus there was no reason to address it. In fact, President Reagan did not publicly mention AIDS until 1986 during the height of the epidemic, when he acknowledged AIDS as "one of the highest public health priorities" (Fox, 2005). This acknowledgment only came after statistics in 1985 indicated that other populations were being impacted by HIV/AIDS and not just queer men and intravenous drug users (Miller, 1995). Though he finally recognized it as a health crisis in public, Fox (2005) notes that President Reagan also proposed to considerably cut AIDS research funding.

Widespread hysteria and fear quickly turned to hatred (Platt & Platt, 2013). As people who were already marginalized, gay men feared persecution from their communities and politicians. The *Los Angeles Times* published a survey in 1986 that claimed that "most Americans favor some sort of legal discrimination against homosexuals as a result of AIDS" (Fox, 2005). In response to the survey, columnist William Buckley wrote an op-ed in the *New York Times* suggesting HIV/AIDS carriers receive animalistic-esque branding: "everyone detected with AIDS should be tattooed in the upper forearm, to protect common needle users, and in the buttocks, to prevent the victimization of other homosexuals" (Gonsalves & Staley, 2014). As hateful and harmful rhetoric maintained a platform, policy decisions were often rooted in these views rather than scientific fact. HIV/AIDS legislation introduced was more likely to correlate with increased media coverage of major events (such as Rock Hudson's death) rather than scientific findings and literature (Platt & Platt, 2013).

Following the classification of AIDS as a communicable disease in 1986, more people held the fallacious belief that proximity to gay men must be avoided at all costs, as any contact with an openly queer person posed a risk of exposure (Fox, 2005). However, HIV cannot be transmitted by casual contact (Winston & Beckwith, 2011). Despite the Surgeon General's report later that year disproving that falsehood, the insidious rhetoric was pervading public sentiment and policy (Miller, 1995). Nearly 21,000 Americans died from AIDS by 1987, and insufficient public policy guaranteed that this number would increase exponentially (Mahre, n.d.).

Policy based in anti-queerness and anti-drug use ensured that useful transmission-reduction tactics were not implemented. Needle exchange programs, condom distribution in prison, and other programs that reduce HIV transmission were blocked because conservatives held that those policies condoned "alternative lifestyles" (Platt & Platt, 2013). Numerous politicians urged systematic quarantining of people who were HIV/AIDS positive, with a few states passing conditional measures that were infrequently utilized. Criminal codes could subject HIV-positive people to conviction if they exposed a partner to HIV (Gonsalves & Staley, 2014). Some policies suggested compulsory antibody screenings and there were even debates about forced identification disclosures of children or employees with AIDS in school settings (Fox, 2005). Many people living with HIV/AIDS faced employment and housing discrimination, exclusion from school, and many experienced violent victimizations including murder (Gonsalves & Staley, 2014).

By 1992, AIDS became the number one cause of death for men aged 25-44 in the United States (Miller, 1995). In the following year, Congress enacted a travel ban against HIV-positive people, mirroring sustained fear-inducing anti-queer rhetoric rather than scientifically-based knowledge about transmission and virus detection (Platt & Platt, 2013). It is important to note

that while President Clinton signed the travel ban into law in 1993, the ban was first proposed in 1987 by North Carolina's Republican Senator Jesse Helms (Mitka, 2008). Under the 1952 Immigration and Nationality Act (INA), immigrants could be excluded from entry based on their medical diagnoses, including "any dangerous contagious disease" (Winston & Beckwith, 2011). Again, the INA included exclusion based on sexual orientation until 1973 because of the DSM pathologization of homosexuality. Classification as a "dangerous contagious disease" was discretionary, based on the judgment of the U.S. Public Health Services (PHS), and later the Department of Health and Human Services and the CDC (Winston & Beckwith, 2011).

HIV was added to the PHS list of "dangerous contagious disease" that forbade entry to the U.S. following Senator Helms' suggestion and pressure from the Reagan Administration (Mitka, 2008). According to Winston and Beckwith (2011), "it was not the discovery of HIV alone, but the economic and political climate of the 1980s that led to the introduction of the ban." Increased immigration to the United States in the 1980s concurrently with dangerous misperceptions about AIDS translated to rising fears of migrant populations (Winston & Beckwith, 2011). Consequently, President Reagan required HIV testing for all immigrants with Congressional approval, barring any HIV-positive migrant (Winston & Beckwith, 2011).

Despite attempts to remove the HIV-based immigration ban, the travel ban was codified under President Clinton in 1993 and was no longer up to the discretion of DHHS (Winston & Beckwith, 2011). At this point, scientists and public health officials had sufficient knowledge about HIV/AIDS which demonstrated that such a ban was unnecessary. This emphasizes the trend of some politicians ignoring recommendations from medical experts, instead opting to enact biased state and federal policy (Platt & Platt, 2013). These exclusionary policies remained in place until their removal under the Obama Administration by the Department of Health and

Human Services in 2010 (Winston & Beckwith, 2011). However, “compassionate conservatism” employed by President George W. Bush and the Republican Party in the early 2000s ushered in bipartisan HIV/AIDS policy (Platt & Platt, 2013). Bipartisan bill sponsorship aimed to undo Reagan-era policy that exacerbated the epidemic.

In 2003, President Bush enacted the President's Emergency Plan for AIDS Relief (PEPFAR) to globally address HIV/AIDS (Winston & Beckwith, 2011). According to the U.S. Department of State, the United States has invested more than \$100 billion into PEPFAR since its inception. To adhere to increasing opposition to the HIV exclusion in the Immigration and Nationality Act (INA) and continue funding PEPFAR, the HIV/AIDS travel ban was repealed by Congress in 2008 (Mitka, 2008). This returned discretionary power to DHHS, which eventually removed HIV from the list of exclusionary diseases in 2010 (Winston & Beckwith, 2011). Winston and Beckwith (2011) note that the removal of HIV from the INA reduced social barriers for people living with HIV, allowing for safer travel where disclosures of HIV status were no longer mandated; before this removal, some HIV-positive migrants would leave behind their life-saving medication knowing they would be denied entry if they brought it.

Although this was a monumental step in de-stigmatizing HIV/AIDS, three decades of hostile policy irrevocably altered how gay men and the wider LGBT community were treated and perceived (Fox, 2005). The Reagan Administration's inhumane policy stance and use of rhetoric at the beginning of the epidemic marked those most vulnerable to HIV as undeserving of help (Platt & Platt, 2013). Queer men, people who use drugs intravenously, sex workers, and other marginalized populations who were most susceptible were vilified and persecuted by policy and bigoted people (Fox, 2005). Ignorance, fear, and hatred bolstered by politicians and the media encouraged the public to revile homosexuality (Gonsalves & Staley, 2014). Rather

than protecting these populations and funding HIV/AIDS research and education, the Reagan administration abet exclusionary policy that further stigmatized gay men and increased the amount of people impacted by the epidemic (Mahre, n.d.). If gay-rights activists were not as vocal and did not mobilize to create educational community-based AIDS organizations, governmental inaction would have ensured the decimation of queer men (Miller, 1995).

### **“Don’t Ask, Don’t Tell”**

Instituted in 1993 during the Clinton administration, “Don’t Ask, Don’t Tell” (DADT) presumably allowed LGB people to serve in the military under the condition that they were not openly queer. President Clinton campaigned on the promise that he would eradicate the ban on LGB military service but faced a divided public and fierce opposition from high-ranking military personnel (Werner, 2014). DADT represented a compromise, where queer people could serve as long as they did not disclose their queerness, as that posed a threat to military standards of order and cohesion (Davis, 2010). This policy and similar legislation provide a platform for homophobia that is so pronounced that LGBT people are seen as dangerous and undeserving of humane treatment and compassion (Shilts, 2014).

Queerness is historically contentious in the United States military. In a country confined by binary thinking and certain ideals of masculinity, LGBT people serving in the military represent a direct threat to manhood (Shilts, 2014). During World War II, the issuance of “blue discharges” or “other than honorable” discharges were utilized to dismiss service members with “undesirable traits of character” (Waters, 2022). This primarily targeted black service members, women, and queer people. During WWII, 50,000 soldiers in total received blue discharges, 22 percent of which were black soldiers (Waters, 2022). 9,000 people received blue discharges because of their sexuality (NPS, 2022). Anyone identified as a homosexual could be deemed

psychologically unfit and removed from service without requiring any formal procedure to do so (Waters, 2022). Typically invasive interrogation tactics were deemed sufficient (NPS, 2022).

An “HS” (homosexual) was designated as their reason for discharge which was public record (Waters, 2022). Former service members were unable to appeal the decision and denied access to veteran benefits (NPS, 2022). Moreover, they were returning to a country where sodomy was a felonious offense in every state and to communities where they would likely be shunned (Waters, 2022). Employment opportunity and livelihoods were derailed as outed veterans were seen as disgraceful and undeserving of veteran status (Davis, 2010). This fostered a hateful environment, where queer members felt immense fear and internalized shame.

These trends continued over the next few decades, where anti-LGBT attitudes and rhetoric were encouraged. Before the passage of DADT, discharges based on sexual orientation were steadily declining as queer service members understood how to navigate their homophobic institution. However, the policy reignited the persecution of queer people in the military, and anti-LGBT discharges increased sharply until around 2001 (Davis, 2010; NDRI, 2010). The scope of interrogations of those accused of homosexuality were extensive, forcing members to reveal the names of their partners and queer members (Shilts, 2014). According to Werner (2014), “suspected gay military members lived with a 'bullseye' on their backs . . . targeted with renewed vigor by criminal investigators and commanders” (p. 94).

The ruthlessness of this persecution increased psychological distress and the suicide rate amongst queer military personnel. Queer service members faced severe discrimination and lived in constant fear of harassment and being outed. Pressure to conceal sexual orientation and living under the persistent threat of discharge severely impacted the mental health of LGBT people (Yerke & Mitchell, 2013). When rumors of another wave of interrogation spread, some LGBT



service members who were fearful of being interviewed would die by suicide rather than being accused of homosexuality and discharged (Shilts, 2014).

Investigations led to mass discharges and encouraged resignations through the use of intimidation (Shilts, 2014). DADT erased the identity of LGBT military personnel and punished anyone who was openly or actively queer. Many gay men visited nonmilitary healthcare facilities for STI tests to avoid forced disclosures and consequential discharge or avoided receiving medical care altogether (Katz, 2010). The fear of being exposed as homosexual in the military created a relationship where clinicians did not ask about sexual history and queer patients did not voluntarily share that information; otherwise they would be forced to provide the names of their sexual partners. This compromised access to adequate medical care and increased the rate of undiagnosed and untreated STIs (Katz, 2010). Katz (2010) explains that the American Medical Association decried DADT in 2009 because of how it stymied military medical care.

Insidious repercussions of DADT include sexual assault and violence enacted against queer members. For lesbian members specifically, rape was rampant. Declining a sexual advance or reporting a sexual assault could signify lesbianism and result in the survivor's discharge (Shilts, 2014). According to Shilts (2014), military command was more likely to investigate accusations of queerness than sexual harassment and rape. Women only accounted for 13 percent of military personnel yet were disproportionately discharged under DADT (Werner, 2014). As seen with prior anti-gay military policy like the blue discharges, DADT heightened discrimination for women and women of color based on additional race-based and sex-based marginalization (Shilts, 2014). This violence extended to queer relationships, as the threat of outing can be used as a tool of control in abusive relationships. Within this oppressive context, disclosing abuse perpetrated by a same-sex partner is dangerous (Ristock, 2002).

Luckily, public opinion began to shift as DADT took effect. By the early 2000s, nearly 90 percent of the American public held that gay people should have equal employment opportunities (NDRI, 2010). This included an increase in respondents who believed queer people should be able to openly serve in the military. The 2003 *Lawrence v. Texas* decision declared anti-sodomy laws unconstitutional, federally legalizing same-sex consensual intercourse (Davis, 2010). Higher education institutions began barring military recruiters on campus to protect queer students, however legislation forced campuses to welcome recruiters in order to receive their federal funding.

Ultimately, the 2011 repeal succeeded because of LGBT advocacy and shifting public opinion about queer people (Frank, 2013). Over 100,000 soldiers were discharged based on their sexual orientation between World War II and the removal of DADT (Waters, 2022). DADT created an environment where “discrimination, harassment, and even violence against lesbians and gays is tolerated and to some degree encouraged” (Shilts, 2014). Instead of making life more tolerable for queer military members, it fortified homophobia in the institution and solidified their marginalization across the country (Werner, 2014). Although DADT was no longer in effect as of 2011, it is imperative to remember that this policy applied to discrimination based on sexual orientation and not gender-identity. Therefore, the assault on transgender people became the new focus of anti-queer policy.

### **Defense of Marriage Act**

In 1996, President Clinton signed H.R. 3396, known as the Defense of Marriage Act (Eklund, 2019). The Defense of Marriage Act (DOMA) defined marriage as a union exclusively between a man and woman and afforded states the power to not recognize same-sex marriages performed in other states as legitimate (Werner, 2014). After being passed by the 104th U.S.

Congress, DOMA meant that same-sex marriages could not access the same opportunities or benefits as heterosexual couples, such as tax benefits or being able to openly express affection to a partner (Clarkson-Freeman, 2004). DOMA at the federal level and subsequent “mini-DOMAs” at the state level underscored a decades-long moral panic campaign spearheaded by the Evangelical right (Adam, 2003). Bolstered by socially conservative politicians and media outlets, DOMA set queer equality back and cemented how many Americans view the family unit.

A decade after the height of the AIDS epidemic, the passage of DOMA continued a trend of moral absolutism in the United States. Queerness often represents a threat to American societal values, where religion permeates ideological thinking (Adam, 2003). By stereotyping the LGBT community and spreading misinformation, non-queer people can view the community from a position of hatred and supposed superiority. Misunderstanding led to fear and the stigmatization of LGBT people within the medical community, wider public during the AIDS crisis, and military (particularly after DADT) amongst other institutions. Religious condemnation produces this moral panic, where fear and hatred are mobilized as tools of exclusion (Adam, 2003). Within the context of DOMA, proponents of the policy believed that the exclusion of queer people from marriage equality protected the sanctity of marriage.

DOMA was introduced by Georgia Republican Bob Barr and was readily passed by the House in a 342–67 bipartisan vote; only one republican and 65 democrats opposed the legislation (Eklund, 2019). The Senate vote mirrored this victory, where only 14 senators opposed the policy, all of which were democrats (Eklund, 2019). The Defense of Marriage Act was crafted despite its clear violation of the “Full Faith and Credit” clause of Article IV §1 of the Constitution (Clarkson-Freeman, 2004). Under this clause, states must recognize the laws and judicial decisions of other states and honor those potential differences. Therefore, a marriage

between a queer couple should receive full faith and credit in every state if they were married in a state where same-sex marriage was legal (Clarkson-Freeman, 2004). DOMA ensured that states would not have to uphold this clause.

There were three sections of DOMA, the first including the curtailment of the Full Faith and Credit clause so that no state or territory where same-sex marriage was illegal had to validate a same-sex marriage that was officiated in another state (Eklund, 2019). The second section included the federal definitions of marriage and spouse, both of which only recognized heterosexual relationships (Clarkson-Freeman, 2004). Finally, the third section ensured that the federal government privileged states' rights over the rights of queer people. Like individual states, the federal government did not have to recognize non-heterosexual unions regardless of their validity within the couple's home state. This provision allowed the government to deny same-sex couples access to federal programs, laws, and protections that heterosexual people are entitled to after marriage (Eklund, 2019).

Therefore, DOMA was enacted to prevent the perpetual threat of queer marriage in the traditionally heterosexual institution (Clarkson-Freeman, 2004). Despite leveraging the queer population for votes in his presidential campaign in 1992 and nominating the first openly gay ambassador, James Hormel, Clinton's enactment of DADT and DOMA demonstrate that anti-LGBT sentiment had bipartisan backing in the 1990s (Eklund, 2019). In fact, only eleven states passed non-discrimination laws on the basis of sexual orientation by 2003 (Adam, 2003). This is partially because of how American Protestantism pervades societal institutions and how Americanized views of gender and sexuality are constrained by binary ideals.

According to Adam (2003), a "symbiotic relation between the Republican Party and the Christian Right has helped consolidate conservative Protestant political influence beyond its

numerical voting weight” (p. 264). Fundamentalists are able to propagate the idea that LGBT people are evil and morally corrupt, and thus deserving of marginalization. Once this ideology is spread even amongst non-religious populations, morality is institutionalized and the crusade to eliminate queer people amass support (Adam, 2003). Heterosexual endogamy, therefore, is privileged as the result of religious right that, despite only representing a smaller portion of the public, is able to control policy with moral doctrines. Moreover, policy like DOMA allows for not only the political persecution of LGBT people, but public discrimination as well. When the state is able to invalidate and erase queerness, people within that state feel emboldened to harass and enact violence on those who are openly queer (Clarkson-Freeman, 2004).

DOMA was supported by President Bush, who urged the addition of a constitutional amendment barring homosexual people from marriage (Eklund, 2019). No presidential candidate openly expressed support for the legalization of gay marriage until President Obama, who was also the first sitting president to do so (Eklund, 2019). In the following year, the Supreme Court found Section 3 of DOMA unconstitutional in *United States v. Windsor*, ruling that the federal discrimination of same-sex couples violated the equal protection clause of the Fourteenth Amendment. This decision also altered the second section of DOMA, leaving the definition of marriage and spouse up to the states (Eklund, 2019). However, it was not until 2015, that the ruling in *Obergefell v. Hodges* federally legalised same-sex marriage based on the Fourteenth Amendment’s due process clause (Werner, 2014). Once politicians could no longer rely on attacking queer marriage as a viable political stance, many opted to shift to a focus on queer couple’s eligibility for adoption and how a same-sex relationship impacts child rearing and LGBT indoctrination (Clarkson-Freeman, 2004).

### **Contemporary Policy (2000-present)**

Concurrently with the overturning of anti-LGBT policy such as DADT and DOMA, policy protecting the queer community is a more recent phenomenon. In 2003, anti-sodomy laws were deemed unconstitutional by the Supreme Court in *Lawrence v. Texas* (SPLC, 2005). After striking down state laws that prohibited same-sex sexual intimacy, LGBT people were now free from legal criminalization based on intimacy with their chosen partner. In Justice Scalia's dissenting opinion he asserts that "the court has largely signed onto the so-called homosexual agenda" (SPLC, 2005). This rhetoric echoes today, as the gay or homosexual agenda is often cited by some social conservatives as left-wing indoctrination.

In 2009, a year before DADT was repealed, President Obama signed the Hate Crimes Prevention Act of 2009. The policy aimed to amplify the ability of law enforcement agencies to investigate, prosecute, and track hate crimes (Holder, 2018). Additionally, the definition of hate crimes included a larger scope of potential victims, where sexual orientation and gender identity were added to hate crime classifications and, consequently, the LGBT community was afforded more federal protections. In 2011, equal employment opportunity and non-discrimination clauses in the workplace extended to protect discrimination based on sexual orientation (EEOC, n.d.). The Equal Employment Opportunity Commission extended these protections to include gender identity in the following year. Following the repeal of DOMA, marriage between same-sex couples was federally legalized in 2015. Despite these advancements in queer rights, anti-LGBT policy and political agendas today are increasingly distressing.

The repeal of "Don't Ask, Don't Tell" did not apply to transgender military personnel, so policy shifted to target transgender people in the military (Kerrigan, 2012). Exclusion from military service based on gender identity rather than sexual orientation is still prevalent. After the

repeal of DADT, openly transgender individuals were barred from service (Yerke & Mitchell, 2013). This ban was automatic, and based on erroneous psychological and medical classifications (Kerrigan, 2012). The diagnosis of gender dysphoria prevented transgender people from openly serving in the military and former-President Trump's transgender military ban aimed to fortify this exclusion (Block et al., 2018).

Under President Biden, the military is more LGBT inclusive, but over a century of exclusion and victimizations experienced by queer members of the military in addition to the uncertainty of trans military rights ensures that many members still live in fear, shame, and secrecy. Similarly, after DOMA was repealed, policy still attempted to marginalize the LGBT community by barring access to adoption. The recent rise in anti-LGBT policy underscores this trend, as it focuses mainly gender identity and on queer youth; attacking gender-affirming health care and limiting LGBT discussions in public schools (ACLU, 2023). In this way, politicians are able to attack a community that does not have sufficient protections and excuse their bigotry, which professedly exists to "protect children." However, their "honorable" crusade has the inverse impact of victimizing children and invalidating their identity and experience.

### *Methodology*

In order to obtain an accurate reflection of how anti-queer proposed policy translates to violence against the queer community, this paper will examine five individual states in addition to federal trends. The states evaluated in this paper include Texas, Idaho, Florida, Indiana, and New Hampshire. These particular states were selected to ensure geographical diversity and a more representative spatial range, with one state selected per region; TX in the Southwest, ID in the West, FL in the Southeast, IN in the Midwest, and NH to represent the Northeast. States were chosen based on their rating from the Human Rights Campaign's State Equality Index (SEI). The

SEI is a well-recognized report that assesses individual state's legislation and policy that impact LGBT people. Moreover, states were chosen based on their Equality Profile as assessed by the Movement Advancement Project. Scores are based on a point system that looks at policy related to sexual orientation and gender identity, where harmful policy earns point deductions and protective policy earns points (MAP, 2023).

This analysis will focus specifically on obtaining data based on proposed anti-LGBT policy compared to anti-LGBT hate crimes. Data from anti-queer proposed policy spans 2011–2022. Anti-LGBT hate crime data is not yet available from the U.S. Department of Justice for 2022, thus the results will only include data from 2011-2021. Furthermore, on a federal level, this paper will include data surrounding how proposed anti-LGBT policy impacts levels of indirect violence, including mental health and suicidality statistics over the past decade. Measures of proposed anti-queer policy on a state and federal level are based on data from the Human Rights Campaign. Hate crimes enacted based on sexual orientation and gender identity are recorded based on data from the FBI Uniform Crime Reporting (UCR) system.

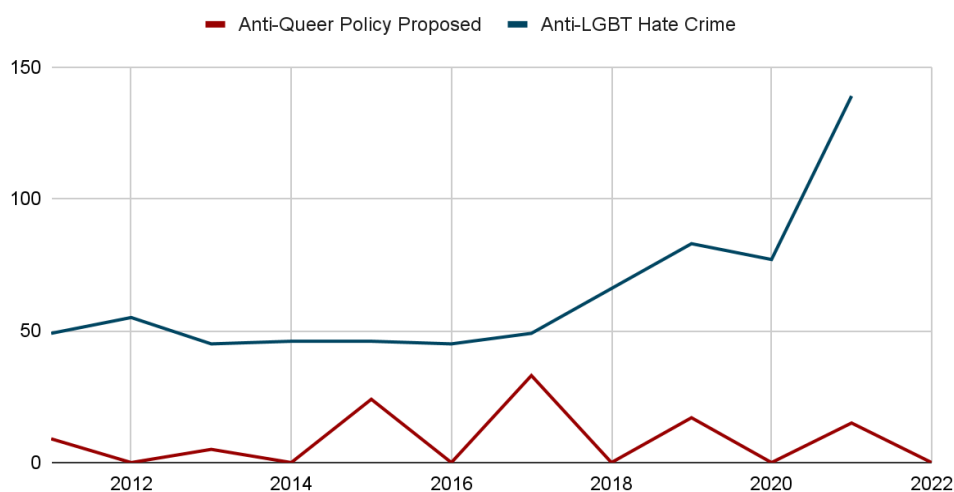
### *Results*

#### **Texas**

After tracking policy from 2011–2022, Texas appears to enact anti-queer policy in the years in-between congressional and presidential elections. Based on policy data from the Human Rights Campaign, Texas proposed the highest amount of anti-queer policy in 2017, with 33 anti-queer bills proposed following Donald Trump's inauguration. So far in 2023, there are already 53 anti-LGBT bills proposed in Texas alone according to the ACLU.



**Figure 1.1**  
*Anti-LGBT Policy Proposed and Hate Crimes in Texas (2011-2022)*



In terms of hate crimes enacted based on anti-LGBT sentiment, victimizations appeared to remain consistent until 2017, when victimizations steadily increased. 2021 accounts for the highest number of victimizations based on sexual orientation and gender identity, with 139 total hate crimes, 111 of which were based on sexual orientation and 28 were based on gender identity (DOJ, 2021). 85% of law enforcement agencies in Texas reported their hate crime data to the UCR. There does not appear to be a direct correlation, yet the increasing number of hate crimes is cause for concern.

## Idaho

Based on policy data from the Human Rights Campaign, Idaho consistently proposes limited anti-LGBT legislation. 2020 and 2022 mark the highest amount of anti-queer policy, with three proposed bills, respectively. However, there are already eight anti-LGBT bills proposed this year (ACLU, 2023). In terms of hate crimes enacted based on sexual orientation and gender identity, victimizations reached a high in 2012 with ten hate crimes only to be surpassed in 2021 with eleven anti-LGBT hate crimes. Victimizations reached a low of allegedly only one in 2018,

which rapidly

increased in each

succeeding year. A

majority of Idaho law

enforcement agencies

(96%) reported hate crime

data to the UCR.

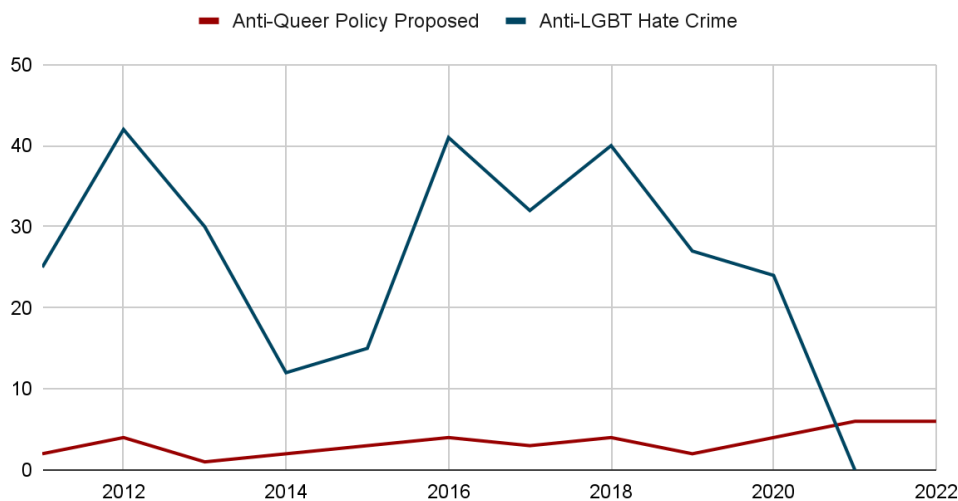
However, it is important to

note that over the past three years, the UCR only reported one gender identity-based hate crime in Idaho (DOJ).

## Florida

**Figure 1.3**

*Anti-LGBT Policy Proposed and Hate Crimes in Florida (2011-2022)*



Over the past decade, Florida’s proposed anti-LGBT policy remained consistent, reaching a high of six anti-queer bills in 2021 and 2022 based on data from the Human Rights Campaign. In 2023, Florida introduced ten anti-LGBT policies (ACLU, 2023). This includes the expansion of Florida’s “Don’t Say Gay” bill that—as of April 19—extends censorship of LGBT issues from

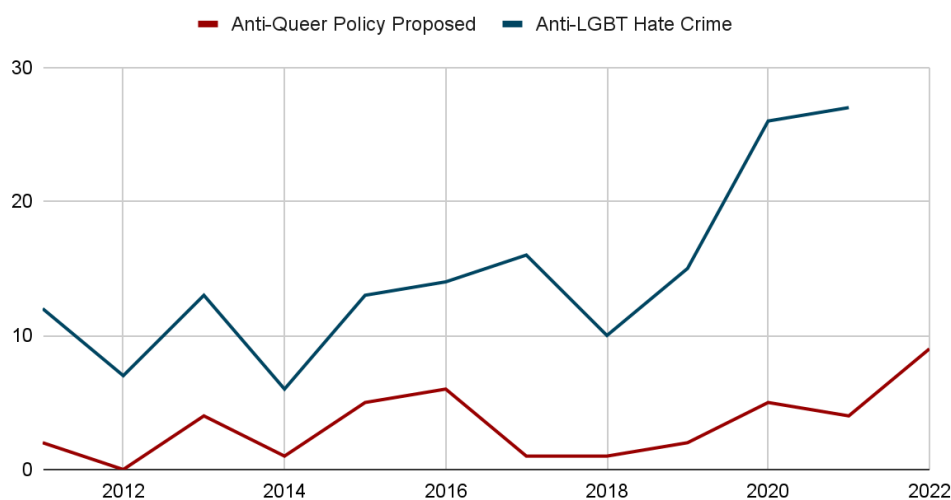
kindergarten through third grade to all non-collegiate curriculum (MAP, 2023). In tracking anti-LGBT hate crime victimizations, there are noteworthy gaps in UCR data. In 2021, only two of 757 law enforcement agencies in Florida reported hate crime data to the U.S. Department of Justice, or 0.3% of all agencies. Only one hate crime was reported in 2021, and it was a racially based hate crime. Therefore, no relationship can adequately be ascertained from data available on anti-queer hate crimes when compared to proposed anti-LGBT policy.

## Indiana

In Indiana, proposed anti-LGBT policy remains somewhat steady. 2022 marks the highest number of proposed policies, with nine anti-queer bills according to policy data from the Human Rights Campaign. However that amount has already doubled in 2023, with 18 anti-LGBT bills proposed this year (ACLU, 2023). In terms of hate crimes enacted based on sexual orientation and gender identity, victimizations have increased substantially since 2018.

**Figure 1.4**

*Anti-LGBT Policy Proposed and Hate Crimes in Indiana (2011-2022)*



According to UCR data, anti-LGBT hate crimes reached a high in 2017 with 16 victimizations until that number was surpassed by 26 and 27 victimizations in 2020 and 2021,

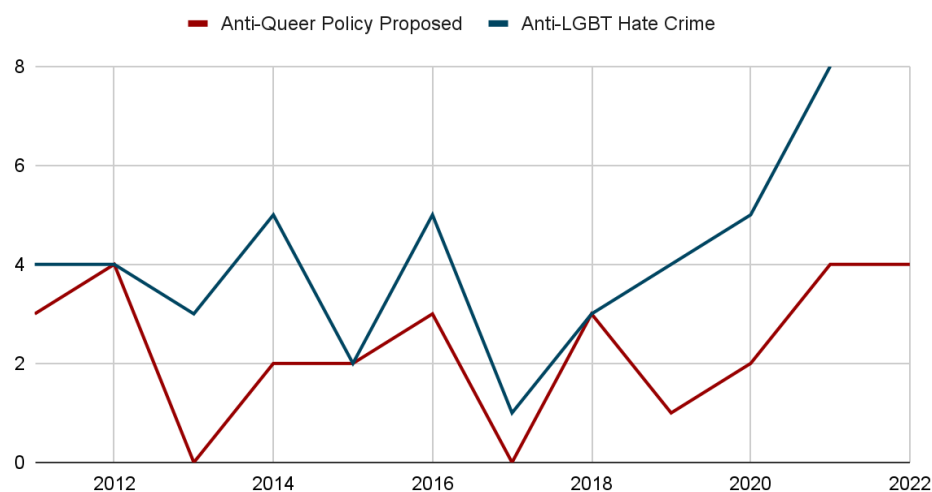
respectively. Within the last few years, the increase in overall anti-LGBT hate crime victimizations is bolstered by the increase in crimes enacted based on the victim's perceived or

actual gender identity; in 2019, there were only two victimizations based on gender identity which doubled (4) in 2020 and increased nearly six times (11) in 2021. There appears to be a correlation between anti-LGBT proposed policy and hate crimes. Only half (58%) of law enforcement agencies reported their hate crime data to the UCR in 2021.

## New Hampshire

Based on policy data from the Human Rights Campaign from 2011–2022, New Hampshire hosts high variation in the number of anti-LGBT policy proposed. Recently, there was an average of four proposals of anti-LGBT policy in 2021 and 2022. In 2023, that average has already been met and will likely be surpassed (ACLU, 2023). In terms of hate crimes enacted based on anti-LGBT sentiment, victimizations are varied from 2011 to 2017. However, after 2017, victimizations have steadily increased, reaching a decade long high of 8 in 2021.

**Figure 1.5**  
*Anti-LGBT Policy Proposed and Hate Crimes in NH (2011-2022)*



Hate crimes enacted based on gender identity remain relatively low according to data reported, with only one gender-identity based hate crime occurring in 2020 and 2021, respectively. According to the Department of Justice, 95% of law enforcement agencies provided

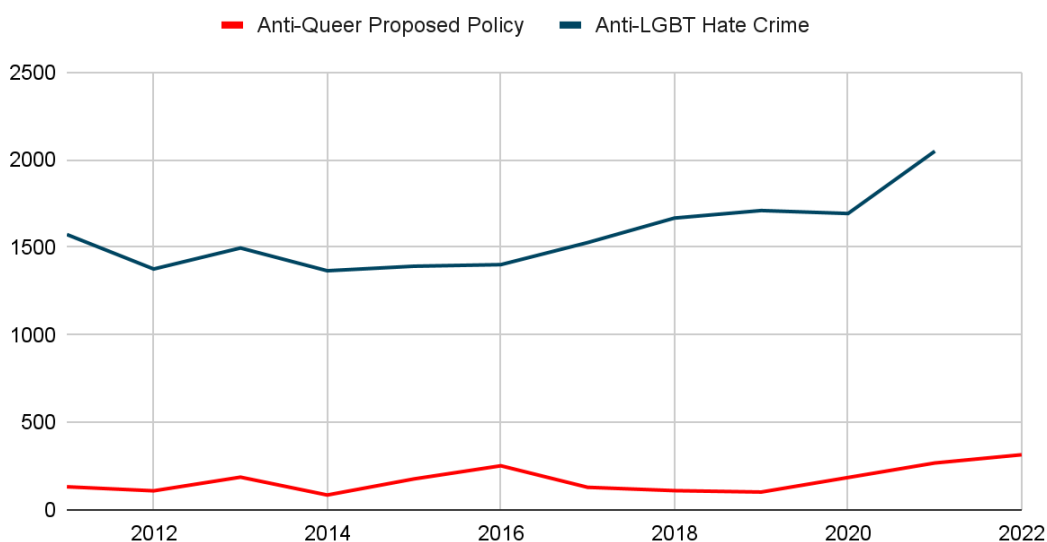
hate crime data to the UCR. Following 2015, there appears to be somewhat of a correlate relationship between anti-LGBT proposed policy and hate crimes.

### Federal Data

According to data from the Human Rights Campaign from 2011-2022, the amount of anti-LGBT proposed policy has increased. Over the past decade, the highest number of proposed policies was 2021, with 268 proposed policies that would adversely impact the livelihood of queer people. This number was surpassed in 2022, with 315 proposals of anti-queer legislation. As of May 19, 2023, there are already 490 proposed anti-LGBT policies this year (ACLU, 2023). In terms of available data on hate crimes enacted against the queer community over the same period, the highest levels of victimization occurred over the past few years: 1,667 in 2018; 1,710 in 2019; 1,693 in 2020; 2,049 in 2021. What is perhaps most interesting about these figures is the continual increase in hate crimes enacted based on a person's actual or perceived gender identity. In 2021 alone, there were 342 victimizations based on gender identity, compared with 266 in 2020 and 198 in 2019.

**Figure 2**

*Anti-LGBT Policy Proposed and Hate Crimes Federally (2011-2022)*



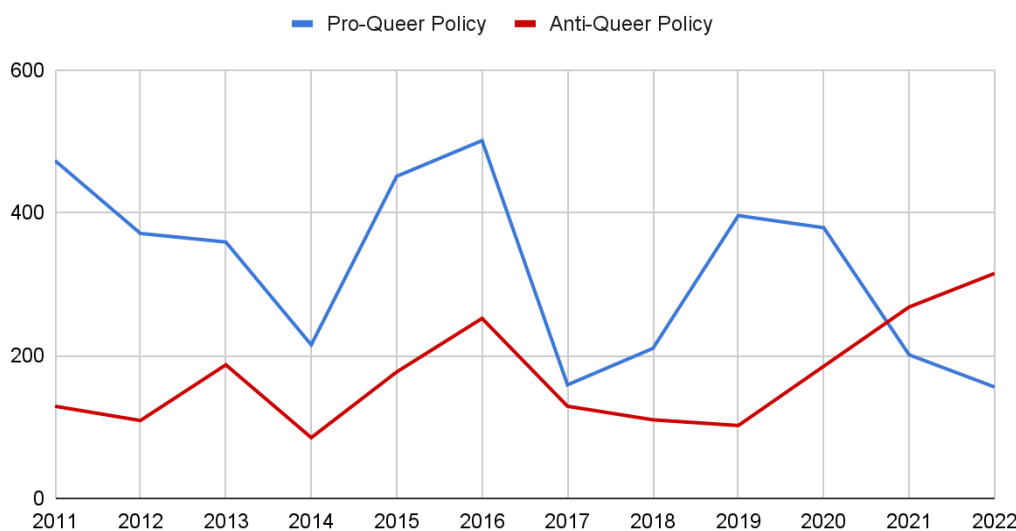
Based on data from the National Crime Victimization Survey (2017-2019), these anti-queer victimizations disproportionately impact people of color, queer (particularly bisexual) women, and younger LGBT people. 29.1% of queer victims were people of color, 61.2% were queer women ( $\frac{3}{4}$  of whom identified as bisexual), and 73.2% of victims were under 35 (Flores et al., 2022; Widra, 2022). Bisexual people only account for 0.73% of the U.S. population, yet 4.72% of victims of violence identify as bisexual (Widra, 2022). Moreover, the transgender community is four times more likely to experience violent victimization than cisgender counterparts (Flores et al., 2022). James et al. (2016) cite that 54% of violent victimizations of transgender people are enacted by an intimate partner.

### *Pro-LGBT v Anti-LGBT Proposed Policy*

In solely analyzing policy introduced nationwide from 2011 to 2022, an interesting trend emerges. There were 501 pro-LGBT policies introduced in 2016, following the legalization of

**Figure 3**

*LGBT Policy Introduced Nationwide (2011-2022)*



same-sex marriage. After Donald Trump's inauguration in 2017, pro-queer and anti-queer policy reached the smallest margin of

difference since 2011. However, anti-LGBT policy began to outpace pro-queer policy in 2021, with 201 pro-queer and 268 anti-queer policies introduced nationwide. In 2022, the number of

proposed pro-LGBT policies decreased to 156 while anti-LGBT policy increased to 315. While these numbers are staggering, it is imperative to note that most of these anti-queer policies are defeated. However, their introduction and discussion provides a platform for queerphobia and transphobia.

### *Indirect Violence*

Beyond facing an increased risk of violent victimization, queer communities also face higher rates of indirect violence. Queer and especially transgender communities are at a higher risk of experiencing homelessness. 8.3% of transgender people experienced homelessness in 2019, compared to 3% of cisgender queer people and 1.4% of cisgender heterosexual people (Wilson et al., 2020). In 2015, of transgender individuals surveyed in the U.S. Transgender Survey (USTS)—which is currently the largest national survey of transgender people—29% were living in poverty, compared to 12% of the general U.S. adult population (James et al., 2016). The unemployment rate was three times higher amongst the transgender community (15%) when compared with the general population (5%). Of those who are employed, 77% express feeling compelled to hide their gender identity to avoid mistreatment and harassment, with 42% of respondents reporting that they were not out to any coworkers (James et al., 2016). Faced with mistreatment in workplace environments and unequal access to employment opportunities, 20% of transgender people participated in criminalized work at some point in their lives, including sex work and drug sales (James et al., 2016).

These experiences of marginalization amongst the queer and especially transgender communities translates to decreased mental health and increased suicidality. Flores et al. (2022) note that LGBT people are not only more susceptible to violence, but that they are also more likely to experience physical symptoms of distress after an experience of violence. According to

data from the USTS, transgender people experience serious psychological distress at nearly eight times the rate of psychological distress in the general population (James et al., 2016). Austin et al. (2022) found that 82% of transgender individuals in their study had suicidal ideations at some point in their lifetime, with 40% reporting an attempt to die by suicide. This increases amongst youth populations, where 86% of respondents reported suicidal ideations and 56% reported attempting to die by suicide at some point in their lifetime (Austin et al., 2022). Within youth populations, queer people are more likely to report suicidal ideation than cisgender, heterosexual students (Almeida, 2009). LGBT youth are over four times as likely than their non-queer counterparts to attempt suicide (Johns et al., 2019).

### *Discussion*

#### **Findings**

With the exception of Florida, every state saw an increase in hate crimes enacted on the basis of sexual orientation or gender identity over the past few years. In Texas, anti-LGBT hate crimes remained consistent until they exponentially increased following a spike of anti-queer policy proposed in 2017. Idaho demonstrates the delayed impact of policy, where increases in anti-LGBT policy proposals were met with an increase in anti-LGBT hate crimes enacted the following year. Anti-LGBT hate crimes Indiana mirrored the pattern of anti-LGBT legislation, signifying a correlation between the two. Like Indiana, anti-queer hate crimes in New Hampshire reflected the increases and decreases in proposed anti-queer policy, with a staggering increase in victimizations since 2017. Although Florida is the only state analyzed that deviated from this pattern, it also had the lowest law enforcement UCR reporting rate of any state in 2020 and 2021 which accounts for this reduction in data available.

Focusing on federal data, anti-LGBT proposed policy remained somewhat consistent, with more legislation proposed in recent years. Similarly, hate crimes enacted based on sexuality



and gender orientation remained relatively consistent. They have steadily increased since 2014, with the largest escalation between 2016 and 2018. Based on this data and the data amassed from the individual states, there does appear to be a correlation between anti-LGBT policy proposed and hate crimes enacted against the queer community. However, more research would need to take place in order to ascertain the confidence interval at which that hypothesis can be supported.

In terms of indirect violence, it is indisputable that anti-queer policy adversely impacts socioeconomic conditions, mental health, and suicidality. Queer and especially transgender people are more likely to experience poverty and homelessness than cisgender heterosexual counterparts (Wilson et al., 2020; James et al., 2016). James et al. (2016) assert that psychological distress is associated with “experiences of rejection, discrimination, and violence” including a lack of familial support, employment discrimination, and sexual assault, all of which queer people are more likely to experience. Accordingly, perceived or experienced discrimination drastically increases the risk of adverse mental health symptomatology (Almeida, 2009). Decreased mental health and increased suicidality amongst the LGBT community, and particularly transgender and younger queer people are symptoms of interpersonal violence and harassment, internalized stigmatization, and a limited sense of belonging (Austin et al., 2022).

Essentially, both external and indirect violence increase as anti-LGBT proposed policy does. This is consistent with historic trends. Moreover, in accounting historic and contemporary anti-LGBT policy enacted, a cyclical trend emerges: hateful rhetoric leads to erasure which stigmatizes the queer community and translates to their exclusion from society. Essentially, hateful rhetoric is utilized in an attempt to denounce, demoralize, and deplete the queer community. Amongst the religious right, this employment of rhetoric believes that homosexuality is a choice, and thus consistent condemnation will eradicate queerness from

society. This never truly works, as sexual orientation is not a choice, and force cannot make someone cisgender. When intense vitriol inevitably fails at silencing the LGBT community, policy attempts to erase them.

Policies like “Don’t Ask, Don’t Tell” and “Don’t Say Gay” are enacted in an attempt to eliminate queerness from the conversation. Forced-outings in educational settings guarantee that queer children cannot live authentically, for fear of being reprimanded and harassed (ACLU, 2023). This further stigmatizes the LGBT community, as queerness is tied to shame and scrutiny. Finally, after queerness is erased from the conversation, policy aims to exclude LGBT people from society and the benefits of certain institutions. The Defense of Marriage Act ensured that queer couples could not obtain the same rights and privileges of marriage that heterosexual couples are afforded. Transgender military bans prevent an entire population of people from serving openly in the military simply because they do not identify with the gender they were assigned at birth. Bathroom bills and sports-exclusionary policy aim to ensure that transgender and non-binary youth are invalidated, silenced, and unable to access facilities or participate on teams in accordance with their gender identity (ACLU, 2023).

Further, policy that prevents gender-affirming healthcare amongst youth populations dangerously diminishes their mental health and increases their risk of suicide (Johns et al., 2019). All of these policies prevent LGBT people from living openly and authentically. They marginalize a vulnerable community and cement the government’s place at the forefront of the anti-queer crusade. This gives a voice to bigoted people and justifies and reinforces their hatred. Anti-LGBT policy exacerbates external and indirect violence experienced by the queer community. More research is necessary to discern to what extent this is causal, and what other factors impact victimizations and marginalization.

## Limitations

Limitations in data were extensive. First, as aforementioned, the UCR data utilized to compile anti-queer hate crime data has an incomplete scope. Not all law enforcement agencies report their hate crime data, thus the amount of victimizations are underestimated. Of those agencies that do report their data, sometimes their classifications are incorrect. Between the two law enforcement agencies in Florida that did report hate crimes to the UCR, only one victimization was documented in 2021. This is severely misleading and does not reflect the crimes that occur. Moreover, some agencies misgender, deadname, or otherwise misclassify members of the LGBT community. If a the characteristics of a queer victim are not recognized and recorded, then their victimization will not be classified as an anti-LGBT hate crime.

Furthermore, the UCR is limited in its capacity to recognize intersectionality. According to the Department of Justice, if a victim is a black transgender woman, her victimization would likely be classified as racially-based, unless transphobic slurs were used by the perpetrator. This severely limits how victimizations are recorded, as victims of hate crimes often hold more than one marginalized identity. Similarly, the UCR did not include gender identity as the basis of a hate crime until 2013. Hate crimes enacted on transgender and non-binary people were not classified in law enforcement reports under this category. By not tracking this, the government could not adequately ascertain how this community is impacted by violence and consequently could not sufficiently protect them.

Finally, underreporting is common across various crime categories, but it is especially pertinent amongst marginalized communities with a history of distrust in law enforcement (DOJ). If incidents are not reported to police, they can not be recorded and accurately reflected in the UCR. To mitigate significant undercounting, looking at data from national victimization

surveys can often more accurately reflect experiences of violence, but these databases have limitations as well. When considered altogether, these limitations are formidable, and prevent accurate reporting on actual rates of victimization.

As a researcher, there were also time constraints that limited the depth and scope of this paper. This paper only has one author, who is limited by time, resources, and does not have access to funding. With more time, authors, and access to resources, this paper could be expanded and the scope of the research could address some of these limitations or recommendations for further research.

### **Suggestions for Further Research**

In recording trends in anti-LGBT policy, it was fascinating to examine how public opinion altered policy. When the public increasingly supported same-sex marriage across the country, policy targeted an even more vulnerable group: transgender individuals. Further research could track these trends and determine the extent of this symbiotic relationship. With more time, this paper could have included proposed pro-LGBT policy and pro and anti-LGBT policy enacted. In discussions, there could have been an analysis on what seems to impact the queer community more; positive or negative policy, and policy that is proposed or enacted.

There were also discussions surrounding rhetoric in this paper, but no real analysis of the television industry or social media. Research in the future could focus on how the rhetoric utilized in the media and depictions of queer people on television help or hinder their experiences with others. Finally, the influence of right-wing religious doctrine would be interesting to explore further. Although this fell outside of the focus of this paper, findings from Adam (2003), the National Defense Research Institute, and other peer-reviewed sources adduce Evangelical influence to explain anti-LGBT policy.

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