

# **POLICE JUDGMENTS OF CULPABILITY AND HOMOPHOBIA**

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This study (a) presented 152 Texas police officers with a scenario in which the sexual orientation of a criminal suspect was manipulated (b) assessed homophobia in this sample, and (c) examined the relationship between homophobia and the officers' judgments of the suspect's culpability. Although the officers were no more likely to report that they would arrest a gay suspect than a heterosexual suspect, those who read a scenario with a gay suspect were more likely to indicate that they thought he should be convicted than those presented with a heterosexual suspect. In general, the officers in our study endorsed homophobic attitudes and those officers who reported higher levels of homophobia were more likely to think that the gay suspect should be convicted.

Although considerable psychological research on legal decision making has focused on juries, less attention has been paid to decisions that are made in the earlier stages of legal proceedings.

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Studies focusing on extra-legal factors that influence police officers' decision making may be especially important because (a) police officers may detain citizens without formally arresting them (Walker, 1993), (b) most criminal proceedings begin when a police officer arrests a suspect, (c) officers often have considerable discretion about whether to make an arrest (Kleinig, 1996), (d) officers can encourage or discourage victims from pressing charges (Walker, 1993), and (e) through their testimony before grand juries and petit juries, police officers play an important role in determining whether a defendant is indicted and convicted.

Much of the police discretion literature has focused on the conditions that permit discretion and on the question of whether police discretion is desirable. In a seminal paper on police discretion, J. Goldstein (1960) noted that for a variety of reasons, budgetary, personnel, and even investigative (e.g., shielding an informer from arrest), full enforcement of the law is not realistically possible. Similarly, Dow (1981) has noted that there simply are not enough police officers to patrol the community enforcing every law in existence, and even if there were, the courts and the prison system could not manage the massive influx of offenders. Reiman (1996) has argued that police discretion is not justified because by conflating legislative, judicial and executive power it becomes a threat to liberty. In contrast, Herman Goldstein (1993) has argued that realistic, publicly discussed guidelines about arrest decisions could "substantially improve the quality of [police] performance" (p. 58).

Even if full enforcement is not practically possible, most would agree that police discretion is problematic if it is applied in a manner that discriminates improperly. McGregor (1996) has observed "differential treatment of members of minority groups is probably the largest area of abuse of police discretion" (p. 58). Given concerns about racial profiling, it is not surprising that much of the extant research on bias and extra-legal variables in the exercise of police discretion has focused on racial factors. There is some evidence suggesting that police officers are more likely to arrest African American suspects than White suspects. For example, Stradling, Tuohy, and Harper (1990) asked police

officers to read a vignette where a motorist had been stopped for exceeding the speed limit. The officers were given a list of 40 items and asked to indicate how much each item would influence their decisions whether to arrest the individual. Consistent with concerns that the police may engage in racial profiling and target African Americans for “driving while black,” they found that ethnic qualities associated with African Americans were some of the most influential items. Similarly, Powell (1990) found that officers who read a vignette that manipulated the race of the suspect were more punitive to African American suspects than Caucasian suspects.

However, researchers have yet to examine whether there is a similar bias against homosexual suspects. Although sexual orientation is not visibly apparent in the same way that race or ethnicity may be, there is considerable concern within the gay and lesbian community about police bias. For example, because they are concerned that the police will not take their complaints seriously and may even respond with hostility, gay men and lesbians often do not report hate crimes (Berrill, 1993) and are less likely to report hate crimes than nonbias crimes to the police (Herek, Gillis, & Cogan, 1999). Burke (1996) noted that many gay men and lesbians have negative impressions of police officers because they associate officers with harassment and abuse. Arnott (2000) reported that during interviews with police officers the officers reported a variety of homophobic attitudes and misconceptions (but unfortunately he did not report any summary statistics on the prevalence of homophobia among the officers he interviewed). Some have observed that the police themselves may act as perpetrators of anti-gay violence (Comstock, 1991; Nardi & Bolton, 1991). Furthermore, because homophobic attitudes are more prevalent and socially acceptable than racist attitudes (e.g., Kite, 1994), officers may be more willing to express and act on these attitudes when using their discretion.

Despite concerns that police officers may be biased against gay men and lesbians, there has been surprisingly little empirical research examining this topic. There is evidence that college student law enforcement majors are more homophobic than prelaw

or paralegal majors (Olivero & Murataya, 2001), but we could not find any published study in which actual police officers completed a measure of homophobia. In fact there was only one study that attempted to address this issue with a sample of police officers. Because of concerns that officers might not respond to same sex domestic violence in the same way that they respond to heterosexual domestic violence, Younglove, Kerr, and Vitello (2002) provided officers with vignettes in which they varied the gender and sexual orientations of the couples. They found no differences in the officers' responses regardless of whether the couple was heterosexual, gay, or lesbian. However, the officers were never asked about their own attitudes toward gay men and lesbians, nor were they asked how they themselves would handle the situation. Instead the respondents indicated how they thought the officers on the scene would respond (e.g., "How likely is an arrest to be made by the police officers," p. 767) and how the members of the couple would behave (e.g., "How likely is the couple to seek counseling?" p. 767). Therefore, it is difficult to know whether these null findings are "reasons for cautious optimism" (p. 760).

Like the Younglove et al. (2002) study, we also provided police officers with scenarios in which we varied the sexual orientation of the suspect. However, unlike their study, we asked the officers to indicate how they would respond to the situation themselves. More importantly, the participants in this study also completed a standard measure of homophobia, which allowed us to examine the relationship between the officers' reported homophobic attitudes and the way in which they reported they would respond to the case. The primary aim of the present study was to examine whether the officers' responses would vary depending on the sexual orientation of the suspect. To simplify the design and analyses, these vignettes were limited to male suspects (heterosexual and gay). Although it would have been valuable to have also examined responses to lesbian suspects, because gay men are usually rated more negatively than lesbians (e.g., Herek, 2002a), we anticipated that we were more likely to find bias with male suspects.

Because police officers' attitudes towards homosexuality have not been assessed in prior studies, a secondary aim of this study was to examine whether police officers endorse homophobic attitudes and to examine whether homophobia in police officers is related to any demographic variables. Polls of the general population have found that negative attitudes toward gay men, lesbians, and bisexuals are associated with lower levels of education, increased age, frequent religious attendance, and living in rural communities (e.g., Herek, 1994; Herek, 2002b; Plugge-Foust & Strickland, 2000; Yang, 1998).

## METHOD

### *Participants*

The participants were 152 self-reportedly heterosexual Texas police officers (141 men and 11 women). The proportion of men and women in our sample (93% and 7%, respectively) roughly parallels the proportion of men and women in law enforcement statewide (90% and 10%, respectively; Federal Bureau of Investigation, 2003). The officers had come from throughout the state to attend specialized training on leadership and management for police chiefs and commanders at a police command college. During the course of the scheduled training, a brief announcement was made inviting them to participate in the study. A regularly-scheduled break was extended to allow the participants time to complete the study.

The officers ranged in age from 26 to 67 ( $M = 44.7$ ,  $SD = 9.6$ ), with an average of 19.0 years of police experience (ranging from 2 to 45 years). Most participants were White (81%), with 7% Black, 11% Hispanic, and the remaining participants either indicating "other" or omitting this item (1%). These proportions appear to be similar to nationwide figures (77%, 12%, 8%, and 3% for White, Black, Hispanic, and Other, respectively; Bureau of Justice Statistics, 2003). Most of the officers were married ( $n = 128$ ), 16 were divorced or separated, 2 widowed, and 6 were single. Twenty-eight officers were employed in urban departments, 53 in suburban departments, and 68 in rural departments.

*Procedure*

After giving informed consent and completing a demographic questionnaire, the participants read one of two fictitious incident reports. These reports were loosely based on Kohlberg's (1981) Heinz scenario, in which a defendant has been arrested for stealing an unaffordable drug cocktail from a drugstore to save his dying partner. In the scenario, the suspect is caught trying to steal the drugs by the owner of the drugstore, who serves as the complaining witness. The suspect explains that although the drugs only cost the owner \$200, the owner has kept secret how the drugs should be combined and charges \$2,000 for the cocktail. The suspect also reports that he had raised \$1,000 to buy the drugs, but the owner refused to sell them to him. In one condition, the defendant's partner was his wife ( $n = 71$ ) and in the other it was his male domestic partner ( $n = 81$ ). The participants indicated whether they thought the defendant did the right thing by breaking into the store, whether he had a duty to do so, and whether he should be (a) arrested, (b) indicted, and (c) convicted.

Finally the participants completed the 10-item Attitudes Toward Gay Men (ATGM) subscale of the Attitudes Toward Gays and Lesbians Scale (ATGLS; Herek, 1994). Participants read a series of statements (e.g., "Male homosexuality is a perversion") and used a 9-point scale to indicate their level of agreement (-4 = strongly disagree to 4 = strongly agree). Scores can range from -40 to 40, with positive scores indicating homophobic attitudes and negative scores indicative of less biased attitudes. Three of the items are reverse scored. The ATGM subscale was internally consistent in this administration ( $\alpha = .92$ ).

## RESULTS

*Demographic Variations in Homophobia*

Overall, based on their scores on the ATGM subscale ( $M = 12.1$ ,  $SD = 15.6$ ), the officers tended to endorse homophobic statements. However, level of reported homophobia varied depending on the type of community in which the officer worked. Participants from rural departments reported considerably higher

levels of homophobia ( $M = 16.8$ ,  $SD = 16.4$ ), than did officers from suburban ( $M = 8.8$ ,  $SD = 13.8$ ) or urban ( $M = 7.9$ ,  $SD = 14.5$ ) departments,  $F(2, 139) = 5.30$ ,  $p < .01$ ,  $MSE = 229.2$ ; responses by officers from suburban departments were not significantly different from responses by officers from urban departments. Homophobia was not significantly related to the participants' age ( $r = .00$ ,  $ns$ ), level of education ( $r_s = -.12$ ,  $ns$ ), or income ( $r = -.10$ ,  $ns$ ). However, homophobia was related to religiosity. Participants who indicated that they attended religious services more frequently also endorsed more homophobic attitudes ( $r_s = .30$ ,  $p < .001$ ). The homogeneity of our sample (i.e., mostly White men), did not allow us to examine racial or gender differences in homophobia.

#### *Judgments of Morality and Culpability*

Virtually all of the participants (96%), regardless of the experimental condition indicated that they did not think that the defendant should have broken into the drugstore. A similar percentage of the participants in the condition in which the defendant was gay (90%) indicated that they did not think that the defendant had a duty to steal the drug for his partner. However, when asked whether they would steal the drug to save their spouse's life, 34% of participants in all conditions indicated that they would.

The vast majority of the officers believed that the defendant should be arrested (82.1%) and this belief did not vary with the defendant's sexual orientation,  $\chi^2(1, N = 145) = .12$ ,  $ns$ . Similarly, there were no differences in the proportion of participants who believed that the defendant should be indicted (86%) relative to his sexual orientation,  $\chi^2(1, N = 145) = .47$ ,  $ns$ . In contrast, only 72% of the officers indicated that the defendant should be convicted, and the ratio of officers who thought that the defendant should or should not be convicted varied depending on the defendant's sexual orientation,  $\chi^2(1, N = 145) = 4.01$ ,  $p < .05$ . Thus, whereas 64% of the officers who read about the heterosexual defendant indicated that he should be convicted, 79% of those who read about the homosexual defendant thought that he should be convicted. Finally, only 19% of the participants believed that the defendant should receive the maximum sentence for his crime, and

this belief was also not related to the defendant's sexual orientation,  $\chi^2(1, N = 134) = .29, ns$ .

We performed a direct logistic regression analysis with decision to convict as the outcome<sup>1</sup> and (a) ATGM scores, (b) experimental condition, and (c) the interaction between ATGM scores and experimental condition as three predictors. Compared to a constant-only model, the full model with all three predictors was statistically significant,  $\chi^2(3, N = 133) = 11.25, p = .01$ , however, the model accounted for only a modest amount of variance in the decision to convict with Nagelkerke  $R^2 = .12$ . Table 1 reports the regression coefficients, Wald's statistics, and odds ratios for the three predictors. Consistent with the aforementioned chi-square tests, the defendant's sexual orientation reliably predicted whether officers thought that he should be convicted,  $z = .445, p < .05$ . However, more interesting was the interaction between defendant sexual orientation and ATGM scores. This interaction can be understood by examining the point-biserial correlations between ATGM scores and decision whether the defendant should be convicted (dummy-coded with 0 = acquit and 1 = convict) for the officers in each of the two

**Table 1.**  
Logistic Regression Analysis of Decision to Convict as a Function of Defendant Sexual Orientation (DSO) and Respondent Homophobia

Variable	B	Wald Test	Odds Ratio	95% Confidence Interval for Odds Ratio	
				Upper	Lower
DSO <sup>a</sup>	.43	4.45*	1.54	2.30	1.03
ATGM	.14	.45	1.15	1.73	.76
DSO X ATGM	.51	6.02*	1.67	2.51	1.11
(Constant)	.93	20.75			

*Note.* Decision to convict was dummy-coded with 0 = acquit and 1 = convict. DSO = Defendant Sexual Orientation; ATGM = Attitudes Toward Gay Men.

<sup>a</sup> DSO was dummy-coded with 1 = heterosexual defendant and -1 = homosexual defendant.

\*  $p < .05$ .

<sup>1</sup>Because there was so little variability in the officers' judgments about whether the suspect should be arrested, it would not have been meaningful to examine the relationship between homophobia and the decision to arrest.

conditions. In the heterosexual defendant condition there was no relationship between homophobia and the officers' opinions about whether the defendant should be convicted,  $r(57) = -.17$ , *ns*. In contrast, in the homosexual defendant condition, officers who were more homophobic were more likely to believe that the defendant should be convicted,  $r(74) = .26$ ,  $p < .05$ .

## DISCUSSION

This study (a) assessed homophobia in a convenience sample of Texas police officers, (b) presented the officers with a scenario in which the sexual orientation of a criminal suspect was manipulated, and (c) examined the relationship between homophobia and the officers' judgments of the suspect. As far as we can tell, this study was the first to assess homophobia in a sample of police officers. Given concerns about and distrust of the police within the gay and lesbian community (e.g., Berrill, 1993; Burke, 1996; Herek, Gillis, & Cogan, 1999), we were surprised to see that most claims about anti-gay bias among officers have been based on anecdotal reports.

In general, the officers in our study endorsed homophobic attitudes. It could be argued that because there is evidence that in the United States anti-gay prejudice is highest in the South (e.g., Herek, 2002b), the officers' responses simply reflected community values. The problem with this argument can be seen by considering the officers' responses to item 2 of the ATGM scale--"I think male homosexuals are disgusting." The average response to this item was +0.64, with 32% of the officers' agreeing or strongly agreeing with this statement. Substitute Blacks, Jews, or any other minority group for "homosexuals" in this statement and it would be clearly troubling to find 32% of officers who have been sworn to uphold the rights of all citizens endorsing such a bigoted statement about a substantial group of them. We encourage researchers in other jurisdictions studying bias among law enforcement officers to administer the ATGLS or similar instruments to police officers in other localities to see whether such biased attitudes are widespread.

As in polls of the general population, there was a significant relationship between church (virtually all of the participants were Christian) attendance and homophobia in our sample of police officers. A number of authors have noted that conservative Christianity has actively encouraged homophobia (e.g., Berliner, 1987; Lugg, 1998) and the relationship between religiosity and homophobia is a robust one that has been replicated frequently (e.g., Herek 1994; Plugge-Foust & Strickland, 2000). Also consistent with findings from the general population, officers in rural communities reported more homophobic attitudes than those from urban or suburban regions. In fact, the officers from rural areas produced ATGM scores that were roughly twice as high as those from urban or suburban communities. In recent years there has been a small but growing literature examining the experiences of gay men and lesbians in rural communities and although these papers have not explicitly discussed police issues, a continuing theme throughout these papers has been concern about conservative anti-gay sentiment in rural regions (e.g., Boulden, 2001; Smith, 1997). Unlike prior studies of the general population, we did not find any relationships between homophobia and either age or education level. Greater professional homogeneity (all the respondents were police officers) may account for these null findings.

For those concerned that homophobic attitudes may influence police officers' behavior, the officers' responses to the vignettes are open to a glass half full or half empty interpretation. On the one hand, there was no indication that the police officers would be more likely to arrest the gay defendant than the heterosexual defendant or to think that he should be indicted. This finding is important because it is at the level of arrest that police officers have the most discretion. However, this finding is limited by two characteristics of the vignettes that may have restricted the officers' discretion: the seriousness of the charge (i.e., a second degree felony) and the presence of a complaining witness. The seriousness of the crime and the complainant's preference for an arrest are two of the primary factors that determine whether a suspect will be arrested (Gottfredson & Gottfredson, 1988; Powell, 1990). Thus, it may not be surprising that a large majority of

officers indicated that they would arrest the suspect regardless of his sexual orientation.

Although the sexual orientation of the suspect did not appear to influence the officers' judgments about arrest and indictment, the officers were more likely to believe that the defendant should be convicted if he stole the drug for his male partner than if he did it for his wife. Although it is judges and juries who decide whether a defendant is convicted, the arresting officer will almost certainly testify during the trial and his or her level of certainty about the defendant's guilt may very well influence the trier(s) of fact. Interestingly the relationship between homophobia and desire to convict was specific to the homosexual defendant condition. It was not the case that more homophobic officers were simply more punitive and conviction prone, because there was no relationship between ATGM scores and decisions to convict in the heterosexual defendant condition. Thus, officers who were more disapproving of homosexuality were more likely than officers who were less disapproving of homosexuality to want the homosexual defendant convicted. It is possible that these results may partly be due to our having conducted the study in Texas, which until recently struck down by the Supreme Court (*Lawrence v. Texas*, 2003), had sodomy laws that specifically criminalize homosexual activities (Texas Penal Code, 2002).

#### *Limitations and Future Research*

Perhaps the most obvious limitation of the present study is that it was restricted to a convenience sample of Texas law enforcement officers. The officers who participated however, came from around the state and represented urban, suburban, and rural agencies. Along these lines, the officers in our sample seem to be similar demographically to the population of police officers statewide and nationally. Still, future research in other states using a similar approach will be necessary to determine whether officers in other jurisdictions hold similar attitudes. Any such studies, like the one reported here, will be limited in their generalizability because of the difficulties in making inferences about behavior from attitudes (Fishbein & Ajzen, 1975).

The vignette for the present study was inspired by Kohlberg's (1981) classic research on moral judgments. However, as previously noted, a burglary under the circumstances presented is a second degree felony and using such a serious crime may have restricted the officers' discretion. Future research examining less serious crimes, in which there may be greater police discretion, will be necessary to provide a more complete determination of whether a suspect's sexual orientation influences police officers' self-reported intentions to arrest. Perhaps a future study using a vignette in which the suspect has purchased marijuana for his terminally ill partner might further illuminate the relationship between homophobia and police discretion as would studies involving vignettes depicting lesbian suspects. Studies involving large enough samples of women police officers would also allow comparisons for possible gender differences in attitudes toward gay and lesbian suspects.

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