



A mock juror investigation of blame attribution in the punishment of hate crime perpetrators



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ABSTRACT

We examined blame attribution as a moderator of perceptions of hate crimes against gay, African American, and transgender victims. Participants were 510 Texas jury panel members. Results of vignette-based crime scenarios showed that victim blame displayed significant negative, and perpetrator blame significant positive, effects on sentencing recommendations. Also as hypothesized, victim and perpetrator blame moderated the effect of support for hate crime legislation. Interaction patterns suggested that both types of blame attribution influence sentencing recommendations, but only for participants disagreeing with hate crime legislation. Three-way interactions with victim type also emerged, indicating that the effects of both types of blame attribution show particular influences when the victim is gay, as opposed to transgender or African American. Implications for attribution theory, hate crime policy, and jury selection are discussed.

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1. Introduction

Hate crimes are a pressing matter from mental health, political and legal perspectives (Gerstenfeld, 2011). A snapshot of the critical issues linked to hate crime commission include the psychological disorders for victims (Cheng, 2004; Taylor, 2007), as well as the political and legal debate concerning the manner in which hate crime legislation is implemented (Bessel, 2010; Glaser, 2005). While legal definitions are subject to the jurisdiction in which they occur or are tried, all hate crimes generally involve hate or bias toward the victim's group status (e.g., sexual minority; Herek, 2009; Nadal & Griffin, 2011). Indeed, issues of diversity appear to be a vital element of hate crimes. Johnson and Byers (2003), for example, noted that support for penalty enhancement or hate crime laws was contingent on personal beliefs such as views toward sexual minority persons. Also, among sexual minority hate crime victims, Herek (2009) reported that 20% of sexual minority respondents experienced a crime based on their sexual orientation, and a majority of the hate crime victims identified as gay males.

The present study advances empirical attention to hate crimes by investigating the intersection of support for penalty enhancement in hate crime legislation, views of varying types of hate crime victims, and perceptions of blame attribution. As such, we review extant knowledge

about anti-gay hate crimes as groundwork for assessing perceptions of different victim types. Additionally, blame attribution theory is reviewed as a theoretical foundation for the present study.

2. What do we know about anti-gay hate crime offenders and victims?

With the passing of the Hate Crime Statistics Act in 1990, the Federal Bureau of Investigation began publishing information concerning the prevalence of hate crimes on an annual basis. This data describes the numbers of "incidents, offenses, victims, and offenders" with crimes that were provoked by a bias against the victim's "perceived race, religion, ethnicity, sexual orientation, or disability" (Federal Bureau of Investigation, 2010). According to the FBI's Uniform Crime Report, of the 6624 incidents reported in 2010, almost 20% were noted as involving sexual orientation bias, and over half of the anti-LGB offenses were against gay males (FBI, 2010). Collectively, the high frequency of hate crimes against sexual minority persons begs for further investigation into the implications for the justice system. Beginning efforts pertain to characteristics of hate crime victims and offenders.

Parrott and Peterson (2008) asserted that anti-gay aggression is facilitated by sexual prejudice, peer relationships, and thrill seeking tendencies. These factors can heavily influence perpetrators of hate crimes against sexual minorities, and the excitement of the offense could be a strong motivation. In terms of offender characteristics, Anderson, Dyson, and Brooks (2002) described hate crime offenders as having low self esteem, being socially isolated, and belonging to

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separatist groups that embrace prejudicial beliefs. Also, a growing body of literature shows anti-sexual minority hate crime offenders to be of younger age, White, male, known to the victim, and to use alcohol or drugs during the commission of such crimes (e.g., Herek, Cogan, & Gillis, 2002; Messner, McHugh, & Felson, 2004; Roxell, 2011).

Recent research addresses the distinguishing characteristics of sexual orientation-based hate crimes when compared to those committed against other minority groups. When comparing hate crimes based on sexual orientation and racial biases, Stacey (2011) concluded that sexual orientation biased crimes more often involve a variety of weapons utilized by the offender. In addition, these crimes motivated by sexual orientation bias exhibited a lower likelihood of “involving female victims or offenders, Black victims, and stranger offenders” (Stacey, 2011, p. 3025). Concerning crime severity, greater physical injury to the victim occurs for sexual minority victims (Dunbar, 2006), potentially because sexual orientation biased hate crime offenders were more likely to use weapons than racially biased hate crime offenders (Stacey, 2011). Taken together, these findings illustrate that sexual orientation biased offenders may be more violent than other types of offenders, which places sexual minority victims at greater risk of serious victimization.

Concerning victims, due to the psychological difficulties stemming from hate crime victimization (e.g., Herek, Gillis, & Cogan, 1999; Mays & Cochran, 2001), Herek, Gillis, and Cogan (2009) outlined a framework for understanding how self-stigma, or acceptance of negative views of one's sexual minority status, underlies the discrimination experience for sexual minority persons. The model holds that enacted or environmentally driven stigma is internalized by the victim, and, in turn yields negative outcomes. Applying this framework to victims of sexual orientation biased hate crimes, internalized sexual stigma results from heterosexual environmental experiences such as hate crimes, and leads to lower levels of self-esteem, higher levels of psychological distress, and little to no positive affect (Herek et al., 2009).

A related issue is the nature of hate crimes against transgender persons. Transgender identity status is often publicly misunderstood, yet is a socially and politically charged topic (Taylor, 2007). Despite the 2009 inclusion of transgender persons in the federally protected minority groups under hate crime legislation (Bessel, 2010), little is known about the perceptions of these victims in the legal system. The present study incorporates transgender victims in the design in order to contribute to a needed area of research.

3. Blame attribution: Definition and blame of victims and offenders

Blame attribution is a complex process involving both psychological and environmental factors in assigning a degree of blame to an individual. For a criminal act, the attribution of blame is identified as the way in which a person makes sense of why the offense occurred, and may function as a way of reducing anxiety and feelings of guilt for the crime (Gudjonsson, 1984). A foundational view of blame is seen in Shaver's (1985) blame attribution model which holds that the perceiver must assess the cause of the event in assigning blame; moreover, evaluation of the moral responsibility of the actor in an event occurs before arriving at a determination of blame (Shaver & Drown, 1986). Consistent with Shaver's view, empirical data demonstrates that morally-derived perceptions appear central to blame attribution (Mikula, 2003; Robbenolt, 2000). Also of note in the assessment of blame is the degree of perceived intent to do harm (Alicke, 2000; Cramer, Nobles, Amacker, & Dovoedo, 2013).

The tendency to blame a victim included in blame attribution theory encompasses the propensity that some observers have to see the victimized person as possessing a role in being victimized. One prevailing explanation for victim blaming is that attribution of blame toward the victim helps reinforce the perceiver's belief that the world is a safe, protected place, and that criminality can be controlled (Idisis, Ben-David, & Ben-Nachum, 2007). An additional attempt to explain the tendency to blame a victim is proposed by “defensive attribution” theory

(Bell, Kuriloff, & Lottes, 1994), a perspective that suggests that varying degrees of blame are attributed as a function of a perceiver's identification with the participants in the crime (Bell et al., 1994; Idisis et al., 2007). Specifically, people tend to increase the amount of blame attributed to a person with whom they perceive as different from them, and vice versa (Idisis et al., 2007).

Blame of victims and offenders functions in an array of cases, but is particularly potent in sexual assault cases where the victim is sometimes blamed for his or her victimization (Bell et al., 1994; Idisis et al., 2007; Kahn et al., 2011; Rusinko, Bradley, & Miller, 2010). However, a proclivity toward blaming the victim has been noted in hate crime situations as well. A study by Craig and Waldo (1996), for example, found that participants viewed hate crime victims as at least partially responsible for their victimization. In fact, victims of hate crime assaults are often viewed similarly to that of rape victims, in that they are frequently blamed and characterized as deserving their attack (Herek, 1994).

Within the judicial system, it is essential to understand the nuances of blame attribution toward both victims and offenders because blame judgments are likely to influence subsequent legal decisions (e.g., sentence, civil damage awards). Moreover, additional understanding of how blame is attributed by jurors in hate crimes specifically may help to shape public policy, particularly on how hate crime laws are developed, enforced, and prosecuted (Plumm, Terrance, Henderson, & Ellingson, 2010). An emerging trend in anti-sexual minority hate crimes is that blame attribution can influence, or be affected by, victim status (Cramer, Chandler, & Wakeman, 2010; Cramer, Wakeman, Chandler, Mohr, & Griffin, 2013; Lyons, 2006; Plumm et al., 2010). For instance, Cramer et al. (2010) found that perceptions of victim blame moderated the severity of punishment of an offender in an anti-gay hate crime context (compared to a control condition), although this effect dissipates in the presence of additional victim and offender demographic information. Because decreased victim blame was associated with increased offender punishment, it is plausible that this pattern offers preliminary evidence that victim blame is a significant aspect of mock juror decisions.

It is equally important to consider both the perpetrator and the victim when examining the blame attribution process in legal settings. Rayburn, Mendoza, and Davison (2003) found that bystanders blamed victims of hate crimes less and viewed perpetrators of hate crimes as more blameworthy than in non-hate crimes. However, blame toward the offender did not moderate the assignment of the death penalty among undergraduate mock jurors (Cramer et al., 2010). Overall, attribution theory may aid in the understanding of punishment of hate crime offenders when considering how favorable perceptions (i.e., low blame) toward the victim tend to result in harsher consequences for the perpetrator (Cramer et al., 2010). Therefore, attribution of blame (whether it is in favor of the victim or the perpetrator) may be an important moderating mechanism for increased punitive action toward hate crime perpetrators.

4. The present study

The present study extends current knowledge of hate crime support and blame attribution by examining perceptions of perpetrator and victim blame as moderators of the impact of victim type (i.e., gay, transgender, or African American) and penalty enhancement support (i.e., yes/no) on sentencing recommendations, which is assessed as years in prison. For the sake of ease, we refer to hate crime penalty enhancement support as *hate crime support* throughout the duration of the manuscript.

H1. We hypothesized that perceptions of victim blame would display a significant negative, and perpetrator blame would display a significant positive, effect on length of sentencing recommendation.

H2. We hypothesized significant three-way interactions between blame attribution, victim type, and hate crime support. That is, we

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