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# Gay and Lesbian Individuals' Attitudes Toward the Death Penalty: An Exploratory Study of the Roles of Empathic Concern and Political Beliefs

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## Abstract

Research examining attitudes toward the death penalty has led to a variety of theoretical and practical implications that continue to inform both research and policy. While many studies have examined how race, class, and gender are related to attitudes toward the death penalty, there is a complete lack of literature regarding sexual orientation and attitudes toward the death penalty. This is quite surprising since demographic research suggests that gay and lesbian individuals (compared to heterosexual individuals) have significantly higher levels of education and may be much more likely to align with liberal politics (two things that have been found to be correlated with a lack of support for the death penalty). Furthermore, studies suggest that gender differences in attitudes toward capital punishment can be related to the fact that women are socialized to be more empathic than men; however, it is unclear how these gender differences in empathic concern may be related to death penalty attitudes among gay and lesbian individuals. In this exploratory analysis using the General Social Survey (years 2002 and 2004), the authors investigate gay and lesbian individuals' attitudes toward the use of the death penalty. Preliminary findings indicate that similar to heterosexuals, the majority of gay and lesbian individuals support the death penalty; however, being a gay man exerts a significant negative effect on death penalty support. Furthermore, both empathic concern and political beliefs entirely mediate the effects of gender and sexual orientation on attitudes toward the death penalty.

## Keywords

death penalty attitudes, gay, lesbian, gender, empathic concern, political beliefs

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Public opinion polls and attitudinal surveys have consistently shown that the majority of the adult American population supports capital punishment<sup>1</sup> (e.g., Cullen, Fisher, & Applegate, 2000; Soss, Langbein, & Metelko, 2003). While some suggest that support for the death penalty is related to several factors including gender, race, political beliefs, religious fundamentalism, government trust, education, and income (e.g., Messner, Baumer, & Rosenfeld, 2006; Peffley & Hurwitz, 2002; Soss et al., 2003; Unnever & Cullen, 2006), there is a complete lack of research regarding gay and lesbian individuals' attitudes toward the death penalty. Indeed, a review of the literature indicates that virtually no empirical studies to date have explored sexual orientation as it pertains to public opinion, especially as it relates to views toward the death penalty. This is quite surprising since demographic research suggests that gay and lesbian individuals may have significantly higher levels of education (Barrett, Pollack, & Tilden, 2002) and may be much more likely to align with liberal politics (Bailey, 1998; Hertzog, 1996; Smith & Haider-Markel, 2002), two qualities that have been found to be highly correlated with a lack of support for the death penalty (see Applegate, Cullen, Fisher, & Vander Ven, 2000).

In the current research, we use the General Social Survey (GSS; years 2002 and 2004) to explore gay and lesbian individuals' attitudes toward the use of the death penalty for murderers. Below, we discuss the importance of understanding gay and lesbian individuals' attitudes while also highlighting studies that have explored gender and death penalty support. We also provide support for hypothesizing a relationship between sexual orientation and attitudes toward the death penalty utilizing empathic concern and political beliefs as important constructs. Specifically, the purpose of the current project is twofold: (1) to provide an exploratory examination of the relationship between sexual orientation, empathic concern, and attitudes toward the death penalty and (2) to call for future research in this area. Although we acknowledge, there are limitations of the current project, we believe that an exploratory analysis of this type introduces important relationships that deserve attention in future research.

## Gay and Lesbian Individuals' Attitudes Toward the Death Penalty

With nearly 9 million adult Americans identifying as gay, lesbian, or bisexual (Gates, 2011), we argue that understanding gay and lesbian individuals' attitudes toward the death penalty is important for two reasons. First, it is essential that gay and lesbian individuals are represented in public opinion studies about the death penalty and death penalty laws because currently, they are a silenced minority population when it comes to death penalty issues. Second, it is important that attorneys involved in jury selection processes (i.e., voir dire, the questioning of prospective jurors) consider the significance of understanding gay and lesbian individuals' perspectives about the death penalty. Below, we outline these two arguments.

First, many researchers have acknowledged the power of public opinion and its link to death penalty policies (e.g., McGarrell & Sandys, 1996). Indeed, Sharp (1999) notes that public opinion can have a considerable effect on policy initiatives, especially in the case of laws and policies about capital punishment. Since *Trop v. Dulles* (1958), courts in the United States have relied heavily on levels of public support of the death penalty when making decisions about capital punishment (McGarrell & Sandys, 1996). As a result, there has been great interest in the examination of correlates of death penalty attitudes (e.g., Cullen et al., 2000; Soss et al., 2003). Indeed, researchers have established patterns regarding the relationship between certain characteristics and death penalty support. For example, men are more likely to support the death penalty when compared to women (Stack, 2000), those in the south are more supportive of the death penalty than those in other regions of the United States (Borg, 1997), and Whites are more likely to support the death penalty when compared to African Americans (Soss et al., 2003). Furthermore, Finckenauer (1988) notes that public support for the death penalty may be related to personality characteristics including racial prejudice, which

can have a very real impact on White support for capital punishment and a lack of support of the death penalty among non-Whites. Thus, previous research has acknowledged the importance of understanding how certain characteristics may be related to death penalty support.

While such research is quite informative, attitudes of gay and lesbian individuals are missing from these studies. This may be especially problematic due to the significance of understanding minority perspectives in death penalty cases. For example, previous research has established the importance of understanding race, racial tolerance, and racial prejudice as an important area of research regarding attitudes toward the death penalty (e.g., Barkan & Cohn, 1994; Cochran & Chamlin, 2006; Finckenauer, 1988; Unnever & Cullen, 2007a, 2007b, 2010). Such previous studies are grounded in the idea that racial minorities may be viewed differently by different groups and this may affect decision making in death penalty cases, thus, it is important to understand how race, racial tolerance, and racial prejudice affect attitudes toward capital punishment. We suggest that this is also an important argument in death penalty cases involving gay and lesbian individuals. For example, since gay and lesbian individuals are a minority population, gay and lesbian defendants may be viewed as deviant and may be more likely to receive death penalty sentences (Howarth, 2008; Mogul, 2005). Indeed, Shortnacy (2001) argues that pervasive homophobia can “culminate in the real possibility that homosexual defendants found guilty of heinous crimes may receive the death penalty, as opposed to life sentences, because of their status as homosexuals” (p. 317). Further, in her interpretation of the 2002 execution of James Neill, a gay man convicted of four murders in 1984, Howarth (2008) suggests that there may be systematic homophobic bias built into the judicial system: “Sentencing a person to death because of moral distaste for homosexuality is itself morally reprehensible, but current capital doctrine permits and perhaps even encourages such results” (p. 43). In addition, gay and lesbian defendants who do not fit the heteronormative stereotypes of what it means to be a man or woman, may be at risk for receiving death penalty sentences (Mogul, 2005). So while some may argue that a gay or lesbian sexual orientation may “seal a defendant’s fate” (Goldstein, 2001), it is currently unknown how gay and lesbian individuals may make decisions in capital punishment cases. Much like it is important to understand gender and race differences in attitudes toward the death penalty, it is also important to understand gay and lesbian individuals’ attitudes toward the death penalty. Without understanding this population’s attitudes toward the death penalty, gay and lesbian individuals could remain a silent minority population with no voice in capital punishment decision making and thus, no visibility in public opinion studies of death penalty attitudes.

Second, gay and lesbian individuals are a growing minority population in the United States (D’Emilio, 1998; Gates, 2011), and much like many other minority populations, gay and lesbian individuals are underrepresented in juries and thus, underrepresented in death penalty decision-making processes (Eisemann, 2001). As researchers note, minority populations rarely represent a majority of the members on a jury, thus, the concept of “majority rule” usually means “White *heterosexuals* rule” (Eisenberg, Garvey, & Wells, 2001; Mogul, 2005). Thus, gay and lesbian individuals are an invisible population within juries and their attitudes about the death penalty are currently unknown. Lynd (1998/1999) notes that the absence of gay and lesbian individuals on juries may have a very real impact on court decisions. He cites the notorious Harvey Milk murder case in which the controversial twinkie defense<sup>2</sup> was used to dwindle down a first-degree murder case (with a possible death penalty sentence) to two voluntary manslaughter convictions (with a sentence of less than 8 years in prison). Because Harvey Milk was a national leader in the gay rights movement and the first openly gay elected official in the nation and because no openly gay or lesbian jurors served on the jury, some critics believe that if gay and lesbian individuals were allowed to serve on the jury, Harvey Milk’s killer might have received the death penalty (Lynd, 1998/1999). However, the issue of inquiring about potential jurors’ sexual orientations during voir dire remains quite controversial (see Eisemann, 2001) and furthermore, gay and lesbian individuals’ attitudes about the death penalty

are currently unknown. Thus, any predictions about how the presence of gay and lesbian individuals on the jury would have affected the outcome of the Harvey Milk jury trial are speculative.

With the recently created Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, a federal law that protects those from hate crimes motivated by a victim's actual or perceived gender, sexual orientation, gender identity, or disability (Public Law No. 111-84, 2009), juries are likely to be asked to pass judgment about crimes related to sexual orientation. As with all cases, trial attorneys want to "stack" the jury in ways they will be most beneficial to their desired outcome of the trial. Since lawyers have the ability to challenge or "strike" potential members of the jury peremptorily, which requires no justification, attorneys are free to select and remove potential jury members during voir dire based on whatever evidence they see fit as long as the peremptory challenge is not based solely on race and/or gender (Hastie, 1990/1991). While The Supreme Court's decision in *Batson v. Kentucky* (1986) prohibits against race-based peremptory challenges and *J. E. B. v. Alabama* (1994) prohibits peremptories based on gender, The Supreme Court has not officially included sexual orientation as a protection in *Batson* challenges (Barry, 2001). This may be especially significant because Hastie's (1990/1991) review of several studies that utilized mock jury trials to estimate the effectiveness of attorney-conducted voir dire found that a small but significant portion (about 10%) of the variation between jurors in verdict preferences can be predicted from the background characteristics, attitudes, and personality traits of individual jurors. Since attorneys can rely on these same traits to select and remove potential jury members during voir dire, it is reasonable to conclude that attorneys have some power to "stack" the jury to their liking based on information about potential jury members garnered through voir dire (Hastie, 1990/1991). As a result, in order for the voir dire process to ensure the selection of an impartial jury, trial lawyers must understand gay and lesbian individuals' attitudes toward the death penalty so that their decisions during voir dire can be well informed and the integrity of the trial court system can be maintained.

## The Role of Empathic Concern in Attitudes Toward the Death Penalty

### *Gender, Empathic Concern, and Attitudes Toward the Death Penalty*

Most research shows that men tend to be more supportive of the death penalty compared to women (Applegate et al., 2000; Unnever & Cullen, 2005; Whitehead & Blankenship, 2000; Young, 1992). Researchers have theorized that women are less likely to support the death penalty because they are less punitive and more caring than men (e.g., Cochran & Sanders, 2009). For example, Stack's (2000) exploration of gender-specific models predicting death penalty support indicates that punitiveness predicts support of the death penalty among men but not among women. Researchers posit that gender differences in punitiveness and caring capacity may be related to differential gender socialization (e.g., Bohm, 1991; Gelles & Strauss, 1975; Stack, 2000). Since women are socialized to be more caring, nurturing, and empathetic than men, they may also be less likely to support punitive sanctions (i.e., capital punishment).

Gilligan's (1982) research on gender provides support for this contention. Her work outlines different approaches to morality and decision making for men and for women. In short, her research suggests that men are socialized to have a stronger orientation toward justice (i.e., ethic of justice), while women are socialized to have a more cultivated ethic of care. Similar to Gilligan's (1982) ethics of care and of justice, Noddings (1984) views justice-based approaches to decision making as masculine and suggests that feminine caring should be "rooted in receptivity, relatedness, and responsiveness" (p. 2).

Ethics of care research may have a direct impact on the ways that men and women view capital punishment. Since men are more focused on justice, obeying the rules, and excluding the wrong, bad, and different (Gilligan, 1982; Noddings, 1984; Worthen, 1997), they may be more likely to

support the death penalty. In contrast, women may be less likely to support the death penalty because they are focused on care, concern for people, compassion, empathy (i.e., the drive to identify another person's emotions and thoughts and to respond to these with an appropriate emotion, Baron-Cohen, 2002, p. 248), and the desire to do least harm (Gilligan, 1982; Noddings, 1984; Worthen, 1997). As Cochran and Sanders (2009) note: "This ethic of care may be the strongest and most well developed theoretical basis for accounting for the gender gap in death penalty support" (p. 526).

There is some empirical support for these ideas. For example, several researchers hypothesized that caring for others and a general altruistic perspective may contribute to lower levels of death penalty support (Applegate et al., 2000; Unnever, Cullen, & Bartowski, 2006). Specifically, Unnever, Cullen, and Fisher (2005) found that empathetic Americans were significantly less likely to support the death penalty in their study using 2002 GSS data. In addition, Cochran and Sanders (2009) examined the gender gap in death penalty support and found that the main effect of gender on capital punishment support could be effectively eliminated by empathic concern. Thus, empathy fully accounted for the gender gap in death penalty in their study using 2002 GSS data (Cochran & Sanders, 2009). Such previous findings suggest that empathy may be an important predictor of death penalty attitudes.

### *Sexual Orientation, Empathic Concern, and Attitudes Toward the Death Penalty*

While past research provides some implications for understanding the relationship between gender socialization and death penalty support, it is unknown how such gender socialization processes may be related to gay and lesbian individuals' attitudes toward capital punishment. Since studies suggest that women are less punitive and more empathetic than men, this could also mean that lesbians are less likely to support the death penalty when compared to both gay men and heterosexual men. However, research exploring caregiving in lesbian and gay families suggests that both gay and lesbian individuals are extremely likely to take on caring and nurturing positions within their families (Carrington, 1999). The roles within lesbian and gay families are blurred and the traditional "female as nurturer/caregiver" role is no longer based on biological sex. As a result, both gay and lesbian individuals are more likely to experience less restrictive sex roles when compared to heterosexuals. Such findings suggest that the gender differences in death penalty support that have been explained by gender socialization processes where heterosexual men and women are typified as polar opposites (i.e., punitive vs. caring) may not be applicable to gay and lesbian individuals.

For example, gay and lesbian individuals' attitudes toward the death penalty may be related to an ethic of care that is not "gendered" in the ways that previous researchers have suggested (i.e., man vs. woman). Instead, the caring perspectives found to be related to a lack of death penalty support may be related to a general empathic perspective that may be more common among certain groups. In other words, the punitive versus caring dichotomy presented in previous research to explain gender differences in death penalty support may be less about gender differences and more about differences in empathy and caring capacity. Indeed, empathic concern has been found to fully account for the gender gap in death penalty support (Cochran & Sanders, 2009). Further empirical research suggests that women exhibit higher levels of empathy compared to men (e.g., Baron-Cohen, Richler, Bisarya, Gurunathan, & Wheelwright, 2003; Klein & Hodges, 2001). Studies also show that gay men report similar levels of empathy when compared to heterosexual women and higher levels of empathy than heterosexual men (Baron-Cohen et al., 2003; Sergeant, Dickins, Davies, & Griffiths, 2006). Additional research indicates that lesbian women report higher capacities for mutual empathy and empathic attunement when compared to gay men and heterosexual men and women (Connolly & Sicola, 2006; Mencher, 1990). Such findings suggest that gay and lesbian individuals may be more empathetic than heterosexual men and these higher levels of empathic concern may be related to low levels of death penalty support among gay and lesbian individuals.

## Political Beliefs and Attitudes Toward the Death Penalty

In addition to the role of empathic concern, political beliefs may be related to gay and lesbian individuals' attitudes toward the death penalty. A large body of research has shown that political beliefs are significantly linked to attitudes about capital punishment. Studies have repeatedly found that those who identify as politically conservative are more likely to favor the use of the death penalty (Applegate et al., 2000; Barkan & Cohn, 1994; Borg, 1997; Stack, 2000; Unnever & Cullen, 2005, 2007a; Unnever, Cullen, & Fisher, 2005; Unnever, Cullen, & Roberts, 2005; Young, 1992). Thus, it is reasonable to assume that political conservatives are likely to support the death penalty.

### *Political Beliefs, Sexual Orientation, and Attitudes Toward the Death Penalty*

Few studies have investigated the political attitudes and perspectives of gay and lesbian individuals (Rayside, 1998; Smith & Haider-Markel, 2002). Historical research demonstrates that gay and lesbian politics were synonymous with protest politics until the 1990s, since gay and lesbian politics have historically been aligned with the gay liberation movement, lesbian feminism, and HIV/AIDS awareness (Hertzog, 1996). The current political climate is flooded with issues related to gay and lesbian individuals. Republican/conservative opposition to same-sex marriage, the (very recent) decision to allow gay and lesbian individuals to serve openly in the military, and the suggestion that gay and lesbian individuals are an attack on "traditional family values" can make it difficult to support Republican candidates if you support gay and lesbian rights (Brewer, 2003). Indeed, research shows that Democrats are far more supportive of pro-gay and pro-lesbian initiatives when compared to Republicans (Lublin, 2005). Since conservative political beliefs are often anti-gay and anti-lesbian, it could be suggested that gay and lesbian individuals are more likely to align with liberal politics than conservative politics. Indeed, studies (Bailey, 1998; Hertzog, 1996) of gay and lesbian individuals' political participation (although not necessarily representative of the entire gay and lesbian population) show that gay and lesbian voters have historically supported liberal political candidates: "The most consistent pattern among [lesbian, gay, and bisexual] voters is that they tend to vote for Democratic candidates" (Smith & Haider-Markel, 2002, p. 131). As a group, lesbian and gay voters were two and a half times more likely to be registered Democratic rather than Republican in 1998 (Bailey, 1998) and in 2006, lesbian and gay voters remained distinctively Democratic with 52% of identifying as Democrats, only 17% as Republicans, and 32% as independents (Egan & Sherrill, 2006).

Gay and lesbian voters have also been found to have more liberal attitudes toward capital punishment. In a study of the 1990 U.S. national exit polls, the majority (63%) of heterosexuals supported the death penalty for those convicted of first degree murder, while gays and lesbians were split in their decision (42% supported the death penalty, while 42% supported life without parole; Hertzog, 1996). Hertzog (1996) suggests that gays and lesbians are an oppressed social minority and this may affect their voting behavior (in keeping with the liberal/democratic lean of other minorities such as African Americans). Indeed, studies show that even controlling for a variety of characteristics, the sexual orientation of voters has a significant influence on voting behavior and party affiliation (Bailey, 1998; Hertzog, 1996; Smith & Haider-Markel, 2002). As a result, the political affiliation of gay and lesbian individuals may be influential toward politicized issues, including the death penalty.

## Education, Income, and Attitudes Toward the Death Penalty

General patterns in previous research show that those with greater levels of education are less supportive of capital punishment (Applegate et al., 2000; Britt, 1998; Soss et al., 2003),<sup>3</sup> while those with higher levels of income are more supportive of capital punishment (Baumer, Messner, &



Rosenfeld, 2003; Unnever & Cullen, 2007b; Unnever et al., 2006). Such findings suggest that both education and income may be important predictors of attitudes toward capital punishment.

### *Education, Income, Sexual Orientation, and Attitudes Toward the Death Penalty*

A few recent studies provide a useful overview of education and income levels of gay and lesbian individuals in the United States. In their review of findings from the United States Census, the GSS, and the National Health and Social Life Survey, Black, Gates, Sanders, and Taylor (2000) found that gay and lesbian individuals were more highly educated than heterosexuals and that this difference could not be attributed to fathers' education levels (see also Barrett et al., 2002; Billy, Tanfer, Grady, & Klepinger, 1993; Laumann, Gagnon, Michael, & Michaels, 1994; Michael, Gagnon, Laumann, & Kolata, 1994). In terms of income levels, investigators have uncovered some interesting findings. Some research indicates that incomes for gay and lesbian individuals are higher than national averages (Badgett & Williams, 1992). However, Black and colleagues (2000) found that partnered gay men earned substantially less than married heterosexual men, while lesbian women earned substantially more than heterosexual married women. Still, more research suggests that households headed by gay men have higher household incomes than other types of households (Barrett et al., 2002). Overall, it is likely that gay and lesbian individuals occupy a unique status in the United States, however, it is unclear how education and income may be related to gay and lesbian individuals' attitudes toward the death penalty.

### **Other Background Variables and Attitudes Toward the Death Penalty**

There are several other background variables that have been found to be associated with attitudes toward the death penalty. Those in the south are more supportive of the death penalty than those in other regions of the United States (Borg, 1997) and those in rural areas are more likely to support capital punishment when compared to those in urban areas (Sampson & Bartusch, 1998; Unnever et al., 2005). In addition, Whites are more likely to support the death penalty when compared to African Americans (Soss et al., 2003; Young, 1992) and Hispanic individuals (Zeisel & Gallup, 1989). Finally, research indicates that age is related to death penalty attitudes with younger less likely to support the death penalty when compared to older adults (Stack, 2000).

### **Current Study: Gay and Lesbian Individuals' Attitudes Toward the Death Penalty**

Findings from past research suggest that those with higher levels of empathy, those with more liberal political beliefs, and those with higher levels of education report less support for the death penalty. Limited research reviewed above also suggests that many of these characteristics associated with opposition to the death penalty can be found among gay and lesbian individuals (e.g., Black, Gates, Sanders, & Taylor, 2000; Connolly & Sicola, 2006; Smith & Haider-Markel, 2002). We argue that the relative minority status of gay and lesbian individuals in society may allow them to have a unique vantage point. Accordingly, gay and lesbian individuals may be more likely to (1) have higher levels of empathic concern (see Baron-Cohen et al., 2003; Connolly & Sicola, 2006; Mencher, 1990; Sergeant et al., 2006), (2) hold liberal political views (see Bailey, 1998; Hertzog, 1996; Smith & Haider-Markel, 2002), (3) have higher levels of education (see Barrett et al., 2002; Billy et al., 1993; Black et al., 2000; Laumann et al., 1994; Michael et al., 1994), and thus, may have less support toward the use of the death penalty. Specifically, we offer the following hypotheses:

*Hypothesis 1:* Gay and lesbian individuals will be less likely to support the death penalty compared to heterosexuals.

*Hypothesis 2:* Lesbian women will be least supportive of the death penalty compared to both gay men and heterosexuals.

*Hypothesis 3:* Empathic concern and political beliefs will completely mediate the effects of sexual orientation on attitudes toward the death penalty.

## Method

### Data

The data for this project are derived from the 2002 and 2004 GSS distributed by The National Data Program for the Sciences at the University of Chicago (Davis & Smith, 2009). The GSS is widely recognized as an excellent resource for nationally representative data regarding social and political trends and is the second most popular resource for information in the social science, just behind the United States Census. The GSS uses a full-probability sampling of households so each United States household has an equal probability of being included. Most GSS data are collected through face-to-face interviews, although computer-assisted personal interviewing began in 2002. While the GSS data are collected most years, this project will only utilize data from the years 2002<sup>4</sup> and 2004 since the scale used to construct empathic concern was only asked during these years of data collection. The total sample size includes 2,649 respondents: 1,207 (45.6%) heterosexual men, 1,345 (50.8%) heterosexual women, 59 (2.2%) gay men, and 38 (1.4%) lesbian women.

### Measurement of Variables

*Dependent variable.* A dichotomous variable measuring support of the death penalty was utilized as the dependent variable for this project. Respondents were asked the following question: “Do you favor or oppose the death penalty for persons convicted of murder?” Responses were (0) *Oppose* and (1) *Favor*. This construct has received some criticism. For example, research shows that when respondents are offered an alternative sentence (such as life without parole) support for the death penalty lessens (Bowers, Vandiver, & Dugan, 1994/1995; Dieter, 1993). Thus, the wording of survey questions inquiring about death penalty support may affect how individuals respond to them (McGarrell & Sandys, 1996). Contrary to some scholars’ criticisms, however, many authors have identified this question as a salient measure to explore death penalty support (Barkan & Cohn, 1994; Baumer et al., 2003; Borg, 1997; Cochran & Chamlin, 2006; Messner et al., 2006; Stack, 2000; Unnever & Cullen, 2006, 2007b; Unnever et al., 2005; Unnever et al., 2006; Young, 1992). Indeed, Soss, Langbein, and Metelko (2003) state “At present, however, research indicates only that question wording affects estimates of *overall* support; no evidence so far has suggested that such wording effects alter the correlates of support” (p. 407). Thus, although we acknowledge the limitations of the GSS measure of death penalty opinion, we feel that it is valid in the current exploratory analysis.

*Independent variables.* The major independent variable of interest for this project is sexual orientation. Unfortunately, the GSS did not begin collecting data about sexual orientation until 2008. In the 2008 GSS, there were 33 persons who identified as “gay,” “lesbian,” or “homosexual.” Since this number is entirely too small to yield significant results in regression analyses and since the empathic concern measures we are interested in for the current analyses were not asked in 2008, we chose to work with a less than perfect measure of sexual orientation. Beginning in 1991, the GSS included a question that can be used as a proxy for sexual orientation. Respondents were asked the following



question, "Have your sex partners in the last five years been...?" Response options were exclusively male, both male and female, and exclusively female. We defined respondents as "gay man" for those who were coded as male and who also responded that their sex partners have been exclusively male in the past 5 years. We defined respondents as "lesbian woman" for those who were coded as female and who also responded that their sex partners have been exclusively female in the past 5 years. Recognizing that the sex of one's sex partners does not necessarily define an individual as a gay man or lesbian woman (e.g., Wolitski, Jones, Wasserman, & Smith, 2006; Young & Meyer, 2005), we acknowledge that this measure is certainly not an ideal assessment of sexual orientation. However, we hope that this limited measure will spark interest in this subject and pave the way for future studies that allow for better conceptualizations of sexual orientation and attitudes toward the death penalty.

The *Empathic Concern scale* ( $\alpha = .73$ ) was created through combining seven measures of empathic concern that have been identified as The Davis Empathic Concern scale, a subscale of The Interpersonal Reactivity Index (Davis, 1980, 1983), also seen in previous research (Cochran & Sanders, 2009; Smith, 2003; Unnever et al., 2005). The Davis Empathic Concern scale assesses the tendency to experience feelings of sympathy and compassion for unfortunate others (Davis, 1980, 1983). Principal-component factor analytic results concluded that there was one common factor among these variables (eigenvalue = 2.75), demonstrating further support for the combined measure. Respondents were asked how well seven statements described themselves on a 5-point scale (ranging from *Does not describe very well* to *Describes very well*). A complete description of each statement can be found in Appendix A along with the results of the factor analysis for the construction of the *Empathic Concern scale*.

Political beliefs were measured through one variable created from responses to the following question, "We hear a lot of talk these days about liberals and conservatives. I'm going to show you a seven-point scale on which the political views that people might hold are arranged from *extremely liberal*—point 1—to *extremely conservative*—point 7. Where would you place yourself on this scale?" Response options were (1) *extremely liberal*, (2) *liberal*, (3) *slightly liberal*, (4) *moderate*, (5) *slightly conservative*, (6) *conservative*, and (7) *extremely conservative*.

**Background variables.** To estimate education level, respondents were asked to report how many years of schooling they completed. For the variable *Years of School Completed*, response options ranged from (0) *no formal schooling* to (20) *8 years of college*. *Total Family Income* was created through asking respondents "In which of these groups did your total family income, from all sources, fall last year before taxes, that is?" Response options ranged from (1) *under \$1,000* to (12) *\$75,000 and over*. Respondents were also asked their date of birth which was recoded into actual age. The region of the interview was coded as (1) for the variable *Southern Region* for interviews that took place in the South, and all others were coded 0. *Rural* was coded as (1) for interviews that took place in rural counties having no towns of 10,000 or more and all others were coded as (0). Respondents were asked "What race do you consider yourself?" Response options were "White," "Black," and "Other." Dummy variables were created for each race variable. For the regressions, "White" was the reference category. Hispanic ethnicity was also included: respondents answering "not Hispanic" were coded as (0) while others were coded as (1).

## Method of Analysis

As the dependent variable is dichotomous and nominal (*support of death penalty* = 0 or 1), logistic regression procedures were utilized to estimate the effects of the predictive variables on attitudes toward the death penalty. Results for the logistic regression models are presented with both coefficients and odds ratios that indicate the change in the likelihood of support of the death penalty, given

a one unit change in an independent variable, holding constant the other independent variables. Three models were created in which variables were entered in a stepwise fashion. First, gender/sexual orientation variables (heterosexual males were the reference category) and controls were explored in Model 1. In Model 2, the *Empathic Concern scale* was added. The full model, Model 3, includes the addition of political beliefs. We utilize stepwise models to illustrate the effects of gender/sexual orientation on attitudes toward the death penalty and the mediating effects of empathic concern and political beliefs.

## Results

### Descriptive Statistics

Table 1 provides the descriptive statistics of the total sample ( $n = 2,649$ ) and by gender and sexual orientation for all variables used in the models. It is important to acknowledge that although the sample includes a small number of non-heterosexuals (gay men [ $n = 59$ ]; lesbian women [ $n = 38$ ]), the percentage of non-heterosexuals in the current study (3.7%) closely approximates the estimated percentage of non-heterosexuals living in the United States (3.5%; Gates, 2011). In Table 1, the first thing to note is that support of the death penalty was found to be significantly higher among heterosexual men compared to heterosexual women, gay men, and lesbian women. Such results indicate that there are significant differences in death penalty support by both gender and sexual orientation. These findings only partially support our first hypothesis and do not provide support for our second hypothesis. While gay and lesbian individuals were found to have lower levels of support of the death penalty compared to heterosexual men, they were not found to have lower levels of support compared to heterosexual women. In addition, lesbians were not found to be less likely to support the death penalty compared to gay men and heterosexuals, contrary to our second hypothesis. The second important finding to note in Table 1 can be found in the results for the *Empathic Concern scale*. Surprisingly, the results for the *Empathic Concern scale* are not entirely in the expected directions. While heterosexual males had significantly lower levels of empathy compared to heterosexual women and gay men, levels of empathy were lowest among lesbian women and highest among heterosexual women. This is certainly an unexpected finding and suggests that there may be some important differences between lesbian women and heterosexual women in terms of empathy levels. The third significant finding from Table 1 is that gay and lesbian individuals are much more likely to be liberal in their political beliefs compared to heterosexuals. More descriptive statistics can be found in Table 1. Correlations between all variables can be found in Table 2.

### Logistic Regression Results

Table 3 provides the logistic regression results for the models predicting support of the death penalty. In the baseline model, Model 1, being a gay man has a significant negative effect on death penalty support, with gay men .41 times less likely to support the death penalty compared to heterosexual men. While the findings for lesbian women are not significant at the  $p < .05$  level, they are in the expected direction. In addition, being a heterosexual woman significantly decreases the odds of death penalty support by .24 times. Many of the background control variables were found to be significant in Model 1 and operated in the expected directions, however, age and other race were not found to be significant in Model 1.

In Model 2, the *Empathic Concern scale* was added. The gender/sexual orientations variables are no longer significant predictors of death penalty support while the *Empathic Concern scale* has a negative and significant effect on support of the death penalty. Results from this model show that adding in the measures of empathy completely mediate<sup>5</sup> the effects of gender/sexual orientation

**Table 1.** Descriptive Statistics by Gender and Sexual Orientation

Range	Total Sample (n = 2,649)			Heterosexual Men (n = 1,207)			Heterosexual Women (n = 1,345)			Gay Men (n = 59)		Lesbian Women (n = 38)				
	M	Median	(SD)	M	Median	(SD)	M	Median	(SD)	M	Median	M	Median	(SD)		
Support of death penalty	0-1	.69	1.00	(.46)	.76 <sup>ab</sup>	1.00	(.43)	.62 <sup>c</sup>	1.00	(.49)	.59 <sup>c</sup>	1.00	(.50)	.60 <sup>c</sup>	1.00	(.51)
Empathic Concern scale	7-35	27.98	28.00	(4.83)	26.63 <sup>ab</sup>	27.00	(4.73)	29.15 <sup>c,d</sup>	30.00	(4.58)	28.97 <sup>c,d</sup>	29.00	(4.94)	25.33 <sup>ab</sup>	26.00	(5.97)
Political Beliefs (Liberal-Conservative)	1-7	4.17	4.00	(1.40)	4.22 <sup>bd</sup>	4.00	(1.38)	4.15 <sup>b,d</sup>	4.00	(1.38)	3.57 <sup>b,c</sup>	4.00	(1.66)	3.43 <sup>b,c</sup>	3.00	(2.24)
<b>Background variables</b>																
Years of school	0-20	13.50	13.00	(2.98)	13.59	14.00	(3.13)	13.43	13.00	(2.84)	13.86 <sup>d</sup>	14.00	(2.45)	12.53 <sup>b</sup>	12.00	(3.36)
Total family income	1-12	7.79	9.00	(3.57)	8.26 <sup>ad</sup>	9.00	(3.46)	7.37 <sup>b,c,d</sup>	8.00	(3.60)	8.55 <sup>a,d</sup>	9.00	(3.60)	5.46 <sup>ab</sup>	5.00	(3.80)
Age	18-89	46.18	44.00	(17.29)	45.36	44.00	(16.88)	46.97 <sup>d</sup>	45.00	(17.70)	45.03	44.00	(14.97)	41.80 <sup>c,d</sup>	41.00	(14.59)
Southern Region	0-1	.37	0	(.48)	.38	0	(.48)	.36	0	(.48)	.38	0	(.49)	.27	0	(.46)
Rural	0-1	.12	0	(.33)	.12	0	(.33)	.12 <sup>d</sup>	0	(.32)	.08 <sup>d</sup>	0	(.28)	.27 <sup>b,c</sup>	1.00	(.46)
White	0-1	.81	1.00	(.40)	.82	1.00	(.38)	.79	1.00	(.41)	.89 <sup>a</sup>	1.00	(.31)	.80	0	(.41)
Black	0-1	.13	0	(.33)	.10 <sup>a</sup>	0	(.30)	.16 <sup>b,c</sup>	0	(.36)	.11	0	(.31)	.20	0	(.41)
Other race	0-1	.07	0	(.25)	.08 <sup>ab,d</sup>	0	(.27)	.05 <sup>c,d</sup>	0	(.23)	.00 <sup>a,c</sup>	0	(.00)	.00 <sup>a</sup>	0	(.00)
Hispanic	0-1	.07	0	(.26)	.08 <sup>ad</sup>	0	(.27)	.06 <sup>b,c,d</sup>	0	(.24)	.14 <sup>d</sup>	0	(.35)	.00 <sup>ab</sup>	0	(.00)

Note. *t* test results: Means are different from <sup>a</sup>heterosexual women, <sup>b</sup>gay men, <sup>c</sup>heterosexual men, and <sup>d</sup>lesbian women at the *p* < .05 level.

**Table 2.** Correlations of Variables

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1. Support of death penalty	–															
2. Lesbian women	–.01	–														
3. Gay men	–.02	NA	–													
4. Heterosexual female	–.14***	NA	NA	–												
5. Heterosexual male	.15***	NA	NA	NA	–											
6. Empathic Concern scale	–.09***	–.04*	.02	.25***	–.26***	–										
7. Political beliefs	.16***	–.04*	–.05**	–.02	.03	.00	–									
8. Years of school	–.04***	–.02	.01	–.03	.03	.03	–.04	–								
9. Total family income	.08***	–.05*	.02	–.13***	.13***	.02	.05*	.40***	–							
10. Age	.01	–.02	–.01	.05*	–.05*	.09***	.11***	–.12***	–.01	–						
11. Southern region	.03	–.02	–.01	–.02	.02	.05**	.11***	–.07***	.07**	.02	–					
12. Rural	.07***	.03	–.01	.00	.00	.02	.06***	–.12***	–.07***	.05*	.05*	–				
13. Black	–.21***	.02	–.01	.09***	–.09***	–.02	–.04*	–.11***	–.19***	–.09***	.18***	–.03	–			
14. White	.18***	–.00	.03	–.04*	.04*	.05*	.06**	.09***	.16***	.16***	–.10***	.07***	NA	–		
15. Other race	.00	–.02	–.03	–.04*	.05**	–.05*	–.04*	.00	–.00	–.15***	–.08***	–.07***	NA	NA	–	
16. Hispanic	–.06**	–.02	.03	–.04*	.04*	–.03	–.04*	–.08***	–.03	–.15***	–.04*	–.08***	–.08***	–.16***	.37***	–

Note. "NA" denotes a correlation that is "not applicable" due to the mutually exclusive categorical construction of sexual orientation and race. For example, the correlation between lesbian woman and gay man was not provided here because they are mutually exclusive categories (i.e., a person could not identify as both a lesbian woman and a gay man). \**p* < .05. \*\**p* < .01. \*\*\**p* < .001.

**Table 3.** Weighted Logistic Regression Results Predicting Support of Death Penalty

	Model 1			Model 2			Model 3		
	$\beta$	(SE)	Odds Ratio	$\beta$	(SE)	Odds Ratio	$\beta$	(SE)	Odds Ratio
<b>Gender/Sexual Orientation</b>									
Lesbian Women	-.32	(.60)	.73	-.44	(.61)	.64	-.54	(.66)	.58
Gay Men	-.53	<b>(.39)</b>	<b>.59*</b>	-.47	(.39)	.62	-.37	(.39)	.69
Heterosexual women	-.28	<b>(.10)</b>	<b>.76***</b>	-.20	(.10)	.82	-.18	(.10)	.83
<b>Beliefs</b>									
Empathic Concern scale				-.05	<b>(.01)</b>	<b>.96***</b>	-.04	<b>(.01)</b>	<b>.96***</b>
Political beliefs							.23	<b>(.04)</b>	<b>1.26***</b>
<b>Background Variables</b>									
Years of Schooling	-.08	(.01)	.92***	-.08	(.02)	.92***	-.07	(.02)	.93***
Total family income	.05	(.01)	1.05***	.05	(.02)	1.05***	.05	(.02)	1.05**
Age	-.00	(.00)	1.00	-.00	(.00)	1.00	-.01	(.00)	1.00
Southern region	.31	(.04)	1.36**	.34	(.10)	1.40***	.25	(.11)	1.29*
Rural	.37	(.06)	1.44*	.38	(.16)	1.47*	.35	(.16)	1.42*
Black	-1.44	(.05)	.24***	-1.47	(.15)	.23***	-1.46	(.15)	.23***
Other race	.03	(.06)	1.03	.02	(.21)	1.02	-.12	(.21)	1.12
Hispanic	-.72	(.01)	.49***	-.72	(.19)	.49***	-.73	(.20)	.48***
Pseudo R <sup>2</sup>	.06			.07			.08		
Log Likelihood	-1,317.14			-1,307.41			-1,270.17		

Note. Due to the research design of the GSS, two variables were used as weights in the logistic regression models. The GSS researchers designed the weighting variable Adults to compensate for the fact that only one adult per household was interviewed as a part of the GSS research design. Since persons living in large households have lower probabilities of selection, weighting statistical results in proportion to the number of persons over 18 in the household is necessary through this variable. Another weighting variable was also included in these logistic regression analyses. Beginning in 2004, the GSS began to use a two-stage subsampling design for all nonresponse data. Since this research included questions from the year 2004, we also utilize the weighting variable WTSSNR which was constructed to accommodate for the sampling design in 2004. \* $p < .05$ . \*\* $p < .01$ . \*\*\* $p < .001$ .

on attitudes toward the death penalty, supporting our third hypothesis. In other words, the direct path between the measures of gender/sexual orientation and death penalty support is no longer significant since the addition of the *Empathic Concern scale* operates as a mediator. In addition, most of the background variables continue to be significant (with the exception of age and other race).

The full model, Model 3, includes the addition of political beliefs. Results show that the gender/sexual orientation variables are not significant; however, the *Empathic Concern scale* continues to have a negative and significant effect on support of the death penalty (decreasing the odds of death penalty support by .04), while more conservative political beliefs exert positive and significant effects on support of the death penalty (increasing the odds of death penalty support by .26). Such results continue to provide support for our third hypothesis, since measures of empathy and political beliefs completely mediated the effects of sexual orientation on death penalty support. In addition, most background variables remain significant in the full model (with the exception of age and other race).

The exploratory nature of the current project suggest some interesting findings among the logistic regression results, however, with such small samples of gay and lesbian individuals used in the models, the statistical power of each model is limited. Although the amount of explained variance is limited, multiple goodness-of-fit measures indicate some partial support for these models: McFadden's adjusted  $R^2 = .06$ ; Cox-Snell  $R^2 = .08$ ; Nagelkerke  $R^2 = .11$ ; McKelvey and Zavoina's  $R^2 = .11$ ; Efron's  $R^2 = .09$ . However, research suggests that such measures should be interpreted with caution (Mittlbock & Schemper, 1996).

## Discussion of Findings

The exploratory nature of the current study expands upon previous death penalty studies by incorporating sexual orientation as a potential predictor of death penalty support. Based on previous literature (summarized above) indicating that gay and lesbian individuals have higher levels of empathy, are more likely to align with liberal politics, and have higher levels of education, we first hypothesized that gay and lesbian individuals would be less likely to support the death penalty compared to heterosexuals. Findings from the current study indicated that compared to being a heterosexual man, being a gay man was negatively and significantly related to death penalty support in the baseline model (Model 1). We do not suggest that there is something that is inherently different about gay men in comparison to heterosexuals that is driving this finding. Rather, we posit that gay men may be significantly less likely to support the death penalty because they are more likely than heterosexual men to empathize with others. Empathy is developed in those who can understand others who are unlike themselves. Individuals who have high levels of empathy are able to take on the role of the other and recognize the other's viewpoint (Davis, 1994; Gilligan, 1982; Levinas, 1985; Noddings, 1984). Because empathic individuals are operating from an informed perspective that allows them to cognitively and/or affectively identify with others, they are likely to be acutely aware of differences between themselves and others (Levinas, 1985). It is from this view that empathic individuals can recognize others' perspectives. We suggest that gay men may be keenly aware of the differences between themselves and others because being gay in America necessarily denotes membership in a stigmatized group. Currently, most states prohibit gay and lesbian individuals from marrying and some states even prohibit gay and lesbian individuals from adopting children (Brewer, 2003; Hrc.org, n.d.). The stigmatization that gay and lesbian individuals feel may also cultivate a sense of "otherness" that allows gays to see differences between themselves and others. As a result, this "otherness" may create a space for empathizing with those unlike themselves. In other words, those who are able to identify those unlike themselves may be most likely to be able to empathize with others.

Since gay men may be more likely to empathize with others, this may be one reason why being a gay man was found to be negatively and significantly related to death penalty support in the current study. In their work on empathy and death penalty attitudes using 2002 GSS data, Unnever et al. (2005) found that empathetic people were less likely to support the death penalty. Our research supports such findings and also suggests that sexual orientation may play a role in understanding how empathy is related to death penalty support. Our results suggest that gay men are more likely than heterosexual men to be empathetic and this negatively predicts death penalty support among gay men. Furthermore, the effects of being a gay man on death penalty support were completely mediated by the *Empathic Concern scale*, supporting our third hypothesis. Similar to Cochran and Sanders' (2009) study, empathic concern also completely mediated the effect of being female on capital punishment. Thus, empathic concern may be a very important factor in death penalty attitudes.

However, it is extremely important to note that contrary to predictions based on previous literature, being a lesbian woman was not found to be significantly related to death penalty support at the  $p < .05$  level (it should be noted, however, that being a lesbian woman did operate in the expected direction). This is quite a surprising finding and is in direct contrast to our second hypothesis since previous research has suggested that women are less likely to support the death penalty because they are more caring and empathetic than men (e.g., Stack, 2000) and that lesbian women are more empathetic than both gay men and heterosexuals (Connolly & Sicola, 2006; Mencher, 1990). As a result, we predicted that lesbian women would be least likely to support the death penalty; however, our findings do not support this prediction.

There may be several reasons for this. First, the numerical representation of lesbian women in the survey is less than ideal ( $n = 38$ ; 1.4% of sample). Even though the logistic regression findings for



lesbian women approached significance and were in the expected direction in Model 1, it may be difficult to acquire significant results when dealing with such a small number of respondents. Second, lesbian communities may differ from gay communities in important ways that contribute to different political leanings. For example, lesbian women may differ from gay men due to the inherently political underpinnings of lesbian identity which are not as evident within gay identity. "Lesbian politics" have been historically strongly embedded within the feminist movement and the fight for rights for women and *not* men (Stein, 1997). Lesbian women may feel more politically charged about issues of "gender equality" and less focused on abolition of the death penalty and thus, may be different from gay men in terms of their political leanings. On the other hand, the differences between "gay" and "lesbian" politics are likely not as significant as they have been in the past. With some women who have relationships with women identifying as "gay" or "gay women" and many young women now identifying as "queer," the factions between "gay" and "lesbian" that were once based on political motivations in the 1970s may be less meaningful today (Savin-Williams, 2005). Unfortunately, the small number of both gay and lesbian individuals in the current study makes these arguments speculative. Ultimately, future research should expand upon this exploratory study and address such limitations.

Political beliefs also emerged as strong predictors of death penalty support. This was not a surprising finding since previous research indicates that those who identify as politically conservative are more likely to favor the use of the death penalty (e.g., Unnever & Cullen, 2005, 2007). From the current study and previous work, it is reasonable to suggest that more liberal political perspectives are associated with lower levels of death penalty support. It is also important to note that political beliefs mediated the effects of sexual orientation on death penalty support. Such findings suggest that while being a gay man exerts a negative effect on death penalty support, it is not being gay per se that actually affects attitudes toward the death penalty. Rather it is much more reasonable to assume that gay men are more likely to align with liberal politics and this may translate into less death penalty support among gay men. Since descriptive statistics of the study sample show that gay and lesbian individuals report more liberal politics compared to heterosexuals, this argument is plausible. What does not line up with this argument is the fact that being a lesbian woman was not significantly related to death penalty support even though lesbian women were highly aligned with liberal politics (more so than heterosexuals). Again, it is unknown exactly why non-significant results of this nature were found, but larger samples may prove fruitful in providing a more accurate picture of lesbian individuals' attitudes toward capital punishment. While the current study is intended to be exploratory, we call for future studies in this area in hopes that we may better understand relationships between sexual orientation and death penalty attitudes.

In addition, both education and income were strong predictors of death penalty support and remained significant even when other predictors were included in the models. Past research indicates that those with greater levels of education are less supportive of capital punishment (e.g., Soss et al., 2003) and those with higher incomes have higher levels of support for capital punishment (e.g., Unnever et al., 2006). The current study supports such findings and also suggests that even considering some well-documented predictors of death penalty support (i.e., empathy and political beliefs), both education and income remain strongly related to attitudes about the death penalty.

Results among the other background variables also follow trends found in past literature. Those in the south and those from rural areas were found to be more supportive of the death penalty as indicated in previous research (Borg, 1997; Sampson & Bartusch, 1998; Unnever et al., 2005). Furthermore, compared to Whites, Blacks, and Hispanics were found to be less supportive of the death penalty, as shown in the past studies (Soss et al., 2003; Young, 1992; Zeisel & Gallup, 1989). However, inconsistent with previous work (Stack, 2000), age was not found to be related to death penalty attitudes.

### Limitations

Although the exploratory findings from this study are informative, there are several important limitations that should be acknowledged. First and foremost, the low numbers of gay and lesbian individuals in the study sample clearly limit the generalizability of the findings of the current research. Even though the percentage of non-heterosexuals in the current study (3.7%) approximates the percentage of non-heterosexuals living in the United States (3.5%; Gates, 2011), with such small numbers of gay and lesbian individuals used in the regressions, the statistical power of each model is limited and the amount of explained variance is low. We recognize this as a very large limitation of this project but we hope that the results from the current exploratory study will operate as a springboard for future research that will include larger numbers of gay and lesbian individuals. Second (and related), the GSS measure of “sexual orientation” utilized for this project is highly limited and does not fully encompass individuals who identify as “gay” or “lesbian.” Since the 2008 GSS allows for a better approximation of sexual orientation, we hope that future studies will utilize these newly constructed variables. Third, the GSS measure of death penalty support is limited. Previous research has shown that a multidimensional measure of death penalty support is best-suited to understanding attitudes toward the death penalty (Cullen et al., 2000; Soss et al., 2003; Unnever et al., 2005). Thus, future research might utilize a more complex conceptualization to better measure attitudes toward the death penalty. Fourth, there may be important interaction effects between the variables utilized in the current study that would yield further results. For example, the ways that the interactions between empathic concern, gender, and sexual orientation affect death penalty attitudes would likely contribute to the findings of the current study. Unfortunately, the small numbers of gays and lesbians in the current study limit the ability to create interaction effects utilizing gay and lesbian identity. Thus, future studies with larger numbers of gays and lesbians may be able to better understand the relationships proposed in the current study. Finally, there may be important constructs related to death penalty support that were not included in the current exploratory study that may be important to examine in future research (i.e., authoritarianism, marital status, religiosity, religion, political party affiliation, intolerance, fear of victimization, criminal involvement, punitiveness; see Cochran & Sanders, 2009; Soss et al., 2003; Unnever & Cullen, 2006; Unnever et al., 2005; Unnever, et al., 2006).

### Future Research

Future studies should expand upon the exploratory nature of the current study and incorporate larger samples of lesbian and gay populations to best understand how sexual orientation is related to death penalty attitudes, empathy, political beliefs, education, and income levels. In addition to the *Empathic Concern scale* utilized in the current exploratory study, Davis' Interpersonal Reactivity Index (1980, 1983) has three other subscales: (1) The perspective taking scale, designed to measure the tendency to adopt the psychological point of view of others in everyday life, (2) The personal distress scale which identifies the tendency to experience distress and discomfort in response to extreme distress in others, and (3) The fantasy scale which measures the tendency to imaginatively transpose oneself into fictional situations (summarized at Eckerd. edu, n.d.). Future studies might examine how the multiple dimensions of the Davis Interpersonal Reactivity Index (1980, 1983) may be related to death penalty support among gay and lesbian individuals. Furthermore, it may be especially informative to examine potential jurors responses to the *Empathic Concern scale*, as well as the other scales in Davis Interpersonal Reactivity Index (1980, 1983) during voir dire. Additionally, more research is certainly needed to understand public opinion among gay and lesbian populations. For example, it may be especially informative to examine gay and lesbian individuals' beliefs in retributivism

and concerns about innocence and the fairness in administration of the death penalty as they may be related to attitudes about capital punishment. Future research might also examine gay and lesbian individuals as mock jurors to best understand their decision-making behavior in capital case scenarios.

In addition, it would be especially beneficial to utilize a postmodern view of queer identities and queer politics to understand empathic concern and perhaps even death penalty attitudes. Postmodern queer theorists have argued that biological sex and sexual identity are social constructs (Butler, 1990; Foucault, 1980, 1985; Seidman, 1994, 1996; Turner, 2000). If sexual identity is indeed socially constructed, then empathic capabilities may also be socially created and reinforced and may not be biologically defined. Indeed, Gilligan's (1982) work may overemphasize the ways that biological sex is related to the ethic of care, while Noddings (1984) suggests that care ethics may be "feminine" while justice ethics may be "masculine." Thus, the argument that Gilligan's (1982) ethics of care can be used to explain biological sex differences in death penalty attitudes (see, e.g., Cochran & Sanders, 2009) may actually be better suited to explaining how masculine and feminine characteristics relate to death penalty attitudes. Furthermore, there may be a very real need to utilize queer theory in understanding gay and lesbian individuals' attitudes toward the death penalty since Seidman (1994) notes that queer theory should study "those knowledges and social practices which organize 'society' as a whole by sexualizing heterosexualizing or homosexualizing-bodies, desires, acts, identities, social relations, knowledges, culture, and social institutions" (p. 174). Thus, an approach to understanding gay and lesbian individuals' attitudes toward the death penalty would contextualize the experiences of these individuals and how they may be related to empathy, care for others, and death penalty attitudes.

This type of future study calls for "queering criminology" (Groombridge, 1999, p. 532) which should problematize "the very straight, white, criminology . . . and acknowledge issues of sexuality" (Groombridge, 1999, p. 533). Furthermore, there may be an important need in future research to recognize the ways that both femininity and "homosexuality" are censured and devalued (see Foucault, 1980, 1985) but may also be related to empathy, care ethics, and death penalty attitudes. Indeed, Collier (1998) notes: "It is the challenge of feminist, gay and lesbian studies, and other alternative knowledges . . . that they challenge the neutral competence and purportedly objective reason of masculinity and that they subvert the pervasive masculinism and hegemonic heterosexualism of the institutions of the law" (p. 41-42). In this way, queer criminology can both contextualize and deconstruct the relationships between empathy, political beliefs, and gay and lesbian individuals' death penalty attitudes.

## Concluding Remarks

Overall, the exploratory nature of the current study suggests that gay and lesbian individuals' attitudes toward the death penalty might be a fruitful area for future work. The paucity of research in this area suggests that many previous studies have neglected to consider the importance of sexual orientation in investigations of politically charged topics that have been found to be quite polarizing in American political arenas. As the current debates with American politics expand to include issues that directly affect gay and lesbian populations (i.e., the same-sex marriage debates), it is also essential that researchers explore gay and lesbian individuals' attitudes toward other important political topics including the death penalty. Specifically, the purpose of the current project was to provide an exploratory examination of the relationship between sexual orientation, empathic concern, and attitudes toward the death penalty and to call for future research in this area. It is hoped that this research will stimulate future investigations of gay and lesbian populations and their political attitudes.

## Appendix A

### Principal-Component Factor Analysis for the Empathic Concern scale ( $\alpha = .73$ )

	Factor	Uniqueness
I often have tender, concerned feelings for people less fortunate than me.	.68	.48
Sometimes I don't feel very sorry for other people when they are having problems. <sup>a</sup>	.51	.44
When I see someone being taken advantage of, I feel kind of protective toward them.	.59	.54
Other people's misfortunes do not usually disturb me a great deal. <sup>a</sup>	.56	.39
When I see someone being treated unfairly, I sometimes don't feel very much pity for them. <sup>a</sup>	.58	.45
I am often quite touched by things that I see happen.	.72	.36
I would describe myself as a pretty soft-hearted person.	.71	.37
<b>Eigenvalue</b>	<b>2.75</b>	

Note: Respondents were asked to indicate how well each statement described themselves. Response options ranged from *Does not describe very well* to *Describes very well* on a 5-point scale.

<sup>a</sup>This item was reverse coded.

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### Notes

1. However, it should be noted that when respondents are provided with options for life without parole and/or if they are provided with case-specific context of the crime (i.e., murder of a police officer vs. rape of an ordinary citizen), support for the death penalty is not always a majority preference (Bowers et al., 1994/1995; Gross, 1998).
2. The "twinkie defense" is a term that was applied to the legal defense that was utilized in the case trial of Harvey Milk's murder, *People v. White*. The defense argued that White (the accused) suffered from a diminished mental capacity based his alleged consumption of too much junk food. White argued that, in his impaired mental state brought on by overconsumption of junk food, he acted rashly and without the premeditation and deliberation required for first-degree murder (Lynd, 1998/1999, p. 233).
3. Although in some studies, education is not found to be significantly related to death penalty support (Bobo & Johnson, 2004; Peffley & Hurwitz, 2002; Unnever & Cullen, 2005; Young, 1992). Indeed, the relationship between level of education and support of capital punishment is curvilinear, with those least likely to support the death penalty having either very low levels of education or a college degree or higher. The strongest support is found among White males with at least a high school diploma but less than a baccalaureate degree (Longmire, 1996).
4. Some have proposed a relationship between the 2001 terrorist attacks and a general conservative shift in political and social attitudes (Jost, Glaser, Kruglanski, & Sulloway, 2003). However, research utilizing 2000 and 2002 GSS data shows that attitudes on the death penalty, gun permits, legalized abortion, and divorce laws remained the same before and after the 9/11 terrorist attacks (Huddy & Feldman, 2011).

5. We also conducted tests for mediation based on Baron and Kenny's (1986) definition of mediators. The results of these analyses also provide evidence of the mediating effects of empathy and political beliefs on the relationship between gender/sexual orientation and death penalty attitudes presented in Table 3. Results are available upon request.

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