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The Prevalence of Hate Crimes Motivated by Sexual Orientation in Florida after the U.S. Supreme Court Legalization of Same-Sex Marriages

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Nova Southeastern University
Abraham S. Fischler College of Education


The Prevalence of Hate Crimes Motivated by Sexual Orientation in Florida after the U.S.
Supreme Court Legalization of Same-Sex Marriages

by
Shawntozi Campbell
A Dissertation Presented to the
Department of Justice and Human Services
of Nova Southeastern University
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Approval Page

This dissertation was submitted by Shawntozi Campbell, under the direction of the persons listed below. It was submitted to the School of Criminal Justice, Abraham S. Fischler College of Education, and approved in partial fulfillment of the requirements for the degree of Doctor of Philosophy at Nova Southeastern University.

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Abstract

The Effects of Legalization of Same-Sex Marriages on the Prevalence of Hate Crimes Motivated by Sexual Orientation in Florida by Shawntozi Campbell, 2018: Dissertation, Nova Southeastern University, College of Arts, Humanities and Social Sciences, Department of Justice and Human Services. Descriptors: anti-gay, anti-LGBTQ, hate crimes, sexual orientation, same-sex marriage

Research on the dynamics of violence has revealed that crimes involving a prejudicial motive often occur in close temporal proximity to a galvanizing event such as elections, terrorist attacks, or unprecedented Supreme Court decisions. Given the particularly contested nature of marriage policy, it is not inconceivable that same-sex marriage recognition might incite retaliatory violence. Same-sex couples were granted the right to marry by the United States Supreme Court in June of 2015. By June 2016, Orlando, Florida experienced the “deadliest incident of violence against LGBTQ people in U.S. history,” after a mass shooting at Pulse nightclub resulted in the death of 49 individuals and wounding of 53 others. In 1999, Vermont’s Supreme Court unanimously ruled that same-sex couples were entitled to the same benefits and protections afforded by Vermont law to married heterosexual couples. Soon thereafter, the number of anti-gay hate crimes increased 125%, from 4 in 1999 to 9 in 2000. In the proposed study, secondary data from Hate Crimes in Florida Reports, provided by the Florida’s Attorney General, were analyzed to assess the current prevalence of hate crimes motivated by sexual orientation in Florida after the legalization of same-sex marriages and to determine if there is a close temporal connection between hate crimes motivated by sexual orientation in Florida and the legalization of same-sex marriages. Data analysis revealed that two years after the 2015 marriage equality Supreme Court decision, hate crimes motivated by sexual orientation in Florida increased from a mean of 25% in the three years prior to the decision to 30% in the two years after the decision to legalize same-sex marriages. This slight increase in reported incidents indicates there was no suggestion of a temporal connection between the marriage equality decision and hate crimes motivated by sexual orientation during the postdecision years. However, the increase during the year after implementation of the marriage equality decision is in alignment with trends revealed in prior research on the relationship between politics and violent crimes.

Table of Contents

Chapter 1: Introduction	1
Problem Statement	6
Dissertation Goal	11
Relevance and Significance	13
Barriers and Issues	22
Delimitations and Limitations.....	23
Definition of Terms.....	28
Summary	29
Chapter 2: Literature Review	31
Matthew Shepard Hate Crimes Act of 2009	31
Hate Crimes Motivated by Sexual Orientation	34
Same-Sex Marriage Legislation in the United States	48
Government Discrimination of Same-Sex Marriages.....	67
Research Questions	79
Chapter 3: Methodology	80
Participants and Instruments	80
Procedures.....	83
Data Analysis	85
Chapter 4: Results	87
Chapter 5: Discussion	100
Hate Crimes Motivated by Sexual Orientation in Florida	100
Hate Crimes Motivated by Religion, Ethnicity, and Race in Florida	107
Limitations	115
Conclusion	118
References.....	121
Table	
Descriptive Statistics for Hate Crimes Comparison by Motivation by Year	88
Figures	
1 Percent Hate Crimes Based on Sexual Orientation.....	92
2 Percent Hate Crimes Based on Race.....	95
3 Percent Hate Crimes Based on Religion	96
4 Percent Hate Crimes Based on Ethnicity	97

Chapter 1: Introduction

On June 12, 2016, a night club in Orlando, Florida was the scene of the “deadliest incident of violence against LGBTQ people in U.S. history,” after a mass shooting at Pulse nightclub resulted in the death of 49 individuals and wounding of 53 others (Boyle, LaBrie, Costine, & Witkovic, 2017, p. 1). Hate crimes often are perpetrated because offenders have a grievance against members of other groups who are a different race, ethnicity, religion, sexual orientation, or have other distinguishing characteristics (King & Sutton, 2013). FBI Director James Comey said in a speech at the Anti-Defamation League National Leadership Summit in 2014:

Hate crimes are different from other crimes. They strike at the heart of one’s identity. They strike at our sense of self, our sense of belonging. The end result is loss: loss of trust, loss of dignity and, in the worst case, loss of life. (Middlebrook, 2017, para. 2)

Research on the politics of violence has indicated that crimes entailing a prejudicial motive often occur in close temporal proximity to galvanizing events, such as elections, terrorist attacks, or unprecedented Supreme Court decisions (King & Sutton, 2013). Whenever a vulnerable group is given national attention, whether the attention is positive or negative, people who are biased against the group may lash out (Middlebrook, 2017). Most recently, news reports revealed that the 2016 presidential campaign led to an increase in racist or anti-Semitic vandalism and violence across states (Reilly, 2016).

During the last decade, the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) community gained political recognition when state courts began upholding marriage rights for same-sex couples. In response, dozens of opposing states, including Florida, Texas, Louisiana, and South Dakota, for example, instituted bans on same-sex

marriage, either by legislative statute or by voter-approved amendments to their state constitutions (Introduction to Same-Sex Marriage, 2015). Specifically, Florida, which is well-known for its hostile and rigid stance against same-sex marriage, reinforced its anti-same-sex marriage beliefs through the passing of the Florida Defense of Marriage Act in 1997 (Florida DOMA, Lutz, 2012). Mirroring the Federal Defense of Marriage Act (DOMA), Florida's DOMA, officially renounced same-sex marriage throughout the state and refused to recognize valid same-sex marriages from other states (Lutz, 2012).

On June 26, 2015, the United States Supreme Court held in a 5-4 decision that the fundamental right to marry is guaranteed to same-sex couples, permitting couples of the same gender to legally marry and providing them with the same legal rights as couples in heterosexual marriages ("Alabama to become," 2015; "Same-sex," 2015). As a result, any state laws or state constitutions in direct conflict with this unprecedented U.S. Supreme Court decision were deemed unconstitutional. Given the particularly contested nature of marriage policy, it is not inconceivable that same-sex marriage recognition might incite retaliatory violence (Levy & Levy, 2016). In fact, a consistently elevated rate of reported violent incidents occur during Gay Pride months seems to reflect a correlation between increased visibility and increased vulnerability, and targeting of LGBTQ people (Waters, Jindasurat, & Wolfe, 2009). Despite the extant body of research on state laws and crime rates, there is scant research investigating the link between public policies and hate crimes. Specifically, partnership recognition policies have not been in place long enough to allow for evaluation (Levy & Levy, 2016). For instance, in 1996 after the Federal DOMA was passed, hate crimes in Massachusetts increased (Levy & Levy, 2016). By 2003, the Massachusetts Supreme Judicial Court in *Goodridge v. Department*

of Public Health legalized same-sex marriages and reported hate crimes dropped by roughly 30% (Levy & Levy, 2016). Additionally, after the 1999 Vermont ruling authorizing same-sex marriage, the number of anti-gay hate crimes during the next calendar year increased 125%, from 4 in 1999 to 9 in 2000 (King & Sutton, 2013). The aforementioned data provide conflicting statistics are hardly definitive. Additional investigation considering the fluctuations in hate crime prevalence following a major political decision affecting the LGBTQ community suggests that there may be a relationship between same-sex marriage legalization and hate crime rates (Levy & Levy, 2016). Moreover, the suggestion that “actions or inactions by the government have had a tremendous impact on this group of citizens [LGBTQ]” is worth exploring (Levy & Levy, 2017 as cited in Bantley, 2008, p. 564).

Although the LGBTQ community is becoming more visible, such visibility should not be equated with support by the general public. In fact, according to some scholars, the increased visibility of LGBTQ individuals is paralleled by high rates of victimization, particularly in school and community settings (Dragowski, Halkitis, Grossman, & D'Augelli, 2011). An important area of research might show how policy implementation, either from the courts or other means, may subsequently affect public attitudes and behaviors towards the LGBTQ community (Flores & Barclay, 2016). The ability of legislatures and courts to produce sweeping social change is supported by streams of sociological inquiry (Levy & Levy, 2016). Findings from previous research also suggest that interracial marriage, for example, may have been a catalyst for a significant increase in racially-motivated hate crimes (Levy & Levy, 2016). Parallel to the racially-motivated research and hate crimes, pro-marriage equality policies represent

a clear threat to institutional heterosexism and heterosexist power which may result in homophobic individuals committing hate crimes to defend their marriage or the institution of marriage (Levy & Levy, 2016).

Advocates for the LGBTQ plight for equality often fear backlash (Flores & Barclay, 2016). Backlash is defined as a strong and adverse reaction by a large number of people, especially to a social or political development (Backlash, 2018). The idea that success in policy development will be followed by sharp repercussions in mass attitudes and policy is a clear case of backlash (Flores & Barclay, 2016). Backlash does not necessarily incur changes in policy when it comes to the court of public opinion, the policy may be a focusing event that then solicits negative reactions from the public (Flores & Barclay, 2016). Court action, especially from the U.S. Supreme Court, is expected to generate the greatest amount of backlash among the public (Flores & Barclay, 2016). In fact, it has been consistently found that support for gay rights decreases in response to U.S. Supreme Court decisions (Flores & Barclay, 2016). Negative reactions from the public, including backlash and retaliation, after the recent Supreme Court legalization of same-sex marriage, create serious concerns for the LGBTQ community's health, safety, and welfare.

Courts have defined temporal proximity as a short time interval between an activity and an adverse action (King & Sutton, 2013; O'Brien, 2002). Close temporal proximity for purposes of this study means a criminal incident occurring within one to two years of the Supreme Court ruling that bans same-sex marriages. Research on the politics of violence indicates that crimes with a prejudicial motive often occur in close temporal proximity to antecedent events such as elections (King & Sutton, 2013). The

criminal incidents relevant in this study are reported hate crimes motivated by sexual orientation. The apparent existence of a temporal relationship between changes in public policies related to sexual orientation and an increase in hate crimes incidents creates serious concerns for the LGBTQ community. As such, research needs to be conducted about the relationship between pro-equality laws and hate crimes based on sexual orientation and whether the legalization of same-sex marriages in the U.S. has affected the prevalence of hate crimes motivated by sexual orientation.

The purpose of this study is to assess the number of occurrences of hate crimes motivated by sexual orientation after the U.S. Supreme Court legalization of same-sex marriages. This assessment will be achieved through a compilation and subsequent in-depth examination of Hate Crimes in Florida Report (HCFR) data on hate crimes motivated by sexual orientation before and after the legalization of same-sex marriages. The HCFR, comparable to the FBI's Uniform Crime Reporting Program (UCR), is a cooperative statistical effort by Florida law enforcement agencies reporting data on hate-related offenses for each incident reported. Data for the HCFR are collected from local law enforcement agencies by Florida's Department of Law Enforcement (FDLE) Division of Criminal Information Systems, Special Services Bureau (2015 Hate Crimes in Florida, 2016). Currently, 396 agencies participate in the HCFR (2015 Hate Crimes in Florida, 2016). The data are tabulated by the FDLE and provided to the Florida Attorney General's Office for summary and distribution (2015 Hate Crimes in Florida, 2016). The program's primary objective is to generate reliable information for use in law enforcement administration, operation, and management (2015 Hate Crimes in Florida, 2016).

This assessment of HCFR data will facilitate a comprehensive and expansive view of the progression of the prevalence or occurrence of hate crimes motivated by sexual orientation overtime. The secondary purpose of this study is to evaluate whether crimes entailing a prejudicial motive, such as hate crimes motivated by sexual orientation, follow a recent unprecedented political event such as Supreme Court decisions or governmental elections. This proposed study will provide information about adverse reactions in the form of hate crime incidents following an unprecedented political event, and its relevance and significance to the criminal justice system and political decision makers. Specifically, the results of this study will provide statistical evidence and support to the LGBTQ community, political decision makers, and society as a whole. When our government and political decision makers embark on efforts to pass new pro-equality laws, the results of this study may provide evidence of any secondary adverse effects such as physical harm, criminal victimization or discrimination amongst those individuals affected by the implementation of recent governance. In addition, this study will provide an evidentiary framework on the prevalence of violence towards the minorities and protected classes after a discriminatory policy shifts to favor the protected class.

Problem Statement

In general, over the past 10 years, violent crime and hate crime incidents have decreased (Trout, 2015). However, the types of hate crimes have not decreased uniformly, and the number of hate crimes motivated by sexual orientation has remained constant, even as violent crime in general has fallen dramatically (Trout, 2015).

According to the Florida Attorney General, hate crimes based on sexual orientation

currently account for approximately 21% of all hate crimes, surpassing religion as the third highest category (2015 Hate Crimes in Florida, 2016). Notably, race is still the most common motivation for hate crimes. When considering the size of the targeted communities, LGBTQ Floridians are at the highest risk of being targeted with a hate crime (About Equality Florida, 2014). Given the particularly contested nature of marriage policies, it is not inconceivable that same-sex marriage recognition might incite an increase in retaliatory hate crime violence (Levy & Levy, 2016).

The problem to be addressed is the prevalence of hate crimes motivated by sexual orientation in Florida after the legalization of same-sex marriages. Research on the relationship between politics and violent crimes indicates that crimes involving a prejudicial motive often occur in close temporal proximity to galvanizing events, such as elections, terrorist attacks, or unprecedented Supreme Court decisions, including the legalization of same-sex marriages (King & Sutton, 2013). The ability of legislatures and courts to produce sweeping social change is supported by a long line of sociological inquiry (Levy & Levy, 2016). Consequently, it is important to consider how policy changes may impact hate crime victimizations. Specifically, this is an exploration of the existence of a close temporal relationship between marriage equality legislation and hate crimes motivated by sexual orientation. A close temporal connection, or temporality, between a policy and reported hate crimes is necessary for causation. However, the existence of a close temporal relationship does not indicate causation.

There are two reasons why one might expect an increase in hate crimes following pro-equality policies: 1) increased incidents due to perceived threat and 2) increased reporting (Levy & Levy, 2016). Research on racially motivated hate crimes informs our

expectations regarding increases in hate crime incidents in close temporal proximity to pro-equality legislation (Levy & Levy, 2016). For example, in defense of their neighborhoods, primarily White residents of racially homogenous neighborhoods that experience greater in-migration of racially diverse individuals will commit more racially-motivated hate crimes as they perceive an increased threat to their neighborhood (Levy & Levy, 2016).

Pro-equality policies represent a clear threat to institutional heterosexism and heterosexist power (Levy & Levy, 2016). As such, homophobic individuals might retaliate by committing hate crimes to defend their marriage or the institution of marriage (Levy & Levy, 2016). For example, after the 1999 Vermont ruling permitting same-sex marriage, the number of anti-gay hate crimes during the next calendar year increased 125%, from 4 in 1999 to 9 in 2000 (King & Sutton, 2013). In addition to increased incidents due to a perceived threat, some pro-equality policy victories may lead victims of hate crimes to report those crimes at increased rates because they perceive greater social acceptance without any increase in victimization (Levy & Levy, 2016). Such changes in reporting would yield a statistical increase in incidents when an actual increase may not exist (Levy & Levy, 2018). In her study of sexual orientation-based hate crimes on college campuses, Stotzer (2010) found that schools with pro-equality policies at both the state and the campus level reported higher rates of hate crimes (Stotzer, 2010). However, when compared to the low number of crimes reported to the FBI in the same locales, higher rates of reporting on campuses were due to the supportive environment rather than higher incidents of crime (Levy & Levy, 2016; Stotzer, 2010).

An example of where an unprecedented political event was quickly trailed by the occurrence of crimes entailing a prejudicial motive includes the 2016 presidential campaign, which has been reported to have spawned an increase of racist or anti-Semitic vandalism and violence across states, (Reilly, 2016). According to reports in USA Today, the Southern Poverty Law Center counted more than 200 complaints of hate crimes and 867 cases of hateful harassment or intimidation in the United States in the 10 days after the November 8, 2016 presidential election (Reilly, 2016; Yan, Sgueglia, & Walker, 2016). Furthermore, in the year subsequent to the 2016 presidential campaign, there has been reports of a spike in anti-LGBTQ hate crimes in the United States. Specifically, the New York City Anti-Violence Project (NCAVP), an organization that tracks the number of homicides and hate crimes committed against the LGBTQ community in the United States every year has reported that in 2016 there were 28 hate-violence-related homicides of LGBTQ people, excluding the 49 who died at Pulse Nightclub, or roughly one death every 13 days. By August of 2017, the number of hate-violence-related homicides involving LGBTQ people was at 33, a rate of about one every six days (Lohr, 2018).

According to the National Coalition of Anti-Violence Programs' (NCAVP) 2017 *A Crisis of Hate* report, there was an 86% increase in hate violence homicides in the U.S. last year making 2017 the deadliest year yet for the LGBTQ community (Waters, Pham, Convery, & Yacka-Bible, 2017). The NCAVP, a coalition of 40 community-based anti-violence groups, noted the escalation in anti-LGBTQ hate crimes as a result of the hateful rhetoric or policies spewed during the 2016 presidential campaign (Brammer, 2017). Specifically, one presidential candidate's proposed transgender military ban; a reversal of Obama-era guidance on transgender bathroom policies in public schools, and Attorney

General Jeff Sessions's promise of new guidance on *religious liberty* protections were to blame (Brammer, 2017). In Florida, law enforcement reported 96 hate crime incidents in 2016, an increase from the reported 72 hate incidents in 2015, resulting in a 33% increase (Iannelli, 2017). Based on FBI data, 2016 represented the largest number of hate crimes reported since 2012 (Iannelli, 2017).

The 2016 presidential campaign can be considered an unprecedented political event. As such, there is an overlap in the time between the 2016 presidential campaign and the aftermath of the 2015 Supreme Court decision granting marriage equality rights. The combination and ensuing effect of these separate political events is momentous and warrants consideration in light of the current prevalence of hate crimes motivated by sexual orientation. Furthermore, recent reports of increased anti-LGBTQ hate crimes after the 2016 presidential campaign and election further supports the notion that the relationship between politics, law, and violent crimes involving a prejudicial motive often occur in close temporal proximity to galvanizing events, such as presidential elections or unprecedented Supreme Court decisions (King & Sutton, 2013).

Courts have defined temporal proximity as a short time interval between an activity and an adverse action (O'Brien, 2002). Close temporal proximity for purposes of this study, means a criminal incident occurring within one to two years of the Supreme Court decision providing marriage equality rights. Hence, the short time interval between the marriage equality Supreme Court decision and an adverse, criminal incident suggests some degree of a temporal connection. The June 2016 shooting at the popular gay Pulse nightclub, in Orlando, Florida, is in close temporal proximity to the June 2015 legalization of same-sex marriage in the United States. Described as the deadliest

incident of violence against LGBTQ people in U.S. history, the shooting resulted in the deaths of 49 individuals and wounded 53 others (Boyle et al., 2017). The close temporal proximity of the legalization of same-sex marriage and the nightclub shooting has sparked a demand for an in-depth examination into the prevalence of hate crimes motivated by sexual orientation in the U.S. This problem is theoretically relevant as it allows an investigation into any correlations between sexual orientation bias or stigma, and governmental policy changes. It is also socially relevant as it provides a better understanding of the relationship between the pro-equality legalization on same-sex marriage and criminal victimization based on sexual orientation. Therefore, it is important to examine hate crimes motivated by sexual orientation after the ratification of same-sex marriage rights, which informs policy makers about the possible impact that a major political decision has in relation to a particular group of individuals and how it may affect that group.

Dissertation Goal

The main goal of this research is to determine if there is a close temporal connection between hate crimes motivated by sexual orientation and the recent legalization of same-sex marriage. Specifically, the goal is to determine whether pro-marriage equality policy change impacts the incidence of reported hate crimes based on sexual orientation in Florida. Close temporal connection or proximity for purposes of this study is a criminal incident occurring within one to two years after the U.S. Supreme Court decision granting marriage equality rights. Data from the HCFR were collected to determine whether there were changes in reported hate-crime victimizations motivated by sexual orientation after the legalization of same-sex marriages. A comparison of HCFR

data of reported hate crimes motivated by sexual orientation before and after the legalization of same-sex marriages was evaluated and assessed. Finally, reported hate crimes motivated by race, ethnicity, and religion was analyzed to assess the current status of hate crime incidents in Florida in comparison to the number of reported hate crimes motivated by sexual orientation. This comparison of hate crimes motivated by race, ethnicity and religion to hate crimes motivated by sexual orientation allows for a discussion on the current status of the prevalence of reported hate crimes. In addition, this comparison of hate crime incidents by motivation will facilitate an inquiry as to whether the resulting increase or decrease in reported hate crimes are unique to hate crimes motivated by sexual orientation. One of the outcomes of this comparison of hate crimes by motivation type is the establishment of an exploratory foundation into the current trends relating to hate crime prevalence in Florida. Additionally, information about hate crimes motivated by sexual orientation before and after the legalization of same-sex marriage was revealed.

This proposed study addressed the gap in criminal justice literature regarding a close temporal proximity between hate crimes motivated by sexual orientation and major political events, such as the Supreme Court decision to legalize same-sex marriage. Research has been conducted regarding how crimes entailing a prejudicial motive often occur in close temporal proximity to galvanizing events, such as elections, or unprecedented Supreme Court decisions (King & Sutton, 2013). Likewise, the United States Supreme Court has repeatedly reported that bias-motivated violence can be triggered by various forms of governmental discrimination, particularly when discrimination instills expectations of power in one class over another (Garland, 2001).

One example of this is the influx of racist or anti-Semitic vandalism and violence reported across states after the 2016 presidential campaign (Reilly, 2016). However, to date, there has been no research that specifically addressed whether there is a temporal connection between the 2015 Supreme Court decision to legalize same-sex marriage and the prevalence of hate crimes motivated by sexual orientation after the landmark decision.

Politics affect attitudes towards tolerance for homosexuality (Flores & Barclay, 2016). Legislation, judicial action, litigation and policy implementation, especially those regarding minority populations, are likely to cause attitude changes that can range from backlash, legitimacy, polarization, consensus, or greater disapproval of the issue (Flores & Barclay, 2016). This study will open the conversation about the need for political decision makers to consider not only the benefits of a change in laws and governance but the possible adverse reactions, or backlash, which may follow. This study provides data, support and practical information on whether crimes entailing a prejudicial motive, such as hate crimes motivated by sexual orientation, occur in close temporal proximity to galvanizing political events such as the legalization of same-sex marriages. In alignment with this objective, this research can be used by law enforcement agencies and policymakers to develop stronger hate crime prevention strategies.

Relevance and Significance

As of June 26, 2015, all 50 states and the District of Columbia have legalized same-sex marriage, which permits couples of the same gender to legally marry and provides them with the same legal rights as couples in heterosexual marriages (“Alabama to become,” 2015; “Same-sex,” 2015). Although this was the first time the federal

government ruled to recognize same-sex marriage, this was not the first time same-sex couples were granted the right to marry. On December 20, 1999, the State of Vermont's Supreme Court made history when it unanimously ruled that same-sex couples were entitled to the same benefits and protections afforded by Vermont law to married heterosexual couples (King & Sutton, 2013). After this ruling, the number of anti-gay hate crimes during the next calendar year increased 125%, from 4 in 1999 to 9 in 2000 in the state of Vermont (King & Sutton, 2013). Given the particularly contested nature of marriage policy, it is not inconceivable that same-sex marriage recognition might incite retaliatory violence (Levy & Levy, 2016). The theory being that pro-equality policies represent a clear threat to institutional heterosexism and heterosexist power and as a result, homophobic individuals might commit hate crimes to defend their marriage or the institution of marriage (Levy & Levy, 2016). In alignment with this trend, the recent legalization of same-sex marriage by the Supreme Court raises concerns for the possibility of an increase in victimization rates of hate crimes motivated by sexual orientation.

To date, no study has specifically addressed the prevalence of hate crimes motivated by sexual orientation in Florida in close temporal proximity of the legalization of same-sex marriages in the United States. Many studies have been performed to assess the prevalence of hate crime victimizations based on sexual orientation. There is however a lack of empirical inquiry about the prevalence of hate crime victimizations based on sexual orientation that have been initiated immediately after, or in close temporal proximity to, a major political event. A recent analogous study by Levy and Levy (2016) examined the relationship between state policies on gay and lesbian rights and hate crime

incidents by analyzing the impact of changes in a particularly salient social policy issue; public policies related to sexual orientation. Specifically, Levy and Levy asked whether policy changes, including pro-equality policies and hate crime legislation affect the incidence of reported hate crimes based on sexual orientation (Levy & Levy, 2016). Levy and Levy (2016) hypothesized that the introduction of pro-equality policies, especially partnership recognition, produces a short-term increase in hate crime incidents (Levy & Levy, 2016).

Levy and Levy's (2016) findings indicated that partnership recognition policies were positively related to reported hate crime incidence. Specifically, a partnership recognition law was associated with one additional hate crime per 1.2 million people in both the implementation year and the year following implementation, as well as an additional hate crime per one million people two years following implementation (Levy & Levy, 2016). Levy and Levy's results confirmed their hypothesis that the introduction of pro-equality policies, especially partnership recognition, produces a short-term increase in hate crime incidence. Levy and Levy (2016) further explained that the cause of the increase in reported hate crimes based on sexual orientation remains unclear as it could be the cause of greater violence or increased reporting. Levy and Levy indicated that if the increase is due to retaliatory hate crimes, they expect the effect to be stronger in conservative states, given the relationship between an individual's conservative ideology and propensity to commit a hate crime (Levy & Levy, 2016). This is apparent considering that prejudice about sexual orientation has been empirically associated with political conservatism and individuals who resist social change (McCann, 2011).

The substantial changes in state policies on gay and lesbian rights over the past 15 years, as well as the persistent heterogeneity across states, have important consequences for the well-being of gays and lesbians (Levy & Levy, 2016). However, based upon the forgoing, there was a limited framework or empirical data available to use as a basis for this study. Current findings in the study conducted by Levy and Levy (2016) provide the first rigorous quantitative evidence that public policies on gay and lesbian rights affect the incidence of hate crimes based on sexual orientation. However, Levy and Levy (2016) did not address the Supreme Court decision that settled all state debates on marriage equality rights in America, and its effect on hate crimes motivated by sexual orientation. Consequently, this study, although it relies on and extends research conducted by Levy and Levy (2016), remains distinctive.

The goal of this study is to inform policy makers about the possible effects of major legislation on hates crimes involving the LGBTQ communities in Florida. Specifically, this study provides a foundation of empirical evidence that may suggest that pro-equality policies can either deter potential hate crime offenders or incite backlash. Another major goal of this study is to provide pertinent information to Florida's LGBTQ community, and other minority or marginalized groups regarding how a major pro-equality political decision may affect criminal victimizations against those the political result was intended to benefit. This inquiry is critical considering current research on the politics of violence suggests that crimes with a prejudicial motive are reactive and in close temporal proximity to triggering events involving a clearly definable group associated with the triggering act (King & Sutton, 2013). Although these research goals are achievable, questions will arise as to whether the proximity of hate crimes motivated

by sexual orientation is truly related to the legalization of same-sex marriages. Therefore, the timing of this study capitalizes on a rare opportunity to examine and contribute relevant data regarding the prevalence of hate crimes motivated by sexual orientation after the legalization of same-sex marriages. This study may encourage hate crime policy makers to compel improved data collection practices from participating agencies by requiring the actual date of a reported hate crime incident, and not just the year, to be provided for hate crime reports which could facilitate more in-depth analyses of hate crime data based on temporality.

Primarily, the results of this study will provide criminal justice policymakers with the knowledge needed to develop effective crime control policies regarding hate crime incidents after the implementation of pro-equality policies or legislation. The results of this study will also support future research on hate crimes motivated by sexual orientation, even after an apparent, recent increase in social tolerance for homosexuality and same-sex marriage. The results of this study will also provide a foundation as to whether there is a close temporal proximity between major political events and subsequent criminal victimizations of those groups in association with the political event.

Previous studies about hate crimes motivated by sexual orientation, or anti-gay hate crimes, have varied widely in the quality of their data-collection and reporting procedures, which focused primarily on the number of incidents or type of victimizations. Critical evaluation of many survey methodologies was not possible, and important details, including question wording, data collection procedures, and sample size, sometimes were not reported. Therefore, empirical data about the prevalence of anti-gay

violence is still needed from studies that meet rigorous methodological standards (Herek, Gillis, Cogan, & Glunt, 1997).

The first national study on anti-gay violence completed by the National Gay and Lesbian Task Force in 1984 surveyed over 2000 lesbians and gay men and reported that 94% of the sample had experienced some form of verbal, physical, or property-related victimization (Herek et al., 1997; Koch, 2003). Of those surveyed, 83% also reported fearing similar harm in the future. Among lesbians and gay men that experienced a hate crime, as many as 24% report physical attacks related to their sexual orientation (Koch, 2003).

In a study conducted by Herek et al. (1997), a sample of 150 men and women, 20% reported an anti-gay/anti-lesbian crime against their person, 13% reported a crime against their property, and another 5.5% reported being a victim of an attempted anti-gay/anti-lesbian crime. In addition, a majority of all the perpetrators of the anti-gay hate crimes described by interviewees were males, both for male victims (96%) and female victims (91%). Nearly half of the perpetrators were White (49%), 26% were Hispanic, and 23% were Black (Herek et al., 1997). Verbal harassment and threats were even more prevalent, with approximately one half of the respondents experiencing at least one incident in the previous year. Where men were equally likely to report victimization by a single perpetrator or by a group, women were more likely to describe an attack by one perpetrator (Herek et al., 1997). A clear majority of the women interviewed (77%) were attacked by someone they knew, whereas the majority of men (58%) were attacked by one or more strangers (Herek et al., 1997).

More recently, in a study of 2,259 lesbian, gay, and bisexual adults in the greater Sacramento, California area, 28% of gay men, 19% of lesbians, 27% of bisexual men, and 15% of bisexual women reported having experienced some type of criminal victimization since age 16 because of their sexual orientation (Herek, 2009a). This includes respondents who reported experiencing a simple or aggravated assault (13% of gay men, 7% of lesbians, 11% of bisexual men, and 5% of bisexual women) or a sexual assault based on their sexual orientation 4% of gay men, 3% of lesbians, 7% of bisexual men, and 4% of bisexual women (Herek, 2009a).

The problem is not limited to the adult population; it is also affecting younger people who are also experiencing anti-gay hate violence and harassment. These incidents have most often been couched in terms of *bullying* in schools rather than bias or hate crime (Stotzer, 2015). A recent study of a total sample of 619,978 children in Grades 6–12 in 16,230 public schools examined bullying and its effects in the victims. A total of 25.7% of students reported that they had experienced bias/hate-motivated harassment (Stotzer, 2015). Studies focusing specifically on lesbian, gay, bisexual, and transgender (LGBTQ) youth report high levels of harassment in schools. For example, 86.2% of LGBTQ youth had experienced name-calling and verbal harassment because of their sexual orientation, 44.1% had been physically harassed, and 22.1% had been physically assaulted at school (Stotzer, 2015). Moreover, victimization of LGBTQ youths has been associated with mental health problems (D’Augelli & Grossman, 2001).

The elderly LGBTQ community is no exception to experiencing anti-gay victimization. A study of LGBTQ adults ages 60 and older revealed that many have experienced significant victimization during their lives (D’Augelli & Grossman, 2001).

Many LGBTQ elderly individuals have internalized homophobia, alcohol use, and suicidality related to their sexual orientation. However, the overall probability of victimization decreases with age, making seniors in the LGBTQ community not a major focus (D'Augelli & Grossman, 2001).

Violence against individuals because of their sexual orientation is conceptualized as a manifestation of sexual stigma, that is, society's negative regard for any homosexual behavior, identity, relationship, or community (Herek, 2009b). In 2013, Hooghe and Meeusen conducted a study of the systematic analysis of the relationship between public attitudes toward homosexuality and the legal recognition of same-sex marriage. Hooghe and Meeusen, in agreement with author Lee Badgett of the University of Massachusetts, Amherst Williams Institute, made the argument that individuals in countries where same-sex marriage or some form of registered partnership is adopted will gradually develop a more tolerant attitude towards homosexuality (Hooghe & Meeusen, 2013). In their study, Hooghe and Meeusen's goal was to assess whether there is a clear relationship between public attitudes toward homosexuality and the recognition of same-sex marriage or nonmarital forms of legal recognition. In contrast this present study which investigates how a major political decision may affect the prevalence of criminal victimizations against those the political result was intended to benefit, Hooghe and Meeusen's study sought to investigate whether and how levels of prejudice can have an effect on government policies (Hooghe & Meeusen, 2013). Although attitudes toward homosexuality and same-sex marriage are closely related, it is important to note that they should not be treated as equal. Consideration must be given to the impact of the presence of one's stance on both same-sex marriage and the role of politics on interpersonal

relations. Different authors have indeed found that one's attitude or opinion regarding same-sex marriage is much more polarized than the general attitude toward homosexuality (Hooghe & Meeusen, 2013).

To date, no study has assessed the status of hate crimes motivated by sexual orientation after the legalization of same-sex marriages in Florida. As such, this study provides information for those in the LGBTQ community and the government on how the major Supreme Court decision granting marriage equality may have affected the rate of victimizations based on sexual orientation. In addition, this study provides an evidentiary framework as to the effect governmental discrimination towards minorities or a protected class has on the prevalence of violence towards the protected class after the seemingly discriminatory policies shift in favor of the protected class.

By analyzing and interpreting data from the Hate Crimes in Florida Reports on hate crimes motivated by sexual orientation victimizations, a determination can be made about changes in the number of hate crimes motivated by sexual orientation after the legalization of same-sex marriage in Florida. An increase in hate crimes motivated by sexual orientation after the legalization of same-sex marriage provides support to the conclusion that crimes entailing a prejudicial motive often occur in close temporal proximity to a galvanizing political event, such as the Supreme Court decision providing marriage equality rights.

Although this compilation and analysis of the Hate Crimes in Florida data will provide evidence and support as to whether there is a temporal proximity between hate crimes motivated by sexual orientation and legislation benefiting the LGBTQ community, this study does not provide a resolution to ending or reducing anti-gay hate

crime victimizations. This study informs criminal justice literature and policy makers about possible connections between temporal proximity and crimes involving a prejudicial motive and galvanizing political events, such as an election or an unprecedented Supreme Court decision. States with pro-equality policies foster a more tolerant social climate and gay and lesbian individuals who reside therein report fewer psychiatric disorders and lower psychiatric comorbidity (Levy & Levy, 2016). As such, the findings from this study will aid and support lawmakers when formulating policies that will serve the interests of the LGBTQ community. Lastly, because the legalization of same-sex marriage in the United States will theoretically only happen once in history, this study is both timely and relevant. This is one of the first studies to explore whether a major political milestone, such as the legalization of same-sex marriage, has a close temporal proximity to the prevalence of hate crimes motivated by sexual orientation, resulting in an adverse effect on the LGBTQ community in Florida.

Barriers and Issues

This proposed study initially focused on the June 2015, legalization of same-sex marriages in the U.S. as the *galvanizing political event*, which was being examined to determine if there is a close temporal relationship between reported incidence of hate crimes motivated by sexual orientation and the political decision. However, an additional galvanizing political event that must be considered is the November 2016 presidential campaign. Because of extensive news media coverage, hate rhetoric concerning protected groups, including the LGBTQ community, has generated a rise in anti-LGBTQ hate crimes. The emergence of an additional galvanizing political event brings into question whether the frequency of reported hate crimes motivated by sexual orientation for 2017 is

impacted by the marriage equality decision or the 2016 presidential campaign. Although it is important to address this issue of a possible intervening variable or additional galvanizing political event, there is no immediate resolution as it would be speculative and anecdotal due to the lack of reliable empirical data available at this juncture regarding the reported increase in hate crimes attributable to the 2016 presidential campaign. Moreover, hate crime reports for year 2018 will not be released until December 2019, which is after the conclusion of this study.

Delimitations and Limitations

Inherent to the nature of the utilization of secondary data is that available data are not collected to address this study's particular research questions. Specifically, over 28 years ago, the Florida Legislature passed laws designed to address the issue of hate crimes (2015 Hate Crimes in Florida, 2016). Section 775.085, Florida Statutes, was created to increase penalties for convictions of crimes where there was evidence of certain prejudice. Additionally, the Hate Crimes Reporting Act, Section 877.19, Florida Statutes, was passed to require law enforcement agencies to report hate crimes to the Florida Department of Law Enforcement (FDLE) and required the Attorney General's Office to publish an annual summary of data collected by FDLE (2015 Hate Crimes in Florida, 2016). The information for the Hate Crimes in Florida Reports is collected from local law enforcement agencies by FDLE's Division of Criminal Information Systems Uniform Crime Reports Program, Special Services Bureau. Currently, 396 agencies participate in the Hate Crimes in Florida Report (2015 Hate Crimes in Florida, 2016). The data are then tabulated by FDLE and provided to the Attorney General's Office for

summary and distribution. These reports are accessed by the public through Florida's Attorney General's website.

According to Cindy Durret, a Criminal Justice Information Consultant in the Office of Planning, Policy, and Data Analysis at the FDLE (personal conversation via email, October 9, 2017), although FDLE's data from the Uniform Crime Reports (UCR) Program is also provided to the Federal Bureau of Investigations (FBI) for inclusion in the UCR; because the Attorney General's Office deadline for data compilation of the Hate Crime Reports is later than the FBI's deadline for UCR, Florida's Hate Crime Reports may include additional reports of hate crime incidents for specific years. This indicates that the Hate Crimes in Florida Reports provide a more comprehensive report of hate crimes in Florida than the national Uniform Crime Reports.

Although the use of HCFR data has specific advantages over other crime victimization data sets, the main limitations of this study are comparable to those limitations presented through the use of UCR data—that is, the lack of verifiable self-reporting. As with all studies that require the participation of crime victims, many fail to report the incident, generally due to fear of retaliation (Herek et al., 1997). This is particularly relevant in the case of hate crimes motivated by sexual orientation, which are suspected to be underreported because members of the LGBTQ community are generally reluctant to report the crime to police, believing they will face unsympathetic, disinterested or even hostile responding officers (Herek et al., 1997). Furthermore, in 2015, according to the Anti-Defamation League, larger Florida cities often failed to report hate crimes (Jolly, 2017). The Florida cities that reported zero hate crimes in 2015 include Jacksonville, Miami, Tampa, Fort Lauderdale, Orlando, Hialeah, Fort

Lauderdale, Hollywood, Cape Coral, Pompano Beach, Davie and St. Petersburg (Jolly, 2017). These number of reported hate crimes are statically suspicious for cities of their size. By contrast, the Florida Attorney General's Hate Crimes Report for 2015 reported a total of 102 hate crimes (2015 Hate Crimes in Florida, 2016). Considering the lack of reporting from large Florida cities, these figures indicated in the Hate Crimes in Florida Report from the participating cities are likely just the tip of the iceberg (Jolly, 2017).

Although there are no studies to date that have compared the prevalence of anti-LGBTQ hate crimes after the legalization of same-sex marriage in Florida, the use of UCR data in criminal justice studies is not foreign. In 2015, Socia examined whether the presence of state residence restrictions such as registration, community notification, electronic monitoring, and civil commitment of convicted sex offenders resulted in changes in statewide rates of forcible rape (Socia, 2015). By building on prior studies and including state-level UCR data across 19 years for 49 states and the District of Columbia, limitations of UCR data were exposed (Socia, 2015). The results indicated that when a state residence restriction was present, regardless of how it was measured, rates of UCR forcible rape were *higher* than when the policy was not present (Socia, 2015). Socia (2015) also cautioned that although the UCR program represents the best data currently available for the purposes of the study, care should be taken when interpreting results.

An additional concern that must be noted is the fact that the HCFR does not publish any information about violence against members of the transgender community. The term transgender has become an *umbrella term* under which resides anyone who bends the common societal constructions of gender, including cross-dressers, transsexuals, gender-queer youth, drag queens and a host of other terms people use to

self-identify their gender (Stotzer, 2009). Although the acronym LGBTQ includes transgender and queer individuals, hate crime laws currently do not cover *gender identity* as a motivation (Stotzer, 2009). Hence, the Uniform Crime Reports published by the FBI and the HCFR's offer no information about violence against members of the transgender community or hate crimes motivated by gender identity (Stotzer, 2009).

Despite these limitations, this research study contributes to the literature on hate crimes in the United States and its relationship to recent political events and crime rates. In addition, the results of this research study may demonstrate to the LGTBQ community and law enforcement organizations the importance of consistent reporting to facilitate research about the issue of hate crime victimizations motivated by sexual orientation. Specifically, this study revealed to the LGBTQ communities anti-gay hate crime victims that society does care about their well-being and are researching and implementing efforts to improve and protect their quality of life by being well-informed on how political efforts in their plight for equality may affect their safety and health.

The HCFR are particularly useful given the broad and lengthy coverage of Florida's hate crime statistics, especially when compared with multi-state data sets. For example, although the National Incident Based Reporting System (NIBRS) includes increased detail on individual incidents (e.g., stranger/acquaintance relationship status), its extensive limitations in terms of coverage, generalizability, and historic data made it less suitable for the present study when compared to HCFR data (Socia, 2015). In particular, the NIBRS does not have the sufficient coverage either longitudinally or geographically to allow the inclusion of the entire state of Florida. Furthermore, national-level victimization data from the National Crime Victimization Survey (NCVS) does not

allow for reliable state-level examinations, particularly in terms of anti-gay hate crimes (Socia, 2015). As such, use of HCFR data provides the important and unique ability to study the effect of same-sex marriage legalization on the prevalence hate crimes motivated by sexual orientation in the State of Florida. Other existing crime data sets do not provide these same opportunities. Restricting the collection of Hate Crimes in Florida Report data on hate crimes motivated by sexual orientation to the State of Florida is a delimitation to make the proposed study manageable. Although delimitations impact the generalizability of the results of a study, the purpose of this study is to provide a snapshot of the prevalence of hate crimes motivated by sexual orientation after the legalization of same-sex marriages and limiting it to the State of Florida.

Lastly, an additional limitation produced by the use of HCFR secondary data is the inability to determine the specific date of when each hate crime was reported for year 2015. Specifically, the HCFR's do not provide exact dates of reported hate crime incidents, only the total number of reported hate crimes for the year. This presents an issue considering the Supreme Court ruling permitting same-sex marriages was not decided until June 26, 2015- half-way through 2015. As such, any number of reported hate crimes for year 2015 could have occurred before the June 26, 2015 marriage equality decision. The consequence of this limitation is that an unknown number of hate crimes reported between January 1, 2015- June 26, 2015 are not affected by the same-sex marriage equality decision. To address this limitation, HCFR data for year 2015 was not utilized in the comparison of the hate crimes motivated by sexual orientation for the predecision and postdecision years. This limitation also presents a recommendation for improved data collection practices that can be implemented by hate crime policy makers.

Requiring the date of a reported hate crime incident be displayed in hate crime reports could facilitate more in-depth analyses of hate crime data based on temporality.

Definition of Terms

Close temporal proximity: a short time interval between an activity and adverse action (O'Brien, 2002). Close temporal proximity for purposes of this study, means an increase in reported criminal incidents occurring within one to two years of the Supreme Court decision providing marriage equality rights.

Hate crime: act committed or attempted by one person or group against another—or that person's property—that in any way constitutes an expression of hatred toward the victim based on his or her personal characteristics; crime in which the perpetrator intentionally selects the victim based on one of the following characteristics: race, color, religion, ethnicity, ancestry, national origin, sexual orientation, homeless status, advanced age or mental/physical disability (2015 Hate Crimes in Florida, 2016).

Anti-LGBTQ hate crimes: criminal activity motivated by prejudice towards one's sexual orientation—including lesbian, gay, bisexual, transgender or queer individuals (Green, Strolovitch, Wong, & Bailey, 2001).

Predecision percentage of hate crimes in Florida: average number of hate crimes in the Hate Crimes in Florida Reports for year's 2012-2014. Three years *prior* to the 2015 legalization of same-sex marriages.

Postdecision percentage of hate crimes in Florida: average number of hate crimes in the Hate Crime in Florida Reports for years 2016-2017, two years after the 2015 legalization of same-sex marriage.

Summary

To date, no study has assessed the status of hate crimes motivated by sexual orientation after the legalization of same-sex marriages in the United States. This study used Hate Crimes in Florida Report data on hate crimes motivated by sexual orientation before and after the legalization of same-sex-marriages to determine if there was a close temporal connection between hate crimes motivated by sexual orientation victimizations and the recent legalization of same-sex marriage. Specifically, this is an exploration of the possible existence of a temporal relationship between marriage equality legislation and the prevalence of hate crimes based on sexual orientation. Close temporal proximity, or connection, between the policy and hate crimes is necessary for causation. Through an analysis of Florida's Hate Crime Reports data on hate crimes motivated by sexual orientation, one can determine if there has been an increase or decrease in the number of hate crimes motivated by sexual orientation victimizations after the legalization of same-sex marriage in Florida. An increase in hate crimes motivated by sexual orientation after the legalization of same-sex marriage provides support to the conclusion that crimes entailing a prejudicial motive often occur in close temporal proximity to a galvanizing political event, such as the Supreme Court decision providing marriage equality.

Although this compilation and analysis of data will provide evidence as to whether there is a close temporal connection between hate crimes motivated by sexual orientation and legislation benefiting the LGBTQ community, this study does not provide a resolution to ending anti-LGBTQ hate crime victimizations or criminal victimizations after major political events. This study will however advise criminal justice literature and political decision makers on whether there is a temporal proximity between crimes

involving a prejudicial motive and galvanizing political events, such as an election or an unprecedented Supreme Court decision. The findings from this study will aid and support lawmakers when formulating pro-equality policies that will serve the interests of the LGBTQ community and other similarly situated populations.

Chapter 2: Literature Review

In addressing the current prevalence of hate crimes motivated by sexual orientation after the legalization of same-sex marriages, it is imperative to first explore the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 which altered existing hate crime sentence enhancements to protect new groups including gender, gender identity, disability, and sexual orientation. Next, a review of hate crimes motivated by sexual orientation includes past studies, theories and explanations for offender motivations, as well as the health risks faced by survivors. Subsequently, the political history of same-sex marriage legislation in the United States and accompanying case law detailing Florida's stance on the issue is addressed. In association with the historical aspect of same-sex marriage legislation is an examination into social tolerance of homosexuality and marriage equality rights. Next, the effect politics has on social tolerance of same-sex marriages is examined. This opens the dialogue for whether increased social tolerance of homosexuality had any influence on the Supreme Court decision to legalize same-sex marriages. Finally, the topic of governmental discrimination towards same-sex marriages and its possible connection to hate crime incidents. Alternatively, an overview of how pro-equality government policies may result in backlash or retaliation in the form of increased hate crime incidence is also incorporated herein.

The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009

As same-sex marriage policies have changed over time, so have policies on hate crimes based on sexual orientation (Levy & Levy, 2018). It is beyond the scope of this study to provide a complete review of hate crime policy due to its complexities.

However, it is helpful to have a basic understanding of hate crime policy regarding sexual orientation. Hate crime legislation is quite diverse, with some laws acting as penalty enhancers, increasing the sentence for crimes motivated by bias, and other laws adding separate substantive offenses for which the offender is convicted in addition to his conviction for the underlying crime (Cramer et al., 2013). Some state laws permit any crime to qualify as a hate crime, whereas some limit their definition of hate crimes to particular offenses such as harassment or assault (Cramer et al., 2013). Other states specify that the victim must have been chosen because of or by reason of his or her group, whereas different states require only some sort of evidence that the crime demonstrates some type of prejudice (Cramer et al., 2013). Ultimately, in all of these cases, the defendant faces more severe penalties when a hate crime is committed, whether because of penalty enhancements or separate, additional hate crime charges.

Sexual orientation was only recently added to the federal hate crime law with the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 (the Shepard Act), but states have addressed the issue for over 20 years with some passing their own laws prior to 2009 (Levy & Levy, 2016). To date, 45 states have enacted hate crime statutes (Trout, 2015). Of those states, 44 cover racially-, ethnically-, and religiously-motivated crimes. Beyond these categories, there is less unanimity regarding which classes to protect through hate crime legislation. Thirty states protect disability. Another 30 states cover sexual orientation. Twenty-seven states cover gender, but only 15 cover gender identity. Finally, 30 states and D.C. require data collection for all reported hate-crimes (Trout, 2015). Given this patchwork of state laws, it is important to realize that very few are recent enactments. Following the early 2000s, it appears that states have

largely lost the impetus to pass new hate crime laws—for example, 27 of the 31 laws covering sexual orientation discrimination are over a decade old (Trout, 2015).

Upon its signing by President Barack Obama in October 2009, the Shepard Act altered existing hate crimes sentence enhancements to protect new groups including gender, disability, sexual orientation, and gender identity (Kim, 2011). The Shepard Act was named after two victims of hate crimes that occurred in 1998: Matthew Shepard, a college student who was tortured and killed in an acknowledged act of anti-gay hatred; and James Byrd Jr., an African American man who was tortured, dragged behind a truck, and decapitated by White supremacists (Donnelly, 2017). Touted as our nation's first major piece of civil rights legislation for lesbian, gay, bisexual, and transgender people, the passage of the federal Shepard Act was needed to fill the gap for states that lacked hate crime legislation. When the Shepard Act was signed, five states did not have any hate crimes laws, and another 19 states did not include sexual orientation in their hate crimes laws (Kim, 2011).

The Shepard Act was legislative acknowledgement that individuals that are perceived to be non-heterosexual run a greater risk of being attacked simply because of the biases harbored by their attackers and perhaps the public at large (Kim, 2011). The Shepard Act was also evidence of Congressional acknowledgement that governmental actions are necessary to protect this discrete and insular group from disparate treatment, particularly in a criminal context (Kim, 2011). In support of this notion, the Shepard Act provided federal aid and technical assistance to state, local, and tribal jurisdictions to help them more effectively investigate, prosecute and prevent hate crimes from occurring (Aisaka & Clune, 2013). Specifically the Shepard Act permits the Attorney General to

provide local, state and tribal jurisdictions with federal, technical, forensic, prosecutorial, or other assistance to investigate or prosecute any crime that is a crime of violence or is a felony under state laws, and is motivated by prejudice based on the victim's race, color, religion, national origin, gender, sexual orientation, or disability (Aisaka & Clune, 2013). The Shepard Act also allows the Attorney General to provide federal assistance where the actor has violated state hate crime laws (Aisaka & Clune, 2013).

Hate Crimes Motivated by Sexual Orientation

Hate crimes in the United States have deep roots in American history and culture. As the U.S. Federal Bureau of Investigation (FBI) notes, crimes of hatred and prejudice—from lynchings to cross burnings to vandalism of synagogues—are a sad fact of American history (Donnelly, 2017). The term *hate crime* did not enter the nation's vocabulary until the 1980s, when emerging hate groups like the Skinheads launched a wave of bias-related crime. In response to these disturbing trends, 45 states and the District of Columbia have passed hate crime laws (Donnelly, 2017). All these states define a hate crime as a criminal act perpetrated due to the victim's race, religion, or ethnicity, although some also include sexual orientation, gender, and disability as criteria for hate crimes (Donnelly, 2017). As of 2016, only Arkansas, Georgia, Indiana, South Carolina, and Wyoming did not have hate crime statutes on their books, though hate crimes in those states are prosecuted under existing statutes covering murder, theft, harassment, and assault (Donnelly, 2017).

Hate crimes remain a persistent problem in the United States, as shown by the FBI's annual data on hate crime prevalence throughout the country (Trout, 2015). Lesbian, gay and bisexual men and women are frequent targets of vicious hate crimes

based on their sexual orientation (Koch, 2003). In 2001, the FBI reported that sexual orientation-based offenses are the third most commonly reported hate crimes (FBI, 2002; Herek, Cogan, & Gillis, 2002). In general, over the past 10 years, violent crime and hate crime incidences have decreased (Trout, 2015). However, although the overall number of hate crimes has decreased, the types of hate crimes have not decreased uniformly and in some instances have actually increased (Trout, 2015). Specifically, the number of hate crimes based on sexual orientation has remained constant even as violent crime in general has fallen dramatically (Trout, 2015).

Although violence based on sexual orientation is now widely recognized as a serious problem in the United States, social science data concerning its prevalence and consequences are limited due to inconsistent reporting (Herek, Cogan, & Gillis, 2002; Trout, 2015). Although FBI reports and statistics indicate improved recognition and reporting by law enforcement (i.e., reporting a crime as hate-motivated), not all crimes are reported, and even those that are reported may be inaccurately characterized by police (Trout, 2015). In addition, underreporting remains an issue due to reliance on the willingness of the victim to report the offense and the ability and willingness of the police to categorize the crime as a hate crime (Briones-Robinson, Powers, & Socia, 2016; Herek, Cogan, & Gillis, 2002; Trout, 2015). LGBTQ people are commonly targeted in part because systemic discrimination has rendered them unwilling or unable to report violence or led them to believe that they may not be taken seriously by law enforcement if they do make a report (Waters, Jindasurat, & Wolfe, 2009). Unfortunately, these fears of revictimization by law enforcement are not unfounded. Therefore, it is difficult to know the true prevalence of hate crimes motivated by sexual orientation.

The prevalence of criminal victimization based on an individual's perceived sexual orientation, commonly referred to as anti-gay hate crimes or bias crimes, has been a major concern for the LGBTQ community dating back to the 1980's (Koch, 2003). During the 1980's, there was a dramatic increase in anti-gay hate crimes reported to lesbian and gay community organizations. Public reactions to the AIDS epidemic appear to have played some part in the reported increases in anti-gay violence. Anti-gay hate crime research indicates that 14% of assailants made reference to the HIV/AIDS virus during an attack (Koch, 2003). From 1985-1986, the National Gay and Lesbian Task Force reported a 142% increase in reported anti-gay violence, and a 42% increase from 1986-1987 (Koch, 2003). The FBI's Hate Crime statistics show a similar trend during the 1990's. Despite decreasing rates of violent crime in the United States overall and a 9% decrease in incidents of racially-motivated hate crimes from 1997-1998, hate crime incidents based on sexual orientation increased by more than 14% (Koch, 2003).

Hate-motivated violence exists across a spectrum of escalation and severity. A single incident may involve various types of violence (Waters, Jindasurat, & Wolfe, 2009). This is especially true of anti-LGBTQ hate violence. Verbal attacks, sexual assault, workplace discrimination, intimate partner abuse, and beatings can all be motivated by hatred for an LGBTQ identity (Waters, Jindasurat, & Wolfe, 2009). A recently released study from the Harvard School of Public Health asserts that people identifying as gay, lesbian, bisexual, or having had a same-sex partner are 1.5 to 2 times as likely to experience violence as the general population and are twice as likely to exhibit symptoms of post-traumatic stress disorder (PTSD) in relationship to this violence (Waters, Jindasurat, & Wolfe, 2009). Further, a consistently elevated rate of hate violence

incidents during Pride months, as well as in October 2009, around the time of federal hate crimes law passage, seems to reflect a correlation between increased visibility and increased vulnerability and targeting of LGBTQ people (Waters, Jindasurat, & Wolfe, 2009). Such compelling evidence indicates the profound need for both mainstream and LGBTQ-specific service providers to understand the social conditions and discrimination that engender such violence.

Although anti-LGBTQ hate crime incidents take a variety of forms, they tend to share common characteristics. Through their actions, offenders intend to send a message that their acts of brutality are justified and deserved because LGBTQ people do not have the right to live free from violence, or in the most extreme cases, do not have the right to live at all (Waters, Jindasurat, & Wolfe, 2009). In the mind of the hate violence offender, actual or perceived LGBTQ identity means that a person exists outside of acceptable social behavioral norms, and thus, the offender may use harassment, sexual assault, attacks or even murder in order to silence that LGBTQ identity (Waters, Jindasurat, & Wolfe, 2009). A common impact of these acts is that they send a message of fear not only to the individuals targeted but also to the communities to which the individual belongs. Especially when patterns of such bias-motivated harassment or vandalism are unchecked by a community response, the target group as a whole may experience escalated risk and a heightened sense of vulnerability (Waters, Jindasurat, & Wolfe, 2009).

An additional characteristic of hate violence incidents is *overkill*—where in the course of physical violence offenders use extreme brutality (Waters, Jindasurat, & Wolfe, 2009). Offenders may attack their targets in close contact and with extreme force; murder

victims may be stabbed or shot dozens of times (often in the face or the genitals), burned, or dismembered. The targeting of specific body parts is often an association of those parts with the hated identity of the victim (Waters, Jindasurat, & Wolfe, 2009). For example, Frank Yazzie was an openly gay Navajo man murdered in Gallup, New Mexico in June of 2009; his torso was found covered in stab wounds and severed from his lower body (Waters, Jindasurat, & Wolfe, 2009). The body of Jorge Stephen López Mercado, a gender non-conforming youth, was found burned, dismembered and decapitated in Cayey, Puerto Rico, in November of the same year. Mercado's killer, Juan Martínez Matos, is reported to have murdered Mercado upon learning that Mercado, who was dressed femininely at the time of their encounter, had a penis (Waters, Jindasurat, & Wolfe, 2009). Anti-LGBTQ hate violence frequently involves overkill, as a way of deeply personalizing an attack and brutally *othering* a person of the targeted identity (Waters, Jindasurat, & Wolfe, 2009).

Anti-LGBTQ hate crime incidents are individual expressions of the discriminatory social, legal, political and economic forces that comprise heteronormativity, the practices and institutions “that legitimize and privilege heterosexuality and heterosexual relationships as fundamental and ‘natural’ within society” (Waters, Jindasurat, & Wolfe, 2009, p.13). By othering LGBTQ identities, these practices and institutions support and sanction hate violence, directly or indirectly, in perpetuating social inequity and discrimination (Waters, Jindasurat, & Wolfe, 2009).

Offender motivations for hate crimes based on sexual orientation. Research on LGBTQ hate crime victimization traditionally has focused on qualitative and victim self-report methods (Dunbar, 2006). As such, there is a dearth of theory and research that

focuses on experiences of survivors to gain insight as to why hate crimes based on sexual orientation occur (Levy & Levy, 2016). Studies that explore the motivations behind hate crimes tend to examine the characteristics and attitudes of individual perpetrators. For instance, perpetrators of anti-gay incidents are more likely to be young, male, Black, religious, conservative, and heterosexual (Levy & Levy, 2016). As such, little is known regarding the characteristics of the offenders.

Logically, one would connect incidents of hate crimes to hate groups. Hate groups are organizations of individuals whose beliefs or practices attack or malign a class of people, typically for their immutable characteristics, such as race or sexual orientation, but sometimes for their mutable ones such as religious beliefs (Ryan & Leeson, 2011). Investigating the relationship between hate crime and hate groups in the U.S., Ryan and Leeson determined that although hate groups may be interested in committing hate crimes and encouraging others to commit them, they seem to be quite bad at execution (Ryan & Leeson, 2011). In fact, about 95% of hate crimes are committed by individuals and small groups, and not by organized groups such as the Ku Klux Klan (Donnelly, 2017). Interestingly enough, it was discovered that hate groups, though populated by hateful people who say they are interested in harming minorities, may not commit hate crimes or convince others to do so (Ryan & Leeson, 2011).

Ryan and Leeson (2011) discovered stronger evidence, though weak itself, that economic hardship may be related to hate crime (Ryan & Leeson, 2011). Considering economic factors such as the extent of unemployment and poverty, and demographics, such as race and urbanism, Ryan and Leeson based their study on the notion that when people endure economic hardship, they get frustrated and take their frustration out on

vulnerable social groups, such as racial, sexual, and religious minorities (Ryan & Leeson, 2011). Existing literature on demographic factors that may be related to hate crime derives from the observation that crime tends to be higher in urban areas. Specifically, urban areas have a higher concentration of socially vulnerable groups, such as racial, sexual, and religious minorities and therefore the potential for conflicts leading to, and opportunities for, hate crime are greater in those areas (Ryan & Leeson, 2011). However, Ryan and Leeson (2011) reported demographic determinants are not strong predictors of hate crime in America.

Typology of offenders identifies four distinct motivations for hate crimes: thrill, defense, retaliation, and mission (Levy & Levy, 2016). More than half of all hate attacks are perpetrated for the thrill, for the excitement, and for bragging rights with friends who encourage hate and violence (Donnelly, 2017). These thrill hate crimes are typically carried out by teenagers or young adults who go out in groups of three, four, five, or more looking to assault someone who is different (Donnelly, 2017). In the thrill-seeking model, it is posited that perpetrators attack gay men out of boredom and view their acts as funny or amusing (Parrott & Peterson, 2008). Offenders are unsophisticated in terms of hate ideology and instead desire fun and excitement from engaging in thrill-seeking behavior. Once engaged in thrill-seeking behavior, offenders report experiencing a sense of their own superiority, power, dominance, control and pleasure (Parrott & Peterson, 2008). Qualitative data suggest that thrill-seeking anti-gay assailants satisfy these desires specifically through aggression toward gay men (Parrott & Peterson, 2008). For example, thrill-seeking assailants justified their acts by saying, “It wasn’t because we had something against gays, but because we could get some money and have some fun” and

“It was a rush. A serious rush” (Parrott & Peterson, 2008, p. 308). In addition, qualitative data support the proposition the thrill-seeking anti-gay assailants perceive gay men as easy targets for victimization and minimize the harm they cause (Parrott & Peterson, 2008).

Hate crimes carried out by groups of offenders also support the peer dynamics model which posits that anti-gay aggression serves to “prove both toughness and heterosexuality to friends” (Parrott & Peterson, 2008, p. 307). As a result, offenders may increase male group cohesion, fulfill friends’ expectations, and demonstrate conformity to friends’ opinions. Theories on gender role ideology are consistent with this hypothesis (Parrott & Peterson, 2008). For example, numerous theorists concur that one function of masculine ideology is to prove to other men that one is not feminine, and research supports this view (Parrott & Peterson, 2008). Therefore, to the extent that a man questions his masculinity, or has it questioned by other men, he will experience a significant masculinity threat. In turn, he will be more likely to exaggerate stereotypical masculine emotions (e.g., anger) and behaviors (e.g., aggression, Parrott & Peterson, 2008). Although dysfunctional, these exaggerated displays of masculinity clearly demonstrate one’s own heterosexuality and masculinity to other men and thereby alleviate the threat of emasculation (Parrott & Peterson, 2008). Of course, it is plausible that, for some men, proving one’s masculinity is not critical. Rather, these individuals may engage in anti-gay aggression to simply “go along with the group” in order to be accepted. Nevertheless, theorists generally agree that a common function of peer-driven anti-gay aggression is to prove their masculinity to one’s peers (Parrott & Peterson, 2008).

Although individual attitudes and situational contexts certainly play key roles in motivating anti-gay behaviors and hate crimes, societal attitudes and normative ideologies are factors as well (Levy & Levy, 2016). This is not surprising, considering that individuals' attitudes are often grounded in societal norms that stigmatize gay and lesbian individuals and privilege heterosexuals (Levy & Levy, 2016). At the individual level, the internalization of heterosexism or sexual stigma by heterosexuals is referred to as sexual prejudice (Parrott & Peterson, 2008). Sexual prejudice refers to negative attitudes toward an individual because of his or her sexual orientation (Herek, 2009b; Parrott & Peterson, 2008). The term is used to characterize heterosexuals' negative attitudes toward homosexual behavior, people with homosexual or bisexual orientation, and communities of gay, lesbian, and bisexual people (Herek, 2009b). Sexual stigma is defined as "the negative regard, inferior status, and relative powerlessness that society collectively accords to any non-heterosexual behavior, identity, relationship, or community." Heterosexism facilitates the expression of sexual stigma in the form of aggression, hostility, or discrimination toward gay men and lesbians (Herek, 2009b; Parrott & Peterson, 2008). Sexual prejudice and institutionalized heterosexism can cultivate an environment in which anti-gay behaviors and hate crimes are accepted (Levy & Levy, 2016). In fact, research identifies the enforcement of societal gender norms as motivation for anti-gay behaviors and broader approval of hate speech and hate crimes. Many perpetrators believe that violence and harassment are necessary forms of punishment for those who do not adhere to societal gender norms and a way to accentuate their own normative identities (Levy & Levy, 2016).

Like other forms of prejudice, sexual prejudice has multiple motivations. Perpetrators of anti-gay hate crimes use sexual prejudice to express deeply felt values, such as religious or political beliefs, thereby affirming their sense of personal identity and feelings of self-worth (Herek, 2015). For some heterosexuals, it results from unpleasant interactions with gay individuals, which are then generalized to attitudes towards the entire group (Herek, 2009b). For other heterosexuals, sexual prejudice is rooted in fears associated with homosexuality, serving as an ego-defense function to stave off anxiety and threats to self-esteem that are a reflection of discomfort with their own sexual impulses or gender conformity (Herek, 2009b). Another source of prejudice is the perception that the LGBTQ community represents values that are directly in conflict with one's personal value system (Herek, 2009b). These different motivations can be understood as deriving from the psychological functions that sexual prejudice, and by extension anti-gay anger and aggression, serves (Herek, 2009b; Parrott & Peterson, 2008). For example, sexual prejudice might express core religious values that condemn homosexuality. Likewise, sexual prejudice may serve a social-expressive function that "defines group boundaries (with gay men on the outside and the self on the inside)" (Parrott & Peterson, 2008, p. 307).

Sexual prejudice is associated with the perception that violations of traditional gender roles are threatening as sexually prejudiced individuals perceive same-sex intimate relationships as an extreme gender role violation (Parrott & Peterson, 2008). Used as a precursor to anger and anti-gay aggression, sexual prejudice serves to enforce the perpetrator's rigid gender role beliefs (Parrott & Peterson, 2008). For example, sexually prejudiced individuals perceive same-sex relationships as a threat to core values

and to traditional social institutions such as marriage (Parrott & Peterson, 2008). Likewise, gay men presumably carry the threat of unwanted sexual advances and HIV/AIDS infection (Parrott & Peterson, 2008). These effects have been shown to be stronger for heterosexual men than for heterosexual women (Parrott & Peterson, 2008). Thus, sexually prejudiced men believe that sexual behavior that deviates from one's prescribed gender role (e.g. male–male intimate relationships) threatens the stability and safety of society. As such, when exposed to gay men, displays of anger and anti-gay aggression such as hate crimes function to alleviate and defend against these threats and, most importantly, maintain clear boundaries between male and female gender roles (Donnelly, 2017; Parrott & Peterson, 2008).

Contemporary theorists posit that anti-gay aggression is motivated by the convergence of several different mechanisms. Specifically, three complimentary theoretical models explain the motives for anti-gay aggression: sexual prejudice, peer dynamics, or thrill seeking (Parrott & Peterson, 2008). It should be noted that these models are not mutually exclusive. Although sexual prejudice, peer dynamics, or thrill seeking may be the sole motivating factor for a particular act of anti-gay aggression, it is posited that anti-gay aggression may also be facilitated by various combinations of these motives (Parrott & Peterson, 2008). Although these motivations are believed to converge to varying degrees to generate a violent incident, empirical support for the predictive validity of these motivations is varied (Parrott & Peterson, 2008). Numerous survey and laboratory-based studies have demonstrated a positive association between sexual prejudice and perpetration of anti-gay aggression. In contrast, support for peer dynamics

and thrill-seeking motivations is deficient (Parrott & Peterson, 2008). Nonetheless, sexual prejudice contributes to anti-gay behaviors (Herek, 2009b).

Health risks associated with hate crimes motivated by sexual orientation.

Hate crimes demand a priority response because of their special emotional and psychological impact on the victim and the victim's community (Donnelly, 2017). Victimization due to sexual orientation affects mental health, both directly and indirectly; indirectly through its effects on family support and self-acceptance (Herek et al., 1997; Hershberger & D'Augelli, 1995). A positive sense of self as a gay man, lesbian, or bisexual person is integral to coping effectively with the stresses created by societal prejudice. After experiencing a hate crime, a victim's core identity may become directly linked to the heightened sense of vulnerability that normally follows victimization, internalizing the victim's core identity as a source of danger, pain, and punishment rather than intimacy, love, and community (Herek et al., 1997). Victimization also gives rise to negative psychological reactions because it shatters the self-perception of invulnerability, leaving the victim feeling defenseless in an unpredictable world filled with malevolent people; it destroys the belief that the world is meaningful, comprehensible, and orderly; and it challenges the victims' positive self-perception, leaving them feeling weak, helpless, and worthless (Dragowski et al., 2011). People who are victimized are likely to devalue themselves not only because they have been violated but also because they have lost a sense of autonomy, and because they internalize the social stigma associated with being a victim (Dragowski et al., 2011).

A 2011 report from the Institute of Medicine, highlighted extensive health disparities between heterosexuals and those of the LGBTQ community (Herek, 2015).

Victims of anti-gay hate crimes suffer serious physical violence, psychological and emotional injuries such as intimidation and harassment, stab wounds, fractured bones, verbal abuse, property damage and even death because of their sexual orientation.

Victims of sexual orientation-motivated violence or discrimination has been linked to increased levels of alcohol use, increased risk of suicide, depression, a decline in overall mental health and risk of contracting HIV/AIDS and other STDs (Herek et al., 1997). In a study conducted by Duncan and Hatzenbuehler (2014), it was determined that sexual-minority youths residing in Boston neighborhoods with higher rates of LGBTQ hate crimes were significantly more likely to report suicidal ideation and suicide attempts, than were those residing in neighborhoods with lower LGBTQ hate crime rates. The results of their study indicated a need for community-level suicide-prevention programs in neighborhoods with a high prevalence of LGBTQ hate crimes (Dragowski et al., 2011; Duncan & Hatzenbuehler, 2014).

Lesbian, gay, and bisexual survivors of anti-gay hate crimes face added challenges because of their stigmatized status in American society. In addition to the physical and psychological harm anti-gay hate crimes inflict on the victims, anti-gay assaults create a climate of fear in gay communities (Herek, 1989). Hate crimes effectively intimidate other members of the victim's community, leaving them feeling isolated, vulnerable and unprotected by the law (Donnelly, 2017). It is not an exaggeration to conclude that bias-motivated attacks function as a form of terrorism, sending a message to all lesbians, gay men, and bisexuals that they are not safe if they are visible (Herek, Gillis, & Cogan, 1999). By making members of minority communities fearful, angry and suspicious of other groups--and of the power structure that is supposed

to protect them—these incidents can damage the fabric of our society and fragment communities (Donnelly, 2017).

Although research indicates that gay males experience more extreme levels of physical violence than lesbians, our youth and elderly LGBTQ community are also at risk of victimization (Herek et al., 1997). Hershberger and D’Augelli (1995), examined the consequences of victimization for the mental health status and suicidality of lesbian, gay, and bisexual youths, ages 15 to 21 years old (Hershberger & D’Augelli, 1995). Study participants were gathered from 14 community groups, representing all regions of the country, including Atlanta, Baltimore, Boston, Chicago, Cleveland, Dallas, Denver, Detroit, Indianapolis, Los Angeles, Pittsburgh, San Diego, San Francisco, and Washington, D.C. (Hershberger & D’Augelli, 1995). According to the results of this study, the single largest predictor of mental health was self-acceptance indicating that a general sense of personal worth, coupled with a positive view of one’s sexual orientation, appears to be critical for the youths’ mental health (Hershberger & D’Augelli, 1995). The results of this study also determined that victimization interacted with family support to influence mental health, but only for low levels of victimization (Hershberger & D’Augelli, 1995).

Individuals who experienced physical assault because of their sexual orientation report higher levels of psychological distress, were more anxious and angry, and experienced more symptoms of depression and post-traumatic stress disorder (Herek et al., 1997). More specifically, in a questionnaire and follow-up interview administered to 147 lesbian, gay men, and bisexual individuals in the Sacramento, CA area; participants of this study also displayed less willingness to believe in the general benevolence of

people and rated their own risk for future victimization as high (Herek et al., 1997). Compared to other respondents, anti-gay hate or bias crime survivors manifested higher levels of depression, anxiety, anger, and symptoms of post-traumatic stress (Herek et al., 1997).

Same-Sex Marriage Legislation in the United States

LGBTQ rights in the United States would not exist without litigation (Noga-Styron, Reasons, & Peacock, 2012). Interest groups, including gay and lesbian groups, rely on the courts and the litigation process to secure constitutional and statutory rights, which is accomplished via test cases and amicus curiae briefs (Noga-Styron et al., 2012). Traditionally, the dominant issues of concern for gay and lesbian rights activists included eliminating state sodomy laws, discrimination against individuals with HIV/AIDS, the exclusion of gays from the military, gay marriage, and issues surrounding gay/lesbian parenting- including adoption rights and custody rights to biological children (Noga-Styron et al., 2012).

Policy development for LGBTQ rights has historically developed at the municipal level. A distinct tactic of states opposing the movement is to disrupt them by enacting state policy through the democratic process (Flores & Barclay, 2016). The initial litigation battle over same-sex marriage in the United States began in the 1970s, resulting in a string of unsuccessful lawsuits. Two decades later, the marriage equality movement started to gain steam in 1993 with the first same-sex marriage victory in a court of last resort anywhere in the United States (Deming, 2016). The Hawaii Supreme Court in *Baehr v. Lewin* declared that denying the right to marry from same-sex couples constituted sex discrimination and thus violated the Hawaii Constitution (Deming, 2016).

The *Baehr* case arose after a Hawaiian court denied three same-sex couples marriage licenses on the grounds that same-sex marriages are invalid under Hawaii law (Kanotz, 1998). This historic ruling converted the idea of same-sex marriage from a dream to a reality.

In response to the *Baehr* decision, opponents of same-sex marriage were successful in overturning the Hawaii ruling through a voter amendment to the state constitution before any same-sex marriages could be performed (Deming, 2016). Soon thereafter, on September 21, 1996, President Clinton signed the Defense of Marriage Act (“DOMA”) which was also clearly in response to the decision in *Baehr* (Kanotz, 1998). DOMA, which defined marriage as being between one man and one woman, accomplished two objectives (Deming, 2016; Kanotz, 1998). First, it established that the federal government would not recognize same-sex marriages for purposes of Social Security or other benefits (Kanotz, 1998). Second, DOMA attempted to confer authority upon the states to deny legal recognition of same-sex marriages performed in other states (Kanotz, 1998).

Over the course of the following 10 years, legislative campaigns across the United States would result in more than 40 different states banning same-sex marriage via legislation or state constitutional amendments (Deming, 2016). Following this trend, in 1997, the Florida Legislature responded to the same-sex marriage issue by overwhelmingly enacting the Florida Defense of Marriage Act (FDOMA, Kanotz, 1998). The major thrust of FDOMA was to prevent same-sex couples from lawfully marrying in Hawaii and subsequently migrating to Florida to claim the rights, privileges, and immunities granted to different-sex couples in Florida. FDOMA also expressly codified

Florida's ban on the legal recognition of same-sex marriages (Kanotz, 1998). FDOMA came as no surprise considering Florida's religious landscape is home to some of the most influential and well-financed Christian Right political action lobbies in the nation, particularly in the central and northern parts of the state (Chapman, 2011). Florida's cultural and political geographies are much more complex and diverse than a first glance would indicate, especially when considering its sheer population size, rates of immigration from other regions of the country, and its complex ethnic and racial diversity (Chapman, 2011). As a result, the same-sex marriage debate within Florida varied widely across space and time. On the surface it would appear that the citizenry of the sunshine state; and the political leaders that represent them, were mostly on the same page, firmly opposing same-sex marriage. But, amidst the high-profile public efforts by state and federal political leaders to legislate bans on same-sex marriage, LGBTQ Floridians began taking action on their own and in their own communities (Chapman, 2011).

While FDOMA was being passed, the court in *Posik v. Layton*, a Florida case, ruled that same-sex couples could lawfully contract with each other for a "permanent sharing of, and participating in, one another's lives even though the couple undoubtedly expected a sexual relationship" (Kanotz, 1998, p. 440). The holding, although refusing to acknowledge same-sex marriages, lent support to Governor Chiles's statement after the passing of FDOMA, "I believe that, by and large, most Floridians are tolerant and will one day come to view a broader range of domestic partnerships as an acceptable part of life. But that is not the case today" (Kanotz, 1998, p. 445).

The next major state ruling in favor of same-sex marriage emerged in 1999 in Vermont. In *Baker v. State*, the Vermont Supreme Court determined that limiting

marriage to opposite-sex couples violated the state constitution's Equal Protection Clause (Deming, 2016). However, the Vermont Supreme Court delegated the creation of a remedy to its legislature. The following year, the Vermont legislature passed a bill which approved civil unions as a satisfactory alternative to marriage for same-sex couples and complied with the state's equal protection constitutional requirements (Deming, 2016). This creative remedy disappointed the plaintiffs in *Baker* and seemed to invite backlash. Legislators and Vermont's governor responded with some sympathy to lesbian and gay couples in early 2000 when the Vermont Legislature created a new institution for same-sex couples and invested these *civil unions* with all the legal rights and duties of marriage (Eskridge, 2013).

Opponents of same-sex marriage repeatedly attempted to repeal Vermont's civil union legislation, although many marriage-equality advocates considered the civil union label as a form of second-class citizenship, despite the admitted progress that it embodied (Deming, 2016). Although there was a great deal of public opposition to this compromise of civil unions, it survived the 2000 election and efforts to repeal the civil union law or to amend the state constitution failed (Eskridge, 2013). Between 2000 and the beginning of 2008, more than 8,600 lesbian and gay couples were joined in legal civil unions in Vermont (Eskridge, 2013).

By 2003, the United States Supreme Court began to weigh in on the same-sex marriage debate with its landmark decision in *Lawrence v. Texas*. The *Lawrence* opinion held that moral disapproval was insufficient to justify the criminalization of homosexual activity, overturning its 1986 precedent from *Bowers v. Hardwick* (Deming, 2016).

Recall, the Supreme Court in *Bowers* held that the constitutional right of privacy does not

extend to homosexual acts and that there is no fundamental right to homosexual sodomy. After the U.S. Supreme Court decision in *Lawrence v. Texas*, for the first time, the same-sex marriage debate received substantial mainstream media attention (Deming, 2016). This spike in coverage of same-sex marriages was accompanied by a short-term backlash evidenced in public opinion data, as approval of same-sex marriage fell from 38% to 30% of the United States in the months following the ruling (Eskridge, 2013).

In 1996 when the DOMA was passed, hate crimes in Massachusetts were rising (Levy & Levy, 2016). By late 2003, the Massachusetts Supreme Judicial Court in *Goodridge v. Department of Public Health* declared that its state constitution protected same-sex couples' right to marry (Deming, 2016). Opponents of the ruling failed to gather the necessary support for any constitutional amendment that would have overturned the holding in *Goodridge* (Deming, 2016). As a result, unlike its predecessor case, *Baehr*, the Massachusetts holding in *Goodridge* led to the first actual same-sex marriage in the United States (Deming, 2016). On May 17, 2004, Massachusetts started issuing marriage licenses to lesbian and gay couples (Eskridge, 2013). More than 10,000 lesbian and gay couples received licenses from the state between 2004 and the beginning of 2008 (Eskridge, 2013). As momentous a breakthrough as that event was, the married couples had rights primarily in Massachusetts, while majority of other states adopted nonrecognition laws and the federal government was required by DOMA to treat these married couples as unmarried (Eskridge, 2013). In addition, marriage-equality approval rates continued to decline (Eskridge, 2013).

The *Goodridge* case, and the ensuing same-sex marriages experienced their own fairly distinct national backlash. Although there had only been three states with

constitutional amendments banning same-sex marriage prior to 2004, over the next three years, 26 additional states would pass constitutional amendments restricting marriage to opposite sex couples only (Deming, 2016). Some of these amendments were also worded strongly enough to block future civil union legislation (Deming, 2016). Despite these effects, favorable public opinion toward civil unions and same-sex marriage recovered to its pre-*Lawrence* point and resumed its steady climb (Deming, 2016). Specifically, public opinion improved dramatically with a gain of almost 10 percentage points in favor of civil unions; and a corresponding decrease in those opposed, from 2004 to 2006 (Deming, 2016). This rise in favorable opinion corresponded to an increase in legislation allowing civil unions, as 13 states and the District of Columbia had passed civil union or domestic partnership laws by 2009 (Deming, 2016).

By 2008, Connecticut and California legalized same-sex marriages (Deming, 2016). However, the California case was overturned shortly thereafter when the state passed Proposition 8, restricting marriage to one man and one woman by popular vote. Proposition 8 triggered the ultimate marriage equality litigation, a lawsuit challenging the revised California Constitution as inconsistent with the Equal Protection Clause of the U.S. Constitution (Eskridge, 2013). In 2009, the Iowa Supreme Court in *Varnum v. Brien*, legalized same-sex marriage, and several other states began guaranteeing equal marriage rights via statutes, as public opinion favoring marriage equality continued to climb (Deming, 2016). By 2011, Maine, Vermont, New Hampshire, New York, and the District of Columbia had passed legislation providing full marriage rights upon same-sex couples (Deming, 2016).

Later, in 2010, an Opinion Research Poll presented by CNN indicated that a majority of the American public was in favor of same-sex marriage rights (Deming, 2016). That year federal courts started issuing rulings against DOMA's constitutionality. These rulings were later supported by President Obama in early 2011 when the administration announced it would no longer defend the constitutionality of DOMA (Deming, 2016). DOMA was declared unconstitutional and repealed in June of 2013 (Deming, 2016).

In 2013, six more states, including Delaware, Hawaii, Illinois, Minnesota, and Rhode Island, legalized same-sex marriage. Additionally, the Supreme Court again issued rulings that weighed in on the same-sex marriage debate, although the majority of the court continued to refuse to directly answer whether the Constitution safeguarded any right to same-sex marriage (Deming, 2016). Issuing twin opinions, the Supreme Court refused to overturn a California district court's invalidation of Proposition 8 in *Hollingsworth v. Perry*, and declared key portions of the federal DOMA unconstitutional in *United States v. Windsor* (Deming, 2016). In *Windsor*, the surviving spouse of a same-sex married couple sought to claim the federal estate tax marital deduction, challenging Section 3 of DOMA, which defined *marriage* and *spouse* as excluding same-sex partners for purposes of federal law (Tritt, 2016). The Supreme Court in *Windsor* ruled that Section 3 was an unconstitutional "deprivation of the liberty of the person protected by the Fifth Amendment," and that the Constitution prevents the federal government from treating same-sex marriages any differently from heterosexual marriages. Such differentiation, the Court reasoned, would "demean the couple, whose moral and sexual choices the Constitution protects" (Tritt, 2016, p. 883).

On June 27, 2013, the day after the *Windsor* decision, same-sex marriage was allowed in 13 states. Immediately following *Windsor*, federal and state courts were flooded with litigation related to the decision (Tritt, 2016). Specifically, there were constitutional challenges in 26 states. In general, the challenges concerned either the inability of same-sex couples to obtain marriage licenses or a state refusing to recognize extra-jurisdictional same-sex marriages (Tritt, 2016). After the decision in *Windsor*, five federal Circuit Courts of Appeal upheld district court decisions invalidating prohibitions on same-sex marriages, and one decision by the Sixth Circuit Court of Appeals in *DeBoer v. Snyder* upheld a ban on same-sex marriage (Tritt, 2016). *Obergefell v. Hodges*, the landmark Supreme Court decision granting same-sex couples' marriage equality, resulted from the consolidation of these cases (Tritt, 2016).

In *Obergefell v. Hodges*, 14 same-sex couples and two men whose same-sex partners were deceased filed suits in the federal district courts of their home states which included Michigan, Kentucky, Ohio, and Tennessee. The states all defined marriage as a union between one man and one woman (Dienhart, 2016). The parties argued that the definition of marriage violated the Fourteenth Amendment by denying them the right to marry or to have marriages lawfully performed in another state given full recognition (Dienhart, 2016). In a 5-4 decision, the Supreme Court in *Obergefell* reversed the Sixth Circuit's holding in *DeBoer*, ruling that the Constitution requires states to issue marriage licenses to same-sex couples and to recognize a same-sex couple's out-of-state marriage license (Dienhart, 2016).

The majority's opinion in *Obergefell* asserted the importance of marriage throughout the course of time, beginning with a recitation of the history of marriage and a

confirmation of “the centrality of marriage to the human condition.” The Court stated that this “lifelong union always has promised nobility and dignity to all persons,” and, contrary to the States contentions, the parties did not seek to ‘demean’ marriage, but rather, “respect . . . its privileges and responsibilities (Dienhart, 2016, p. 179). At the time of the *Obergefell* decision, 37 states and the District of Columbia had legalized same-sex marriage. Of these states, 26 allowed same-sex marriage by court decision, eight states by state legislative action, and three by popular vote (Tritt, 2016). At the same time, 13 states banned same-sex marriages. Of the remaining states, three banned same-sex marriage by constitutional amendments or state statutes or a combination of both (Tritt, 2016).

The Supreme Court decision of *Obergefell v. Hodges* has forever altered American jurisprudence. The court in *Obergefell* legalized same-sex marriages in all 50 states and required states to recognize same-sex marriages from other states in accordance with the Fourteenth Amendment (Tritt, 2016). Before *Windsor*, a total of nine states and the District of Columbia allowed same-sex marriages. By the time the Supreme Court decided *Obergefell*, a total of 37 states already permitted same-sex marriages (Deming, 2016). During this time, favorable public opinion towards marriage equality also continued its persistent climb, increasing from 54% to 60% of United States citizens approving of same-sex marriage leading up to *Obergefell*, without any significant decline in the immediate aftermath of the decision (Deming, 2016).

Social tolerance of homosexuality and same-sex marriages. Based on political and social events in recent years, one may conclude that prejudice toward homosexuality, or homophobia, is a thing of the past (Herek, 2015). One example is the abolishing of the

U.S. Military's "Don't Ask, Don't Tell" policy in 2011 (Herek, 2015). Hate crimes based on a person's sexual orientation or gender presentation can now be prosecuted by the federal government, even when the crimes occur in states lacking their own hate crime laws (Aisaka & Clune, 2013; Herek, 2015). In addition, a growing number of states have passed legislation barring licensed mental health professionals from practicing so called *reparative therapy* to attempt to turn lesbian, gay, and bisexual minors into heterosexuals (Aisaka & Clune, 2013; Herek, 2015). Most recently, in June of 2015, the Supreme Court in *Obergefell v. Hodges* recognized that the fundamental right to marriage must not exclude same-sex couples (Dienhart, 2016; Kim, 2016; Tritt, 2016).

Historically, as early as 1624 homosexuality was met with intolerance as men were executed for sodomy in American colonies (Herek, 1989). For more than three centuries homosexuals have been routinely subjected to many forms of institutional violence including felony imprisonment, fines, castration and clitoridectomy, forced psychiatric treatment, dishonorable discharge from the military, and general social ostracism (Herek, 1989). About 40 years ago, what was arguably the biggest mass cure of mental illness in modern history occurred when the American Psychiatric Association (APA) removed the diagnosis of *homosexuality* from the *Diagnostic and Statistical Manual of Mental Disorders* (DSM, Herek, 2015). Literally overnight, millions of supposedly sick people were no longer mentally ill (Herek, 2015).

In 2001, 57% of respondents of a Pew Research Center poll were in opposition of "allowing gays and lesbians to be legally married" (Herek, 2015, p. 29). By 2012, several Pew Research Center surveys showed that 48% of Americans supported same-sex marriage and 43% opposed it ("Same-sex," 2015). Later in 2014, another poll by the Pew

Research Center reported that some 40% of Americans opposed same-sex marriage (Herek, 2015). Both supporters and opponents of same-sex marriage agree that the normalization of same-sex relationships in mainstream culture has been key to the dramatic shift in attitudes towards marriage equality rights (Introduction to Same-Sex Marriage, 2015). One of the explicit goals of the LGBTQ community is to influence public opinion in the direction of more tolerance toward homosexuality and the adoption of same-sex partnership legislation (Hooghe & Meeusen, 2013). Additionally, it can be expected that LGBTQ community organizations contribute to changing attitudes among the general population as well (Hooghe & Meeusen, 2013).

Prejudice toward homosexuality is clearly one of the most persistent forms of prejudice in attitudinal research (Hooghe & Meeusen, 2013). It has been linked to an authoritarian personality, other forms of prejudice, a social dominance orientation, conservative gender roles, a closed personality, and conservative religious beliefs. Nevertheless, it is striking to observe that most public opinion research has documented a consistent decline in levels of prejudice toward homosexuality, a trend that is not present for other forms of prejudice (Hooghe & Meeusen, 2013). In the literature, however, opinions differ on how to explain this downward trend. Authors have invoked the role of rising education levels, secularization, general social change, and the role of LGBTQ movements (Hooghe & Meeusen, 2013).

State and national ideological affiliations, especially religious and political orientations, are related to public opinion on homosexuality and same-sex relationships (Levy & Levy, 2016). Traditionally, religion has served as a major source of prejudice toward homosexuality (Hooghe & Meeusen, 2013). A negative association is routinely

found between religiosity and tolerance of homosexuality (Hooghe & Meeusen, 2013). Chief among the arguments against the recognition of same-sex marriage is an individual's religious beliefs that it undermines the family institution (Glaser, 2005). Given the fact that marriage is an important and even sacred ritual in most religious traditions, we can expect the effect of religion to be even more pervasive with regard to the attitude toward same-sex marriage (Hooghe & Meeusen, 2013). Religion also has a noticeable impact on government policy outcomes (Kollman, 2007). Although attitudes toward homosexuality, in general, and the attitude toward same-sex marriage are closely related, it is important to note that they should not be equated, as specific considerations on marriage and the role of politics in interpersonal relations might also have an impact in this regard (Hooghe & Meeusen, 2013). Hence, accepting homosexuality may be one thing, but approving gays and lesbians to get legally married might for some religiously inspired people may be a bridge too far.

Since the start of the twenty-first century, various countries in Western Europe and countries like Canada, France, Uruguay, New Zealand, Argentina, and South Africa have introduced legislation on same-sex marriage (Hooghe & Meeusen, 2013). Research is scant about what this diffusion process implies for broader patterns of social change about homosexuality and alternate lifestyles (Hooghe & Meeusen, 2013). The most direct assumption could be that same-sex marriage legislation is successfully implemented mostly in countries with a very liberal or tolerant public opinion (Hooghe & Meeusen, 2013). This supports previous research that individuals in countries where same-sex marriage or where some form of registered partnership is adopted will gradually develop a more tolerant attitude towards homosexuality (Hooghe & Meeusen, 2013).

In their study, Hooghe and Meeusen's (2013) goal was to assess whether there is a clear relationship between public attitudes toward homosexuality and the recognition of same-sex marriage or legal registered partnership recognition. This research question also permitted Hooghe and Meeusen to investigate whether and how levels of prejudice can have an effect on government policy and to gain a better understanding of the forces advocating or opposing the recognition of same-sex marriage (Hooghe & Meeusen, 2013). To analyze the relation between public attitudes, same-sex marriage recognition and the level of prejudice toward homosexuality, Hooghe and Meeusen utilized data from the European Social Survey (ESS 2002–2010). The ESS is a high-quality cross-sectional repeated survey conducted five times between 2002 and 2010. The ESS is especially designed to capture attitudinal change in Europe over time. Individuals in more than 30 countries geographically located in Europe and Israel were questioned about their opinions, attitudes, and demographics.

At the conclusion of their study, Hooghe and Meeusen observed a strong negative relation between the presence of registered partnership legislation; versus same-sex marriage legislation, and disapproval of homosexuality (Hooghe & Meeusen, 2013). This suggests that registered partnerships are considered second-class with lukewarm support for equal rights for LGBTQ individuals. Apparently political leaders are more inclined to embrace the notion of a registered partnership as a kind of second-best solution, which is not associated with recognition of full equality between heterosexual and same-sex couples (Hooghe & Meeusen, 2013). Although same-sex marriage and registered partnerships are recognized in countries where public opinion is, indeed, more tolerant, it is clear from the country-specific evidence that characteristics of the political elite also

play a role (Hooghe & Meeusen, 2013). The political elite phenomena can be explained as processes that occur within the political decision-making structures, without too much involvement of public opinion (Hooghe & Meeusen, 2013). Specifically, in the Netherlands, Belgium, Spain, and Portugal, it was observed that left-wing or secular political parties promised to open up marriage for same-sex couples, and subsequently, implemented this promise once they came into office. According to Hooghe and Meeusen, a very preliminary conclusion, therefore, could be that although a tolerant population creates the opportunity to introduce same-sex marriage, political elite actors still have to be convinced to use this opportunity (Hooghe & Meeusen, 2013).

One indicator of increased social tolerance of homosexuality would be a reduction in hate crimes (Levy & Levy, 2016). However, prejudice toward homosexuality remains one of the most powerful forms of prejudice (Hooghe & Meeusen, 2013). Individual hostility towards sexual minorities remains strong as hate crimes based on sexual orientation still occur with alarming frequency, with the majority of them never being reported to police (Herek, 2015). An individual's negative reactions to the LGBTQ community can be attributed to several factors (Herek, 2015). Nevertheless, evidence suggests that same-sex marriage and registered partnership legislation is recognized in countries where public opinion is, indeed, more tolerant (Hooghe & Meeusen, 2013). The question becomes will this tolerance for same-sex marriage translate into a reduction in hate crime incidents based on sexual orientation.

Public policies and social tolerance for same-sex marriages. Politicians and politics have an effect on public attitudes towards tolerance for homosexuality (Flores & Barclay, 2016; Levy & Levy, 2017). Citizen attitudes towards marriage rights for same-

sex couples are linked to their political ideologies (Herek, 2011). Lesbian, gay, bisexual, and transgender movements have influenced public opinion indirectly by being active in the legal and political struggle for the recognition of same-sex marriage. Since the 1970s, gay rights activists have focused their legislative efforts on other issues such as legalizing homosexual acts (which at the time were illegal under legislation known as *sodomy laws*), ending workplace discrimination, and supporting the campaigns of openly gay politicians (“Same-sex,” 2015).

To the extent that state policies differentiate sexual majority and minority groups according to whether they are *us* (non-stigmatized) or *them* (stigmatized), the policies highlight the minority out-group’s perceived differentness and thereby promote biased perceptions and differential treatment of its members (Herek, 2011). In the realm of anti-equality marriage laws and amendments, an ongoing conflict occurs between the institutional and individual levels of sexual stigma. Sexual stigma is the stigma attached to any non-heterosexual behavior, identity, relationship, or community (Herek, 2011). Structural sexual stigma, including laws that deny legal recognition to same-sex couples, fosters internalized sexual stigma among heterosexuals (i.e., sexual prejudice, Herek, 2011). Structural sexual stigma does this by legitimating and reinforcing the undesired differentness of sexual minorities and according them inferior status relative to heterosexuals (Herek, 2011). People tend to hold positive feelings and display favoritism toward members of their own group, even in situations when group membership is based on completely arbitrary criteria (Herek, 2011).

At the same time, institutional policies are shaped by individuals (Herek, 2011).

In a democracy, statutes are passed by legislators who were elected to represent the views

of their constituents. In the form of direct democracy known as the ballot initiative, the constituents themselves decide whether or not to pass a particular law. Once enacted, such laws often can be repealed only by another vote of the citizenry. Thus, individual attitudes play an important role in creating and dismantling legal expressions of structural sexual stigma, and it is important to understand the social and psychological factors that lead voters to support or oppose anti-equality initiatives (Herek, 2011).

Heterosexuals' attitudes toward marriage equality are predicted by many of the same demographic, psychological, and social variables that predict their attitudes toward gay, lesbian, and bisexual people generally (Herek, 2011). For example, consistent with previous research, a 2009 Gallup poll found that Americans' attitudes toward marriage rights for same-sex couples are linked with political ideology: 80% of self-described conservatives opposed marriage equality, compared to 46% of moderates and 23% of liberals (Herek, 2011). The same poll also found higher opposition to marriage equality among Americans who say they do not know anyone who is lesbian or gay. Among respondents who said they have a gay or lesbian friend, relative, or coworker, 47% opposed marriage equality; by contrast, 72% of respondents without this sort of personal contact opposed equality (Herek, 2011). In previous studies, liberal respondents were more likely than their conservative counterparts to personally know gay people. But, the correlation between personal contact and opinions about marriage remained significant in the 2009 Gallup data, even when political ideology was statistically controlled (Herek, 2011).

Legislation, judicial action, litigation, and policy implementation, especially those regarding minority populations, are likely to cause attitude changes towards social

tolerance towards homosexuality and same-sex marriage that can range from backlash, legitimacy, polarization, or consensus (Flores & Barclay, 2016). Although political backlash results in greater disapproval of the same-sex marriage issue, some policies may alternatively add greater acceptability to the issue, legitimizing it and making it familiar (Flores & Barclay, 2016). The introduction of a new policy or law may also polarize the public, strengthening and widening the differences between supporters and opponents (Flores & Barclay, 2016). Or, policies may reflect a growing consensus of social change, and thus bear no feedback effect on the public (Flores & Barclay, 2016).

Flores and Barclay (2016) investigated the effects of policy implementation on the attitudes of the mass public, using a panel of respondents surveyed prior to and after four states introduced same-sex marriage legislation. Their goal was to investigate whether policy implementation and court action bore any effect on public opinion (Flores & Barclay, 2016). Their study was based on the premise that policy implementation, either from the courts or from other means, subsequently affects the attitudes of the public, with literature suggesting four potential effects: positive, negative, positive and negative, or none at all (Flores & Barclay, 2016). Flores and Barclay identified positive effects of policy implementation on public attitudes as consistent with the expectations of a positive, legitimacy model and negative effects as consistent with the expectations of a backlash model. When the effects are positive and negative, indications of a polarization model exist (Flores & Barclay, 2016).

Flores and Barclay (2016) presented three hypotheses based on potential effects policy implementation may have on public opinion. Hypothesis 1: Focusing events such as judicial decisions and legal action on same-sex marriage should lower approval of

same-sex marriage and acceptance of lesbian and gay (backlash model, Flores & Barclay, 2016). Hypothesis 2: Focusing events such as judicial and legal action on same-sex marriage should increase approval of same-sex marriage and acceptance of lesbian and gay people (legitimacy model, Flores & Barclay, 2016). Hypothesis 3: Focusing events such as judicial decisions and legal action on same-sex marriage should both increase and decrease approval of same-sex marriage and acceptance of lesbian and gay people (polarization model, Flores & Barclay, 2016). Hypothesis 4: Focusing events such as judicial decisions and legal action on same-sex marriage should have no effect approval of same-sex marriage and acceptance of lesbian and gay people (consensus model, Flores & Barclay, 2016).

To examine the impact of same-sex marriage policies on public attitudes, Flores and Barclay examined two waves of interviews of a panel of respondents who addressed questions about their opinions on the issue and their general attitudes toward lesbian and gay people (Flores & Barclay, 2016). This study was conducted after the U.S. Supreme Court invalidated the DOMA in June 2013, which in effect legalized same-sex marriages in some states (Flores & Barclay, 2016). The first wave of interviews was conducted in 2012 and the second wave was a re-contact study in 2013. The 2012 interviews were administered prior to and immediately following the 2012 presidential election, in which four states faced ballot measures on same-sex marriage (Flores & Barclay, 2016). The 2013 follow-up study was in July, immediately following the historic June 2013 same-sex marriage rulings against DOMA by the U.S. Supreme Court (Flores & Barclay, 2016).

An analysis of the two waves of respondents in Flores and Barclay's (2016) study provided for the opportunity to assess the difference in over-time change to respondents who resided in the forty states where same-sex marriage was not legal in both waves, the six states and District of Columbia where same-sex marriage was legal in both waves, and the four states where same-sex marriage was not legal in the first wave but was legal in the second wave (Flores & Barclay, 2016). This method accounted for respondents' current and previous dispositions towards lesbians and gay men and same-sex marriage and the variation between the two waves between the states that newly enacted same-sex marriage policies and the states that had previously passed same-sex-marriage policies (Flores & Barclay, 2016). This method also permitted the identification of the U.S. Supreme Court decision as the policy effect as it should affect all of the respondents, and each state policy should affect its residents (Flores & Barclay, 2016).

Flores and Barclay (2016) found that residents of states that introduced same-sex marriage policy had the greatest reduction of anti-gay attitudes. Of the four models presented regarding how the legislation and litigation may subsequently affect mass attitudes, the consensus and legitimacy was the most applicable and there was minimal indication of backlash and polarization (Flores & Barclay, 2016). The vast majority of respondents did not change their positions when surveyed in the second wave which provides support for the consensus model, where policy may reflect public sentiment and not affect the attitudes of the public. It is their position that attitudes change over time following policy changes and that instilling greater approval towards a group creates a reduction in anti-gay attitudes (Flores & Barclay, 2016).

Based on the aforementioned, a logical question follows: if public policies are related to societal attitudes towards homosexuality and same-sex marriage, could they incite or prevent hate crimes? Given that prejudice is the basic underlying factor for all individuals committing hate crimes based on sexual orientation, societal forces also can be deemed a likely influence on hate crime incidence (Levy & Levy, 2016). This question warrants the study of literature exploring governmental public policy and its impact on the occurrence of hate crimes.

Government Discrimination of Same-Sex Marriages

The American legal system's protection of underrepresented groups can be traced back to 1938 when Supreme Court Justice Harlan Fisk Stone opined that the Court should engage in a more searching judicial inquiry of legislation that targets unpopular, discrete, and insular minorities (Noga-Styron et al., 2012). Justice Stone's message was that powerless minorities are often excluded in the political process, and that it is the Court's duty to ensure equal protection for these groups, as is guaranteed under the United States Constitution. This ruling gave rise to what is known as the *political process* theory. First conceived by Supreme Court Justice John Marshall, the theory has been used to protect African-Americans, aliens, illegitimate children, women, and ethnic minorities (Noga-Styron et al., 2012). The Court has since then created what is known as two protected classes: the quasi-suspect class, and the suspect class, which encompass all of the above-mentioned groups. However, the LGBTQ community is not recognized as a protected class under either classification (Noga-Styron et al., 2012).

State and federal governments have consistently denied LGBTQ individuals equal protection of the law because the LGBTQ community is not recognized as a protected

class (Noga-Styron et al., 2012). For decades, activism for marriage equality rights were presented to the Supreme Court with much resistance (Introduction to Same-Sex Marriage, 2015; Wolff, 2017). In May 1970, Jack Baker and Michael McConnell walked into the Hennepin County courthouse in Minneapolis and applied for a marriage license. However, their application was denied because both University of Minnesota students were men (Introduction to Same-Sex Marriage, 2015; Wolff, 2017). The couple sued for the right to marry but lost despite taking the case to the U.S. Supreme Court (Introduction to Same-Sex Marriage, 2015).

Prior research on prejudice and intergroup violence have suggested that abrupt changes in the political environment and acts of violence can serve as triggers of hate crime (King & Sutton, 2013). Bias-motivated bodily violence or hate crimes in the United States have always occurred in the context of widespread governmental discrimination (Garland, 2001; Thomas, 1992). One author opined that bias-motivated bodily violence can be triggered by various forms of governmental discrimination, particularly when discrimination instills expectations of power in one class over another, or when citizen violence curries favor with biased law enforcement (Garland, 2001; Thomas, 1992).

James Allon Garland wrote “The Low Road to Violence: Governmental Discrimination as a Catalyst for Pandemic Hate Crime,” where he argued, amongst other things, that “because minorities in the United States have suffered pandemic hate crime *only* when those classes have simultaneously been victims of government discrimination, government discrimination should be regarded as the primary influence on hate crime” (Garland, 2001, p. 10). Garland supported his argument by stating how the collected

opinions of case law by the United States Supreme Court serves as the most well-maintained and comprehensive record of national governmental misconduct available in America. Garland (2001) opined that the U.S. Supreme Court has essentially documented that when the federal government and the states targeted *nonwhite* tribal people, African-Americans, women, children, and the mentally handicapped for discrimination, each of these groups has also suffered spectacular bodily violence (Garland, 2001).

In “The Low Road to Violence: Governmental Discrimination as a Catalyst for Pandemic Hate Crime,” Garland states that the law acting as a catalyst for violence is not new phenomena. It is well-settled that law sanctions violence and determines what forms of violence are permissible (Garland, 2001). In the United States, the history of hate crime overwhelmingly shows that official, governmental discrimination and widespread bias-motivated violence is not coincidental (Garland, 2001). Widespread hate crime has repeatedly occurred in the United States when states and federal governments have inflicted varied forms of civil bias-motivated harm upon minority classes (Garland, 2001).

The origins of modern hate crime and galvanizing events such as anti-discrimination laws are rooted in post-Civil War federal enactments designed to combat the continuing effects of outlawed slavery. For example, lynchings in the South often increased when social movements vying to grant civil rights to Blacks were successful (King & Sutton, 2013). During the civil rights era, a chain of court decisions, presidential edicts, and legislation materially advanced anti-discrimination efforts (Perry, 2009). For instance, in 1968, Congress passed what has been called the first *modern* federal hate-crime legislation as part of the Civil Rights Act of 1968. This legislation was introduced

to “strengthen the capability of the federal government to meet the problem of violent interference, for racial or other discriminatory reasons, with a person’s free exercise of civil rights” (Simmons, 2012, p. 1878). Initially, it was the violence of the Ku Klux Klan that served as a counterweight to the new civil rights legal protections. However, as the Klan ebbed, it was the legal system itself that proved to be the most formidable impediment to the civil rights of Blacks and others (Perry, 2009).

Although current research suggests a link between the sociocultural context and hate crimes based on sexual orientation, a guiding theory for why these types of hate crimes occur is lacking. In this regard, research on racially-motivated hate crimes is relatively well-developed (Levy & Levy, 2016). Research on racially-motivated hate crimes indicate that when legal conflicts or discrimination become salient, they create discursive opportunities for racially-motivated bias crimes (Levy & Levy, 2016). At the height of the civil rights era (1950s-1960s), a reinvigorated Ku Klux Klan was implicated in dozens of racial killings and bombings that took place across the American South (Perry, 2009). In defense of their neighborhoods, primarily White residents of racially homogenous neighborhoods that experienced greater in-migration of racially diverse individuals committed more hate crimes as they perceive an increased threat to their neighborhoods (Levy & Levy, 2018). Similarly, historical research on lynchings finds a positive relationship between the percentage of Black residents in a location and the number of lynchings (Levy & Levy, 2018). The effects of the Civil Rights Era still reverberate throughout the South. In fact, in 2008, the FBI identified approximately 95 “unsolved hate crimes from the Civil Rights Era” that are under active investigation (Rowe, 2011, p. 725). This information coupled with the history of the civil rights era

supports Garland's (2011) contention that the law acts as a catalyst for violence against those who were once discriminated upon. However, research on the effects civil rights federal enactments had on the prevalence of hate crimes is nonexistent. To date, there is no crime data or literature that provides evidence of the theory of whether a surge in violence emerges against a minority population after discriminatory governmental policies shift to favor the affected groups.

Advocates for political change often fear backlash—the idea that success in policy development will be followed by sharp repercussions in mass attitudes and policy (Flores & Barclay, 2016). One of the leading claims of the scholarly literature on the limits of judicial power is that unpopular judicial decisions provoke adverse political reactions that undercut their effectiveness. This thesis has been developed most fully by Michael J. Klarman, a legal historian and professor of Constitutional Law at Harvard Law School. Klarman contends that the Supreme Court of the United States has historically been hostile to the rights of minorities and has not consistently enforced constitutional protections for them (Keck, 2009). Klarman has argued for more than a decade that the chief impact of the Supreme Court's landmark decision in *Brown v. Board of Education* (1954) was to exacerbate the racist rhetoric and segregationist policies that characterized Southern politics at the time (Keck, 2009). According to Klarman, *Brown*, which held that school segregation on the basis of race was unconstitutional, sparked massive resistance, polarizing Southern racial politics and undermining the efforts of White moderates. As a result, when Southern Blacks turned to direct action protest in the early 1960s, they were met with increasing violence (Keck, 2009). Because it was the Northern states' revulsion demonstrated with fire hoses and

police dogs that led to the 1964 Civil Rights Act, Klarman suggests that the *Brown* litigation ultimately produced progress on civil rights (Keck, 2009).

Klarman identifies same-sex marriage litigation as one of several recent examples that fit the counterproductive pattern of U.S. court rulings set by *Brown* (Keck, 2009). Klarman insists that the 2003 Massachusetts high court's landmark decision in *Goodridge v. Department of Public Health* legalizing same-sex marriage met a fate similar to that which followed every other effort by judges to defend a rights claim that lacked popular support: "The most significant short-term consequence of *Goodridge* [*v. Department of Public Health* 2003], as with *Brown*, may have been the political backlash that it inspired. Recall, after *Goodridge*, over the next three years, 26 additional states would pass constitutional amendments restricting marriage to opposite-sex couples only (Deming, 2016). By outpacing public opinion on issues of social reform, such court rulings mobilize opponents, undercut moderates, and retard the cause they purport to advance (Keck, 2009).

In alignment with Garland's (2001) and Klarman's backlash thesis regarding government policies effect on the treatment and social acceptance of minority groups, it is plausible that there has been an increase in hate crimes motivated by sexual orientation, or political backlash, after the Supreme Court legalized same-sex marriages. Desegregation, which was in response to years of separate but unequal treatment against African-Americans, can be compared to the Court's prior rulings regarding civil unions and the recent decision to recognize marriage between couples of the same-sex. And similarly, considering the violence experienced by African-Americans during desegregation by the United States Supreme Court, an increase in hate crimes motivated

by sexual orientation after the Supreme Court's legalization of same-sex marriage may support the notion of a close temporal connection between hate crimes motivated by sexual orientation and the Supreme Court decision.

Government pro-equality policies' impact on hate crime prevalence. The substantial changes in state policies on gay and lesbian rights over the past 15 years, as well as the persistent heterogeneity across states, have important consequences for the well-being of gays and lesbians (Levy & Levy, 2016). Despite the number of studies on state laws and crime rates, there is scant research investigating the link between public policies and hate crimes. Specifically, partnership recognition policies have not been in place long enough to allow for comprehensive evaluation (Levy & Levy, 2016). In 2003, after the Supreme Judicial Court in Massachusetts legalized same-sex marriage, reported hate crimes dropped by roughly 30% (Levy & Levy, 2016). However, after the 1999 Vermont ruling authorizing same-sex marriage, the number of anti-gay hate crimes during the next calendar year increased 125%, from 4 in 1999 to 9 in 2000 (King & Sutton, 2013). These conflicting statistics provide evidence that warrants exploration into whether there is a relationship between same-sex marriage legalization and the prevalence of hate crimes motivated by sexual orientation (Levy & Levy, 2016). Although the ensuing hate crime data are hardly definitive, and additional investigation using more rigorous analysis is necessary, the suggestion that "actions or inactions by the government have had a tremendous impact on this group of citizens" is worth exploring (Levy & Levy, 2016, p. 145).

A long line of sociological inquiry supports the ability of legislatures and courts to produce sweeping social change (Levy & Levy, 2016). Further research necessitates

studies on how government pro-equality policy implementation, either from the courts or other means, may subsequently affect the attitudes of the public (Flores & Barclay, 2016). For example, previous research on interracial marriage; after the landmark *Loving v. Virginia*, case suggests significant increases in support for racially-motivated hate crimes where threats to power were the primary explanation for the increased violence (Levy & Levy, 2016). Similarly, pro-equality partnership recognition policies represent a clear threat to institutional heterosexism and heterosexist power, which may result in homophobic individuals committing hate crimes to defend their beliefs about marriage or the institution of marriage (Levy & Levy, 2016). Although an increase in hate crimes could accompany any pro-equality policy, same-sex marriage recognition seems as especially likely candidate (Levy & Levy, 2016). Based upon the foregoing, social externalities like hate crimes incidents should be considered and incorporated in pro-equality arguments.

Advocates for equality often fear backlash (Flores & Barclay, 2016). Backlash is defined as a strong and adverse reaction by a large number of people, especially to a social or political development (Oxford English Dictionary, 2018). The idea that success in policy development will be followed by sharp repercussions in mass attitudes is a clear case of backlash (Flores & Barclay, 2016). Backlash does not necessarily incur changes in policy when it comes to the court of public opinion, the policy may be a focusing event that then experiences negative reactions from the public (Flores & Barclay, 2016). Court action, especially the U.S. Supreme Court, is expected to generate the greatest amount of backlash among the public (Flores & Barclay, 2016). In fact, it has been consistently

found that support for gay rights decreases in response to U.S. Supreme Court decisions (Flores & Barclay, 2016).

A study by Levy and Levy (2016) examined the relationship between state policies on gay and lesbian rights and hate crime incidents by analyzing the impact of changes in a particularly salient social policy issue; public policies related to sexual orientation. Levy and Levy hypothesized that the introduction of pro-equality policies, especially partnership recognition, produces a short-term increase in hate crime incidents, or backlash (Levy & Levy, 2016). Levy and Levy analyzed how three state policies affect reported hate crimes: same-sex partnerships, employment non-discrimination that include sexual orientation, and hate crime laws. Although hate crime and employment non-discrimination laws reduced hate crime incidence, Levy and Levy's findings indicated that partnership recognition policies increase reported hate crimes, though it may not increase actual crime incidence (Levy & Levy, 2016). It was discovered that a partnership recognition law was associated with one additional hate crime per 1.2 million people in both the implementation year and the year following implementation, as well as an additional hate crime per one million people two years following implementation (Levy & Levy, 2016).

Levy and Levy's (2016) results confirmed their hypothesis that the introduction of pro-equality policies, especially partnership recognition, produces a short-term increase in hate crime incidence. Levy and Levy (2016) further explained that the cause of the increase in reported hate crimes based on sexual orientation remains unclear as the origin could lie in actual increased violence or due to an increase in reporting. Levy and Levy (2016) further noted that if the increase is due to retaliatory hate crimes (backlash), they

expect the effect to be stronger in conservative states, given the relationship between an individual's conservative ideology and propensity to commit a hate crime (Levy & Levy, 2016). This is apparent considering that sexual prejudice has been empirically associated with political conservatism and individuals who resist social change and accept inequality (McCann, 2011).

The study of hate crimes historically encompassed two areas in the social sciences—prejudice and criminal behavior (King & Sutton, 2013). Empirical work in this domain has typically generated unique hypotheses with respect to hate crimes, each with an emphasis on the importance of place (e.g., neighborhoods), demographic composition, or economic conditions as key explanatory factors (King & Sutton, 2013). King and Sutton (2013) conducted a study that tested an explanation for hate crimes that emphasizes the temporal proximity of these crimes in relation to discrete antecedent events. Specifically, King and Sutton sought to investigate whether or not an association exists between hate crimes and widely publicized events that generate anger and intergroup hostility, and under what conditions might we expect hate crimes to increase--two, four, and six hours after an antecedent event.

King and Sutton supported their inquiry through the social disorganization theory in criminology, the study of discrimination and intergroup conflict and research that indicated that hate crimes often are defensive in nature and are precipitated by an affront to one demographic group by another (King & Sutton, 2013). In essence, King and Sutton (2013) argued that hate crimes are partly an expression of informal social control, and thus, drew on the sociology theory that posits criminal behavior as a form of *self-help* that satisfies a desire for justice, particularly among those who cannot easily turn to law

enforcement for help. King and Sutton also utilized the social psychology of aggression theory that describes crime as reactionary and vicariously retributive (King & Sutton, 2013).

King and Sutton provided research on the politics of violence, which indicates that crimes with a prejudicial motive often occur in close temporal proximity to antecedent events (or *triggering events*), such as elections. King and Sutton indicated that sharp increases in crimes motivated by prejudice, are often reactive in nature and precipitated by an antecedent event where a clearly definable group is associated with the initial triggering act, such as Muslims in the case of 9/11 (King & Sutton, 2013). Another example was the increase in anti-Semitic violence in pre-World War II Germany after leftist parties did well in elections (King & Sutton, 2013).

King and Sutton (2013) questioned whether appellate court decisions mandating equal treatment of same-sex partners causes an immediate spike in anti-LGBTQ hate crime. They posited that many hate crimes are retaliatory in nature and tend to increase, sometimes dramatically, in the aftermath of an antecedent event that result in one group harboring a grievance against another (King & Sutton, 2013). King and Sutton's theory was supported with the fact that new rights and privileges conferred on historically marginalized groups can prompt backlash and prejudice (King & Sutton, 2013). To assess whether laws conferring rights or privileges on minority groups incite a backlash in the form of hate crime, King and Sutton performed a descriptive analysis of hate crimes against gays after the landmark Vermont Supreme Court decision in *Baker v. State of Vermont*, and then performed a more rigorous statistical test after a similar court ruling in Massachusetts.

On December 20, 1999, the Vermont Supreme Court unanimously ruled that same-sex couples were entitled to the same benefits and protections afforded by Vermont law to married heterosexual couples, and the state congress was instructed to change state law to accommodate this entitlement (King & Sutton, 2013). In late 2003, the Massachusetts Supreme Court issued a similar ruling with comparable instructions to the state congress. The results of King and Sutton's study indicated no conclusive evidence that hate crimes against gays increased immediately after the Massachusetts State Supreme Court decision (King & Sutton, 2013). However, during the next calendar year, the number of anti-gay hate crimes in Vermont increased 125%, from 4 in 1999 to 9 in 2000 (King & Sutton, 2013).

Although the current study is comparable to King and Sutton's (2013), the two differ in that this study analyzes the prevalence of hate crimes motivated by sexual orientation in Florida two years after the Supreme Court legalization of same-sex marriage. In addition, the two studies contrast in that King and Sutton's study examined temporal variation in hate crimes in relation to three types of antecedent events, widely publicized contentious trial verdicts after interracial crimes, lethal domestic terrorist attacks, and the aftermath of appellate court decisions granting rights to historically marginalized groups. Lastly, King and Sutton's analysis of the number of reported hate crimes immediately after the Vermont same-sex marriage appellate court decision utilized a short time frame—two, four, and six hours after the court decision. Believing that hate crimes increase almost immediately after an antecedent event, usually within hours of attribution rather than within weeks (King & Sutton, 2013). The time frame of the hate crime data utilized in the current study, although in close temporal proximity to

the Supreme Court decision to legalize same-sex marriages, spans the course of two years (2016-2017).

Research Questions

The possible existence of a close temporal relationship between the legalization of same-sex marriage and the prevalence of hate crimes motivated by sexual orientation was the focus of this research through an examination and comparison of the percentage hate crimes motivated by sexual orientation victimizations before and after the legalization of same-sex marriages. Research questions for this study were:

1. Is there a close temporal relationship between the legalization of same-sex marriage and hate crimes motivated by sexual orientation in Florida?
2. Has there been an increase or decrease in hate crimes motivated by sexual orientation since the legalization of same-sex marriage in Florida?
3. Is there a difference between the average percentage in hate crimes for the variables race, religion, ethnicity and sexual orientation between the three years prior to the marriage equality decision and two years thereafter?

Chapter 3: Methodology

To determine if there is a temporal relationship between the 2015 Supreme Court same-sex marriage equality ruling and the current prevalence of hate crimes motivated by sexual orientation in Florida, a comparison of hate crime data presented in the HCFRs was conducted three years before [predecision (2012-2014)] and two years after [postdecision (2016-2017)] the 2015 marriage equality ruling. A comprehensive analysis of Florida's hate crime data for this study commences in year 2002 as that is the initial year the HCFR was disseminated. Analyzing data three years preceding the legalization of same-sex marriage provides an abundance of hate crime data to accurately assess hate crime prevalence in the years preceding the Supreme Court decision. Hate crime data collected during the years prior to the legalization of same-sex marriage is also an ideal starting point when considering the timeline of the political progression of the legalization of same-sex marriages in the United States. It should be noted that prior to the June 2015 Supreme Court decision for marriage equality, the state of Florida had repeatedly declined to recognize same-sex marriages.

Participants and Instruments

To address the research questions posed, this study utilized secondary data to conduct non-experimental, quantitative research. Specifically, data collection and analysis were achieved through the use of secondary data provided in the annual HCFRs for the number of reported hate crimes three years before [predecision (2012-2014)] and two years immediately following the legalization of same-sex-marriage [postdecision (2016-2017)]. The selection of secondary data for this project was based on the large volume of publicly accessible data, which provides the information necessary to

systematically respond to each of this study's research questions, thereby negating the need to gather primary data. Using secondary data sets as an alternative to the collection of primary data provides more information than would be available in primary data sets (Vartanian, 2010). According to Kleck, Tark, and Bellows (2006), secondary data analysis for criminal justice research is a highly acceptable method of acquiring datasets. Using secondary data saves excessive time, is cost effective, and can be of high quality (Kleck et al., 2006). Furthermore, quantitative research aids in the prediction of crime so that researchers can essentially forecast and anticipate trends and patterns in social phenomena, such as hate crimes motivated by sexual orientation (Worrall, 2000). The predictive aspects of quantitative research provide criminal justice policymakers with the knowledge needed to develop effective crime control policies (Worrall, 2000).

Over 28 years ago, the Florida Legislature passed laws designed to address the issue of hate crimes (2015 Hate Crimes in Florida, 2016). Subsequently, Section 775.085, Florida Statutes was created to increase penalties for convictions of crimes where there was evidence of certain prejudice. Additionally, the Hate Crimes Reporting Act, Section 877.19, Florida Statutes, was passed to require law enforcement agencies to report hate crimes to the Florida Department of Law Enforcement (FDLE) and required the Attorney General's Office to publish an annual summary of data collected by FDLE (2015 Hate Crimes in Florida, 2016).

Cindy Durret, a Criminal Justice Information Consultant in the Office of Planning, Policy, and Data Analysis at the FDLE (personal conversation via email, October 9, 2017) indicated that FDLE's data for the Uniform Crime Reports Program is also provided to the Federal Bureau of Investigations for inclusion in the Uniform Crime

Reports. However, because the Attorney General's Office deadline for data compilation of the Hate Crime Reports is later than the FBI's deadline for UCR, Florida's Hate Crime Reports may include additional reports of hate crime incidents for specific years. This indicates that the Hate Crimes in Florida Reports provide a more comprehensive report of hate crimes in Florida than the national Uniform Crime Reports.

Through its Hate Crime Program, Florida collects data on hate-related offenses for each incident reported. Because each reported crime may have more than one victim, these multiple victims are listed in Florida's hate crime offense totals (2015 Hate Crimes in Florida, 2016). For example, if two individuals are victims of a single hate crime, Florida will count two offenses for that particular incident. The National Hate Crime Program does not reflect multiple victims in its offense count, thus, Florida's hate crime offense totals may differ from figures included in reports on the national level, such as Uniform Crime Reports (2015 Hate Crimes in Florida, 2016).

Each Hate Crimes in Florida Report includes hate crimes motivated by race/color, religion, ethnicity, sexual orientation, and mental disability and covers the period from January 1 through December 31 of the year indicated. The information for the HCFR is collected from local law enforcement agencies by FDLE's Division of Criminal Information Systems, Special Services Bureau. Currently, 396 agencies participate in the Hate Crimes in Florida Report (2015 Hate Crimes in Florida, 2016). The data are then tabulated by FDLE and provided to the Attorney General's Office for summary and distribution. These reports are accessible by the public through Florida's Attorney General's website at <http://edocs.dlis.state.fl.us/fldocs/attorneygen/hatecrimes/index.html> (2015 Hate Crimes in Florida, 2016). Due to the public availability of this comprehensive

data source, and the alignment between the data and the research questions, there was no need to incur additional costs or spend additional time collecting primary data that would be to the data acquired through Florida's Hate Crime Reporting Act.

Procedures

One of the major benefits of using HCFR secondary data is that no permission is required to access these data, as the data are open access data, which are publicly available and accessible to the general public. The first step in conducting this study required accessing the HCFRs via the Attorney General's website. Accessing the Attorney General's website through the link provided above produced a webpage titled Florida Public Documents Collection. The subtitle to the webpage is "HATE CRIMES IN FLORIDA". On the webpage, listed below the title are links to access the HCFR crime report for hate crimes in Florida beginning from year 2011 through 2016. Each data report beginning from year 2011 through 2016 was accessed, printed and organized for analysis. All data collected in this study was stored and retained on a flash drive and computer hard drive.

When reviewing the HCFR for year 2017, the data reported for hate crimes extend as far back as 2002. Hate crime data in the HCFRs categorized as "Hate Crimes Comparisons by Motivation" is pertinent to this study. The categories of hate crimes by motivation include race, religion, ethnicity, sexual orientation, and mental disability. Hate crimes motivated by *sexual orientation* is appropriate for evaluating the number of anti-LGBTQ hate or bias crimes for the specified year. Data for hate crimes motivated by mental disability were insignificant and therefore excluded from this study.

Next, all the data provided in the HCFRs were compiled for years 2002-2017. Specifically, the HCFRs on hate crimes motivated by race, sexual orientation, religion, and ethnicity (*variables*) for years 2002-2017 were all compiled via accessing and printing the reports from the Attorney General's website. Once the data from the reports were collected, the data were manually entered into the Statistical Program Version R-3.4.2. This is a free program, with comparable capabilities to Microsoft Excel, that provides a wide variety of statistical (linear and nonlinear modeling, classical statistical tests, time-series analysis, classification, clustering) and graphical techniques. R, an integrated suite of software programs for data manipulation, calculation and graphical display, includes an integrated collection of intermediate tools for data analysis and graphical programs for data analysis, (R Core Team, 2018).

Once the data from the Hate Crimes in Florida Reports for years 2002-2017 were entered in the R Program, using a two sample for differences in proportions test, the objective was to examine the presence of any differences between the average predecision *percentage* (2012-2014) and the average postdecision *percentage* (2016-2017) of hate crimes motivated by race, religion, ethnicity, and sexual-orientation. The R Program facilitated the production of simple descriptive statistics, which are presented in the table. Using a two-sample difference in proportions test to conduct the statistical analyses, bar graphs were created for all study outcome variables. The difference between the overall average percentage of reported hate crimes between 2002 and 2017 and after the legislative change [postdecision (2016-2017)] was also analyzed using exact binomial tests. R Studio, R 3.4.2 was utilized for all data analyses, with statistical significance accepted at $p < 0.05$.

Data Analysis

The data collected from the Hate Crime in Florida Reports was analyzed to answer each research question in this study.

RQ 1: Is there a close temporal relationship between the legalization of same-sex marriage and hate crimes motivated by sexual orientation in Florida?

For purposes of this study, a close temporal relationship will be revealed through an increase in reported hate crime incidents occurring within one to two years of the Supreme Court decision providing marriage equality rights. Utilizing the *hate crimes motivated by sexual orientation* data collected from the HCFR, a comparison of the average percent of reported hate crimes two years after the 2015 marriage equality Supreme Court decision was compared to the average percentage of reported hate crimes three years prior to the decision (2012-2014). This research question was examined quantitatively, and a bar graph was created with the R program using the data correlating with sexual orientation-based hate crimes and plotting the overall average, or Overall Mean, for reference. Results indicating that reported hate crimes motivated by sexual orientation have increased during the two years since the 2015 marriage equality decision supports the notion that there is a close temporal relationship between the increase in hate crime incidents and the marriage equality decision.

RQ 2: Has there been an increase or decrease in hate crimes motivated by sexual orientation since the legalization of same-sex marriage in Florida?

To determine if there has been an increase or decrease in hate crimes motivated by sexual orientation since the marriage equality Supreme Court decision, a comparison of the average percentage of sexual orientation-based hate crimes predecision (2012-

2014) to the average percentage of sexual orientation-based hate crimes after the decision (2016-2017) was conducted using a difference in proportions test (before and after).

RQ 3: Is there a difference between the average percentage in hate crimes for variables including race, religion, ethnicity and sexual orientation between the three years prior to the marriage equality decision and two years thereafter?

To answer research question three, hate crime data predecision (2012-2014) for each variable (sexual orientation, race, gender, religion, and ethnicity) was compared to the average percentage of all reported hate crimes after the marriage equality decision (2016-2017) using a difference in two proportions test. Exact binomial tests were also conducted to compare the overall average percentage of reported hate crimes for each variable between 2002 and 2017 to hate crime data after the legislative change (2016-2017).

Chapter 4: Results

This study was conducted to test a claim made about a population proportion. Specifically, the goal was to determine whether there is a close temporal connection between the legalization of same-sex marriage and hate crimes motivated by sexual orientation in Florida. The presence of a close temporal connection would be revealed through an increase in reported hate crimes motivated by sexual orientation within one to two years after the legalization of same-sex marriage. This premise is based on research on the politics of violence that indicates that crimes entailing a prejudicial motive often occur in close temporal proximity to galvanizing events, such as elections or unprecedented Supreme Court decisions (King & Sutton, 2013). Hate crime data was analyzed to determine whether there has been an increase or decrease in hate crimes motivated by sexual orientation in Florida since the 2015 legalization of same-sex marriage. The average predecision *percentage* of reported hate crimes in Florida includes years 2012-2014. Years 2012-2014 represent the three years *prior* to the 2015 Supreme Court decision permitting same-sex marriages. The average postdecision *percentage* of reported hate crimes in Florida includes data from two years after the legalization of same-sex marriage (2016-2017). Hate crime data for year 2015 was not utilized in this study due to the marriage equality ruling being determined in June of 2015—nearly halfway through the calendar year.

This analysis began with compiling and organizing the secondary data from the HCFR's for year 2002-2017 in the table titled *Descriptive Statistics for Hate Crimes Comparison by Motivation by Year*. All data for the table originated from the HCFRs for years 2002-2017. Each percent indicated in the table represents the percent of the total

number of reported hate crimes for the variable indicated for said year. The rows labeled Average Predecision and Average Postdecision correlate with the years prior to the legislative change [predecision (2012 and 2014)] and subsequent to the legislative change [postdecision (2016-2017)]. The table row labeled Overall Mean Average is the difference in the overall average percentage of reported hate crimes based on motivation between the years 2002-2017. The Overall Average (2002-2017) for hate crimes motivated by race reported in Florida is 49.3%. Race is followed by hate crimes motivated by sexual orientation at 21.3%. Religion accounted for 18.5% of reported hate crimes and 8.6% of reported hate crimes in Florida were motivated by ethnicity.

Table

Descriptive Statistics for Hate Crimes Comparison by Motivation by Year

Year	Race	Religion	Ethnicity	Sexual Orientation
2002	52.6%	13.4%	14.4%	18.3%
2003	49.1%	12.4%	18.6%	20.0%
2004	56.9%	12.3%	15.3%	15.7%
2005	50.0%	13.8%	22.3%	13.1%
2006	55.2%	13.5%	11.2%	20.1%
Average (2002-2006)	52.8%	13.1%	16.4%	17.4%
2007	53.9%	14.5%	17.1%	14.5%
2008	47.3%	20.9%	12.1%	19.2%
2009	54.0%	14.2%	9.5%	22.3%
2010	46.3%	19.5%	12.7%	21.5%
2011	43.2%	20.9%	15.1%	20.1%
Average (2007-2011)	48.9%	18.0%	13.3%	19.5%
2012	54.1%	10.0%	6.5%	28.8%
2013	55.6%	11.3%	7.3%	25.8%
2014	49.3%	17.8%	9.6%	20.6%
2015	55.9%	17.6%	5.9%	20.6%

2016	40.3%	21.0%	1.6%	36.3%
2017	45.6%	27.2%	3.5%	23.7%
Average Predecision Mean (2012-2014)	53.0%	13.0%	7.8%	25.1%
Average Postdecision Mean (2016-2017)	43.0%	24.1%	2.6%	30.0%
Overall Mean Average (2002-2017)	49.3%	18.5%	8.6%	21.3%

The percentage of reported hate crimes in Florida motivated by sexual orientation, ethnicity, gender and race are displayed in separate bar graphs below indicating the three years (2012-2014) prior to and the two years (2016-2017) after the legalization of same-sex marriage. In the following section, each research question posed will be addressed in succession.

Research Questions 1 and 2:

1. Is there a close temporal relationship between the legalization of same-sex marriage and hate crimes motivated by sexual orientation in Florida?
2. Has there been an increase or decrease in hate crimes motivated by sexual orientation since the legalization of same-sex marriage in Florida?

Utilizing a two sample for differences in proportions test, after running simple descriptive statistics for hate crimes motivated by sexual orientation, the difference between the average percentage of hate crimes motivated by sexual orientation between the years prior to the legislative change [predecision (2012-2014)] and after the legislative change [postdecision (2016-2017)] was analyzed. A comparison of the average or *pre*-mean and *post*-mean data was of the utmost importance during this analysis to inquire as to whether the legalization of same-sex marriage had any temporal effect on the number of reported hate crimes based on sexual orientation in Florida.

Notice, the mean average of all subsequent figures is not longitudinal. For purposes of this study, a close temporal relationship or proximity is represented by an increase in criminal incidents occurring within one to two years after the 2015 Supreme Court decision granting marriage equality rights.

Figure 1, Percent Sexual Orientation Based Hate Crimes, contains the bar graph for hate crimes motivated by sexual orientation in Florida. The y-axis in Figure 1 provides the average percentage of reported hate crimes based on sexual orientation. The x-axis contains the predecision and postdecision years that correlates with the average percentage of reported hate crimes based on sexual orientation. Between 2012 and 2014, the average number of reported hate crimes motivated by sexual orientation was 25%. During the two years after the Supreme Court marriage equality decision, the average percent of reported hate crimes motivated by sexual orientation is 30%, indicating a 5% increase. Using a difference in two proportions test, results from a statistical analysis showed no significant difference in the average premean percentage of reported *sexual orientation*-based hate crimes from 2012 through 2014 (25%) as compared to the average post-mean from 2016 through 2017 (30%, $p = 0.526$). Based on this comparison of the predecision mean to the postdecision mean of hate crimes motivated by sexual orientation, it is apparent that although there has been a slight increase in reported hate crimes incidents, the increase is not significant. As such, the 5% increase in reported hate crimes motivated by sexual orientation in Florida after the legalization of same-sex marriage is not statistically different from the predecision years and therefore there is no temporal relationship between the 2015 legalization of same-sex marriage and the prevalence of reported hate crimes motivated by sexual orientation in Florida.

Similarly, using an exact one-sample binomial test, a comparison of the overall mean of all reported hate crimes motivated by sexual orientation between 2002 and 2017 and the postdecision years (2016-2017) was conducted to assess the current prevalence of hate crimes incidents motivated by sexual orientation (2016-2017) to the overall average of hate crimes motivated by sexual orientation (2002-2017). The overall average of hate crimes motivated by sexual orientation between 2002 and 2017 is 21%, which is depicted by the solid black line in Figure 1. Likewise, there was no significant difference in the overall average percentage of reported sexual-orientation-based hate crimes from 2002 through 2017 (21%) as compared to the average from 2016 through 2017 (30%), $p = 0.194$. Based on the comparison of the overall mean to the current prevalence of hate crimes motivated by sexual orientation, it is apparent that although there has been an increase in reported hate crimes incidents motivated by sexual orientation, the increase is slight and in alignment with hate crimes motivated by sexual orientation trends between 2002-2017.

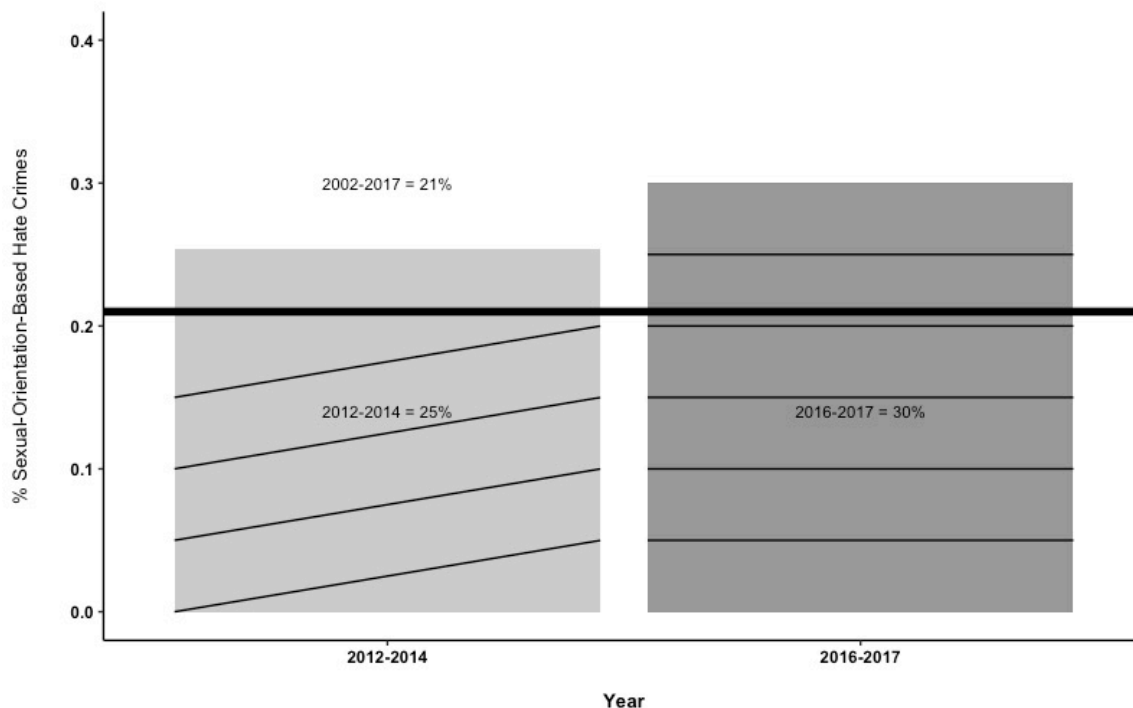


Figure 1. Percent hate crimes based on sexual orientation.

Research Question 3

3. Is there a difference between the average percentage in hate crimes for the variables race, religion, ethnicity and sexual orientation between the three years prior to the marriage equality decision and two years thereafter?

The objective here was to compare the average pre-means and post-means of all hate crime variables to assess the current prevalence of all reported hate crimes in comparison to hate crimes motivated by sexual orientation in Florida. The difference between the average percentage of hate crimes for race, religion, ethnicity, and sexual orientation between the three years prior to the marriage equality decision and two years thereafter was analyzed to use as comparison to the results obtained from reported hate crimes motivated by sexual orientation, as well as to analyze the current prevalence of all reported hate crimes in the Florida since the Supreme Court decision to legalize same-sex

marriages. Again, simple descriptive statistics were run for all study variables. Using a two sample for differences in proportions test, a comparison of the average percentage of all reported hate crimes (sexual orientation, race, religion, ethnicity) predecision (2012-2014) to the average percentage of all reported hate crimes postdecision (2016-2017) was conducted. To examine the difference in the overall average percentage of reported hate crimes between 2002 and 2017 and after the legislative decision (postdecision 2016-2017), exact binomial tests were performed for all hate crime variables. The results of the proportions tests on all hate crimes by motivation variables provides information for an exploration into whether all forms of hate crimes are increasing or decreasing and whether the results observed from hate crimes motivated by sexual orientation are unique to hate crimes motivated by sexual orientation which may be influenced by the 2015 legalization of same-sex marriage.

Figure 2 is the bar graph for reported hate crimes motivated by race. The y-axis provides the average percentage of reported hate crimes motivated by race in Florida out of the total number of reported hate crimes. The x-axis contains the predecision (2012-2014) and postdecision (2016-2017) years that correlates with the average percentage of reported hate crimes based on race. Between 2012 and 2014, the average number of reported hate crimes motivated by race was 53%. During the two years after the Supreme Court's marriage equality decision, the average percentage of reported hate crimes motivated by race was 43%, indicating a 10% decrease. Using a difference in two proportions test, results from a statistical analysis show no significant difference in the average predecision percentage of reported *race*-based hate crimes from 2012 through 2014 (53%) as compared to the average postdecision percentage between 2015 through

2017 (43%), $p = 0.202$. Based on this comparison of the predecision mean to the postdecision mean of hate crimes motivated by race, it is apparent that there was a slight decrease indicating little to no change in reported incidents motivated by race since the 2015 legalization of same-sex marriage. Additionally, when compared to the increase revealed in relation to hate crimes motivated by sexual orientation, hate crimes motivated by race have declined.

Using an exact one-sample binomial test, a comparison of the overall average of all reported hate crimes motivated by race between 2002 and 2017 and the postdecision years (2016-2017) was conducted to assess the current prevalence of hate crimes incidents motivated by race to the overall average (2002-2017). The Overall Average, or the average number of reported race-based hate crimes for years 2002-2017, is depicted by the solid black line in Figure 2 at 49%. The Overall Mean shown in Figure 2 indicates that of all the hate crimes reported between the years 2002-2017, 49% were motivated by race. Likewise, the exact binomial test revealed no significant difference in the average percentage of reported race-based hate crimes overall from 2002 through 2017 (49%) as compared to the average from 2016 through 2017 (43%), $p = 0.230$.

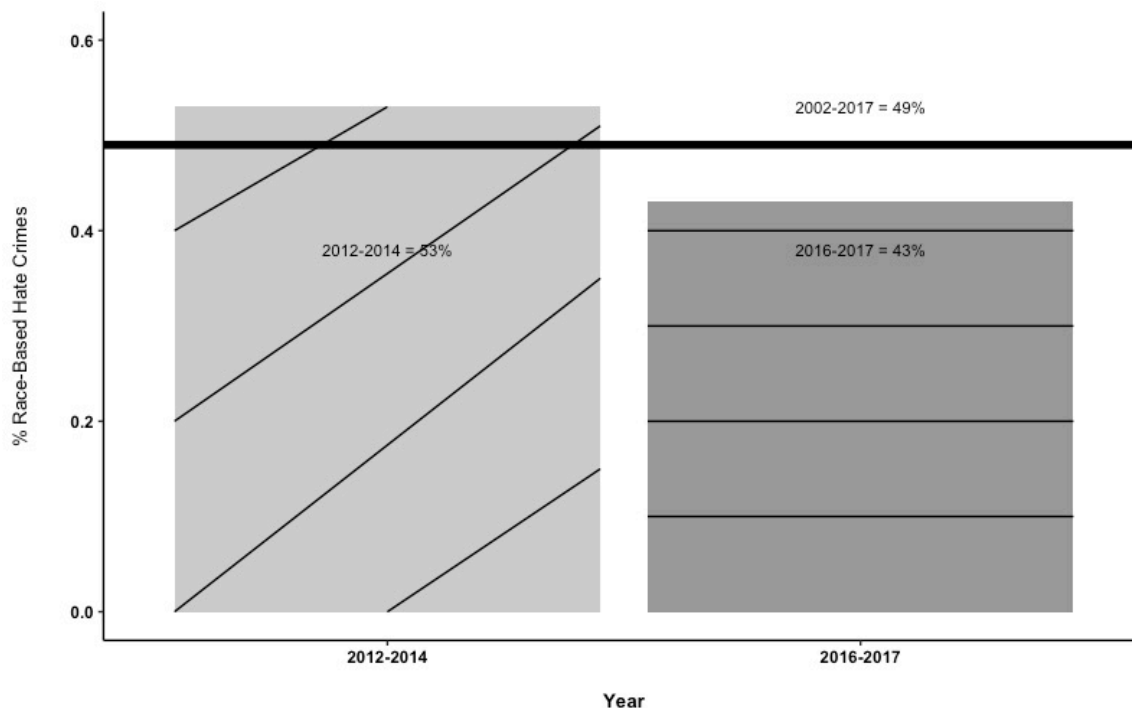


Figure 2. Percent hate crimes based on race.

Figure 3, Percent Hate Crimes Based on Religion, contains the bar graph generated by the R program after running simple descriptive statistics utilizing data collected from the HCFR. Between 2012 and 2014, the average number of reported hate crimes motivated by religion was 13%. During the two years after the Supreme Court marriage equality decision, the average percentage of reported hate crimes motivated by religion is 24%, indicating an 11% increase. Using a difference in two proportions test, results from a statistical analysis show no significant difference in the average percentage of reported *religion*-based hate crimes from 2012 through 2014 (13%) as compared to the average postmean from 2016 through 2017 (24%), $p = 0.068$. In summary, after comparing the average number of reported hate crimes motivated by religion predecision (2012-2014) versus postdecision (2016-2017), a slight increase of no significance (11%) was revealed. Similar to the 5% increase revealed in relation to hate crimes motivated by

sexual orientation, hate crimes motivated by religion have also increased during the postdecision years (2016-2017).

Employing an exact one-sample binomial test, a comparison of the overall mean of all reported hate crimes motivated by religion between 2002 and 2017 to the postdecision years (2016-2017) revealed no significant difference in the average percentage of reported religious-based hate crimes overall from 2002 through 2017 (19%) as compared to the average from 2015 through 2017 (24%), $p = 0.202$. In Figure 3, the Overall Average of hate crimes motivated by religion, depicted by the solid black line, indicates that of all the hate crimes reported between the years 2002 and 2016, 19% were motivated by religion.

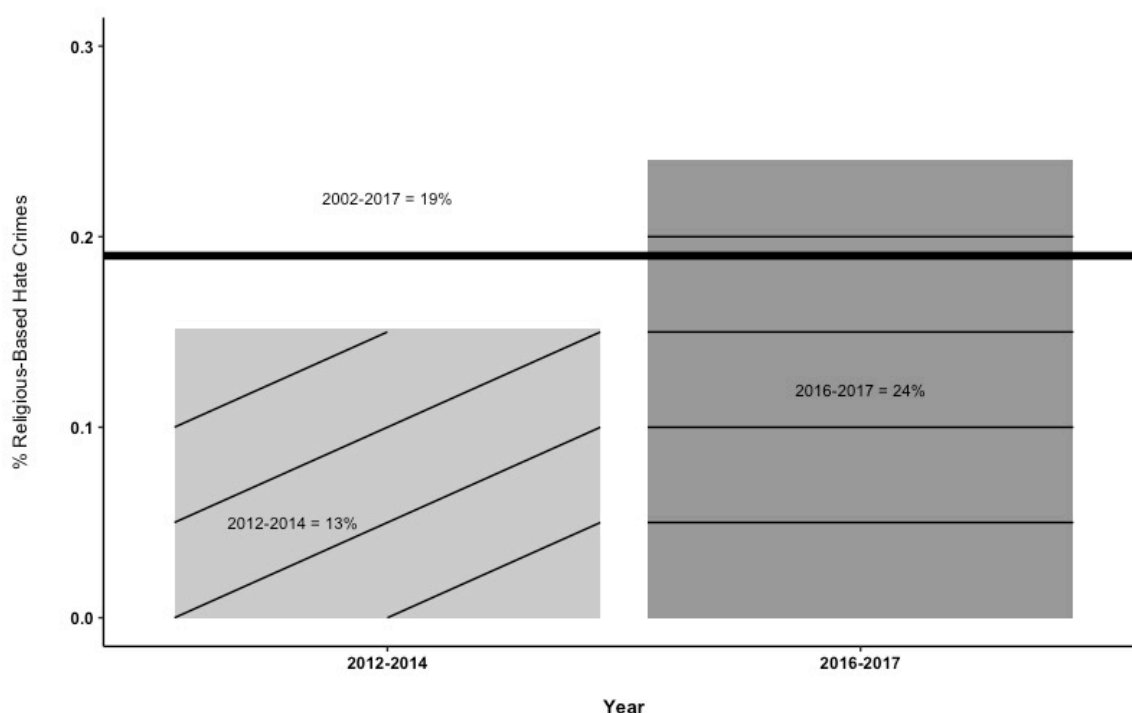


Figure 3. Percent hate crimes based on religion.

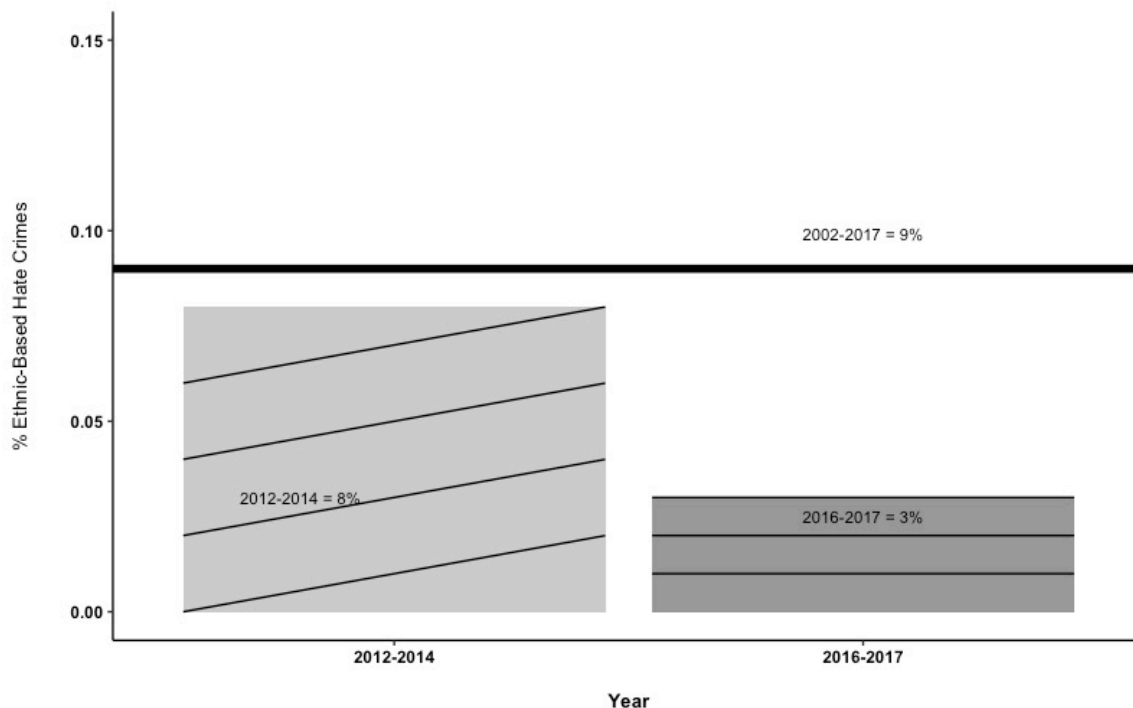


Figure 4. Hate crimes motivated by ethnicity.

Reported hate crimes motivated by ethnicity in Florida are shown in Figure 4. Between 2012 and 2014, the average number of reported hate crimes motivated by ethnicity was 8%. During the two years after the Supreme Court marriage equality decision, the average percentage of reported hate crimes motivated by ethnicity is 3%, indicating a 5% decrease. Using a difference in two proportions test, results from a statistical analysis revealed no significant difference in the higher average percentage of reported ethnic-based hate crimes from 2012 through 2014 (8%) as compared to the average from 2016 through 2017 (3%), $p = 0.214$.

Employing an exact one-sample binomial test, a comparison of the overall mean of all reported hate crimes motivated by ethnicity between 2002-2017 to the postdecision years (2016-2017) revealed a significantly higher average percentage of reported ethnic-based hate crimes overall from 2002 through 2017 (9%) as compared to the average from 2016 through 2017 (3%), $p = 0.002$, [Difference = 6%, 95% CI:1%,9%]. Based on this

analysis, this researcher is 95% confident that the true difference between the percentage of hate crimes motivated by ethnicity in Florida from 2002-2017 and 2016-2017 is between 1% and 9%. As such, it was determined that hate crimes motivated by ethnicity had a significantly higher percentage reported ethnic-based hate crimes overall from 2002-2017 (9%) as compared to the average from 2016-2017 (3%). This is depicted by the significant decreased revealed in reported ethnic-based hate crimes in the two years after the 2015 marriage equality decision.

To respond to research question 3, a comparison of the average predecision and postdecision mean of all hate crime variables was conducted to assess the current prevalence of all reported hate crimes to hate crimes motivated by sexual orientation since the marriage equality decision. Specifically, this researcher was trying to determine if the results observed regarding hate crimes motivated by sexual orientation are unique to it. Although hate crimes motivated by sexual orientation has increased during the past two years after the legalization of same-sex marriage, the increase was slight. The only other hate crime motivation that increased within the last two years was hate crimes motivated by religion. The increase of hate crimes motivated by religion was slight and not significant as well. One can conclude, that when comparing the average predecision data for all hate crime variables to the *average* postdecision, it is obvious that reported hate crimes in Florida have been fairly consistent with no significant fluctuations. This rings true for all hate crime variables except hate crimes motivated by ethnicity, which revealed a significant decreased in the past two years. This recent drop in hate crimes motivated by ethnicity deserves future exploration on possible relationships or causes. As such, the results of the data analysis herein revealed that the current slight increase in hate

crimes motivated by sexual orientation, is not unique but in fact consistent with the current prevalence of all reported hate crimes in Florida. The exception is hate crimes motivated by ethnicity which has shown a significant decrease in the two postdecision years.

Chapter 5: Discussion

The progressive changes in state and federal policies on gay and lesbian rights over the past 15 years have important consequences for the well-being of LGBTQ people. The main goal of this research was to investigate the presence of a close temporal relationship between the 2015 Supreme Court ruling legalizing same-sex marriages and the prevalence of reported hate crimes motivated by sexual orientation in Florida. This study was an examination of the potential for same-sex marriage policy externalities in the form of an increase or decrease in reported hate crimes motivated by sexual orientation. For the purposes of this study, a close temporal relationship would be revealed by an increase in hate crimes motivated by sexual orientation two years after the marriage equality decision.

Hate Crimes Motivated by Sexual Orientation in Florida

The present findings are one of the earliest inquiries into quantitative evidence that public policies on LGBTQ rights have an impact on the incidence of hate crimes based on sexual orientation. Difference in proportions testing and analysis of secondary data from the HCFRs revealed that the average percentage of hate crimes motivated by sexual orientation increased from 25% in the three years prior to the marriage equality decision, to 30% within the two years after the marriage equality decision. The 5% increase in reported hate crimes motivated by sexual orientation in Florida after the legalization of same-sex marriage is not statistically different from the predecision years and therefore it was determined that there is no temporal relationship between the 2015 legalization of same-sex marriage and the prevalence of reported hate crimes motivated by sexual orientation in Florida. Consequently, lack of temporality between the two

variables does not support the existence of any causal relationship between the legalization of same-sex marriage and the subsequent prevalence of reported hate crimes motivated by sexual orientation in Florida.

King and Sutton (2013) stated that prior work on prejudice and intergroup violence has suggested that abrupt changes in the political environment can serve as triggers of hate crime. The 1999 Vermont same-sex marriage ruling and ensuing 125% increase in reported incidents of anti-gay hate crimes by year 2000 provided prima facie support for this notion. This phenomenon was further corroborated by findings in Levy and Levy's 2016 study which revealed that the introduction of pro-equality partnership recognition policies related to sexual orientation produces a short-term increase in hate crime incidence (Levy & Levy, 2016). The results of this study were in agreement with this trend in that a short-term increase in hate crimes motivated by sexual orientation was revealed during the postdecision years. However, this change was not statistically different from the predecision years data indicating that the politically charged Supreme Court decision did not trigger an influx of hate crimes motivated by sexual orientation,

Although a 5% increase in hate crimes motivated by sexual orientation postdecision was revealed, these data do not permit any statements about causality as this would require more observations for longer periods of time. Therefore, there is not enough evidence to support even the slightest indication of backlash as a result of the legal recognition of same-sex marriages. Recall, backlash is the idea that success in policy development will cause sharp repercussions in mass attitudes by homophobic individuals who will retaliate by committing hate crimes to defend their marriage or the institution of marriage (Flores & Barclay, 2016). Court action, especially the U.S.

Supreme Court, is expected to generate the greatest amount of backlash among the public (Flores & Barclay, 2016). In fact, it has been consistently found that support for gay rights decreases in response to U.S. Supreme Court decisions (Flores & Barclay, 2016). Therefore, although negative reactions from the public after a Supreme Court decision remain a serious concern for the LGBTQ community's health, safety and welfare, this study's results cannot be interpreted as supporting a conclusion of causation due to backlash.

Although the increase in hate crimes motivated by sexual orientation was slight, the results are consistent with findings reported by Levy and Levy (2016). Levy and Levy (2016) reported that same-sex partnership recognition laws yield increases in reported hate crime incidences during the implementation year and two years following. The Supreme Court marriage equality decision was implemented in 2015. On average, during the two years after the marriage equality decision, hate crimes motivated by sexual orientation increased by 5%. However, when analyzing the data for hate crimes motivated by sexual orientation for years 2014-2017, according to the descriptive statistics in the table, the percentage of hate crimes from 2014 to 2016 increased from 20.6% in 2014 and 2015 to 36.3% in 2016. By 2017 hate crimes motivated by sexual orientation in Florida decreased to 23.7%. However, when comparing the percentage of hate crime motivated by sexual orientation between 2014 and 2017, an increase was also revealed. The 76.2% increase in average hate crimes motivated by sexual orientation from 2014 and 2016, which includes the year same-sex marriage was legalized and implemented, lends statistical support to assertions promoted by Levy and Levy that pro-equality policies represent a clear threat to institutional heterosexism and heterosexist

power which motivate homophobic individuals to commit hate crimes to defend their marriage or the institution of marriage during the implementation year (Levy & Levy, 2016). During the two years after the Supreme Court decision to legalize same-sex marriages, Florida experienced an average increase of 5% in hate crimes motivated by sexual orientation. However, this increase in hate crimes motivated by sexual orientation was slight, indicating that the results are not conclusive of any actual increase in hate crimes caused by homophobic individuals committing hate crimes motivated by sexual orientation to defend their marriage or the institution of marriage.

Pro-equality policy implementation, either from the courts or other means, may subsequently affect the attitudes of the public (Flores & Barclay, 2016). Flores and Barclay (2016) found that residents of states that had a same-sex marriage policy introduced had the greatest reduction of anti-gay attitudes (Flores & Barclay, 2016). It is their position that attitudes change over time following policy changes and that instilling greater approval towards a group creates a reduction in anti-gay attitudes (Flores & Barclay, 2016). According to Levy and Levy (2016), one indicator of improved social tolerance for homosexuality would be a reduction in hate crimes motivated by sexual orientation. However, in Florida, hate crimes motivated by sexual orientation experienced a 5% short-term increase in reported incidents two years after the legalization of same-sex marriage. These data can be interpreted to support the notion that although same-sex marriage has been legalized, social tolerance for homosexuality has not improved, resulting in an increase in hate crime incidents based on sexual orientation. The results herein also appear to support past research on the legalization of interracial marriages, which prompted significant increases in racially-motivated hate crimes.

Similar to the research questions posed herein, Levy and Levy (2016) hypothesized that the introduction of pro-equality policies, especially partnership recognition, may produce a short-term increase in hate crime incidence. Levy and Levy's (2016) study revealed that the implementation of a partnership recognition law is associated with one additional hate crime per 1.2 million people in both the implementation year and the year following implementation, as well as an additional hate crime per one million people two years following implementation (Levy & Levy, 2016). Although the cause of the increase in number of hate crimes is currently unclear, Levy and Levy (2016) posit that it is not inconceivable that partnership recognition might incite retaliatory violence. However, if the increase is due to retaliatory hate crimes, Levy and Levy (2016) expect the effect to be stronger in conservative locations given the relationship between an individual's conservative ideology and propensity to commit a hate crime (Levy & Levy, 2016). Considering the present study was conducted on hate crime data from the state of Florida, a state known for its conservative views on gay marriage, hate crimes motivated by sexual orientation in Florida after the marriage equality decision should have revealed a significant increase in reported incidents when compared to the three years preceding the decision. However, a slight average increase of 5% was revealed. This evidence suggests that Florida may no longer be considered a conservative state or that tolerance for homosexuality in Florida has improved. Both are explanations that would benefit from additional exploration in the future.

Levy and Levy (2016) posited two explanations for the short-term increase in hate crimes revealed in their study following pro-equality policies: 1) increased incidence due to perceived threat and 2) increased reporting. Research indicates that increases in gay

movement organizations results in greater reporting of hate crimes (Levy & Levy, 2016). Consequently, pro-equality policies may lead victims of hate crimes to report those crimes at increased rates; without any actual increase in hate crime occurrences, because they perceive greater social acceptance (Levy & Levy, 2016). According to Levy and Levy (2016), an increase in reporting would yield a statistical increase in incidence when an actual increase in violence may not exist (Levy & Levy, 2016). Consequently, the 5% increase in hate crimes motivated by sexual orientation two years after the 2015 legalization of same-sex-marriage may be produced by an increase in reporting rather than a spike in hate crimes committed by individuals seeking to defend the institution of marriage by retaliating against same-sex couples.

Furthermore, the FBI reports that although the numbers in hate crime incidents increased in year 2017, so did the number of law enforcement agencies reporting hate crime data—with approximately 1,000 additional agencies contributing information (2017 Hate Crime Statistics Released, 2018). Similarly, according to Florida's HCFR for year 2017, 67 agencies reported hate crimes in 2017, compared to 49 agencies that reported hate crimes the previous year (2017 Hate Crimes Statistics Released, 2018). Therefore, the increase in hate crimes motivated by sexual orientation in Florida two years after the marriage equality decision may be a result of the increase in participating Florida law enforcement agencies. Consistent with assertions made by Levy and Levy (2016), there is no way to determined definitively, in the present analysis, whether the increase in hate crimes motivated by sexual orientation in Florida is due to retaliatory violence or an increase in reporting by victims or participating agencies.

An additional explanation for the increase in hate crimes motivated by sexual orientation may be what gay rights activists have described as the 2016 presidential campaign's "all-out assault on LGBTQ people, women, and other minority communities" (Berman, 2017, p. 6). Abrupt changes in the political environment can serve as triggers of hate crime, and the 2016 presidential campaign's hate rhetoric has been touted as a motivating factor for hate groups to reemerge and reignite against minority groups. Interestingly enough, investigating the relationship between hate crime and hate groups in the United States, Ryan and Leeson (2011) discovered that hate groups, though populated by hateful people who say they are interested in harming minorities, may not commit hate crimes or convince others to do so (Ryan & Leeson, 2011). In fact, about 95% of hate crimes are committed by individuals and small groups, and not by organized groups such as the Ku Klux Klan (Donnelly, 2017). Therefore, blaming the 2016 presidential campaign hate rhetoric against the LGBTQ community as a motivating factor for hate groups to commit hate crimes against the LGBTQ community is not supported by current research. However, this explanation is worth future exploration.

According to the NCAVP's *A Crisis of Hate* report, 2017 was the deadliest year for the LGBTQ community (Waters, Pham, et al., 2017). The 2017 report also mentioned how in 2016 the total number of reports of anti-LGBTQ homicides was 77, including the 49 lives taken during the shooting at Pulse Nightclub in Orlando, Florida (Waters, Pham, et al., 2017). Although the current research was inspired in part by the Pulse nightclub shooting due to reports that the shooter's motivation was grounded in anti-LGBTQ hate, the 5% increase in hate crimes motivated by sexual orientation in Florida for 2016-2017 was not impacted by the Pulse nightclub shooting. Despite the 49 victims of the 2016

Pulse nightclub shooting, the HCFR for 2016 only reported a total of 45 incidents of hate crimes motivated by sexual orientation in Florida (2016 Hate Crimes in Florida, 2017). This discrepancy can be explained by the FBI's announcement that there was not sufficient evidence to support the conclusion that the shooter acted out of hate, despite going into a gay club and violently attacking club-goers (Goldman, 2016). Two years after the mass shooting, the shooter's motive was apparently revenge for United States bombing campaigns on ISIS targets in the Middle East (Coaston, 2018). As such, the 49 lives lost during the Pulse nightclub shooting were not reported in the HCFR as hate crimes motivated by sexual orientation in Florida during 2016.

Hate Crimes Motivated by Religion, Ethnicity, and Race in Florida

The current research revealed that overall, in Florida between 2002 and 2017, hate crimes motivated by race was the most prevalent category of reported hate crimes at 49.3%. Hate crimes motivated by sexual orientation was the second most prevalent bias category at 21.3%, followed by religion at 18.5% and ethnicity at 8.6%. These data are consistent with statements released by the FBI regarding UCR data that the most prevalent bias category was race/ethnicity/ancestry at 59.6%. The overall average of reported hate crimes in Florida, when compared to the average postdecision years, indicates no significant changes during those years. During the postdecision years, hate crimes motivated by race remained the most prevalent bias category, followed by sexual orientation, religion and then ethnicity.

The increase in hate crimes motivated by sexual orientation during the two years after the 2015 legalization of same-sex marriage is not unique. This study revealed that hate crimes motivated by sexual orientation and religion in Florida increased during the

postdecision years (2016-2017). However, data on hate crimes motivated by religion are in sharp contrast to the data on sexual orientation. According to the descriptive statistics in the table, hate crimes motivated by religion consistently increased between 2015-2017 from 17.6% in 2015, to 21% in 2016, culminating at 27.2% in 2017. Recall hate crimes motivated by sexual orientation in the postdecision years experienced a spike between 2014 and 2016 that later decreased in 2017. These data suggest that although on average hate crimes based on sexual orientation and religion increased during the postdecision years, data on reported hate crimes per year show that only hate crimes motivated by religion are actually on the rise in Florida.

On average, during the postdecision years, hate crimes motivated by race and ethnicity in Florida experienced a decrease in reported incidents when compared to the average predecision years. The table reveals that hate crimes motivated by race decreased between 2015 and 2016 from 55.9% in 2015 to 40.3% in 2016. But by 2017, hate crimes motivated by race jumped to 45.6%. Hate crimes motivated by ethnicity experienced the most significant results of a decrease of 6% in reported incidents when comparing the overall percentage during years 2002-2017 (9%) to the 3% average during the postdecision years. Similar to the results of hate crimes motivated by race, the data reveal that hate crimes motivated by ethnicity decreased between 2015 and 2016 and then increased from 1.6% in 2016 to 3.5% in 2017—a 119% increase in reported incidents motivated by ethnicity in Florida.

According to the Southern Poverty Law Center, the number of American hate groups has also increased since 2016 (Berman, 2017). Hate groups are organizations of individuals whose “beliefs or practices attack or malign an entire class of people,

typically for their immutable characteristics,” such as race or sexual orientation, but sometimes for their mutable ones, such as religious beliefs (Ryan & Leeson, 2011, p. 256). Hate groups include organizations such as the Ku Klux Klan, neo-Nazi groups, White nationalist groups, neo-Confederate groups, and Black separatist groups. There is a logical connection between hate crimes and hate groups in that an increase in hate groups may lead one to conclude that there will be an increase in hate crime incidents. The spike in reported hate crimes motivated by race and ethnicity between 2016-2017, the same time-frame in which the number of American hate groups has also reportedly increased, presents an issue ripe for future exploration.

Ryan and Leeson (2011) investigated the relationship between hate crime and hate groups in the United States and discovered that American hate groups grew significantly over the past decade. Specifically, between 2002 and 2008 the number of hate groups per capita increased 25%. However, American hate crime did not increase. Over the same period the number of hate crimes per capita decreased 1.3% (Ryan & Leeson, 2011). Ryan and Leeson (2011) determined that contrary to conventional wisdom, there is little evidence that hate groups are connected to hate crime in the United States. It was discovered that hate groups, though populated by hateful people who say they are interested in harming minorities, may not commit hate crimes or convince others to do so and therefore have little to no influence on hate crime (Ryan & Leeson, 2011). Nonetheless, this connection between increase in hate groups and increase in hate crimes warrants further investigation through a more in-depth analysis involving locations of hate crimes in comparison to locations of hate groups in America.

After conducting a difference in two proportions test and comparing the average percentage of reported hate crimes motivated by ethnicity predecision (2012-2014) to the average percentage postdecision (2016-2017), no significant difference in the higher average percentage of reported ethnic-based hate crimes from 2012 through 2014 (8%) as compared to the average from 2016 through 2017 (3%) was observed. This decrease in hate crimes motivated by ethnicity in Florida appears to run contrary to FBI hate crime data. Specifically, the number of hate crime incidents reported to the FBI increased about 17% in 2017 when compared with the previous year, according to the Uniform Crime Reporting Program's annual Hate Crime Statistics report (2017 Hate Crime Statistics Released, 2018). According to the report, the most prevalent bias category was race/ethnicity/ancestry at 59.6% (2017 Hate Crime Statistics Released, 2018). Descriptive statistics presented in the table reveal an increase from 1.6% in 2016 to 3.5% in 2017 of hate crimes motivated by ethnicity—a 119% increase. Similarly, a comparison of the percentage of hate crimes motivated by race for years 2016 and 2017 reveals an increase from 40.3% in 2016 to 45.6% in 2017. As such, combining Florida's hate crime data on race and ethnicity for year 2017 supports FBI assertions that the most prevalent bias category in 2017 was race/ethnicity/ancestry.

One explanation for the current prevalence of hate crimes motivated by race and ethnicity involves news media outlets denoting a significant increase in hate crime incidents since the 2016 presidential campaign, which was notorious for normalizing racist speech, excusing White nationalists, and equating immigrants with criminals (Donohue, 2017). During his campaign, one presidential candidate used fear of increase of crime and the promise to restore law and order as his political stance (Donohue, 2017).

In 2016, reports indicated 53% of Americans worried a great deal about crime, the highest it had been since the 9/11 terrorist attacks (Donohue, 2017). FBI Director James Comey's controversial October 2015 speech at the University of Chicago Law School initiated this inaccurate depiction of United States crime rates. Despite the fact that the 2014 murder rate was the lowest the United States had seen since 1957, Comey's speech highlighted the jump in murders that had begun earlier that year by issuing a dire prediction about an explosion of urban, Black crime enabled by the hesitance of police under pressure from the Black Lives Matter movement (Donohue, 2017). Although fear of crime rose in 2016, crime itself had declined sharply over that decade. According to the latest FBI data of 2015, since 2006, the murder rate dropped 15.5%, violent crime fell 22.3%, and property crime had fallen 25.7% (Donohue, 2017).

After Comey's speech, one presidential candidate proceeded to deliver deceptions about crime that could easily be disproved. Hinging on the race-and-crime theme, the presidential candidate tweeted a graphic entitled "USA Crime Statistics - 2015," which showed a Black man with a gun and a set of statistics stating that 81% of murdered Whites were killed by Blacks (Donohue, 2017). The number was ludicrous because murder is overwhelmingly interracial, but such claims encouraged belief in the false narrative that threats to Whites come from Black criminals. The presidential candidate's graphic cited the "Crime Statistics Bureau," a nonexistent organization (Donohue, 2017). Furthermore, in the days leading up to the election, one presidential candidate repeatedly continued to make incorrect claims about the murder rate in the United States. For example, at a campaign rally in Cedar Rapids, Iowa, on October 28, 2016, the presidential candidate announced that the United States "has the highest murder rate in

this country in 45 years. You don't hear that from new media. They don't want to talk about it" (Donohue, 2017, p. 1299).

Contrary to one presidential candidate's claims, under both the UCR and the National Crime Victimization Survey (NCVS) crime measures, the country was better off in 2015 than before Obama's presidency. From 2008 to 2015, the murder rate decreased from 5.4 murders to 4.9 per 100,000, UCR violent crime went from 458.6 to 372.6 per 100,000, and NCVS violent crime went from 25.3 to 18.6 per 1,000 persons or older (Donohue, 2017). During the 2016 presidential campaign, an era of hate has been reported to have reinforced White supremacists and other hate groups resulting in an increase in hate crime incidents all over the United States. It is not surprising that the most significant increase in reported hate crimes between 2016 and 2017 was based on ethnicity and race. The FBI reported various events that may provide an explanation as to the increase in hate crimes over the past year. Specifically, studies have shown increasing discrimination against Muslims in the United States, Jewish schools and institutions have been repeatedly targeted, and cities have struggled with how to handle White-supremacist groups seeking to hold rallies (Berman, 2017). These political events more accurately explain the spike in reported hate crimes motivated by race and ethnicity in Florida between 2016 and 2017. However, before these claims can be conclusive, a more in-depth analysis is necessary.

The FBI provided several explanations for the increase in hate crimes motivated by ethnicity and race between years 2016 and 2017. According to FBI reports, although the numbers in hate crime incidents increased in year 2017, so did the number of law enforcement agencies reporting hate crime data—with approximately 1,000 additional

agencies contributing information (2017 Hate Crime Statistics Released, 2018).

Similarly, according to Florida's HCFR for year 2017, 67 agencies reported hate crimes in 2017, compared to 49 agencies that reported hate crimes the previous year (2017 Hate Crimes Statistics Released, 2018). Furthermore, acknowledging deficiencies in consistent and accurate reporting practices among law enforcement agencies, the FBI is working with law enforcement partners across the country to provide training for law enforcement officers on how to identify bias-motivated incidents and report that data to the FBI's UCR Program. Lastly, according to the FBI, victim willingness to report may have increased (2017 Hate Crime Statistics Released, 2018).

Economic and demographic factors that may be related to hate crime include the extent of unemployment and poverty, race, and urbanism. Considering these economic and demographic factors, the *frustration–aggregation thesis* suggests that when people endure economic hardship, they get frustrated and they take their frustration out on vulnerable social groups, such as racial, sexual, and religious minorities (Ryan & Leeson, 2011). Existing empirical support for the frustration–aggregation thesis is mixed. In a study that examined the American South in the late 19th and early 20th centuries, researchers found a strong relationship between lynchings of Blacks and poor economic conditions (Ryan & Leeson, 2011). However, subsequent research showed these results to be fragile (Ryan & Leeson, 2011). No relationship was found between economic conditions and racially-motivated crime against foreigners in early 1990s Germany (Ryan & Leeson, 2011). Weak links between unemployment and assorted hate crimes in North Carolina between 1987 and 1993 were discovered (Ryan & Leeson, 2011). Additionally, no consistent relationship existed between the unemployment rate and a range of racially

motivated crimes in New York City between 1987 and 1995 (Ryan & Leeson, 2011). However, there is evidence supporting a relationship between economic factors and hate crime in the United States (Ryan & Leeson, 2011). However, evidence for the potential importance of economic factors remains weak (Ryan & Leeson, 2011).

The analysis of the current findings, coupled with Florida's economic atmosphere, does not support the contention that economic hardship may be related to its current reported hate crime rates. According to a 2016 news article, through 2019, Florida's economy is projected to expand at an average annual rate of 2.9%, outpacing the U.S. GDP's forecasted growth average of 2.3% (Skeels, 2016). The primary drivers of the Sunshine State's economic growth are rising job growth and home construction. In fact, the economy is growing so quickly that Florida faces a single-family housing shortage (Skeels, 2016). Considering Florida's current positive economic conditions, the frustration–aggregation thesis is not a viable explanation for the current prevalence of hate crimes.

The notion that demographic factors that may be related to hate crime derives from the observation that crime tends to be higher in urban areas and that potential conflicts leading to, and opportunities for, hate crime are greater in areas that have a higher concentration of socially vulnerable groups, such as racial, sexual, and religious minorities (Ryan & Leeson, 2011). This study did not consider the demographic factors of Florida in its analysis because previous researchers have determined that demographic variables are not strong predictors of hate crime in America and thus have no impact on hate crime incidents (Ryan & Leeson, 2011).

Limitations

The present research is not without its limitations. Hate crimes are notoriously difficult to count accurately (Levy & Levy, 2016). The issue of reporting bias was discussed in the Delimitations and Limitations section above. It is important to remain open to the possibility that some of the changes observed are a result of reporting practices. For instance, properly labelling a hate crime based on sexual orientation may be more difficult to identify by reporting agencies that could sometimes find it difficult to report that a hate crime was truly based on one's sexual orientation. In addition, although secondary data from the UCR and HCFR are commonly used and regarded as the best available data source, the estimates of hate crime incidence still likely suffer from significant undercount. According to Levy and Levy (2016), given that underreporting can be expected to decrease with the institution of pro-equality policies, the effect of reporting biases in data collection and accompanying hate crimes research should suppress, rather than inflate, estimated effects. In the future, representative surveys or experimentally testing reports of hate crimes would be beneficial to better quantify the extent of the problem.

Although the FBI and FDLE's statistics are among the most definitive sources on hate crimes, they are widely believed to significantly underestimate the true incidence of sexual orientation and gender identity crimes. First, participation by local law enforcement agencies is voluntary, and many of the local agencies that participate routinely report no occurrence of hate crimes in their jurisdiction. Second, to be counted, hate crimes must be detected and labeled as such by local law enforcement authorities. Many agencies have not created the necessary procedures for such detection or lack the

resources to train personnel to use them. Consequently, many incidents reported to police that might be hate crimes are never classified as such. Third, many hate crime victims never report their experience to police authorities. Although non-reporting is a problem with all crime in the United States, sexual and gender minority victims may be even less likely to report a hate crime than a non-bias crime because they fear further victimization by law enforcement personnel, or they do not want their minority status to become a matter of public record. These are the same issues presented with the use of Florida's Hate Crime Reports.

Additionally, based on the secondary data source utilized herein, there is no way to determine the specific date when each hate crime was reported for year 2015. Specifically, the HCFRs do not provide exact dates of reported hate crime incidents, only the total number of reported hate crimes for the year. This presents an issue considering the Supreme Court ruling permitting same-sex marriages was not decided until June 26, 2015- half-way through 2015. As such, any number of reported hate crimes for year 2015 could have occurred before the June 26, 2015 marriage equality decision. The consequence of this limitation is that an unknown number of hate crimes reported between January 1, 2015 and June 26, 2015 were not affected by the same-sex marriage equality decision. To address this limitation, HCFR data for year 2015 were not utilized in the comparison of the hate crimes motivated by sexual orientation for the predecision and postdecision years.

Additionally, these are aggregate data, hence we cannot examine differences across the years by specific cities or counties in Florida. An additional concern is that HCFR data are published by the State of Florida, so we must rely on their ability to

accurately collect and report the data. Based on a recent report by the U.S. Department of Justice, hate crimes are underreported. The stance is that the HCFR data is a conservative estimate of hate crimes in the Florida. As such, the year-to-year variation in reported hate crimes may not be a function of fewer hate crimes, but rather how, when, and where they are reported and recorded. It is suspected, and the research will support, that they are under-reporting these numbers. Nevertheless, this is our best estimate based on what Florida governmental agencies have provided and will utilize.

An additional concern regarding reporting bias is the issue with how the HCFR defines and reports hate crimes motivated by ethnicity and hate crimes motivated by race. The UCR has one category for hate crimes motivated by ethnicity and race labeled *Ethnicity/Race/Ancestry*. However, the HCFR has hate crimes motivated by ethnicity and race reported as separate categories. Recall, HCFR data are tabulated by FDLE and disseminated to the FBI for inclusion in the UCR. Therefore, there is a question of how the UCR reports Florida's reported hate crimes motivated by ethnicity and race when the UCR only has a single category for both motivations. This dissimilarity between the secondary data sources creates the need for more a in depth comparison of HCFR data with UCR data on hate crimes. This inconsistency in reporting also exemplifies the need for law enforcement agencies training on accurately reporting and disseminating hate crime data.

Lastly, an additional likely criticism of this research is the fact that the postdecision years (2016-2017) consists of data for only two years. Conversely, this criticism opens up future research opportunities when additional hate crime data are released for subsequent years. It is at this point that a more in-depth comparison of data

for hate crimes motivated by sexual orientation in Florida could be conducted with more years following the 2015 legalization of same-sex marriages.

The current findings add to the literature on the social production of hate crimes. The limited body of quantitative research focuses on racially-motivated bias crimes and explores economic and neighborhood transition models of causation. This study extends this literature to hate crimes committed against gays and lesbians, individuals for whom civil rights advances are relatively recent and ongoing. This work has the potential to motivate additional research, which might investigate the types of triggers that ignite hate crimes. King and Sutton (2013) found support for two triggers in their study—contentious interracial trials and lethal terrorist attacks—yet what about heinous hate crimes themselves as triggers for hate crime? Does violence beget more violence? In addition, criminologists should consider the declaration of war. Some circumstantial evidence aligns with the notion that public sentiment can be fervent and is likely fueled when those in power demonize an adversary. For instance, hate crimes targeting Arabs and Muslims increased in late March and early April 2003, which corresponds with the start of the Gulf War.

Conclusion

A 5% increase in hate crimes motivated by sexual orientation during the postdecision years after the marriage equality decision was revealed. These results were insignificant and did not support the existence of a temporal connection between the legalization of same-sex marriage and the current prevalence of hate crimes motivated by sexual orientation. The slight increase in hate crimes motivated by sexual orientation during the postdecision years lends positive statistical support to findings presented by a

recent study on same-sex partnership recognition laws which reported increases in reported hate crime incidences during the implementation year and two years following (Levy & Levy, 2016). Whether the increase is due to retaliatory violence or greater reporting cannot be determined definitively with the present analyses, but the results are suggestive of an increase in reported crimes as opposed to retaliatory violence.

Specifically, the increase in reported incidents of hate crimes may be a direct result of the recent increase in participation of Florida law enforcement agencies submitting their hate crime data for inclusion in the HCFR and UCR.

When comparing the current prevalence of hate crimes motivated by sexual orientation in Florida to the current prevalence of all hate crimes in Florida, it was determined that since the marriage equality decision, hate crimes motivated by religion and sexual orientation have experienced a slight increase in reported incidents. However, during the two postdecision years, hate crimes motivated by ethnicity decreased by 5%. Hate crimes motivated by race experienced the most substantial decrease during the two postdecision years, reflecting a decrease of 10% when compared to the predecision years' average of 53%. Conversely, when analyzing Florida's hate crime data by year during the postdecision years, hate crimes motivated by race, religion and ethnicity experienced a spike in reported incidents from 2016-2017. Hate crimes motivated by sexual orientation decreased during 2016-2017. It is speculated that the recent increase in hate groups in 2016 may provide a possible explanation for this increase in reported hate crimes motivated by race, religion, and ethnicity during years 2016-2017. This theory should be further investigated through additional research on American hate groups in relation to the location of recent hate crime incidents.

The current findings add to the literature on the social production of hate crimes. The limited body of quantitative research focuses on racially-motivated bias crimes and explores economic and neighborhood transition models of causation. This study extends this literature to hate crimes committed against gays and lesbians, individuals for whom civil rights advances are relatively recent and ongoing. As such, this work has the potential to motivate additional research to investigate the types of triggers that ignite hate crimes.

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