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Devising Deviance: Class, Race, and the Making of the Sexual Underclass

DISSERTATION

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for the degree of

DOCTOR OF PHILOSOPHY

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by

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DEDICATION

To Gram
for teaching me to always find dignity and wonder in those most overlooked.

We have seen how the law was born out of established customs and usages, and how from the beginning it represented a clever mixture of sociable customs necessary for the preservation of the human race, with other customs imposed by those who exploited to their advantage popular superstitions and the right of the strongest.
(Peter Kropotkin, *Words of a Rebel*)

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ABSTRACT OF THE DISSERTATION

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Connor Barclay Saxon Strobel

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Professor David J. Frank, Co-Chair

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Through a comparative study of four sexual minority communities (nudists, polyamorists, furies, and BDSMers), I ask: (1) why do routine behaviors become seen as deviant and (2) how do individuals and groups respond to oppressive laws that were never meant to regulate them but nonetheless have a negative impact? My study analyzes how legal regimes are stretched to conform to the evolving habits of the moral crusaders and how marginalized groups assess possible risks and negotiate latent illegality from clusters of laws that are expanded to regulate new groups and individuals. This dissertation brings together scholarship on legal ambiguity, moral panics, organizational studies, and the burgeoning research on sexual minorities and the intersection of sexuality and the law (Smith et al 2022; Vogler 2016, 2021; Weinberg 2016).

Sociologists of law and other sociolegal scholars have been increasingly interested in different forms of legal ambiguity, including legal process ambiguity and legal consciousness. This scholarship understands legal ambiguity as the wedge with which marginalized groups can use the court system to acquire new legal rights and protections

(Gash and Raiskin 2018; Ewick and Sibley 1998). While much of the relevant literature stresses the limits of the law—its incapacity to regulate targeted activities—I reveal the negative side of legal ambiguity and how it is used to create new or expanded categories of illegality and deviance to conform to the moral preferences of power elites. My dissertation highlights the, at times, surprising reach of law and its capacity to regulate untargeted activities.

Latent illegality, a concept I have developed to describe how a cluster of laws are weaponized to regulate new groups and behaviors, affects individuals and groups in ways that are not accounted for by legal ambiguity. I argue that different rhetorics for defining membership and levels of organizational flexibility affect the abilities of these groups to balance competing goals of inclusivity and risk mitigation. Drawing on more than 1,000 surveys, interviews with community leaders, and observational data, I offer a novel analysis of how marginalized groups, such as lesser studied sexual minorities, balance being welcoming and inclusive of non-members seeking support and community while protecting group members from legal and extralegal risks. In short, these groups strategically construct their community identities and the formal aspects of their organizations in ways that are both deeply resonant to their members while being immediately responsive to outside stigma, legal, and extralegal risks.

INTRODUCTION

The New Left activist Saul Alinsky wrote, “in the arena of action, a threat or a crisis becomes almost a precondition to communication” (1971, p. 89). Yet, these perils do not have to be new or, even, real. The Second Gulf of Tonkin Incident, the catalyst for the United States’ expansion in the Vietnam War, was later reported to be a lie by Secretary of Defense Robert S. McNamara. The White-Slave Traffic Act of 1910 (“The Mann Act”) was passed on the ginned-up fear that Chinese-immigrant railroad workers were kidnapping white women. The power of political myths rests in the fact they stir “the activity, the sentiments and the ideas of the masses as they prepare themselves to enter on a decisive struggle,” irrespective of how untethered they may be from reality (Sorel 2004, p.28). This became all the more apparent as I read the open responses to surveys for my co-authored book with Charles A. Smith and Shawn Schulenberg on the political mobilization of sexual minority groups (Smith et al 2022). We asked members of sexual minority groups about how open they were about that aspect of their identity with people outside of those groups and what they thought about their community coming together to work on social and political causes. Respondents routinely noted the risks they face due to the general public’s misattributions to them like men in the BDSM community as violent misogynists. These groups do not constitute a protected class under civil rights law and, as such, could be fired, lose child custody, be evicted, or face other penalties under potential morality clauses in their contracts and agreements. Even spurious legal actions taken against them by the State could, then, result in extralegal injuries on top of potential criminal penalties. This led me to ask why some actions become seen as deviant and how do groups adapt to laws that were never meant to regulate them but nonetheless pose a threat.

This dissertation is comprised of four parts. In Chapter 1, “The Deviance Process,” I develop the novel concept of latent illegality to explain how the natural ambiguity in the law is used to stretch the law to regulate new groups and activities. I argue that latent illegality can affect our moral intuition by drawing on Durkheim and Foucault’s work on moral order. I challenge the conventional approach to moral panics and its dismissal of class, racial, and other power interests in favor of taking the rhetoric of zealots or moral entrepreneurs at face value. Conventional uses of the sacred-profane distinction within the Durkheimian tradition have been agnostic to power and assumed sacred things are orthogonal to politics rather than subsumed in it. I analyze the works of some of the seminal works on moral panics, providing specific methodological and epistemological critiques while providing a reinterpretation of their sources by appropriately centering power and group interests. I show that new categories of obscenity and prohibitions against them coincided with specific changes within the class and racial histories of the United States and, thereby, consider notions of power otherwise underappreciated by the scholarship on moral panics. Chapters 2-4 are case studies on the BDSM, furry, and nudist communities including overviews of the research on these specific groups, demographic and community survey results, and preliminary discussion about the organizational constitution and identity claimsmaking of these groups and their members. Chapter 5, “Organizational Risk and Elastic Identities” looks at how sexual minority groups have evolved in response to America’s changing moral and legal landscapes and how they socially and organizationally insulate community members from social, legal, and extralegal risks. I find that variations in the porousness of organizations and the elasticity

of their criteria for identity claims have shaped the growth of sexual minority groups and their ability to protect their members.

Like the work of many from 2019-2022, the trajectory of this project was halted, transformed, and constrained by the COVID-19 pandemic. The dissertation was initially conceived of as a large, comparative study between four or more sexual minorities, replete with long-term observational data, interviews, and surveys. The pandemic's effect on travel, social gatherings, and the economic and social stability of the communities of study was tumultuous and rendered my initial ambitions infeasible. In response to those challenges, I have attempted to build out both my contributions to social theory as well as provide a sociohistorical account that, hopefully, provides other important insights.

It is important for me, at the outset, to declare who I am relative to the populations being studied and articulate some of my theoretical inclinations. I am not a member of the communities featured in this dissertation but have studied each of them intensively for about five years. Throughout the project, I have been continually struck by how remarkably ordinary these communities are. Not only are these communities highly diverse and civically engaged, but the social structures of these communities share common features with so-called traditional social groups like bowling leagues and civic clubs (Putnam 2000). It is precisely because of how normal these communities are that it makes their latent illegality fascinating.

While it might be rudimentary, or at least out of fashion, to be so forward with my theoretical approach and preferences, I do so in hopes of avoiding some of the usual challenges I have found in the scholarship that this project engages with, particularly in moral panics. Like Durkheim said of religion, I understand what unifies these communities

to be social customs and institutions, and not upon the basis of a commonality of belief(s). Values are meaningful only to the extent they are actionable. However, unlike much of the Durkheimian tradition which has been concerned with the functional boundaries of cultural dichotomies (ex. Douglas 1966) or how they change or flip (ex. Smith 2005), I am more interested in how cultural distinctions, or their absence, shape expressions of power, repression, and resistance. I am interested in culture insofar as it is a conversation (Rorty 1979) that allows the researcher to map force relations (Foucault 1990).

To properly understand force relations in the present requires an interpretative method of a particular kind. Foucault and his heirs have used genealogical methods to detail how definitions evolve and, to various degrees, those in the position to usher in those changes. However, less attention has been paid to how 'the deviant' respond to these changing punitive regimes and, thereby, ignoring their agency within these force relations. This project utilizes a comparative case study approach to understand how marginalized groups adapt to the risks associated with latent illegality.

This project is not, at least primarily, one about stigma. Stigma researchers that came after Erving Goffman have sought to understand to effects of stigma on a group, the contexts that inspire groups to embrace and avoid stigma, and the innumerable practices the stigmatized use to fly under the radar (Goffman 1963). Chauncey provides a wonderful historical account of how the gay community, among other insights, adapted through new discursive strategies when they went from being a celebrated to a threatened community in New York from 1890-1940 (1995). By contrast, this project is first concerned with how groups respond to the State and secondarily the social consequences of engaging in latently

illegal acts. Furthermore, as will be discussed throughout, the groups were consistently far less concerned with any potential stigma that came from a non-legal basis.

To the extent that this work is meaningful, it has four goals. First, the moral currents of a society cannot be properly understood without a critical eye towards who is orchestrating those changes and their power interests. Second, the perils of latent illegality demonstrate that morality as dictated by the law, also known as legalism, should be taken with immense skepticism. Third, that group structure and identity are not co-determinate but are nonetheless co-constitutive in often resilient, unpredictable ways. And fourth, to demonstrate the importance of socially situating research on sexual orientation and identity and continuing to research beyond gay and lesbian categories.

Chapter 1: The Deviance Process

1.1.: Introduction

This chapter introduces the concept of latent illegality and the social conditions in which it occurs. I argue that the law serves as a moral shortcut that has been exploited by power elites¹ in a variety of moments past and present to serve their powered interests, particularly in areas related to sex and the body. It demonstrates latent illegality and the function of the law as a moral heuristic through an exploration of four key errors in moral panics research: (1) misattributing the first cause, (2) making claims not supported by the data, (3) undervaluing or ignoring power interests, and (4) the nature of the law used in

¹ In this chapter, elites refer to the constellation of wealthy and influential individuals members of society who often share similar networks and sociodemographic characteristics (See Mills 1956).

moral panics. The chapter begins with a discussion about latent illegality and how it has manifested in four lesser studied sexual minorities and is followed by an overview of Emile Durkheim's sacred-profane dichotomy, and a critical reanalysis of some of the seminal works in moral panics research.

The social sciences today have unwittingly abandoned classical ideas about sacredness and both public and private rights in pursuit of middle range theory's orthodoxy (Szelenyi 2015). The departure from more discerning notions of sacredness and rights in earlier social science scholarship has too often resulted in thorough but uncritical examinations of the relationship between morality, the law, and power. The research on moral panics is illustrative of this problem. Moral panics research is often rife with unstated Durkheimian suppositions while ignoring the epistemological limits of his schema. This has meant that research has not been able to effectively explain *why* some things become seen as deviant.

1.2.1.: Latent Illegality

Latent illegality refers to how a cluster of laws are weaponized to regulate new groups and behaviors, and demonstrates how the law affects individuals and groups in ways that are not accounted for by legal ambiguity. It is critical to note that the power of latent illegality does not come primarily from the ability of the State to directly sanction individuals or groups under novel applications of existing law. The stigma of being seen as illegal, and other extralegal consequences, can be even more intense than a legal sanction.

A judge could dismiss charges with prejudice and these latently illegal individuals and groups could nonetheless lose everything they treasure.

To concretize the concept of latent illegality, let me briefly discuss how it plays out for the four lesser studied sexual minorities which are the subject of the remaining chapter. Furies are forced to differentiate themselves from bestiality, the BDSM community from sexual violence, polyamory from polygamy, and nudists from indecent exposure.

Prohibitions against bestiality predate Abrahamic law and were never intended to regulate furies who might have fursonas (anthropomorphized animal personas). Laws against sexual violence like rape and molestation were never intended to target the sexual activity of consenting adults. When different governments outlawed polygamy, the State addressed its concern through legal contracts and benefits, and did not venture to regulate the number of simultaneous intimate bonds people might sustain. Laws against nudity that arose in the 19th and early-20th centuries in the United States sought to shield a bystander's eyes and the use of public spaces for nude bathing and hygiene, not how people lived in private spaces. The State has occasionally made these conflations. Even in states with more expansive civil rights protections for LGBT Americans, these aforementioned communities are not included in that umbrella. Angelides notes how studies on sexuality did not meaningfully shift focus from sexual behavior (i.e. the sex of actual sexual partners) to attraction until the early 1990s (2001). Vogler gives an overview of how sociology has only recently begun to study transgender people and lesser studied sexual minorities (2016). As such, people in these communities have been evicted, fired, lost custody, and faced a host of extralegal tribulations as a result of either State action against them or the attribution of illegality to these communities. This is on top of the experiences of ridicule, harassment,

bullying, and shunning the individuals in these communities have faced despite not affecting anyone else. *The power of latent illegality is that the shadow of the law becomes enough to encourage social enforcement by influencing norms and moral intuitions to dramatically affect life course outcomes.*

A person unfamiliar with one or more of these communities might reasonably ask how prevalent and extreme the legal or extralegal risks are for these communities. Each of the communities in this study faces an array of tenuous but extreme civil and criminal penalties. It is important to note that the frequency with which members of these communities are subject to these threats ought to be a secondary consideration given the spectacle that such actions create and how even the mere rumors of attacks against members of the communities can stifle individual and group behavior in addition to new membership.

1.2.2.: Latent Illegality and BDSM

Some of the ways that members of the BDSM community have been and are presently targeted (detailed in subsequent chapters) have been documented within the history of LGBT rights in the United States, given the ways that these communities were subsumed within the LGBT umbrella by LGBT activists and conservative reactionaries. Their legal precarity is unique because their legal illegality comes from otherwise legally protected, consensual activity being conflated with abuse. Interest or partaking in BDSM has been used in court to suggest that an individual has a propensity to violence, is unfit to parent, or is even domestic violence in itself. This is further challenging because it is often difficult if not impossible to compel testimony from victims of domestic violence. Some

states have specific exemptions for alleged victims of domestic violence in their civil codes, finding it cruel to force a potential victim to relive their trauma. Victims may invoke spousal privilege in order to refuse to testify. Victim testimony, even when it does occur, may not be compelling for a variety of reasons. As such, prosecutors can rely on forensic evidence, witness testimony, and circumstantial evidence without involving the alleged victim in a court proceeding. Even if the alleged victim were to deny that domestic violence took place, the State may try to suggest that the victim has Stockholm syndrome or is not psychologically fit to understand the abuse that occurred. Carve-outs in criminal procedure were never meant to overrule the wants and perspectives of the alleged victims, they were meant to minimize their trauma. Imagine the potential risk of being jailed in pretrial detention, convicted, losing custody, housing, or employment for consensual activity in the privacy of one's home.

1.2.3.: Latent Illegality and Furies

The current furry panic is helpful for understanding the incipient processes that help to render a community as perverts and criminals in that we can analyze it in real-time in ways that the histories of the other communities have forgotten or overlooked. As detailed in Chapter 3, most media depictions portray furies as sexual miscreants, mentally ill, and/or criminals. The risks they face from their latent illegality come from false associations between furies with bestiality and, to a lesser extent, child endangerment and pedophilia. The 2020 and 2022 elections cycles in the United States have contained a reformulation of the 1980s-1990s culture wars, with many conservative candidates for local, state, and federal offices decrying what they see as changing sex and gender norms

that put the well-being of children at risk. They have argued that teaching children about different sexual orientations, what it means to be transgender, and other related topics can damage children psychologically. Nebraska State Senator Bruce Bostelman trumpeted an unjustified rumor that adolescent furries were requesting litter boxes be placed in school restrooms. During a debate on the Senate floor during the Winter 2020 session, Bostelman remarked, “They meow and they bark and they interact with their teachers in this fashion... And now schools are wanting to put litter boxes in the schools for these children to use. How is this sanitary?” In Nebraska, the rumor entered the public record as individuals introduced this falsity during local school district meetings (Associated Press 2022). Bostelman’s claims, which he later retracted on March 28, 2022, caught like wildfire amongst online parents’ groups in Nebraska and around the country. During the campaigns for the Spring 2022 primary elections, national figures began doubling down on the furry scapegoating. The Spring primary elections in Georgia, ranging from the Secretary of State to United States Senator, elicited immense fundraising hauls and consistent national news coverage. Kandiss Taylor, a hard-right acolyte of former President Donald Trump, ran her gubernatorial campaign with several advertisements, flyers, and posted on social media claiming that furries were a threat. On March 22, 2022, she posted on the social media platform Twitter, “The furry days are over when I’m governor...” Her third-place finish in the Republican Party primary downplays the effect that fringe candidates have in normalizing political issues and starting moral panics. Candidates in primaries, particularly closed primaries wherein only individuals with an active party registration can participate, often have to cater to the activist, more extreme flanks of the party because they vote at higher rates, especially in primary elections. It is an old campaign adage that candidates

run to the base in the primary election and then appeal to the middle and the centrists during the general election.

1.2.4.: Latent Illegality and Nudists

The segmented adoption of anti-nudity laws over the past two centuries in the United States has made the range of legal and extralegal risk more variable and less intuitive. Anti-nudity laws are often grounded in unmeasured ideas about decency. Indecent exposure requires context, wherein it may be acceptable to be unclothed in a gym's locker room but not in a park. In Vermont, it is legal to be nude outdoors but not to disrobe in public, which suggests that how one becomes and is nude matters more than merely being nude. Decency laws are often indifferent to the intent of the alleged offender and can be even indifferent towards the experiences of potential witnesses because anti-decency laws, coming from the same origins as anti-abortion laws, are designed to prevent individuals from images, experiences, and their corresponding ideas which are seen to be corrupting or unamerican in some fashion. Recent efforts to destigmatize breastfeeding have framed their work as reflecting changing norms about decency, arguing that it should be legal to have an exposed breast in public for feeding a child because most people today would not see the act as inherently sexual. The New Hampshire state legislature debate on female toplessness on state property reflected the conservative belief that there is something inherent, constant, and unique about the female breast that is essentially sexual and corrupting while also showing the egalitarian argument that mothers should not be responsible for what is in the mind of others and that fewer people see female breasts as sexual in all contexts than were the statutes were enacted. Sanction levels for indecent

exposure can range from a misdemeanor to a felony requiring individuals to register as sex offenders depending on the state where the alleged indecent exposure took place. Parents have lost custody of their children for having art with nudity in the images or for wearing insufficient clothing at home or being fully nude, even if no one alleges that there were any sexual elements to the parents' behavior. The latent illegality for nudists comes from the context agnostic nature of indecent exposure statutes. Individuals found to have attended nudist resorts, for example, can lose their housing, employment, and custody even if no one at the resort thought they were behaving indecently or immodestly. If context mattered, then nudist resorts and forums would not have to go to great lengths to anonymize their patrons from outsiders (see Chapter 5).

1.2.5.: Latent Illegality and Polyamorists

Polyamorists face a number of direct civil and criminal risks in addition to extralegal sanctions stemming from their latent illegality as perceived bigamists, which is a misdemeanor or felony in every state. This wobbler crime can have sanctions as severe as ten years in jail (Mississippi) and a \$100,000 fine (Oregon), and the sanctions vary without any apparent relationship to current partisan breakdowns. Bigamy is, in statute, comparable to failing to register as a sex offender. In practice, bigamy is applied most frequently in fraud cases against those committing immigration fraud by helping individuals immigrate to the United States through using a spousal visa process or those marrying individuals in hopes of gaining control of their assets for nefarious purposes. Many individuals inadvertently commit bigamy when they remarry prior to an annulment or divorce from a prior marriage going into full effect. Bigamy and things associated with it

are seen at odds with the conventional nuclear family. It is one reason why the Mormon church, the Church of Jesus Christ of Latter-Day Saints, continues to face stigma for its historical support of polygamy which formally ended in 1890. Polygamy has been associated with cults and the subjugation of women. The polyamorists in this study often noted their distinction between bigamy and stressed the belief that higher levels of egalitarianism are necessary for polyamorist relationships to be successful. Polyamorists work to differentiate themselves from felonious, sexist, and abusive behaviors that bear severe criminal and life course consequences.

1.3.1. Theoretical Foundations of Deviance- Durkheim's sacred-profane dichotomy

In order to understand how deviance scholarship and legal sociology have overlooked the problem of latency, it is important to briefly return to their shared theoretical foundation in the works of Emile Durkheim. His sacred-profane dichotomy has been an insightful analytical framework in sociology, anthropology, and other social sciences. Durkheim's limited explication of the sacred-profane dichotomy and its use within the Durkheimian tradition has generally avoided notions of power in the constitution of what is sacred or profane and has similarly overlooked the role of power in how something that is profane becomes sacred and vice versa. The dualist problem, of whether researchers ought to center their research on the sacred or profane, or present them as co-determinate, has largely been taken for granted. But whether the sacred or profane subject is privileged matters for research in both what it says about the social world and the limits in places on the scope of the project's analysis.

In 1912, Emile Durkheim published *Elementary Forms of Religious Life* which has since become a staple in sociological theory, the sociology of religion, and has provided concepts and theoretical frameworks that have extended throughout the discipline of sociology and into neighboring fields such as anthropology, religious studies, and political science. The bold work sought to detail the foundational elements of all religions. Religion, said Durkheim, ought to be understood as a set of both ideas and practices which help reinforce the value of one another (2008, p. 36). One of Durkheim's more ambitious claims was that the element that all religions share is that they help their believers bisect the world into that which is sacred and profane (p. 37). The sacred-profane dichotomy enables individuals to distinctly sort the world and make basic syllogistic moral judgments or, in other words, apply universal rules to everyday circumstances. For example, it allows you to go from a universal claim (murder is wrong) with an individual claim (Bob murdered Bill) to then make a moral conclusion (Bill committed a wrong). Durkheim made the important caveat, that the sacred-profane dichotomy is historically contingent and that, perhaps most interestingly, things that public consciousness can change, such that what was profane can be later seen as sacred and vice versa. While Durkheim noted that specific sacred-profane pairings can transform over time, he notes that the nature of such transmutations was something for further study. Smith's excellent 2005 book *Why War? The Cultural Logic of Iraq, the Gulf War, and Suez* advances his neo-Durkheimian project and provides some important theorization on this transformation by documenting how war has shifted between morally repugnant and divinely righteous.

Durkheim's foundational work on the shifting of moral boundaries has been seminal in deviance research. His influence permeates research on the construction of deviant

categories, their change, and the symbolic and affective challenges that social movements must engage in to make change. This is true even when Durkheim seemed to be replaced by Mertonian and Parsonian approaches. Nevertheless, Durkheim's non-processual sociology of deviance set the stage for oversimplified, functionalist approaches to deviance and moral panics.

1.3.2. Deviance Scholarship Diversified

Sociologists from a variety of theoretical traditions have written on the limits of a Durkheimian approach to the study of deviance and the law, allowing for the notion of latent illegality to be useful for a variety of sociological approaches. Ben-Yehuda provides an excellent, concise summary of the Durkheimian roots in deviance scholarship (1985 p. 3-10). He traces some of the theoretical quagmires that had plagued deviance scholarship, largely stemming from the microinteractional approach typified by the Chicago School, the behaviorist turn in sociology, and their incommensurability. Deviance is a "central element of any functioning social system" (p.11). A society's reaction to deviance can serve to reaffirm the current social order or can spark a sense of change in the collective consciousness. Early symbolic interactionist approaches often implicitly held some of the assumptions about the functional role and necessity of deviance, even as they turned to the phenomenological experiences of deviance. Goffman's 1963 landmark book on stigma focused on, among many insights, the reasons behind varied reactions to being stigmatized. His book helped solidify the need to understand symbolic boundary making between groups and helped underscore the limits of a rational choice model devoid of context that behaviorists often favored.

Becker's *Outsiders: Studies in the Sociology of Deviance* was important in cementing the symbolic interactionist approach to the study of deviance and criminology (1963). His application of labeling theory to deviance research, whereby the often-arbitrary attribution of deviance to a group serves to stoke fear and criminalize them, was novel for several reasons. First, his empirically driven argument in favor of a social constructionist interpretation of deviance predated Berger and Luckmann's seminal 1966 theoretical book *The Social Construction of Everyday Life: A Treatise in the Sociology of Knowledge*. Second, Becker, and labeling theory generally, provided a framework to better allow for researchers to consider the role of power hierarchies in the construction of deviant categories. However, Becker did not go that far. He focused on how labeling individuals in a group can create a self-fulfilling prophecy. Unfortunately, as will be explained later in this chapter, much of the work on moral panics failed to take up the opportunity that Becker's research posed. This meant that research was too often devoid of the fundamental reasons *why* some groups and behaviors were deemed deviant and instead was preoccupied solely with *how* deviance labels are framed and marketed to the public, and the public's reaction to those frames.

Foucault's body of work demonstrates the rich potential in studying deviance through the lens of power relations. Foucault, influenced by both Nietzsche and Weber, was preoccupied with the consequences of the insatiable growth of instrumental rationality. *Madness and Civilization* showed the effects of the changing characterization of madness on the social organization of society in Europe from the Middle Ages through the early 20th century (1988). It is his closest work with respect to Becker's *Outsiders*. The rest of his work in the 1960s built out genealogies of concepts and, coupled with debates with Kuhn,

that knowledge is created and accepted under broader social forces and political contexts, and not simply that the 'truth will out.' *Discipline and Punishment* (1977) and *The History of Sexuality* (1990), beginning in 1976, continue his knowledge-power work while paying particular emphasis on how the institutional power inherent in criminal justice, educational, and ecclesiastical systems are used to control essential aspects of human existence. Foucault, rightly and innovatively, saw power as a ubiquitous feature of social relations. One limitation of Foucault's system, however, is that it deemphasizes specific ideological systems of domination that cause the replication of certain kinds of power relations like patriarchy or white supremacy. It would take work, then, to theoretically unify Foucault's genealogical power-knowledge with work like Hill Collins' notion of a matrix of domination (1990). In order to show why and how one might engage in such a project, I will first detail the scholarship on moral panics and how the deficits in that program warrant such an intervention. Then, through an exploration of legal ambiguity and latent illegality, I will show the mechanism by which such a project can be conducted.

1.4.1. The Gaps in Moral Panic Research- the Beginning of the Field

Beginning in the late 1980s, research on moral panics came at a pivotal moment in the development of social science research and in politics of the United States. Social movements research had moved from studying revolutions and state formation (ex. Moore 1966; Tilly (ed.) 1975; Skocpol 1976) into a broader program on contentious politics and collective behavior by scholars like Doug McAdam, Sidney Tarrow, and Charles Tilly. This also occurred on the heels of the rise of the Christian Right during the Reagan administration (1981-1989) and the so-called Moral Majority that dominated much of the

national politics of the 1990s. The period of American politics is also marked by attempts to ban gay and lesbian Americans from teaching in public schools and the proliferation of the gay panic defense in criminal trials. The gay panic defense is one where the defendant claims their actions were justified out of a reasonable fear of another person's same-sex attraction.

Moral panics researchers believe that moral panics constituted a special kind of collective behavior grounded on a fear that prevailing mores were under attack. This research made several important contributions that have extended to other areas of social science research. First, it developed ways of understanding how claimsmakers attract the hearts and minds of average citizens. Second, moral panics research studied more conservative or reactionary movements compared to other social movement research that often focused on different civil rights movements. Moral panics research has tended to use a variety of historical methodologies to study past moral panics in hopes that they might shed light on the conservative politics of the then-present. The following subsections detail some of the most important works in moral panics research.

I should note that I use the notion of moral panics more generally than some scholars in this program do. Some make a distinction between moral campaigns and moral panics. Moral campaigns and crusades consist of claimsmakers undergoing the social movements process through an appeal to preserve moral goods that may be under some sort of threat. Moral panics are sometimes reserved for a smaller number of cases, seemingly irrational crazes and frenzies that nonetheless have a basis in a concern for maintaining the existing moral order (Ben-Yehuda 1990; Goode and Ben-Yehuda 1994). I

use moral panics, crusades, and campaigns interchangeably because the research (1) overwhelmingly cites one another, (2) suffers from the same theoretical and methodological challenges, and (3) would be similarly resolved through a better exploration of power interests.

1.4.2. Panics Research in Peril

Nicola Beisel's award-winning book *Imperiled Innocents* is a vivid interdisciplinary study of Anthony Comstock and the rise of modern obscenity laws in the United States (1997). She argued that Comstock was successful in his moral crusade because of his ability to frame issues he cared about as risks to the well-being of children, the principal concern of all responsible parents. At one point in her book, Beisel recounts the 1871 death of Alice Bowsby in New York City, whose death was the product of complications during an abortion procedure. The *New York Times* described Bowsby as having "a face of singular loveliness...but her chief beauty was her great profusion of golden hair" (p.25). The disposal of her body at the Hudson River Railway and the *New York Times'* article excited the heartache and anger of hundreds in the city that went to the morgue, some out of curiosity and others to earnestly identify her corpse. The sad death of this young woman seemed so unnatural and disorderly that its cause, abortion, was framed as an existential threat to society. It punctuated the trajectory of abortion which went from being legal during the first half of pregnancy in most states in the 1850s to being "a crime which strikes at the root of all civilized society" and representing the "symbolic collapse of civilization" (p.25).

That story reads straightforwardly enough: tragedy evoked strong emotions and then people banded together to prevent it from happening again. But who are these people? Why is their personhood such a distant concern from their roles in this tragic tale?

Jacob Rosensweig was a doctor who immigrated to New York City from Poland (Beisel 1997, p.25). Rosensweig was the subject of a scandalous expose in the New York Times of several abortion providers who were also immigrants (p.25-27). A week later, Bowsby, his patient whose body was described as if she were the amalgamation of Disney princesses Cinderella and Sleeping Beauty, was found dead. As the prosecutors and presses framed it to the public, Bowsby, a pure, innocent, white, blonde, young woman was murdered by a foreigner, an outsider, and a Jew and left to rot inside a trunk at baggage claim. The sterilized image of Alice Bowsby as a sacred object, a responsibility of all members of the community to keep safe, was contrasted through anti-Semitic and xenophobic language which rendered Jacob Rosensweig a profane man, but only by first making him the foreign 'Other.' Abortion became a threat, first and foremost, because of the existing fear and hatred for the kinds of people who were said to be the back-alley abortionists.

To be clear, Beisel's work is an excellent piece of research on the importance of issue framing in the social movement process (see Benford and Snow 2000). Despite no reference to Durkheim and his sacred-profane dichotomy, she provides important theorization about the ways sacredness and profanity are connected systematically throughout social life and shape class formation. Beisel writes that her work shows the perils of class reduction when she says,

“Reducing moral concerns to economic factors, or treating concern about children as a ‘symbolic’ rather than a ‘real’ issue, blinds us not only to a fundamental motivator of human action---love for one’s children--- but leads us to misperceive the causes of a number of significant issues in both historical and contemporary political debate” (1994, p.14).

She refers to scholars such as Pierre Bourdieu, Erik Olin Wright, and E.P. Thompson as ignoring the family in class politics (p.209-211). Beisel believes that “concerns about family production helped drive the formation of upper-class institutions” (p.13). Yet, even much of the Marxist tradition since Gramsci has been concerned with the variety of social and political institutions, or apparatuses, and how they contribute to class reproduction and reification (2011). Instead, Beisel draws off the Durkheimian tradition, particularly through the work of Mary Douglas (1966), and sees moral crusades as existing along moving moral boundaries (ed. Lamont and Fournier 1992, p.106). Yet, even as the arrests overwhelmingly targeted immigrants (p.113), this project sought to understand “how the construction of moral boundaries might allow for [Comstock’s] movement” (p.106).

Beisel’s work makes an important error that occurs in a lot of moral panic research. Beisel claims that Comstock’s framing of abortion and other acts as endangering child welfare was effective enough to be the motivating force behind the wave of laws on obscenity at the municipal, state, and federal levels. She dismisses overt class and other power interests through a variety of proxy indicators such as the existence of art museums and the use of boarding schools in New York, Boston, and Philadelphia. For example, she reasons that xenophobia and rising immigrant political power do not explain the

motivations of the rich Bostonians and New Yorkers who sent their children away to boarding schools out of the influence of immigrant policymakers (1997, p.12-13). That would be a novel indicator if the rich in Boston and New York did not already have a history of supporting policies hostile to and/or exploitative of immigrants (Beckert 2017). There was a long bear market after the Civil War that was punctuated with growing instability due to market speculation, peaking in the Panics in 1884, 1893, and 1896. These market events coincided with economic pressures that waves of immigrants had put on real estate prices and other more stable investments. Supporting prohibitions in public bathhouses and nude bathing beaches, neither of which Beisel covers in detail, at a time when private indoor plumbing was still reserved for the more affluent created an unwelcoming and unaffordable environment that, if the rich had their way, would dissuade immigrants from inhabiting their cities. It reasonably follows that hostile policies would make some stable asset classes more affordable and decrease the tax burden needed for public works and sanitation. It simply is not the case that Comstock activated the rich's support in maintaining the existing moral, political, and economic regimes. It is difficult to imagine that the urban elite's long history of working to secure their power, wealth, and influence through supporting classist and xenophobic policies would become narrowed through a focus on their children's upbringing as means of maintaining power and class stratification.

Likely to avoid issues like ecological fallacies, Beisel also looked at the annual reports of the New York Society for the Suppression of Vice and its survey about why its members supported suppressing obscenity. Those results support the conclusion that members of the Society were motivated by a belief that children were at risk from a

deteriorating moral order. Importantly, what motivates members of an activist group can and often are different from the motivations of the group's donors and the general public who might be at least nominally aligned with the cause of the activists. People who are willing to dedicate time and resources to a cause or organization can be reasonably expected to have a more intense relationship than an aligned mass audience. When corporations, like elite individuals, donate to political campaigns they may do so for access or self-interests that are not salient to the average voter. The elites that donated to Comstock's moral crusade could just as well have perceived Comstock's zealotry as a different approach to a mutually desirable end. There are no opinion polls, interviews, or other readily identifiable data points to determine the elites' rationale for supporting Comstock, nor are the opinion polls to understand why some members of the public supported Comstock's reactionary efforts. Research on elite-led mobilization has demonstrated that research needs to account for whether non-activists and aligned masses share the same reasons as the elites (Bishin et al 2021).

If we return briefly to the death of Alice Bowlsby, we see that the public had already been mobilized around the issue of abortion based on xenophobia and anti-Semitism. We lack the data to understand if the motivations changed. The absence of opinion polling during this period of American history means that we cannot see if Comstock's attempts to reframe the issue became the prevailing logic of non-activists. And, because there were not two identical political candidates who merely framed the issue differently, we lack natural experiments that we might also try to use as an indicator.

In summary, Beisel was unable to empirically conclude that what motivated the masses or the moral panic funders in the Comstock Era was different from the initial

xenophobic, anti-Semitic, and otherwise bigoted public reaction like what followed Alice Bowsby's untimely death. Her thoughtful work represents the best of moral panics research but also highlights the common theoretical and methodological challenges present in the field. The section that follows proposes that morality, power, and institutions are constantly interacting and shapely social life.

1.5.1.: Morality, Sex, and the Law

A moral system is a term that represents the constellation of specific tastes that constrain or incentivize a subset of actions. Like all constellations, it exists amidst the broader universe of culture. Care for one's children was an existing cultural more and artifact that Comstock exploited within a broader cultural universe of extant racism, xenophobia, and anti-Semitism. If we consider moral systems as things that we appeal to rather than regularly, consciously construct, then we might instead see the effort for changing moral boundaries as the reliance of moral crusaders on a specific cultural artifact within a broader system or cultural toolkit (Swidler 1986). Moral socialization generally follows the trajectory of other aspects of human social development (ex. Grusec et al 2014). This intuitive operating procedure of day-to-day moral experience requires claimsmakers to garner the attention of the public by diagnostically framing an issue and pulling individuals into moral abstraction, as in "X [the issue] is sufficiently wrong as to require your action because y [moral abstraction]" (Benford and Snow 2000). Morality, especially in its abstraction, is a tool more often used *post hoc* to make sense of action rather than to provide a thorough pretext for it (Swidler 1986). It is even more evident if we explore the

judicial and political campaigns around racism, slavery, and lesser studied sexual minorities.

The mores that preoccupy public discourse, find themselves within educational apparatuses (ex. Althusser 1971, Gramsci 2011, Poulantzas 2008), and are most salient to the day-to-day lives of average Americans, which are often shaped by elite interests. Arendt's seminal *The Origins of Totalitarianism* examines how race-thinking and then racism were developed and propagated by political elites to justify political campaigns ranging from nation-state boundary making, imperialism, and slavery (1973). Leaders like Cecil Rhodes deliberately manufactured rationales to satisfy their preexisting political aspirations. Similarly, the arguments leading into the United States court cases like the infamous *Dred Scott v Sanford* were novel inventions for most pro-slavery Americans. These inventions suggested that slavery was morally justified through references to the Christian Bible or that, despite its shortcomings, slavery was a net positive because it civilized, or at least disciplined, otherwise barbarous Africans. Arguments claiming a moral basis for slavery have been consistently shown to crop up long after the origins of American slavery.

It is easy for the average American to not observe how the elites shape and even create society's moral agenda. This is, in part, due to the moral significance citizens generally give to obeying the law. In lieu of a fully formed rationale, a person can be inclined to say something is wrong to do because it is illegal. In this way, *the law acts as a moral heuristic, especially for topics that are not already seemingly self-evident within a public* (ex. murder being wrong). Sahlins famously explicated the ways symbols inform and imbibe even seemingly pure pragmatic action (1976). Rothman notes that "law provides

diverse groups in society with the maps which indicate criteria of choice among political alternatives as well as the rhetorics of justification” (1972, p.40). This deference is in many ways heightened by the legitimation efforts of the State (Beetham 1991). Meanwhile, Gilens and Page found, through multivariate analyses, that the general public and media have “little to no individual influence” while economic elites and/or economic business groups have substantial, unique influence in the national policy-making process (2014, p.564). The flexing of the economic elite’s political influence has consequences on the moral dynamics of society. The elite-led campaign to privatize Social Security and do away with pensions in the United States through the use of individual 401(k)s retirement savings accounts came was framed on moral terms: that the 401k model was consistent with American’s long-held virtue of frugality (Weber 2011) and paired with the freedom to choose when one spends or saves their wealth.

Elite influence on policy making extends monetary, fiscal, trade, and corporate regulatory policy (ex. Mills 1956; Doob 2012). They shape aesthetic sensibilities by patronizing museums, theaters, and libraries. Importantly, they have an outsized influence on municipal ordinances, both criminal and civil law, and quasi-legal sanctions. For example, lynchings, while extrajudicial, were often explicitly supported by elites as a means of maintaining supremacy. As the then-Senator from South Carolina, Benjamin Tillman infamously said, “We of the South have never recognized the right of the negro to govern white men, and we never will. We have never believed him to be the equal of the white man, and we will not submit to his gratifying his lust on the wives and daughters without lynching him” (Herbert 2008). Ward et al found a deep-rooted and statistically significant relationship between the present use of corporal punishment in public schools and the

number of known lynchings in that same area (2019). Dailey has demonstrated that elite-led stratification efforts, like those coming out of the American Reconstruction Era, fuse the psychic and often discriminatory tendencies of a public with the elite's particular concerns with maintaining their power position (Dailey 2020). She richly documented the ways that elites exploited the fears of miscegenation and interracial sex in shaping racist campaigns that helped maintain the position of rich, white elites. Dailey argues that interracial sex was the motivating force in the racist policies of the Reconstruction. Donovan, following in Beisel's footsteps, similarly found sex and gender to be inextricably linked to 'white slave' myths (2006).

Concerns about sex have been exploited for a litany of classist, racial, and political interests. Sex has been a motivating legal and political interest beyond the fact that creating progeny is necessary for intergenerational stratification as Beisel and many stratification scholars suggest. Pliley's excellent 2014 book demonstrated how the Mann Act, a law enacted on the myth that Chinese railroad workers were abducting white women, was exploited by bureaucrats to expand their authority and influence. A law that should have largely been lost to the annals of legal history was used beyond its initial scope by regulating consensual, often interracial, sexual activity as a means to justify the expansion of what is now called the Federal Bureau of Investigations. For Foucault, the regulation of sex has been central to the formation of today's political economy and the need to control the supply of labor (1980, p.139). The government's role and increased control of housing, food, and most facets of one's bodily experience from womb to tomb is the expression of biopower, a unique feature of modernity (p.139-141).

1.5.2.: A Brief Genealogy of American Nudity Laws

A cursory timeline of changes to nudity law in the United States suggests that a further genealogical approach is warranted. Most of United States history has predated common access to indoor plumbing. For bathing, cleaning, and drinking, Americans would draw water from a manual well or body of water. Depending on their location, many Americans would bathe or clean themselves or their wears, among other goods, directly in public bodies of water. As detailed in Chapter 4, presidents and everyday citizens would bathe and swim nude in public bodies of water without legal repercussions. When Anthony Comstock and the morality police began appearing in Boston and New York, rapid urbanization during the Industrial Revolution still predated modern indoor plumbing. Communal baths within a housing complex through independently operated bathhouses were vital during an area of increased pollution and hazardous working conditions in factories. Urban elites and industrialists, who tended to comprise multi-generational wealthy families like the Boston Brahmin, had better accommodations for bathing and hygiene maintenance. Comstock and others' efforts to close bathhouses are consistent with the longstanding efforts of the Boston Brahmin, for example, to dissuade immigrant labor from coming to Boston and Lowell once they had reached a surplus of needed factory and mill workers (Farrell 1993).

Closures on nude outdoor bathing and bathhouses come from two bases since the Industrial Revolution. The wealthy used hygiene to distinguish their class position and plague the living conditions of the poor in hopes consistent with their anti-immigrant, anti-Black, and anti-social welfare beliefs so as to push out their 'undesirables' and dissuade immigration to their cities when it wasn't economically advantageous for them.

Importantly, despite the inability to access the hygiene practices of the rich, the poor were degraded and seen by the rich as animals living in squalor. Hygiene standards, and the moral consequences of cleanliness and dirt, were determined by what the rich had unique access to.

Bathing suits only became a common requirement after the advent of chlorination and, to a lesser extent, synthetic fibers. Heavy woolen swimsuits or even those made of cotton were magnets for cholera and bacterial transmission, in addition to often irreversibly stretching. As such, it was not uncommon for schools that had swimming classes to have gender-segregated classes where the students would swim nude. Chlorinated, municipal swimming pools began in wealthy Boston and New York suburbs, and wearing bathing suits slowly became a requirement only after the wealthy were regularly buying synthetic swimwear. Relatedly, shared showers in schools and gyms have also changed over time to afford bathers greater privacy through the introductions of shower curtains and partitions in communal showers.

Uncensored advertisements for nudist resorts would air leading into blockbuster films in movie theaters around the United States following World War II. Those ads, along with pamphlets and trade association magazines, became the target of regulation through laws under the United States federal government's interstate commerce powers, sedition laws, and the Mann Act. The grounds for sedition are particularly noteworthy. Many of the entrepreneurs that founded some of the leading nudist resorts and magazines were immigrants from Central Europe. Fervent anti-communists saw nudity and nudism, even if it predated the rise of the Bolsheviks in the Russian Revolution (1917-1923), as too close to the classless, egalitarian sensibilities of communists. They saw these entrepreneurs, albeit

anachronistically, as importing an un-American way of life that was too compatible for their comfort during the beginning of the Red Scare. Here, again, we see that attempts to constrain nudity were enmeshed with larger political concerns and tapped into xenophobic scapegoating. Wheeler expertly demonstrates how the reaction to these laws during the postwar period resulted in nudists and other groups framing their actions and belief through a civil liberties framework (2013). Moreover, beyond simply overturning the grounds with which the State sought to constrain them, nudists and other groups began to absorb the civil liberties logic and change their self-understanding. Future research could provide a more detailed analysis of this phenomenon can elucidate Foucault's underdeveloped notion of 'reverse discourse' and provide a non-market extension of Polyani's concept of a 'double movement' (Foucault 1990; Polyani 1957).

1.6.1: Legal Ambiguity and Latent Illegality

Latent illegality stems from the ability to stretch existing law in order to regulate new actions and groups of people. There is then a legal basis, however tenuous it might be seen in the moment by civil rights leaders or the general public with hindsight. The often-subtle process of stretching the law fuels non-state actors, giving moral crusaders grounds to wage their culture wars and campaigns.

Social movements literature generally regards the law in three ways. First, the law, insofar as it regulates civic participation and forms of government, helps define political opportunity structures. Laws can also be the goals of social movements. Second, social movements utilize the courts to affirm existing rights and/or overturn laws or state actions that violate a state constitution, United States Constitution, or administrative law. Third,

social movements can work to pressure legislators to amend or repeal existing laws in addition to lawmaking. This means that the law can shape the means for change, be the means in themselves, or be the ends of a social movement’s ambitions. What is understudied, however, is how the state can use existing laws in new applications to satisfy the interests of social movements or elites.

The State’s use of force is contingent on the relationship between a legal basis and the role of the state as the identifiable agent of force (See Table 1.1). The State’s use of force as a means of enforcing existing laws that have gone through the State’s codified lawmaking or rulemaking process can be said to be *legitimate law* insofar as its expression is tied with the very legitimacy of the State itself. For example, highway police can detain and charge a person with the crime of driving while intoxicated if they meet the requisite criteria because the legislative process determined that such action ought to be criminal and the bad actor subject to a particular set of sanctions.

Table 1.1: Typology of State Force

	Legal Basis	No Legal Basis
State seen as the Agent of Force	Legitimate Law	States of Exception
State not seen as the Agent of Force	Latent Illegality	Contracted-Out Force

1.6.2: Legal Ambiguity and State Power

The State may opt to act without a legal basis or when the legal debate is thoroughly unresolved. These are *states of exception*, whereby the checks on a State’s use of force are suspended (Agamben 2005). This may be during periods of war, but also occur when the

immanence of a threat or opportunity is so great that the State may be willing to face future blows in public support or legal sanctions.

The State may also allow others to act on its behalf in carrying out illegal actions, thereby working as proxies and helping to immunize the State from criticism. This is true of State action abroad and at home. *Contracted-out Force* includes now infamous examples of police departments looking the other way as lynch mobs would murder Black Americans and extend the Jim Crow Era in the American South. In these instances, Black Americans were killed without cause, especially without any basis in which the State could apply capital punishment but killing them by the mob had the advantage of maintaining white power and the interests of the State. Contracted-out law can also include instances in which the State narrows its reading of the law to claim it lacks a legal basis or obligation to act. Such instances include the United States federal government's administrative policy to not enforce a prohibition on marijuana despite federal statutes. It could also include the narrowing of antitrust law in the 1980s and 1990s to where the federal government no longer goes after monopolistic and trust-like firms in the same way it had for over a century.

Legal ambiguity, with its intentional or merely unavoidable opacity, has been used as a concept with some regularity dating back to the 1950s. During this period, academics, lawyers, and policymakers in the United States saw that much of the law written prior to World War II failed to provide clear guidance on a bevy of issues as the United States cemented its dueling-hegemonic role with the Soviet Union at the advent of the Cold War. Much of international law had, at this time, yet to be written. Gluckman saw legal ambiguity, to a degree, as a functional necessity for institutional survival (1955). He fused

recent theoretical functionalist developments with something of a Marxist perspective to understand how colonial institutions maintain their power. Legal ambiguity also affords organizations considerable latitude in self-determining legal compliance on critical issues like civil rights (Edelman 1992). Brzezinski and Griffith briefly mention the effect of law ambiguity surrounding contested national borders and its effect on international relations with Eastern Europe (1961). Even more strange, considering that World War II recently ended, there was considerable legal uncertainty about what constituted war and war powers (Lissitsyn 1951). Legal ambiguity on these issues extended globally, as Gilpatrick details in her analysis of the Kuomintang from 1925-1946 (1950). Kuyucu found that legal ambiguity was an essential feature of establishing private property regimes (2013).

Most studies tend to treat legal ambiguity as the research site where social processes are worked through or a constant variable that shapes political actors whose intensity may vary. Some of the apparent examples of legal ambiguity as the research site include Edelman and Edelman et al who identified the key role of organizations in mediating legal ambiguity (1992; 1991). In addition, Smith et al studied the sensemaking processes of legal actors in court processes as they work through competing legal interpretations (2022). As a constant variable, there are plenty of examples outside of the international relations contexts that were highlighted earlier. Pickens detailed how legal ambiguity around the hot-button issue of sterilization “hampered the administration of laws” (1967, p.86). An innumerable number of works engage with legal ambiguity even if they do not identify outright.

Studies of social movements have included the significant role of legal ambiguity, albeit implicitly. These scholars have understood legal ambiguity as a mechanism by which

activists can lay claim to new rights through the courts. It is a natural and ever-present, albeit to varying degrees, feature of legal writing. Legal ambiguity has been used to both liberal and conservative ends. Liberal legal movements, for example, have found that a right to privacy is an unspecified, necessary condition for a variety of explicit constitutional protections. On the other side, conservative jurists and legal movements have, for example, applied and expanded the state's immunity from prosecution for a failure to act to social services beyond what is explicitly stated in the 14th Amendment to the United States Constitution (ex. *DeShaney v Winnebago County*).

Research explicitly or implicitly dealing with the concept of legal ambiguity has underappreciated legal ambiguity's role as the mechanism for increased state power and regulation. Rather than being means by which marginalized groups have acquired previously unrecognized legal rights and protections, state actors can utilize the ambiguity in the law as a way of expanding their power and satisfying the interests of elites. DiPaolo found that one federal branch, in her case the Executive, can exploit legal ambiguity and stretch the law with considerable deference when both the judiciary and legislative branches are not concurrently opposed to an executive action (2010). The regulatory process in the United States has been, by design, slow in both the process of creating administrative rules and legislative lawmaking. The legal stretching done by state actors is also advantageous because the considerable deference given to the Executive branch by the judiciary means that all but the most egregious hyperextension of the law must go through an extended judicial review process before it would be overturned.

1.6.3: Latent Illegality and the Unexpected Reach of the State

I use the term *latent illegality* to refer to clusters of laws that are expanded to regulate new groups and individuals. Rather than an opportunity to gain previously unrecognized rights as legal ambiguity has been used (ex. Wheeler 2013), latent illegality denotes the erosion of rights and protections of people by laws that were never meant to regulate their behavior but nonetheless pose direct legal or extralegal risks. Latent illegality exists as an intentional tool of the State and not merely as the accumulation of anecdotes. It is the accumulation of acts by untethered, overzealous prosecutors and law enforcement personnel. To stretch the law to cover new subjects has the virtue of immanence because the State does not have to go through a legislative process. By avoiding a deliberative legislative or even administrative process, state actors and elites act with selective publicity. This also allows the State and elites to set a potential future debate on their terms rather than other legal or moral frameworks that might favor their actions. This first mover advantage has been well-documented in war-making activities (ex. Herman and Chomsky 1988).

Thinking that this might be, say, a process of reconstituting positive rights into negative rights or vice versa obfuscates how the foundational practice of making something illegal and at odds with the state and society reifies the state and promotes the status quo. As Hitchens said of Isiah Berlin's work, he "strove to find a high 'liberal' justification either for the status quo or for the immediate needs of the conservative authorities" (1998).

Consider the case of Adora Perez, a woman effectively forced to plead guilty in the state of California for the "manslaughter of a fetus," a crime without any corresponding criminal statute. Perez's use of methamphetamine induced a stillbirth of a fetus on December 30, 2017. The District Attorney for Kern County, California at the time, Keith

Fagundes used the threat of an extensive prison sentence to induce Adora Perez, who appears to have relied on a public defender, into pleading guilty to a crime that had never been tried in the state of California, has no basis in statute, or even in legislative debates during revisions to California's criminal code. Because Adora Perez was not a recognized abortion provider by the state of California, so District Attorney Fagundes was able to use the threat of lengthy imprisonment to stretch the law to regulate new actions and classes of people. The national headlines this case generated were seen as having a chilling effect on anyone dealing with the trauma and hardship from seeking medical care due to stillbirth, which is more likely to occur among immigrant communities, those of low socioeconomic status, and minorities of color.

1.7.: Conclusion

This chapter has argued that the changes in obscenity laws and the moral crusades that brought them about are, first and foremost, stories about power. Moral panics are fueled by demographic and class prejudices that give rise to new moral regimes which create new fields for legal contestation and, thereby, new possibilities for subjection to benefit the privileged and powerful. I argue that moral panics research often makes a 'first mover' error and focuses on the efforts of moral crusaders to have new restrictions enacted forsaking the existing role of the state in shaping moral order. This research misses how the State utilizes latent illegality to expediently change the moral order and create new scapegoats because moral panics scholars rely on unstated Durkheimian ideas to focus on moral boundaries devoid of their more important contextual features. Latent illegality becomes such a powerful force in social life because of the role that lawfulness plays in

shaping moral institutions. The following chapters will explore different communities that have had to respond to the legal and extralegal consequences of latent illegality and why the relationship between the porousness of their organizations and the breadth of their membership criteria has such a consequential effect on their responses.

Chapter 2: BDSM and What Binds Them

2.1 Introduction

Bondage and Discipline, Domination and Submission, and Sadism and Masochism (BDSM) is, through and through, illegal. That might be difficult to believe--- how is BDSM expressly illegal? How have behavior even too tame to pique the 200 million purchases of *50 Shades of Grey* be categorically illegal. At the risk of oversimplifying, a person cannot consent to abuse. Yet, mutual affirmative consent is not even something that is taken into consideration in some instances of prosecutorial discretion. A variety of municipalities in the United States have adopted empathetic protocols for handling domestic violence cases whereby the victim/survivor would not be called as a witness by the prosecution, with the idea being that it is may be superfluous to ask them to testify when enough evidence already exists that they need not risk retraumatized the victim/survivor. Accounts from supposed victim/survivors have been dismissed as Stockholm Syndrome, a condition where the abused or detainees form bonds with their abusers and detainers. BDSM has been used as grounds for denying child custody, as a violation of morality clauses in employment and rental agreements, and a variety of other civil contracts. Despite its prevalence in American society, BDSM can expose individuals to a variety of legal and extralegal risks. The law's failure to fully distinguish consensual activity with abuse makes

it easier to mark those in the BDSM community as abusers, psychologically damaged, and deviant. The BDSM community, demographically and programmatically, is in many ways a microcosm of the United States and actively works to distinguish themselves from being conflated with sexual violence.

BDSM covers a wide range of behavior and identities, although overlap is quite common (Santilla, et al 2002). Bondage and Discipline refer to roleplaying centered on the desire to or bind and restrict others, or to have that done to oneself (Thompson 1991). Dominance and Submission is where the submissive partner ('sub') consensually is more vulnerable and yields power to the dominant partner ('dom') (Weinberg, Williams, and Moser 1984). Sadism and Masochism refer to the desire to inflict or receive erotic pain from a sexual partner (Santilla et al 2002; Yost and Hunter 2012). Erotic pain is derived from the body's natural response to discomfort by release of endorphins and dopamine that increase the brain's sense of pleasure.

There are crucial differences between those who engage in BDSM as a kink and those who identify and are active in the BDSM community. Members of the BDSM community face stigma, disfavor, and discrimination like other sexual minority groups (Moser and Kleinplatz 2006; Weiss 2006; Wright 2006; Yost 2010). Importantly, there are added legal and extralegal for those involved *in the life* as members commonly describe themselves (Holt 2016; Moser and Kleinplatz 2006). The persistence of legal risks to the BDSM community (Damm et al 2018) cannot be explained by laws that had targeted gays and lesbians like anti-sodomy bans (Yost 2010). If the risks faced by the BDSM community were a byproduct of the legal and medical standing of gay and lesbian Americans, then we would observe that there would be at least some indication that laws and diagnostic

criteria that regulate members of the BDSM community would show some signal of relaxing and becoming more tolerant as they have for gays and lesbians (Damm et al 2018). Each edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) has continued to state that interest in and identity around BDSM to fall within the category of paraphilic disorder, a pathology that is incompatible with well-being. Constructing BDSM behavior and identity as illnesses and deviance gives the veneer of respectability to projecting shame, distress, and alienation to a large, diverse subset of the American population (Herbert and Weaver 2015). The DSM has a long history of lagging behind conventional medical wisdom and political reasons behind the diagnostic criteria regarding sex and Black Americans (ex. Metzl 2009). The DSM-5 did, semantically, change some aspects of diagnostic criteria. Under the current language, a sexual desire is not a disorder if it does not cause harm or distress and/or if individuals do not report having psychosocial difficulties because of it (American Psychiatric Association 2013). This new language nonetheless holds BDSM as a pathology because, like in the case of the law, a person cannot consent to harm or distress. The continued use of algolagnic disorders like sexual sadism disorder, which refers to have sexual urges related to inflicting pain or dominating a non-consenting person, illustrates how misunderstanding the psychiatric environment is of the BDSM community. The DSM-5 makes the error in emphasizing sadism because rape is the necessary and sufficient condition of the diagnosis, not sadism.

BDSM is, at its core, driven by the “eroticization of power” (Ortmann and Sprott 2013, p.11). However, the BDSM reflects a wide array of symbols, rituals, nomenclatures, identities, and desires (Newmahr 2011; Weinberg, Williams, and Moser 1984; Weiss 2011). There are active and sustained subcultures within subcultures, all of which find home

under the broad umbrella of BDSM. There has not been standard estimate of the number of Americans that engage in BDSM. Estimates have ranged from 4, 10, 60, and 65 percent of the adult population (Arndt, Foehl, and Good 1985; Janus and Janus 1993; Moser and Kleiplatz 2006; New et al 2021; Powls and Davies 2012; Sprott and Randall 2017). The wide variation in estimates of the number of people who engage in BDSM activity is a result of several methodological and definitional variations. The majority of indicators suggest that a large number of American adults have some interest in BDSM. Powls and Davies found that 60 percent of college age men and women having fantasies that involved BDSM (2012). *Fifty Shades of Grey*, which controversially drew on BDSM-related themes, sold more than 80 million copies in the United States in the first two years it was in print (Lewis 2014). While a large number of Americans might have varying interests in BDSM, the percent of the population that would identify as a part of the BDSM community can be expected to be smaller. A sense of community, especially around stigmatized interests and behaviors, generally requires a greater degree of permanence in its defining characteristics (members, space, activities, symbols, etc.) than individuals sharing in an interest transactionally. For example, strangers at a park who decide to play a one-off game of basketball can do so more freely because it is not a high stigma activity, and the lack of enduring social ties or other features means they are less aptly considered a community. The BDSM community has far more enduring group characteristics and will be explained in greater detail later.

Writings and art depicting BDSM themes dates back many centuries. Sadism and Masochism were named after the French nobleman the Marquis de Sade (1740-1814) and Austrian nobleman Leopold Ritter von Sacher-Masoch (1836-1895). Some prominent

elements of today's BDSM community in the United States can be traced back to imports during and after World War II. This is particularly true for the common role leather plays in attire and gear beyond the explicitly named leather scene. Leather is also an example of how the BDSM community had been, and still is, long mischaracterized as being only for gays and lesbians. The Leatherman character in the disco group The Village People, portrayed by singer Glenn Hughes, has become an iconic symbol of LGBT American culture broadly and not representing solely the leather scene.

The leather community use leather goods and their fetishization primarily during dominant and submissive roleplaying (Baldwin 1991). Drawing some inspiration from the role of leather in military wears and equipment leather, usually black and occasionally red, draws on leather's broad symbolic role as a signifier for toughness, power, and masculinity. Leather, which can be durable and enduring while both hard when taut and pliable otherwise, is desirable as a fetish as well as functionally conducive for routine domination and submission roleplaying scenes.

Because of their legal precarity, social stigma, and symbolic absorption into LGBT culture, a BDSM identity is rife with contestation (Damm, Dentato, and Busch 2018; Schulenberg 2013; Sheff and Hammers 2011). High contestation paired with common but private interests from those outside the BDSM community means that the task of defining community and identity boundaries particularly interesting. Returning briefly to *Fifty Shades of Grey*, convention organizers and individuals in online forums would both speak comically of it if not polemically with critiques ranging from it being largely banal to being not BDSM and actually abusive behavior in some instances. Yet, and often at the same times as they laid criticisms, individuals *in the life* would use the success of the book and film

series as evidence of a broader positive interest in BDSM by the broader American public. Baldwin finds that identity contestation within the BDSM community is a fluid process of setting external boundaries as well as internal distinctions within subgroups (1991). Both internal and external boundary making is highly defined by considerations of risk (Bauer 2008).

In what might superficially seem a paradox, members of the BDSM community are both risk seeking and constantly risk averse. The defining practices in the BDSM are consensual, negotiated exploitations of power. The process of becoming sufficiently vulnerable or empowered without overstepping one's role has led to a rich language to effectuate the positive manifestation of power differentials. As the community has grown and subgroups flourished, overlapping nomenclatures allow for individuals to embark in highly specific, negotiated interactions, more commonly known as 'scenes.' The BDSM-specific language not only helps provide in-group and out-group distinctions, but it differentiates scenes from conventional or even experimental sex acts because the nuanced, performative nature of acting in a scene is not and cannot be spontaneous (Weiss 2006). Chapters 2 and 5 will discuss at length the central roles of consent and the scene in defining community membership.

The acronym BDSM refers to the traditional bondage-discipline-dominance-submission-sadism-masochism practices in addition to subcultures and community that span more than one sexual minority community. Including intracommunity subcultures is appropriate because the study asks about their feelings only within the broader sexual minority communities and they also offered some comparative insights between communities that was useful in understanding the efficacy of these communities from the

perspective of insiders in a more discerning way. BDSM is a chosen identity because it requires a deliberate series of actions and beliefs to identify with a stigma that would otherwise be invisible to others. Publicly affiliating with 'deviant' sex acts, even though a large number of Americans experiment or regularly partake in behaviors that fall under the BDSM umbrella exposes them to risks brought on from latent illegality far more than the general public interested in BDSM because it can make them less anonymous and more easily labelled a corrupting influence or group threat. BDSM is also a chosen community, and not because of pure aggregation. Individuals elect to enter into community and the foundational interests of the community are based on consensual relationships. They maintain community in a variety of local and global ways with varying degrees of formality. BDSM is a sexual identity insofar as sex is a core aspect of the shared interest and activity of the community.

2.2 Data Collection

In order to understand how the BDSM community responds to latent illegality, it is important to understand the political and demographic characteristics of its members. It is reasonable to suspect that common features of community might make them more or less risk averse. Understanding community members political behavior and ideology are important to understanding the ability for individuals and the community to respond to risk and how the individuals understand themselves and the risks they face within broader political debates and culture wars. To measure the political attitudes and activities of the BDSM community, respondents were administered a BDSM-oriented versions of multiple choice and open response questionnaires. The first survey is a modified version of a

longitudinal survey from the Pew Research Center. It is modified insofar as some questions that Pew asked were not germane and contained 29 multiple choice questions. The second survey comprised 11 open-ended questions that allowed for respondents to detail how they became a part of the community, what they perceive outsiders think about the community and their involvement in it, and how the community does and could respond to issues of shared concern. Answers to the surveys were first collected through convenience samples at BDSM conventions and then through virtual snowballing. As is the case for all of the communities in this study, there is no consensus on the aggregate characteristics of the community. As mentioned earlier, previous studies have shown a tremendous variance in the number of Americans interested in BDSM. There is also a multiplicity of ways in which members of the BDSM community contribute to maintaining community ties and the community's longevity. For that reason, there is no straightforward way to construct interval measures of community involvement and then tie them to their identity claims or notions of risk.

The in-person survey responses were collected at three major BDSM conferences: Beyond Vanilla XXIV in Dallas, Texas in 2014; DomCom Los Angeles 2021; and FroliCon/Froliween 2021 in Atlanta. Each conference lasted four days and all attendees were at or over the age of 18. Responses collected at Beyond Vanilla took place at the vendor room and organizers allowed for conference attendees be solicited by a flyer in the conference welcome packets. Those who participated in person were encouraged to share the links to the questionnaires through their BDSM networks. Respondents were also asked about opportunities to share these surveys in closed online forums and groups. Participants could enter for a chance to win \$50 in a drawing at the end of the conference

and given an assortment of candy at the table in the vendor room. In-person surveys were completed on one of four iPads. More than three hundred surveys were obtained at Beyond Vanilla, followed by over thousand online responses over the next six months. I also engaged in participant observation and ethnographic analysis by attending some of the panels and social events and reading the literature and flyers that were made available throughout the conference.

I went to DomCon as a general attendee, attended panels, and other conference proceedings in order to engage in participant observation and ethnographic analysis. The BDSM focused conferences place sex and sexuality at the forefront of the event. There is no ambiguity or hidden undertones of sexuality like some of the other conferences for the other groups considered in this study. The central role of consent will be discussed in Chapter 5.

In order to ensure data saturation was met, I also regularly viewed open BDSM online platforms or BDSM pages within broader social media platforms. Observing the community as it interacts with outsiders and prospective members is important in understanding if there is a potential gap between attitudes and behaviors (Jerolmack and Khan 2014). Much like my time during an in-person conference, I approached the online forums without any focus beyond seeing the general discourses that took places, knowledge production, as well as how and why boundaries were maintained between subgroups, individuals, and outsiders.

2.3 Results

The results of the survey detail a predominantly white, educated, and secular community with somewhat moderate political leanings. About 82.2 percent of those surveyed identified as white (Chart 2.1). This sample is whiter than what was observed of the convention attendees, although the majority were either white or white passing. There are notably fewer Asian American respondents which suggests further investigation is needed to determine if that is a consequence of sampling or if there are, in fact, far fewer Asian Americans in the BDSM community. Just over a third, 36.9 percent, report having no religious affiliation which is slightly higher than the overall American population (Chart 2.2). Based on that, only half of those reporting any religious affiliation report attending religious services with some frequency (Chart 2.3).

Chart 2.1: Racial Identity of the BDSM Community

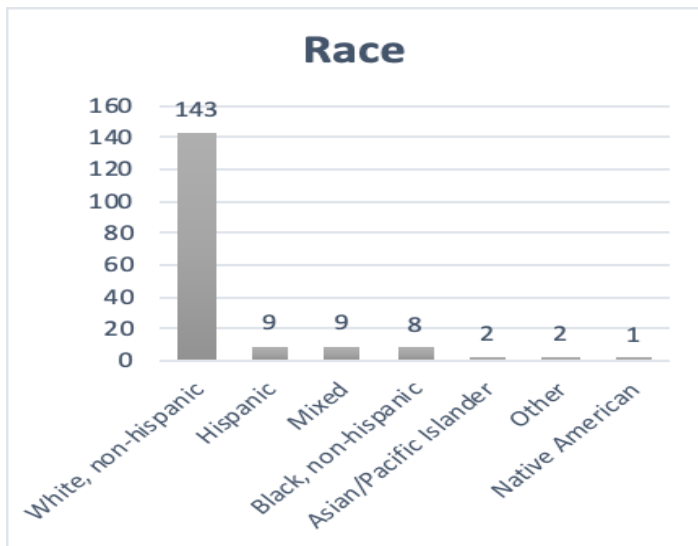


Chart 2.2: Religious Affiliation of the BDSM Community

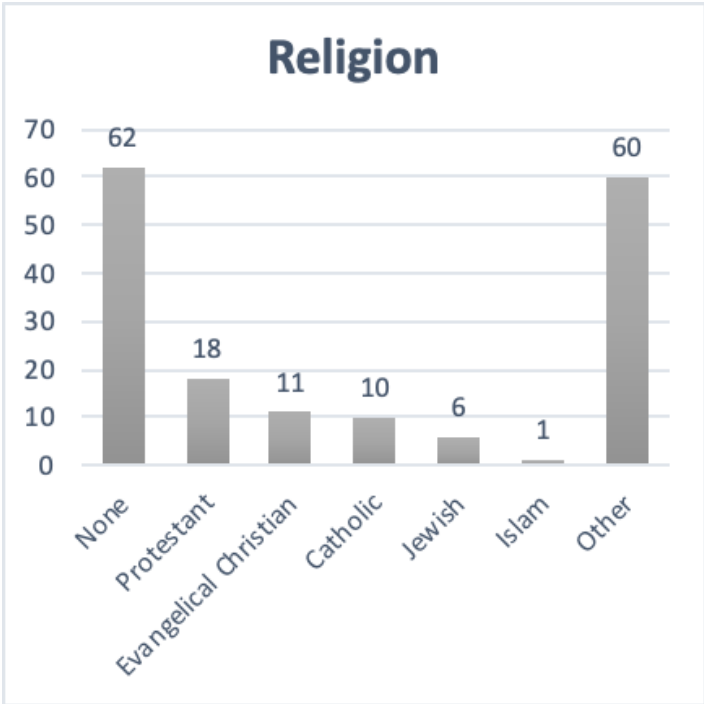
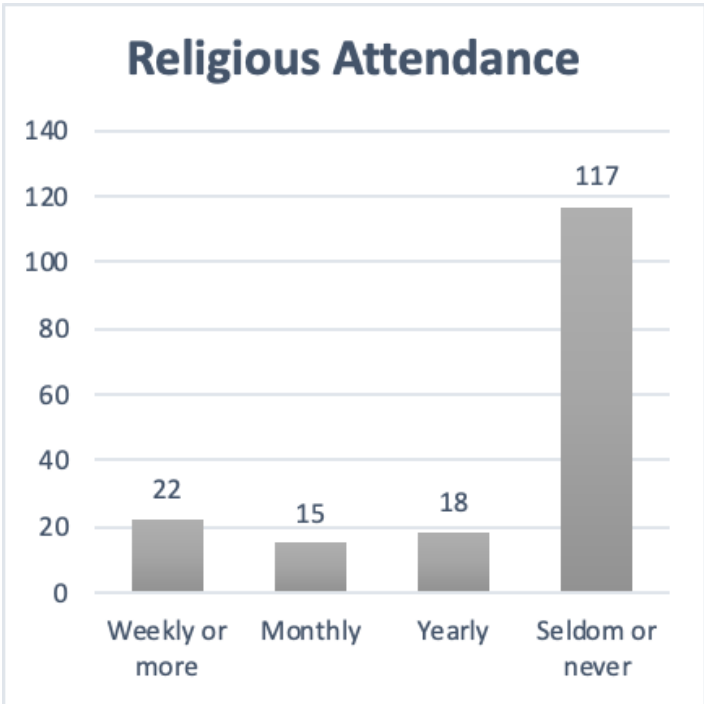


Chart 2.3: Religious Attendance of the BDSM Community



Two-thirds of those surveyed identified male (Chart 2.4). I found the convention spaces to be more male dominated, but far from patriarchal. There were lesbian spaces, women played roles of domination, and several of the presentations made explicit values of gender and sexual equity that they held and believed were BDSM values. One shortcoming of replicating the Pew poll is that Chart 2.4 does capture the proportion of transgender members of the community. I observed many individuals with subcutaneous mastectomy scars, whereby breast and sometimes chest tissue is removed as a common procedure in female-to-male gender affirming healthcare. The current relationship status of those sampled appears consistent with their age distribution of the sample (Chart 2.5). The BDSM community skews younger, with mid-career adults comprising almost half, 47.7 percent, of the sample (Chart 2.6).

Chart 2.4: Sex Composition of the BDSM Community

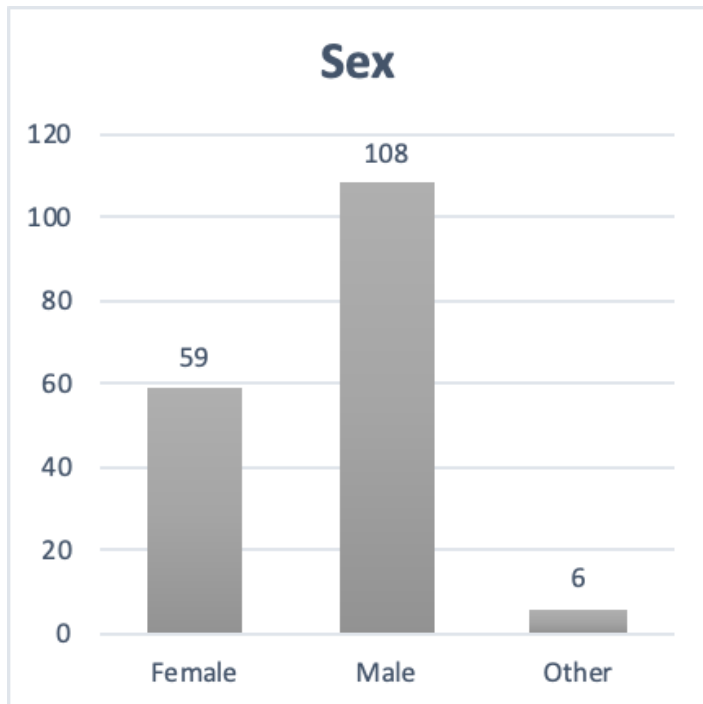


Chart 2.5: Relationship Status of Members of the BDSM Community

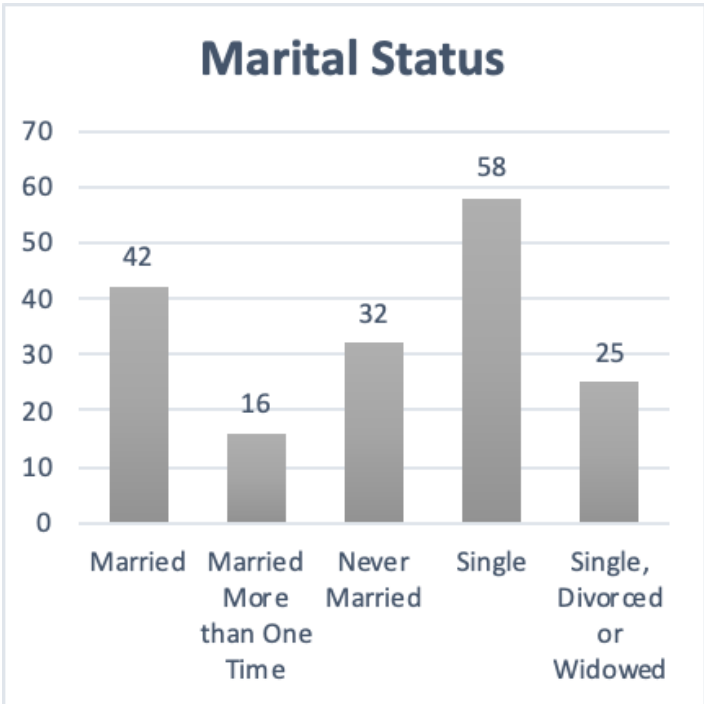
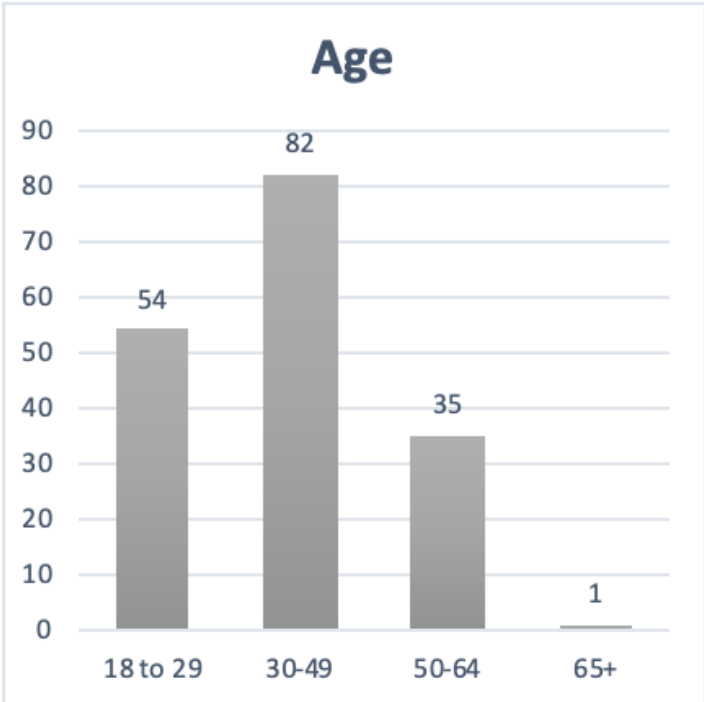


Chart 2.6: Age Distribution of the BDSM Community



Members of the BDSM are overwhelmingly educated, with 90.8 percent of respondents having at least some college education (Chart 2.7). That is much higher than the overall US population and much higher than any individual age cohort. This may help to explain the ease with sociolegal contours of consent are so readily adopted in the community. I found that 7 out of 10 (69.2 percent) were employed full-time (Chart 2.8). The plurality of members in the BDSM community are middle-class (Chart 2.9). This makes sense despite the higher-than-average levels of college education because of the proportion of early career adults in the sample.

Chart 2.7: Levels of Education in the BDSM Community

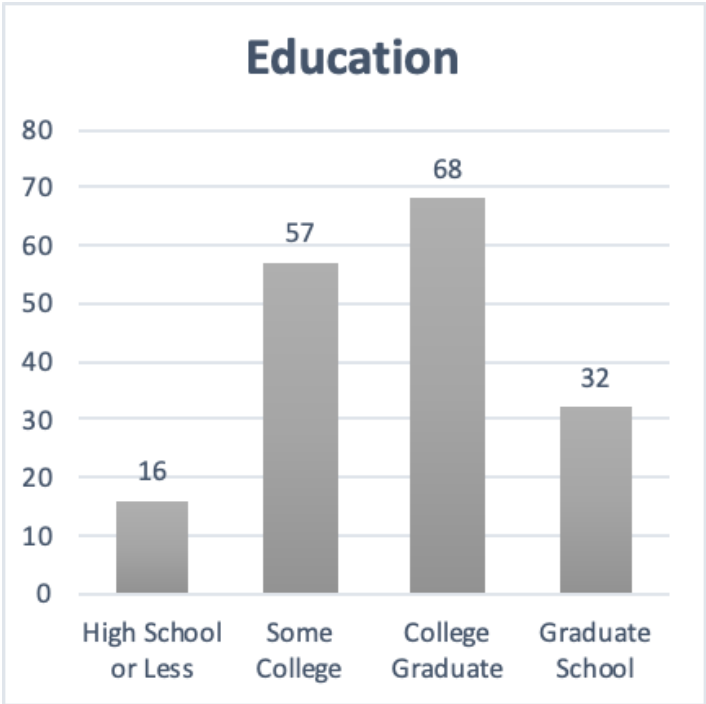


Chart 2.8: Employment Statuses in the BDSM Community

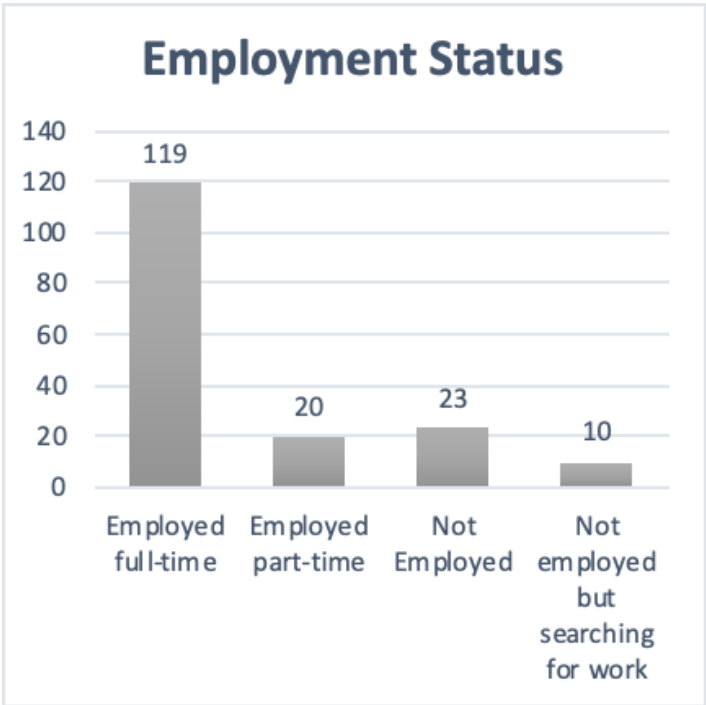
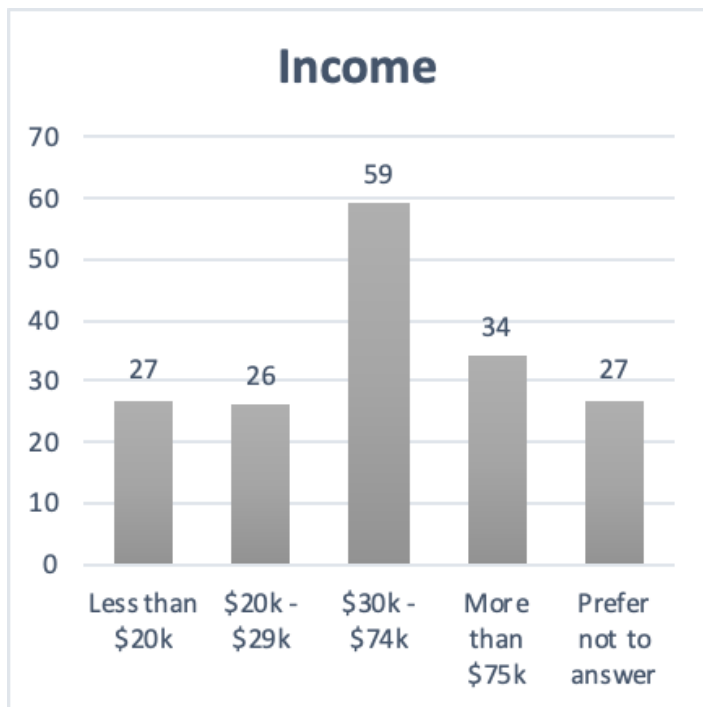


Chart 2.9: Income Levels of the BDSM Community



Most than three quarters (77.8 percent) of those in the survey were certain that they were registered to vote (Chart 2.10). The plurality of respondents was registered as democrats although 38.1 percent were registered independents or no party preference (Chart 2.11). The ideological distribution of the BDSM community skews liberal but there were about as many moderates as there were liberals, at 31 and 36.5 percent respectively (Chart 2.12). The ideological distribution also shows that the independents in this sample were more likely to identify as moderates than independent voters in the other communities in this project, but 70 percent said they leaned Democrat when forced to pick a party (Chart 2.13). No less than 85 percent of respondents overwhelmingly thought that the Republican party was too conservative on social issues like abortion and gay marriage (Chart 2.14).

However, the BDSM community was mainstream on issues, even when they overwhelmingly sided against one party. For example, about half of the members of the BDSM community thought that the Democratic party was about right when it came to abortion, with 31.7 percent thinking that the Democratic party was not liberal enough and 17.5 believing that the Democratic party was too conservative (Chart 2.15). But members of the BDSM community showed tremendous variability depending on the issue. The BDSM community was evenly divided on their thoughts about immigration (Chart 2.16). Just more than half, 53.3 percent, talked to others about politics on at least weekly basis (Chart 2.17).

Chart 2.10: Voter Registration Among Members of the BDSM Community

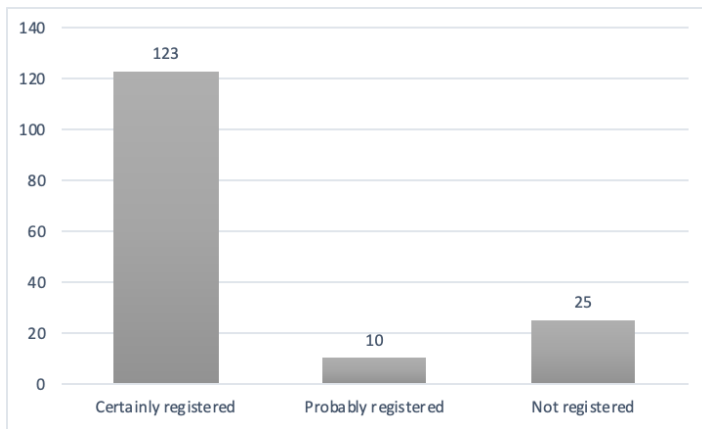


Chart 2.11: Party Identification Among Members of the BDSM Community

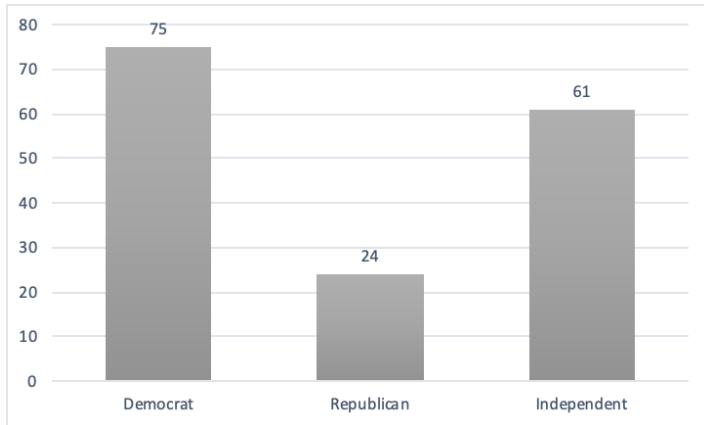


Chart 2.12: Ideological Distribution of Members of the BDSM Community

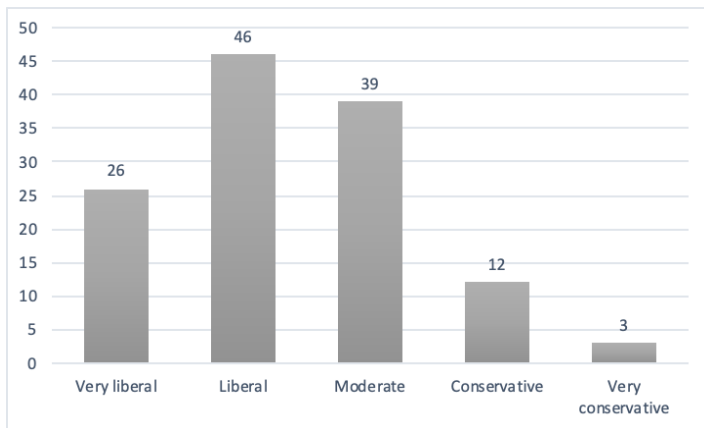


Chart 2.13: Partisan Leanings of Independent BDSM Voters

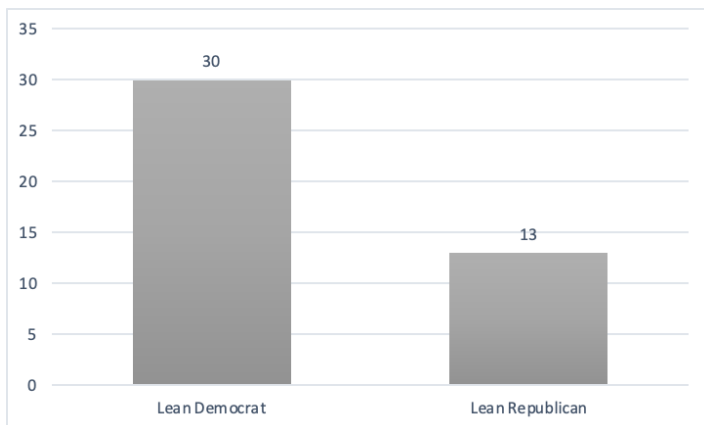


Chart 2.14: BDSM Community's Opinion on Republican Party's Stance on Abortion

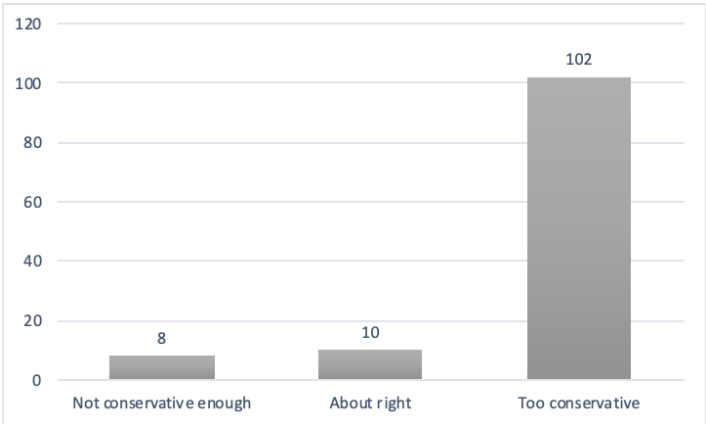


Chart 2.15: BDSM Community's Opinion on Democratic Party's Stance on Abortion

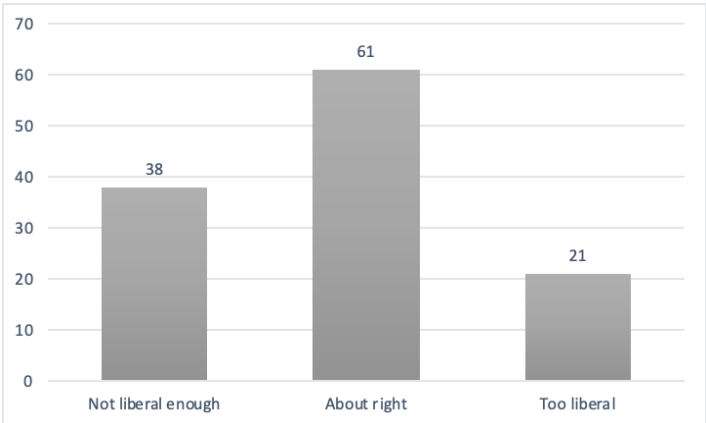


Chart 2.16: BDSM Community's Opinion on Democratic Party's Stance on Immigration

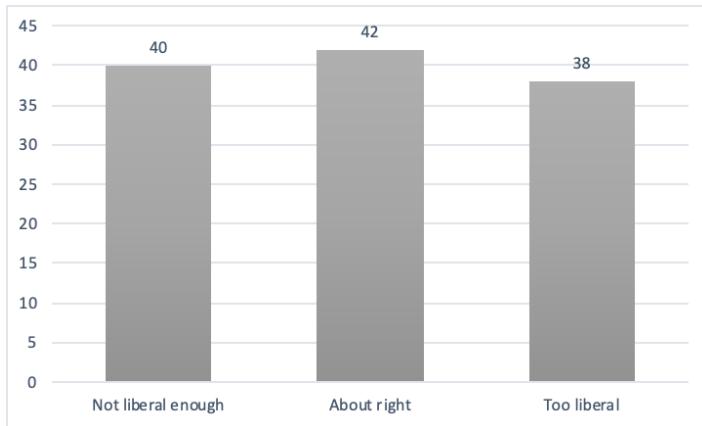
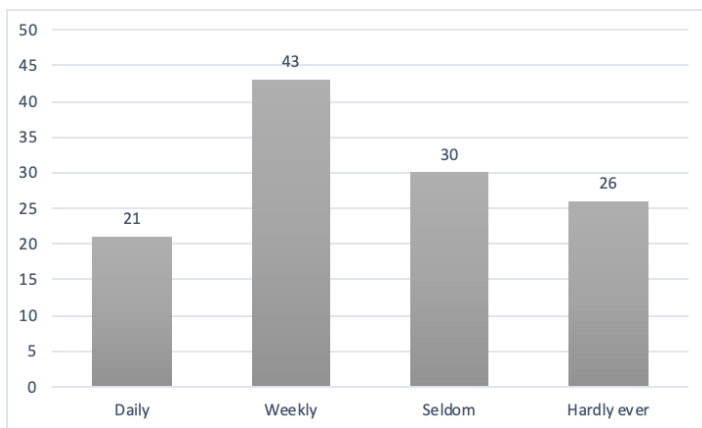


Chart 2.17: How frequently the Members of the BDSM Community talk about Politics



Our open responses found additional interesting findings. Without exception, every respondent saw themselves as being a part of a community. This was unexpected. I assumed that there would be a sizable number of individuals who might be interested in BDSM but not see themselves as being within a community. There was a tremendous diversity in sexual orientation overall. The majority of respondents who identified as a part of the overall BDSM community noted that they were bisexual and those in the leather subgroup had near equal pluralities of gay/lesbian and bisexual respondents (See Smith et

al 2022 for a broader discussion about why there are so many more bisexuals in the BDSM community and other sexual minority groups discussed later on).

Interestingly, the vast majority of the respondents could not identify a unifying political issue despite the findings that they consistently held liberal views on issues such as abortion and gay rights. Perhaps it is not surprising, then, that the respondents were unsure if the community should be more active as a community on political issues. The presence of large silent majorities in the BDSM community suggest that anyone wishing to politically mobilize the BDSM would need to first work to show that the community it united on certain causes.

Based on the findings, members of the BDSM community tend to adopt some identities that may make them less adverse while also holding others that would raise levels of aversion. The considerable number of early-to-mid-career respondents, who also hold middle class jobs, may open the door for concerns about how risk might affect their current job security and the rest of their career. Not being wealthy, they may be unable to fund legal services should they need them. The proportion of white members may mitigate sanctions but not necessarily erase them. Studies have shown that people are often more likely to think that allegations intimate partner violence against men of color are more violent in nature than when the alleged perpetrator is white (Bottoms et al 2004). The responses to the open response survey suggest that the BDSM community has a variety of formal components, but they do not appear to act as representatives of individuals. This formal but centralized dynamic will be discussed further in Chapter Five.

Chapter 3: Furrries of a Feather stick together

3.1 Introduction

The furry community, or furry fandom, is a community that developed out of the larger cosplay (or costume play) subculture. Furrries are united by a shared interest in anthropomorphic animal characters in art, video games, film and television, and costumes. Seabrook stresses that "[t]he single defining characteristic of this sub-culture is its interest in anthropomorphic animals; there is no widely accepted or unifying tendency in the Fandom" (Seabrook 2010: 13). There is a substantial body of scholarly work about the aesthetics of the furry-fandom and about the psychology of its members over the past decade and area of discrete study only in the past few years (see, e.g., Coyote 2020; Dunn 2021; Ngai 2012; Patten 2017; Reyson et al 2020; Strike 2017). Much of the early work on furrries looked at them by contrast with other fandoms or through a pathologizing process replete with bad research. This chapter enters this burgeoning area of study with a focus on the general history of the furry community and the research about them, provides a novel sociodemographic understanding of the community, and sketches important risks that the community faces that the extant scholarship has not yet addressed. Like the other groups in this study, this chosen community presents an essentially contested identity whose potential sociolegal consequences warrant exploration. Furrries have a chosen personal identity that, for many of them, is inextricably linked with sexual orientation.

Many members of the fandom wear elaborate and usually custom-made costumes called "fursuits." And a far greater proportion wear pieces like fuzzy ears on a headband or a tail that can be attached to a belt, belt loop, bag, or purse. Members adopt detailed, meaningful identities called "fursonas." (Dunn 2021). A fursona is expressed through a

variety of community events and interests like art, online chatrooms, or in some other way other than through a fursuit. Some individuals may have more than one concurrent fursona and it is common for individuals to drop and acquire new fursonas over time. Fursonas are sustained identities that may have backstories. They are not isolated instances of someone acting like an animal. Not all furries actually wear fursuits (the elaborate costumes) or have “fursonas” (the assumed identities) and some furries have fursonas but do not have fursuits. Fursuits are heavy, expensive and require maintenance. Furries wear their fursuits while participating in some in-person gatherings but generally maintain the majority of their community ties while not wearing a fursuit. Individuals without a fursuit or fursona are nonetheless welcomed in the community because they are nonetheless fans of and participants in the activities of those who create the art, don the suits, and assume the identities and, thereby, have a multitude of ways of expressing and acting on their shared interest in anthropomorphized animals. According to the International Anthropomorphic Research Project, likely the first group to have a sustained research program on furries and furry culture, and was led by researchers from inside the community, defines a furry as “a person who identifies with the Furry Fandom culture...individuals who have a distinct interest in anthropomorphic animals such as cartoon characters. Many, but not all, furries strongly identify with, or view themselves as, one (or more) species of animal other than human” (Gerbasi et al. 2008: 198).

Anthropomorphism in furry culture plays out in near ubiquity through a variety of practices beyond the aforementioned interest in artwork and fursuiting (dressing up in an fursuit while embodying a fursona or the psychosocial traits of a human being). In each of these instances, the furry lives and performs tasks typical of a human being (e.g., walking

upright on their hind legs, wearing clothes, speaking languages, and interacting in cultural settings normally reserved for human beings). Therianthropy, "the giving of animal traits to the human," is also an important facet of the furry community (Maase 2015: 1). It is mostly commonly expressed in the furry community when furies wear portions of animal costumes (ears, tails, etc.) and/or "act" like an animal (e.g., purr like a cat, growl at a stranger, etc.). Together through various routinized, non-arbitrary expressions of anthropomorphism and therianthropy, "the fandom is made up of several different types of furies" (Jeansonne 2012: 73) ranging from animals becoming humanized to humans becoming animalized. The spectrum of behaviors is, then, necessarily broad to create an inclusive space. The common personality traits ascribed to common groups like foxes, rabbits, cats, and wolves also means that the mores of the furry community are dynamic and allow for immense pluralism, arguably in ways that a non-furry community might have a harder time maintaining. Dunn notes that a critical difference between furies and other fandoms like Trekkies (Star Trek) or Whovians (Dr. Who) is that there is no canon, no story arc or preset list of characters or groups (2021). This means furies are free to develop their identities and characters as they see fit with no concern of running afoul of the "rules" of the identity beyond the common anthropomorphized characteristics of a specific animal.

There is not a consensus on the size of the furry community in the United States. Previous research and community leaders estimate the number of self-identifying furies to range from hundreds of thousands to as many as ten million. Like the other groups in this study, in-person and remote surveys and open-ended questionnaires were given to self-identified members of the furry community at five large, national conventions and online through a virtual snowball sample. I observed conference organizers speaking to attendees

and engaged them in informal, unstructured interviews at *FurCon: Further Confusion* in San Jose, California. Each convention attracted thousands of members of the furry community and thousands more of the general, non-furry public, with attendees often travelling across the country to take part. Furies were unanimous in the belief that politicians have little to no understanding of who they are and were able to clearly identify the stigma and different risks that furies face. Many suspect that outsiders who have heard of furies conflate them with bestiality, perversion, and, at best, immaturity. The respondents clearly displayed how their circumstance of latent illegality, being associated with bestiality without any predicate for doing so, is something that they are generally aware in addition to it being something that informs the community's relationship discursively with outsiders (see Chapter 5).

There is no way to know for certain if the survey responses constitute a representative sample of furry community in the United States. The use of a virtual snowball may have led to an oversampling of younger and more technologically proficient furies. This is due to younger Americans utilizing the internet at a higher rate. Those sampled from the conventions may underrepresent middle-aged furies who might otherwise have higher familial obligations that would make conference travel a logistical nightmare.

The sources that have thrown around estimates about the size of the community, their variance notwithstanding, provide us little insight into the demographics of the furry community and literally no insight into the politics of this group. Although some members of the community might disagree, being a furry is not an innate characteristic as classically defined. It is fundamentally a social phenomenon; one becomes a member of this

community only by deciding to join it. For a variety of reasons, sexual communities that individuals opt into might be missed by the scholarly analysis of more familiar and frequently studied groups defined along traditional demographic variables (Bobo & Gilliam, 1990; Uslaner & Brown, 2005; Barreto & Pedraza, 2009). The furry community is formed on the basis of choice; furrries coming together to be a part of a group that shares this identity and collection of shared interests. Furrries are a prime example of chosen sexual communities. Not all furrries embrace or agree with the notion that the furry fandom is a sexual community, and that debate will be discussed late on in this chapter. At least for some, sexuality as expressed in facets of furry culture, particular in art and erotic play, is a fundamental and inextricable feature of their furry identity.

General misconceptions of about the furry community come from a general lack of understanding and some assumptions based on the perceived youthful age of the furry community and fandoms in general. One such assumption is that being a furry is 'just a phase' or 'kid stuff.' This implies that furriness is less likely to be a core aspect of one's sense of self given that it is fleeting, either as a phase or a feature of a developmental stage to be outgrown. Independent of what scholars might decide, research has shown that to furrries their furriness is about more than a series of actions or shared group activities. According to a survey by the International Anthropomorphic Research Project, roughly 38 percent of furry respondents believe being a furry "is not a choice," and thus an innate characteristic compared to 32 percent who believe "it is a choice," while 30 percent who selected "I don't know" (Plante et al. 2016: 45). A limit of this study comes from the fact that innateness can be taken to mean that it is determined, biologically or from social circumstances, or that it is so important that one would lose a core part of oneself if they

were suddenly to lose it. While many furries believe they were born a furry, identity “is constructed through a complex interplay of cognitive, affective, and social interaction processes, occurring within particular cultural and local contexts” (Vignoles et al. 2006). Like many other identities, “[a]lthough furries argue that being a furry is not something they do, it is something they are; sociologically we can say that becoming a furry is a social construction” (Jeansonne 2012: 74). This in no way means that the respondents in that survey are delusional. To the contrary, not only should they be taken at their word about the importance of being a furry is to them but that it also means it is uniquely central and not taken for granted. The fact that such a substantial portion of the community sees being a furry as inextricably linked to their fundamental sense of self despite the dynamic, changing boundaries of the community illustrates the passion and commitment furries have to their communities. This is radically different than someone who, for example, might take their religion and religious community for granted because they were born and raised in the community and do not know anything else. As Durkheim reminds us, social identities, no matter how arbitrary, matter if for no other reason that they effect action. The point is that the socially constructed nature of the furry identity allows us to classify them as what Schulenberg calls “essentially contested subjects, “social groups with a fixed identity label but no universal, objective definition of who is and is not a member of the group or groups with “contestable boundaries.” (Schulenberg 2013: 450).

Identity contestation is important with respect to furries for two reasons. Furries are contested as a group by the stigma of non-furries and the responses of the community to that stigma. Many see competing definitions used by different people with various levels of engagement and levels of connection with the identity. Some may be more inclusive in

their assessment of who is a member of the community while others may be more exclusive by thinking some things are insufficient or disqualifying. The contested boundaries of the community's shared identity are important especially when we consider the role of sex within the furry community.

Identifying as a part of the furry community means that there is value that comes from sustained social engagement, something more than a designation of people who merely share a similar interest. Furrries are highly active online and hold a variety of in person events too. Furrries have an exceptionally large online presence on furry-oriented websites such as furafinity.net and general social media platforms where they chat, develop strong relationships, and share furry-oriented artwork (Maase 2015). In person events range from small, local group events to large regional and national conventions, such as Anthrocon, the world's largest furry convention held annually in Pittsburgh, Pennsylvania. In both online and in-person environments, most furrries adopt a "fursona," which is their online and offline animal persona that they use repeatedly over time, both as an act of play and an act of identification (Brown 2015). Furrries generally, but not always, interact with one another through their fursona(s). Furrries serving as conference panelists and workshops leaders often do not socialize through their fursona, placing primacy on making whatever they are discussing accessible to a general audience. As mentioned earlier, a furry may have more than one fursona at a time, drawn on depending on context or mood, and may change their fursona over time.

3.2 Stigmatization in Popular Media and Academia

The mischaracterizations and negative stigma levied on the furry community appears throughout the brief history of the group. Popular mischaracterizations and prejudices have maligned the furry community almost since its inception, consistently making unfounded links to criminality and psychological disorder. Masse claims that “[s]ex is the most commonly associated negative attribute of the fandom” (2015, p. 118). The general public approbation “is based in the stereotype that furies are sexually deviant or have a mental disorder.... (often) the idea is that furies are into bestiality and their activities are based on sexual behavior” (Maase 2015: 33). In researching criminal databases and cross-listing them with news coverage, I could not find an instance in which a furry was found to have engaged in bestiality. In other words, the non-furry stigma and stereotypes about furies are not only limited to misinterpretations of something observed but sexual panic without an empirical basis. This process of applying a perversion to a subculture as a means to scapegoat them is a common practice in reifying social strata, moral panics, and in justifying oppressive political campaigns. Members of the LGBTQ community as well as the other groups in this study here are all too familiar with this process. Indeed, this also happens to religious minorities and racial minorities routinely. Arendt demonstrates that this allowed for the basis of European imperialism, anti-Semitism, and chattel slavery (1973).

The existing research on furies illustrates views about the role of sexuality within the fandom, while important for many furies, is far from homogenous across the community. Sexuality, including sexual orientation, is not universally seen as an orienting feature of the furry community. Seabrook found many furies believe “sexual explicitness in

visual representation is a divisive issue in the Furry sub-culture and one that provokes attacks on the sub-culture both from external critics and from those within the sub-culture who perceive themselves as moral police..." (Seabrook 2010: 134). This concern with the general societal perception of furies as sexual deviants can have profound personal and group implications because, "[t]his stigma also goes as far as stopping furies from being open as furies," and thereby inhibits individuals from open acknowledgement of who they are and creates a furry closet so to speak (Maase 2015: 119). As will be demonstrated in later, bestiality associated risks shape the interwoven organizational and identity characteristics of the furry community.

News outlets and mass media generally present furies as "sexual deviants...or as suffering from psychological disorders" (Healy and Beverland 2013: 227). There are several specific events that both illustrate their negative depictions as well as continue to negatively reverberate throughout the community. For two decades, furies have identified popular depictions of them as being glaringly hostile, instead of benignly ignorant. In each case, the interviewees/subjects were chosen or portrayed for their "for shock value" and their presentations of furies are inconsistent with all peer-reviewed research on furies (Nast 2006: 319-20). This is of course reminiscent of the early television portrayals of Black Americans and members of the LGBT community, as well as innumerable racial, religious, and ethnic minority groups.

The earlier television depictions of furies are highly dramatized, even during what purports to be news and informational programming. The daytime talk show host Dr. Phil interviews a furry named Boomer on his eponymous television program. Rather than explore the psychosocial dimensions of the furry lifestyle or Boomer, the segment depicted

Boomer engaging in a variety of therianthropic dog behaviors while mocking Boomer for never having gone on a date. Vanity Fair interviewed several furies about their sex lives, their psychological struggles, and their generally desperate and unhappy lives. The interviewer also pushed them to claim all furies were just like these selected few. The long-running criminal procedural drama CSI centered an episode around a furry character believed to have committed a murder. It is surely a problem that one of the few depictions of a furry is a portrayal of them as violent. More importantly, the episode “Fur and Loathing,” a reference to Hunter S. Thompson’s 1971 novel *Fear and Loathing in Las Vegas* which was later adapted to a feature film starring Johnny Depp. That illusion itself suggests that being a furry is like the countercultural, devolved, bacchanal of the book’s two primary characters. In the CSI episode, the furry character and the furry community were ridiculed and pathologized throughout. Another prominent example comes from the MSNBC opinion programming *Morning Joe* where the panel had a superficial discussion of furies, consistent with the depth of the program’s issue coverage. Despite knowing the topic in advance co-host Mika Brzezinski went into such a prolonged fit of laughter that she was forced to leave the set. The point of the episode was, as it often does, to create a caricature of a group different than their own and to score a cheap laugh at the expense of furies.

Scholarship that has looked at the furry community, particularly in a comparative context, has also suffered from sophomoric understanding of the furry community. A prime example of this comes from Bryant and Forsyth. Consider their analysis of what they termed “episodic dress deviance”:

“...people who enjoy dressing like animals. They are apart from other groups who wear animal costumes as a route to socializing with others and who

share common interests such as anthropomorphic art and costumes. The furries see their costumes (fursuits) as part of a lifestyle. A furry is a person with an important emotional/spiritual connection with an animal or animals, be they real, fictional, or symbolic. They see themselves as someone other than human and who desire to become more like the furry species they identify with. Indeed, a small percentage of furries do not consider themselves to be human at all. Another small subgroup within the furry fandom attach a sexuality to their activity, dressing like an animal while having sex. Furries having group sex are referred to as fur-balls” (Bryant and Forsyth 2012: 531).

This scholarship has important shortcomings beyond the grammatical errors in the second to last sentence of the passage. First, branding furry behavior as deviant means that the behavior is more than being atypical or abnormal but at odds with social or legal rules and expectations. Furry symbols, rituals, and mores have direct analogs in non-furry cultures. Deviance, rather than expressing mere difference, is taken here to mean a perversion and has a clinical implication to their behavior for which no grounds are provided. As explored earlier, the furry identity is not a lifestyle but is a signifier of community ties, of particular interests and metaethical commitments. Clumsily suggesting that being a furry is a ‘lifestyle’ or a phase is not only degrading but parallels the rationale used to justify discrimination towards the LGBT identities as being phases or deviant lifestyles. Lastly, I have found no evidence to suggest that the term fur-balls exists within the furry community. It was never mentioned by furries I spoke with, nor did it appear on online furry forums. The authors did not garner any information from furries or previous

peer reviewed articles. The subjugation process often begins on blatant non-truths that can be useful grounds for discrimination (Arendt 1973).

The International Anthropomorphic Research Project (IARP) began in 2007 by researchers within the furry community in hopes of applying scientific rigor while armed with in-group understanding. Much of their work draws from a variety of techniques common in social psychology. IARP hopes to dispel public and academic misconceptions of furies and its statement of values mirrors those for Anthrocon, the self-proclaimed world's largest furry convention which is held annually in Pittsburgh, Pennsylvania. IARP's studies have been particularly insightful for providing a general demographic profile of the community and articulating patterns in the motivations and behaviors of members of the furry community. Their work, even amongst furies, is not without critique and controversy.

While IARP's work, unlike Bryant and Forsyth, was derived from direct studies of furies and yielded important preliminary demographic findings, they nonetheless psychologized their subjects too much, in what appears an attempt to be seen as credible by clinicians and pathologists (Gerbasi et al. 2008). This lead IARP to test for personality disorders among furies, which is fine in and of itself. But IARP suggested further research would be required to determine if furies suffer from "species identity disorder," despite nothing in their data to suggest that such a consideration is warranted. Flippant suggestions of identity disorders follow the format of the discredited and trans-phobic "gender identity disorder," among a long history of non-scientifically derived classifications through the editions of the Diagnostic and Statistical Manual. I found nothing to suggest that a furry identity should be considered pathological or disordered.

The mischaracterizations of the furry community in popular media and in academic scholar has had a profound effect on how the community thinks about its self-presentation. These debates are similar to other minoritized groups that grapple with debates about how best to counter extreme or inaccurate portrayals of them (Maase 2015: 23). Furies are actively engaged in not only how to manage legal, extralegal, and social risks as individuals but also the collective reputation of the community, working through competing strategies for managing front stage behaviors apart from secluded core actions (Goffman 1959). Some of these in-group debates are examples of the “politics of respectability,” the presentation of self that is most likely to avoid negative sanctions from those outside of the group, and are consistent with Goffman’s self-preservation theory holds that people, especially those subject to stigma, often have a strong desire to control how they are perceived by others members of an in-group and those from the out-group.

Making sense of sex and sexuality has been a particular area of debate within the furry community. It is important to note that many stigmatized groups develop logics around sex to defend themselves against the judgments of outsiders. This includes Christian sects that reinterpreted the *New Testament* passage from the book Genesis to say “go forth and multiply and fill the earth” instead of ‘replenish’ or ‘heal’ the earth to find a religious justification for large families and, necessarily, sex. This is true for communities and subcultures where sex is no more prominent a feature of social life than it is for prestige or powerful groups. Abolitionists and anti-segregationists in the United States were called ‘n****r lovers’ because pro-slavery Americans often framed their efforts as rooted in sexual fetishes for Black bodies (Dailey 2020).

3.3 Sexuality and Furrries

The prominence of sex and sexuality in the furry community is hotly contested. Opinions run the gamut ranging from some furrries who believe that sex is an intrinsic and important facet of the furry identity to others that it has nothing to do with being a furry and should be kept apart from community life. Furrries commonly refer to sex as “yiff” or “yiffing,” onomatopoeias derived from the sound a fox makes during sex. Yiff(-ing) can refer to sexual intercourse but also sexual images and context (Maase 2015: 122). The presence of community specific language about sex suggests that sex, particularly sex that is interwoven with other aspects of the furry identity, is central to at least some members of the community. Osaki surveyed members of the furry community and found that 16.9 percent of those surveyed reported that sex played an extremely large or large part of the furry life, with 31.6 percent reporting a medium role, and 51 percent reporting small or extremely small role (2008, p. 28). This study illustrates how divided furrries are on the question. When Evans asked if furrries had a “significant sexual interest” the results significantly differed from Osaki, 33 percent of respondents revealing they had a “significant sexual interest” in being a furry, double Osaki’s results, and 46 percent responding that they had a minor interest (2008, p. 16-17). Evan’s question was phrased in terms of interest whereas Osaki’s instrument about the role of sex in furry life may suggest a greater behavior element. The intent-action gap is commonly documented in survey research (Jerolmack and Khan 2014). Nonetheless, both surveys find that sexuality is intertwined with furry identity for a substantial number of furrries.

IARP surveys have helped to clarify the community’s stance on sex and sexuality within the community. Erotic and pornographic art is routinely viewed by a large number

of the members of the community. According to surveys from the IARI, 96.3 percent of male and 78.3 percent of female furies view or have viewed furry pornography (Plante et al. 2013, p.15-16). Given the comparatively youthful age of the furry community, I was unable to find a weighted sample of the general American population for comparison.

Interestingly, furies have a far greater negative appraisal of non-furry pornography (34 percent) compared to furry pornography (ibid, p.18). Further research is needed to understand if that difference is due to sexual preference or if furies perceive there to be negative elements in non-furry pornography (misogyny, etc.) that are not present in furry pornography. Online roleplaying can also have a sexual dimension. Male respondents shared that about a third of their online roleplaying was sexual in nature and female respondents shared that their roleplaying was sexual in nature about 21 percent of the time (ibid, p. 22-23).

Perhaps the most telling finding from the IARP surveys is that 23 percent of the furies report that sexual attraction has nothing or very little to do with their furry interests and about 37 percent of the respondents stated that sexual attraction to furry content is an important and significant motivator of their participation (Plante et al. 2016, p. 43). As Howl explains, "While furry fandom is sexually open, this doesn't mean that everyone in it is sexual" (2015, p. 52). Sex and sexuality within the furry community are important and meaningful for a sizable proportion of members of the furry community. That normal observation is heightened because of the furry panics that have become increasingly common amongst conservative political figures. In other words, groups and individuals targeting them through a sexualized, pathologized frameworks and has the

effect of essentializing sex and sexuality within the community even when it is not the case for many furies.

3.4 Data Collection

Both online communities and furry conventions are critical foundations of the community. The Furry Fandom might exist without either or both of these components, but it would be smaller in every regard. Surveys were collected at furry specific conventions and conventions with a strong furry presence but might be convened for a different group or interest. There were three exclusively Furry conventions and two conventions that expressly included furies as an aspect of their overall and broader themes when surveys and/or observations and interviews were conducted. The exclusively furry conventions were Anthrocon, Califur, and Further Confusion. The two conventions with some significant formal furry presences were Sakura-Con, which also included Anime and other kinds of Cosplay, and Frolicon, which is primarily a BDSM and fantasy convention. These two conventions had several vendors geared towards furies, panels about the Furry Fandom, receptions or events for Furies, and a significant minority group of attendees who were part of the Furry Fandom. Interviews with conference organizers and attendees led to them share the survey through online forums and social networks that they frequented, helping to spread the snowball survey.

3.5 Results

There was a total of 360 surveys that have provided novel insights into the Furry community. Because the surveys had to be collected through a snowball sample, I cannot

claim that the survey is a perfect representation of the furry community as a whole. That said, they are not representative of the overall U.S. population. Given the relatively brief history of anime fandom and its subsequent subgenres, I would expect that the population would be younger than the national average. Similarly, I would expect the racial and ethnic diversity of the furry community to be closer to their younger age cohort than the less diverse overall U.S. population. I make these conclusions lightly, after engaging in interviews and informally observing the online community to find opportunities to disconfirm out survey data. Below is a series of observations:

The survey participants skewed younger, 68 percent of respondents were between ages 18 and 29 (Table 3.1). This makes sense beyond the brief history of U.S.-based anime fandoms. The continuity of the community comes, in large part, through the ability of its members to engage over the internet and social media. Using memes, short-motion images (GIFs), chat rooms, and self-created digital graphics tends to be skills that younger Americans, socialized in the digital age, have in spades. The survey results illustrate that the majority of furries are white (Table 3.2). My conference observations are not consistent with these results, but difference between my observations and the snowball sample could be a result of some geographic clustering.

Table 3.1: Age Distribution of the Furry Community

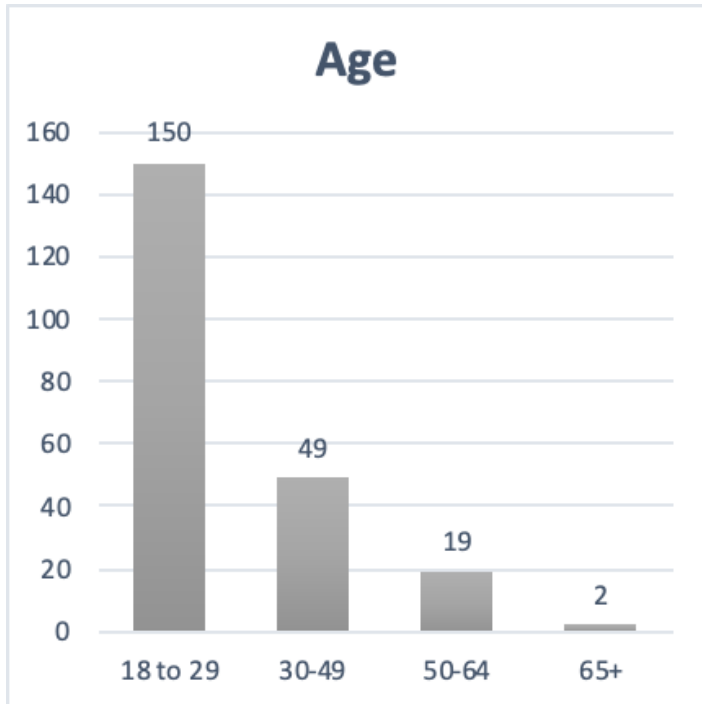
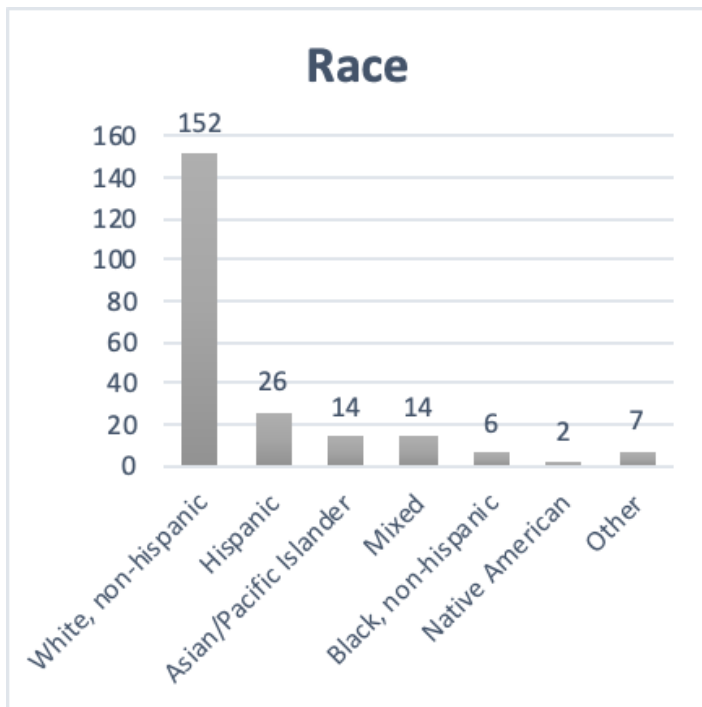
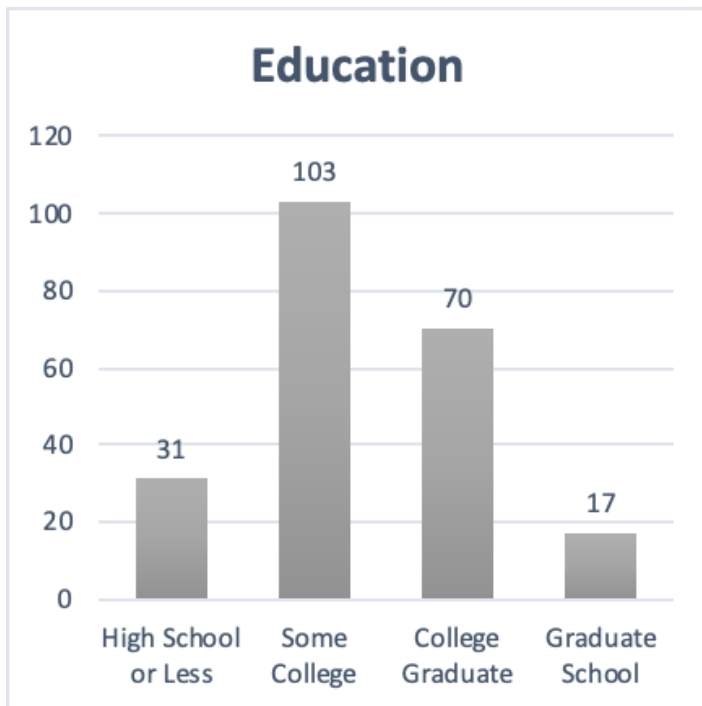


Table 3.2: Racial Composition of the Furry Community



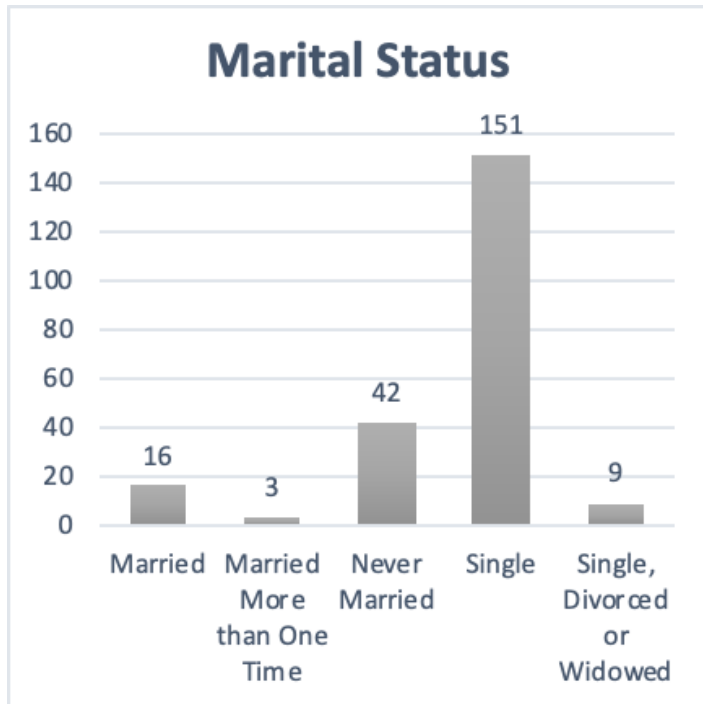
Furries are very educated, with 86 percent of those surveyed having at least some college education (Table 3.3). Some of this can be explained simply by virtue of the community being younger and each successive American generation has had higher levels of collegiate education. The furry fandom’s origins in Japanese anime does suggest that the community might also have more cosmopolitan background, especially older members of the community who found anime in the United States prior to the advent of digital movie and television streaming services that have helped globalize regional media content like anime. Because so many of the respondents are college-aged, it can be assumed that some of 47 percent of respondents with ‘some college’ would convert to later being a college graduate or having a graduate education.

Table 3.3: Levels of Education in the Furry Community



About 68 percent 68 percent responded that they were single (Table 3.4). Some of this, again, may be a function of the population being comparatively young.

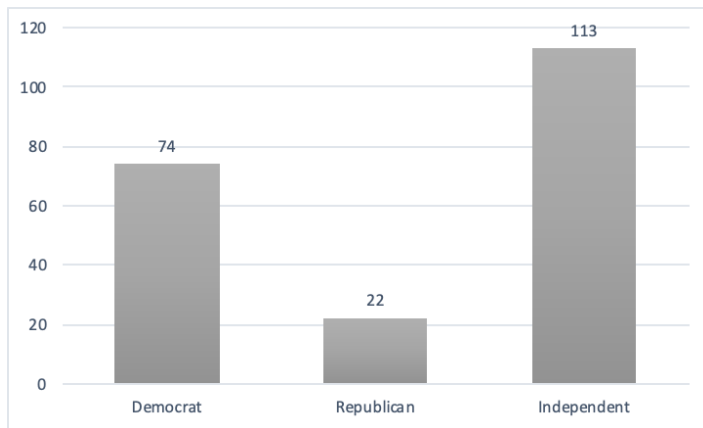
Table 3.4: Relationship Statuses of Members of the Furry Community



A majority of respondents identified as either Democrats or independent, at 35 and 54 percent, respectively (Table 3.5). The majority of respondents, 59 percent, placed themselves in a range of moderate to liberal and very liberal on a Likert scale. That ideological placement roughly aligns with the general US population given the age cohort of the respondents. That is, young people between age 18 and 29 with at least some level of college education tend to identify as moderate to left leaning in their political orientation. The largest segment of respondents claimed to be 'independent' rather than a member of

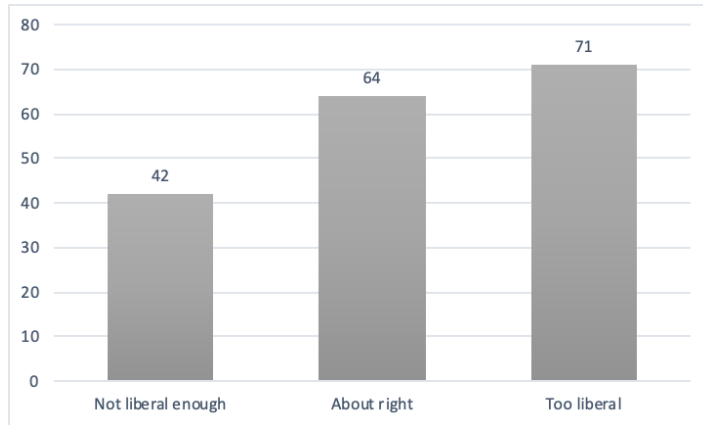
either of the two major parties. Half of the sample comprised people who are progressive and liberal but are also somewhat wary of the establishment parties and their polarization.

Table 3.5: Party Identification Among Members of the Furry Community



I was also able to gain insight into the political attitudes of the furry community. The respondents found the Republican party to be too conservative in each substantive area that the survey covered, including government spending (64 percent), abortion (81 percent), gay marriage (83 percent), and immigration (69 percent). Furies had similar feelings about republicans in Congress, with 83 percent saying they wish leaders would become more moderate. Conversely, when asked the same questions on the same topics in regard to the Democratic party, the plurality if not majority of respondents found the Democratic party to be 'about right' with the narrow exception of government spending (Table 3.6). While modal response from furries was that Democrats were too liberal with regard to government spending, no question regarding any political issue resulted in a majority, or even a substantial minority, of respondents indicating the Republican Party was 'about right'.

Table 3.6: Furry Community’s Opinion on Democratic Party’s Stance on Abortion



At 78 percent, furries respondents were near identical to the overall voter registration rates. Considering the age composition of the sample, furries are registered at the same levels as their overall age cohort. Like the overall U.S. population, those who were not registered to vote or rarely-to-only sometimes vote in primaries were more likely to identify as an independent. The lack of engagement in politics may be the result of feelings of disenchantment and feeling unrepresented. The lack of engagement does not come from a lack of interest in politics and policy nor an absence of awareness of the issues. I found that 44 percent of the respondents reported that they speak with their families about politics on an either daily or weekly basis. Given that the members of the Furry Fandom that spoke with us or answered the surveys were conversational about politics and essentially familiar with the policy positions of both the Democratic and Republican parties, a party could conceivably mobilize this constituency with modest amounts of outreach.

I noticed that furries had an incredibly nuanced way of describing their sexual orientation. While some responded succulently that they might be gay/lesbian, bisexual,

straight, asexual, etc., many took time to explain where they were on the spectrum of attention (ex. “bi leaning straight”) and used less commonly known sexual orientations like pansexual and demisexual. There were about as many straight respondents as there were gay or lesbian respondents, at 26 and 23 percent, respectively. About 38 percent of respondents identified as bisexual, pansexual, or with functionally equivalent terms. I also found that about 9 percent of the respondents identified as asexual or demisexual.

When questions asked the respondents about what first drew them to the community, I found similar trends as the previous groups; many respondents noted that the internet or close friends tended to be their first points of exposure to the furry community. Others mentioned a television show, movie, or anime series. Interestingly, I found that 14 percent of respondents mentioned that the driving factor that led them to discover the furry community was interest or work in art.

Our respondents believed heavily in value of fostering community. One respondent noted that, “The community aspect is constitutive of the fandom.” Another said, “The whole point is a place to belong no matter your quirks.” Almost all of the respondents said that being a part of the furry community had little-to-no effect on their political attitudes. Some noted that they perceived some common attitudes regarding support for gay, lesbian, and trans rights as well as animal rights.

The furries that were surveyed had often competing reasons for discussing or not discussing politics within the community. Just over one third of the respondents, or 36 percent, talk to other furries with some degree of regularity. While 44 percent said that they do not talk politics or do not talk politics out of disinterest. The remaining 20 percent said that they avoid discussing politics because they wanted to avoid conflict and/or they

found that the common ways the communicate online to not be conducive for meaningful political conversations. Furrries then responded that they perceived higher degrees of unanimity within the community with respect to LGBT rights, animals, and the need to combat media misrepresentations of the furry community. As one furry responded, “I do, however, feel the fight for the right of gay marriage definitely effected the community. The community is full of people who are outcasts and I never have seen an instance of gay shaming in the community. I've seen plenty of it still online in the non-furry community. But when it comes to being different to normal society, it's really welcoming.”

While many seemed unaware of political activity done within the community, many replied that political fundraising around animal and LGBT rights was something they had seen and/or partaken through the community. One noted that fundraising for charities is also common, particularly if conventions sponsor a charity. Furrries overwhelmingly responded that they think most politicians have either no idea who furrries are or, if they did, that furrries are sexual deviants. They also did not think that the general public was any more aware or supportive that elected officials.

There was a stark divide among respondents when they were asked if the furry community should be more, less, or stay at its current level of political involvement. The plurality of respondents did not answer the question as it was asked, and instead answered that participation was up to an individual, that adding political activity would sow division, or that they wanted the community to be apolitical. Throughout many of the questions, I observed a sizable number of respondents suggesting that it was the division that politics can cause, and not politics itself, that should be avoided in a community that prides itself on inclusivity. One respondent who exemplified this perspective wrote that, “unless the cause

is unified; I feel that "furry" isn't really a political party; Any more than "gamers" or "writers" are." This suggests to us that there may be limited avenues for mobilizing the furry community beyond rallying around consensus issues like LGBT rights and animal rights.

Furries are cognizant of the political landscape and have clear ideas about how candidates and parties might help or hinder their community. As a group they have distinct preferences about the policies that should be implemented by the government, and they share a desire to be free to pursue their best lives. The marginalization of the Furry Fandom has been driven by disregard of community elites and it can be overcome through education and mobilization (Bishin et al 2021). Although minority groups are often faced with an inability to easily effect policy, on occasion politicians will defy their constituents to expand rights for minorities. (Smith 2007; Bishin and Smith 2013). Moreover, once sexual minorities obtain rights, whether through litigation, legislation, or executive action, the public will move towards acceptance and support of that progress (Bishin et al 2015).

Chapter 4: Nudists Uncloaked but not Unaware

4.1 Introduction

One key interaction was that with a woman in her mid-50's, scarred by a double mastectomy. She joined the community to regain a sense of body positivity and an improved sense of self-worth. Her motivation is not only consistent with nudism's positive association with improved body image and self-esteem but exemplifies how far many nudists are from the hippy, hedonistic lifestyle that popular media associates with nudists (West 2018). The politics of nudists in the study paint a picture of community whose

politics range like the overall American ideological landscape. Their drives and hopes for the community today are distinct from the nudist movements at the end of the 19th Century and from 1945 through the 1960s.

Despite an, at times, ubiquitous place in American history, nudism and naturism in the United States have been the subjects of few peer-reviewed publications. The first period of nudist research has since been uniformly rendered junk, biased research. Most of the research on nudists during the 1950's and 1960s suffered from an array of methodological challenges and was driven by sex researchers inspired by the Kinsey reports, rather than social scientists. This research passively affirmed common misunderstandings by Americans in general--- that sexual deviance and voyeurism are the defining features of the nudist community. Research in the subsequent decades has attempted to repeal those earlier studies. Social science research about nudists and naturists has generally focused on becoming a nudist and member of a nudist community, nudist spaces, the linguistic strategies to differentiate themselves from the non-nude, and the psychosocial differences between nudists and non-nudists. This project enters in discussion during a renewed interest in nudism with the, by-far, most expansive study of nudists in the United States and the only project that examines their political participation and their lives as Americans.

Weinberg found that the emphasis on supportive, familial social interactions and strong commitments to ubiquitous values made joining nudist communities relatively easy compared to many other forms of assimilation (2016). Casler conducted a series of interviews of people about their experiences joining a nudist community (1971). While

women reported being more initially nervous than men, it was usually a short acclimation period. Weinberg found that the interviewees found a mix of common social practices and heightened moral sentiments as making the assimilation to the community more rapid. The interviewees found that an expansive notion of family made them feel supported and in a friendly environment. Seeing wearing clothes as a 'ceremony,' the nudist communities were reported as welcoming with pretense and in a more personable way. Lastly, Weinberg found that his subjects regularly noted how the extra-normal social interactions paired with more frequent uses of words like freedom. The respondents expressed different notions of freedom, but it was common for them to express a right to bodily autonomy. These findings expanded on the heightened value of family that nudists held that Ilfeld and Lauer noted a decade earlier (1964).

H.W. Smith built off Weinberg's findings through a comparative study of the norms and practices at French and German nude beaches. Taking for granted that France has a higher body contact culture than is the case in Germany, Smith argued that nudist space acts as liminal spaces to interrogate assumptions of social etiquette. Rather than being hedonistic, the people at nudist beaches were especially aware of the broader conventions that they were challenging. Nudist beaches consistently had their own social mechanisms for regulating immodesty, sexualization, and dealing with embarrassment.

Weinberg and Smith's arguments taps into a popular theme in social science, originating most eminently in the work of the French sociologist Emile Durkheim. Durkheim saw irreconcilable meanings as a fundamental tension in the creation in a sense of self, being too much of an individual or too much of one's community leads one to

alienation. At the societal level, the habit of sorting the world into sacred or profane categories leads to irreconcilable meanings. Weinberg and Smith saw that the initial unease at entering a nudist community was expecting irreconcilable values with the non-nudist world. Instead, once people recognize the shared values and understand the local terminology, assimilation is largely unencumbered.

Schormaker Holmes' ethnography of a nude beach in Canada explored the sexual and asexual scripts and how they challenged heteronormative beliefs, allowed for conventional boundaries to be challenged, and created limits to uphold commitments to their notions of health and modesty (2006). Nude beaches, which are almost never members-only spaces, are spaces of heightened distinction because the members of the community are not only expressing the norms of the community but also trying to clearly convey their practices to casual observers or participants. Schormaker Holmes notes that this means that the fluid space pressures individuals into adopting non-sexual scripts, rather than simply communicating that they are no more or less sexual than non-nudists. She ascribes a greater degree of intentionality than prior research.

Casler (1971) and Douglas, Rasmussen, and Flanagan (1977) (see Story) both found that nudists and naturists commonly believe a sexualized body is incompatible with the natural or pure body goals of the community. West explored the mentality of nudists with respect to sex and the body (2018). This is stronger than Schormaker Holmes' claim that the separate is performative for to help the understanding of outsiders. The fact that Casler (1971) and Douglas, Rasmussen, and Flanagan (1977) looked at more sites than only one nudist beach gives their finding more comparative leverage. This is supported by Smith and

King's finding that geographic isolation was an important variable in understanding how nudist communities promoted sexual health (2009). Nonetheless, the literature is unanimous that sex is no more a feature of the nudist and naturist communities than the non-nude and is likely less present (Freed 1973). That is not to say that each space is identical in its regulation and prominence of sex but, taken as a whole, sex is as common a feature in nudists communities as it is, say, in churches, civic societies, or the workplace.

Story found that the strict non-sexual norms in nudist communities that Schormaker Holmes also described resulted in beliefs consistent with the modesty goals made by nudist and naturist leaders (1987). She found that nudists reported higher levels of guilt for their sexual activity compared to non-nudists. Utilizing a novel comparative survey between nudists and non-nudists, she was able to conclude that there was “no direct relationship between nudity and sexually permissive behaviors” (197). Story's work was one of the first studies to scientifically compare nudist and non-nudist attitudes, using a matched survey of nudists and non-nudists. Story provides a wonderful history of the research on sexuality within the nudist community. She notes that most of the early sex researchers failed to rely on comparative samplings and evident bias in the sampling was consistent with a host of methodological mistakes.

Since 2010, researchers have shown the contexts under which nudism has been exploited in entertainment (Carr-Gomm 2010), tourism (Monterrubio 2019; Herold et al 2021), and used in other facets of cultural life (Barcan 2004). West found that the nudist goals of naturalizing the body, modesty, and a heightened value of familial bonds were consequential in nudist reporting higher levels of self-esteem and self-image (2013; 2020).

These findings arrived just as body dysmorphia and eating disorders among men and women are at record rates in the United States. This project provides more evidence to this claim, and suggests that the desire for comfort with one's body and self-image is a motivating factor for many individuals joining the community.

A renewed academic interest in nudism in the United States can be attributed to Hoffman's *Naked: A Cultural History of American Nudism* (2015). Hoffman's expansive mapping of the history of nudism in the United States notes how explicitly the founders of the nudist movement sought to distance themselves from their German forebearers the Nacktkultur and its deep association with German nationalist and fascist movements. The goal was to provide people with a respite from the word, to be therapeutic (3). Critically, Hoffman notes how the growing popularity in nudism that was a product of the sexual liberation movement in the 1960's and 1970's resulted in the American public to see nudists as a sexual minority community, despite their aims to be otherwise. Schrank compliments Hoffman's by providing a similar historical trajectory while also delineating a tension where nudism is pulled between freedom, puritanism, and commercialization (2019).

In aggregate, the literature on nudists conclusively shows that nudists are not providing new values, like one might expect out of a cult. Their most distinguishing values and commitments are held to some degree by hundreds of millions of Americans: connecting with nature, opposition to body sexualization, and reverence for family. The expression of those values exists along a continuum, just like all values. Negy and Winton found college students with greater pro-nudity attitudes were also more likely to embrace

broader notions of diversity (2008). That does not mean, however, that the political affiliations of nudists skew any which way. The findings, which will be discussed in greater detail later in this chapter, suggest that partisanship is largely consistent with the states that they reside in.

4.2 Nudists and Naturists

Thus far in the chapter, individuals and organizations have been generally described as nudists. That has been largely true, insofar as that was how the individuals generally described themselves and their groups. However, there are some key points of differentiation between nudists and naturists that are important to note for accuracy and given that both groups are growing and holding these distinguishing elements with a sincere sense of importance. The distinction was clear early in Europe but has been an evolving distinction in the United States.

Perhaps the biggest difference between nudists and naturists is identity. To be a nudist means, simply, to be in the nude. A nudist associates with the activity of being nude. They may be casually and just at home or more frequently nude and in social situations. The nudist's individual and community identities can be simply a matter of preferences or range to contain some ethical commitments. For naturists, nudity is an essential part of a larger lifestyle. Naturists are concerned with having as direct and respectful a relationship with the natural world as possible. Nudity is important because clothing and other manufactured goods mediate and, thereby, inhibit a direct connection to nature. Clothing is also the clearest point of differentiation between naturists and the non-naturist society. Common parlance in the naturist community is to refer to people outside the community as

textilists, illustrating how nudity is a pillar within the naturist paradigm. Furthermore, by labeling those outside the community as textilists they are denoting that those who wear clothes are doing something artificial whereas naturists are doing what was/is original. This linguistic strategy avoids treating people wearing clothes as a hegemonic, reference category. Nudists, by contrast, refer to those on the outside as non-nudists. Hegemonic cultural categories are so prevailing or omnipresent that they are taken for granted and understood without needing to actively think about them. Nudity as a label means nudists are in a subordinated, abnormal position. Naturists make every group have a label and, thereby, make clothes wearing no longer the reference category.

4.3 The History of Nudists in America

The history of nudists and naturists in the United States is a paradigmatic example of longstanding minority groups vying for survival. Their history draws on colonial necessity and European traditions. The motivating rationale and nomenclature of nudists and naturists changed over the centuries in response to technological transformation and new sociolegal constraints. When under particularly acute stigma and legal threat, the tradition of nudists and naturists was richly colored by forming unlikely coalitions. They engage in some of the most pressing intellectual movements of the time such as anti-Victorianism, the Enlightenment, Naturalism, Transcendentalism, and, yes, Hippy traditions. For hundreds of years, we see their motivations nuanced, group membership comprising some notable Americans, and their standing in American society vacillating.

4.3.1 Colonial and Early America

Despite a growing want to shed themselves from British monarchical rule, colonial Americans, particularly the upper classes from which most of the Founding Fathers and Mothers came, were not quite as interested in doing away with all British and European customs and ideas. Colonial American life had its formalities in etiquette, speech, and presentation. Manners, dress, and ways of courtships were European with a growing American twist.

Benjamin Franklin is the perfect example of the cultural hybridization and the embodiment of a practicing Enlightenment thinker. To call Franklin a true Renaissance man undersells his utility to the American cause. He was the chief diplomat for the United States in critical moments, domestic and abroad. Franklin was a nudist. When stuck in the sweltering heat of Philadelphia during much of the Convention, in exile in Spanish Louisiana, or in the French Court of King Louis XVI, Benjamin Franklin wore no clothes but the occasional nightcap to keep the top of his head warm. Franklin's noteworthy eccentricities should not overshadow the pragmatism and rationale behind his nudism. In an era without the pleasantries of air conditioning, remaining bare during the humid Bayou summers was more appealing than being drenched in heavy, woolen colonial fashions. But for Franklin, like many great thinkers and artists, being nude was more than just a necessity. In a letter to a French colleague, Franklin observed of his air baths:

I have found it much more agreeable to my constitution to bathe in another element, I mean cold air ... With this view I rise early almost every morning, and sit in my chamber without any clothes whatever,

half an hour or an hour, according to the season, either reading or writing.

http://www.slate.com/articles/arts/culturebox/features/2013/daily_rituals/benjamin_franklin_loved_to_compose_in_the_nude.html)

Franklin, raised by Puritan parents in the Old South Church of Boston, was a deeply pious man and instituted mandatory prayer during the Philadelphia Convention (Meacham 2013, 89-90). The Founding Fathers, regardless of their political dispositions and the religious traditions from which they came, routinely praised Franklin for his religiosity. At this time, the austerity of the Pennsylvania Quakers and New England Puritans was certainly less than is popularly depicted, if it were ever in fact true. Nevertheless, given the mores of this era, it is likely the majority of nudists did not see being nude as leading people to lust and sin. Franklin's nudism was apolitical, religiously modest, and a practical choice for the conditions of colonial America.

Most colonists were not the polyglots of the Founding Fathers and Mothers. The average colonial nudist was nude because of an overwhelming pragmatic choice. With the absence of running water, people had ostensibly two options for bathing: having water drawn or making use of an outdoor body of water. Tubs for bathing did not arise in the United States until a few wealthy individuals would order tubs of copper at the end of the 18th century (Mays 2004, 190). While neither nude bathing beaches or spa towns gained popularity in the 18th century like they did in England (Travis 1997), the use of public waterways for bathing was common and, particularly when away from centers of town, was done so naked. This was true for people regardless of sex/gender, although there were

greater social limitations placed on the ability of women to bathe nude. Nudism here, while not labelled as such at this point in history, was a willful activity for the purposes of routine hygiene, albeit with the full expectation of modesty especially between the sexes. When men and women took part in public bathing or swimming, women were expected to wear full-body, exceedingly heavy clothes.

President John Quincy Adams was known to visit the shores of the Potomac River and bathe in the chilly water of the early mornings almost daily (Kernall et. al 2018, 602-603). The journalist Ann Royall sat on his clothes at the shoreline. The president would not leave the water without his clothes, and Ms. Royall would not return them to him without an interview. This further illustrates that nudism in 18th and majority 19th century America was not tied to an attempt to buck conventions and social norms of the power elite. And while it was a routine of many people's hygiene or fitness, there is nothing to suggest that there was a personal or group identity constructed around it to make naked bathing a lifestyle.

During the Victorian Era, when a focus on hygiene grew immensely, Americans engaged in more frequent, routinized bathing. The improved hygiene standards and growing population resulted in a rapid increase in the use of public bathing sites. Increased use was met with more conservative notions of modesty in the form of local and state ordinances that cropped up throughout the country to constrain nudity and a new understanding of indecent exposure.

4.3.2 Nudism, Naturism, and the American Melting Pot

The invention of the cotton gin and revolutions in apparel manufacturing resulted in larger proportions of Americans owning more clothes and a wider variety of the kinds of garments. By 1900, the more skittish Americans had used these advances to avoid nude bathing or public bathing in their undergarments by wearing nearly full-covering, loose bathing suits made out of cotton or wool. Cotton bathing suits, not unsurprisingly to us in today's day and age, would absorb too much water. As a result, they became stifflingly heavy and would stretch at their own weight (Kidwell 2011). But the adoption of bathing suits was heavily fragmented (LeValley 2017). Some Americans, such as teachers, grew concerned at the potential for these difficult to sterilize suits to transmit cholera and typhoid between children as they swam in pools of stagnant water (safe, reliable uses of sterilants such as chlorine in pools did not come about in commercial use until the 1930's). Safety overrode concerns of modesty such that it was not uncommon for children to swim naked in gym class through the first decades of the 20th century and, in many school districts throughout the country, much later (Travis 1997; LaValley 2017). During the first quarter of the 20th century kids were, forced or willing, partial nudists.

The dawn of the 20th century brought waves of immigrants to the United States. Of particular relevance here, large numbers of emigres came from Central Europe after The Great War. From the Netherlands south through what is now Germany to Switzerland, spaces for the unclad (resorts, campgrounds, recreational, and social facilities) had gained noteworthy traction (Williams 2007). The attraction was simple: natural, uninhibited vacation and rehabilitation. This marks a clear shift in reasoning, from nudists by necessity to nudists solely out of an apolitical, noneconomic, and asexual desire for rejuvenation. Nudists camps and resorts began appearing nationwide.

Nudist camps were effective, commonplace marketers. Nudist businesses and early coalitions took out advertisements in print media as well as full commercials that played in standard movie theatres ahead of the most popular films of the time [Cite Tony's videos]. In these advertisements, the nudist groups sought to convey normalcy to the behavior and lifestyles they were observing and convey potential health benefits. The commercials that aired before family films included fully naked men and women playing sports, socializing, and being active outdoors. Importantly, none of the audio or the behavior of those caught on film was in any way sexualized. The advertisements instead described being nude and taking part in these functions as well within the mainstream values of American society. Similarly, organizations banded together through the magazine *Nudist* and several periodicals like *Gymnos* that were meant to be more scientific in nature. This element of a social nudism was seen as an outlet to combat a cultural malaise during the interwar period (Pollen 2017).

The continued growth of nudist organizations and spaces was curtailed by a broader, quickly growing conservative movement. In the mid-30's nudists faced a behemoth of an antagonist: The Catholic Church (Wheeler 2013). Already disgruntled with the increasingly libertine tendencies of the American public during the 'Roaring 20s', members of the Catholic clergy and politically efficacious churchgoers saw this as the unbearable climax of moral decay, opulence, and the potential influence of socialism now on American shores that veterans from World War I brought home with them. Like they had done when confronting birth control activists, socialists, and suffragettes, the Catholic Church utilized their networks within many police departments nationwide and had op-eds circulating in major newspapers such as the New York Times (Wheeler 2013, 11-12).

The irony is that many nudist organizations were sympathetic to some Catholic social programs. One of the social effects nudists advocated was desexualization. Nudists had argued that being habitually and socially nude would normalize the body and, therefore, neutralize the lust and allure of sexual obscenity (Wheeler 2013, 43). Ironically, Shaffer notes that nudist publications consistently used Eden motifs and alluded to the Book of Genesis. Nevertheless, the litany of legal restrictions that were being slapped onto local nudists organizations, businesses, spaces, and printed materials was extensive and had to be litigated at each municipality, given that obscenity and zoning ordinances were almost exclusively municipal or state affairs.

In the early 1930's, a private sports club that was rented out by a nudist organization in New York City had been raided by the police and the men were arrested for indecent exposure and other crimes (Wheeler 2013, 44-45). With the help of the ACLU, the men's arrests were overturned in the New York State Supreme Court in 1934 through the case *New York v. Burke*. The court found that the state laws pertaining to longstanding, common law statutes for lewdness did not address non-sexual nudity, at least within the fact pattern of the case. As Wheeler has noted, the court's ruling was rendered specifically to the case. The decision was covered in most national newspapers. Days following the *Burke* decision, the Catholic Legion of Decency pushed for nudist specific legislation in New York and in legislatures throughout the country to fill what they angrily decried as a loophole in state statutes (Wheeler 2013, 46). Non-Catholic leaders of faith actually opposed the Legion's anti-nudist legislation, arguing that this treated the body as non-natural and that mystifying it would only fuel truly immoral behavior (Wheeler 2013, 46-47). Once again, the ACLU teamed up with nudist leaders, decrying these bills as invasions

of American's right to privacy, as all nudist spaces were opt-in as opposed to nudists going about their lives in ostensibly non-nudist places. From a jurisprudential standpoint, the ACLU's argument was ambitious given that the US Supreme Court did not hold that there was a constitutional right to privacy writ large until 1965.

In a decade-long battle with the federal government, a nudist leader by the name of Maurice Parmelee and the ACLU fought a seizure of a book with nudity in it (Wheeler 2013, 44). In *Parmelee v. US*, the US Court of Appeals found that social science, in its evaluation of evolving norms, should determine what is obscene and that the prevailing norms in 1940 allowed nude pictures for the purposes of science and education.

Nudists in the first half of the 20th century were entrepreneurs, starting successful and commonly known resorts and for waving the way in civil liberties law. Nudist organizations and activists formed diverse coalitions with other stigmatized and legally imperiled groups. This allowed them to both reach more potential nudists to-be as well as share in resources and legal campaigns to create more legal protections for them. It is important to note that, despite the judicial accomplishments discussed earlier, that nudists continued to face serious quasi-legal threats. Some states did not heed the wisdom of the New York State Supreme Court and local policies and court systems could still inflict crackdowns and restrictive measures.

4.3.3 The 1960's, Hippies, and beyond

Like much of the 1960's counterculture movement, the rebellion against the Leave it to Beaver ideals of the 1950's resulted in the unprecedented growth in the nudist and

naturist communities. Part of what drew in more nudists was a disdain for what they perceived as the sanctimoniousness of the preceding generation that got them into the Vietnam Conflict and failed to meaningfully advance civil rights. While Goldwater conservatives branded hippies as bacchanal and orgy seeking, nudism in the hippy community was not a sexual act. The nudism of the 1960's hippy and counterculture movements was about norm challenging rather than part of a sexual performance. That is evident given that the 'free love' aspirations were not voyeuristic and, therefore, nudity and sex remained decoupled for nudists.

Hippies opposed materialism and environmental degradation. There was mounting concern about the effects of the insecticide DDT, acid rain, nuclear energy, and others on the environment and Americans ability to access reliably clean water and air. Hippy culture, the Green Movement, and naturists all shared in common the desire to create lifestyles that were harmonious with the earth. Hippies were drawn to a naturist lifestyle because it not only challenged norms but because it was responsive to their environmental concerns such as textile dyes polluting waterways. Hippies by becoming the unwanted public face of the nudist movement caused the public to conflate nudism with the free love aims (Hoffman 2015; Schrank 2019).

The counterculture movement was effective at undoing some local restrictions against nudity that were enacted during the 1920's and 1930's, and mobilized to quash new restrictions throughout the country. In San Francisco, there had been a decades-long fight to stop restrictions on public nudity. A former military-centric city turned haven for outcasts and a Mecca for gay rights, long celebrated public nudity. It was not until 2012,

when under corporate pressure about the city's aesthetics, when the city made all nudity but toplessness an infraction (Wollan 2012). Vermont, both in respects to the state government and many of its towns, has also been famously hospitable to nudists and naturists. The state only forbids taking off one's clothes in public but not the act of being nude. Even Burlington, the biggest city in the state, which does not allow public nudity in its public parks allows it everywhere else in the city (Baird 2018). Other states, such as Maine, nudists fought against great restrictions to the state law, which continues to allow public nudity for all of the body except the genitalia. But they were not effective in repealing or staving off anti-nudity laws. On the other side of the regulatory spectrum, any non-incident form of public nudity constitutes a misdemeanor in states such as North Carolina and Alaska. In Arkansas only nudity between members of the same sex is legal.

Concurrent with the hippy movement was the creation of numerous utopian communities. Some of these communities revitalized the goal of desexualizing the body through familial nudity. While in their homes or out and about during recreation, children and parents would be nude. Many of the utopians attempted to blend the rising concerns for the environment and the desire to desexualize the body for their children.

4.4. Nudist Groups

As discussed earlier, formal organizations and associations for nudists and naturists in the United States predate the Second World War. What is now named the American Association for Nude Recreation (AANR) is a naturist organization that was created in 1929 by Kurt Barthel. Originally called the American League for Physical Culture, Barthel

advertised their first event using German language magazines in the United States. Changing its name briefly to the American Sunbathing Association and then the AANR, it was able to begin acquiring property for naturist spaces and leading informational outreach programs with the aid of a few affluent supporters. Sky Farm, located in New Jersey, was the first permanent club in the United States and was founded by Barthels. It continues to operate today as a member's only club. One spin-off organization is the American Gymnosophical Society, which had Maurice Parmelee as their honorary president. The American Gymnosophical Society would hold national conventions drawing over 500 members to locations in the Catskills Mountains in New York and the Rock Lodge Club in New Jersey. One other organization, founded in 1980, called The Naturist Society is based in Wisconsin. They circulate an influential magazine called *Nude & Natural* and have two affiliated organizations that lead lobbying, legislative, and educational efforts for local and national policy concerns.

To assuage any belief that naturists are mere hedonists, both the Naturist Society and the AANR credential naturist clubs to ensure that they meet the actual tenets and standards widely shared within the naturist community. Most credentialed clubs are certified by both groups, likely because doing so aids in marketing for non-members only clubs or those wishing to expand patrons. AANR did not have their credential policies publicly viewable, but the Naturist Society's consists of a basic, three-page application whereby a group or club initials that they share the Naturist Society's key values and will help cross-promote the Naturist Society within the group/club materials. Senecal found that, in 1984, there were 25,000 Americans formally affiliated with nudist organizations, and that nudist organizations generally think they have consistently had about a quarter of

million American nudists formally affiliated (see Story). Shaffar notes that most recent self-reporting has some Americans associations exceeding 50,000 paying members and nude beach travel books exceeding a quarter-million copies sold. AANR frames nudism through a tourist lens, often stating that their affiliates are family-friendly and women-friendly vacation spots and that nudist venues are a part of an industry. These Nakations, a copyrighted portmanteau of naked and vacation, are a part of tourism niche that enjoys hundreds of millions of dollars in annual revenue. AANR, through its national office and regional chapters, claims that they are monitor political developments that might affect nude recreation and have organizational resources should a member face legal, employment, or other consequences for having attended a nudist venue. They do not clearly share any specific wins in their political advocacy. The ability for individuals to attend nudist sites across the country through a membership either for free or at a discount is an important feature of membership. Individuals I spoke to mentioned as much, highlighting the discounts they receive as they make their annual road trips across the United States to different resorts. I was not able to analyze nudist sites that were not affiliated with either the Naturist Society or AANR and am unable to determine if the standards set by the credentialing organizations are specific draws to these resorts of others. Naturist Society and AANR credentials resemble a broad code of conduct and operational standards that restrict undesirable behaviors like the contractual rituals of BDSM scenes and venues.

4.5 Results

The multiple choice and open-ended questionnaires are the first of its kind national survey of nudists. These surveys were analyzed alongside field observations and interviews at nudist retreat and online fora. Compared to the other groups, the nudists in the study were older, whiter, and represented a more balanced ideological distribution than furies, polyamorists, and those in the BDSM community.

When I visited nudist-only retreats, the community felt like a normal recreation area or club. People played tennis, lawn games, swam, and sunbathed. Some of the participants were regular weekend attendees while others noted visiting that specific nudist area as a part of a vacation while attending other nudist spaces closer to home. One of the nudist businesses I visited also housed an impressive library that catalogued American and European publications on nudism and naturism. After publicly disrobing, I soon found the unfamiliar practice to only stay in the minds for a minute or two. Despite the unfamiliarity with the experience of being publicly nude, the non-sexual climate of the community was quickly disarming. The young adults to the elderly read books, tanned, and played sports like any vacationer might at a clothing-required resort without any noticeable presence of sexual undertones (visual arousal, sexual activities, etc.).

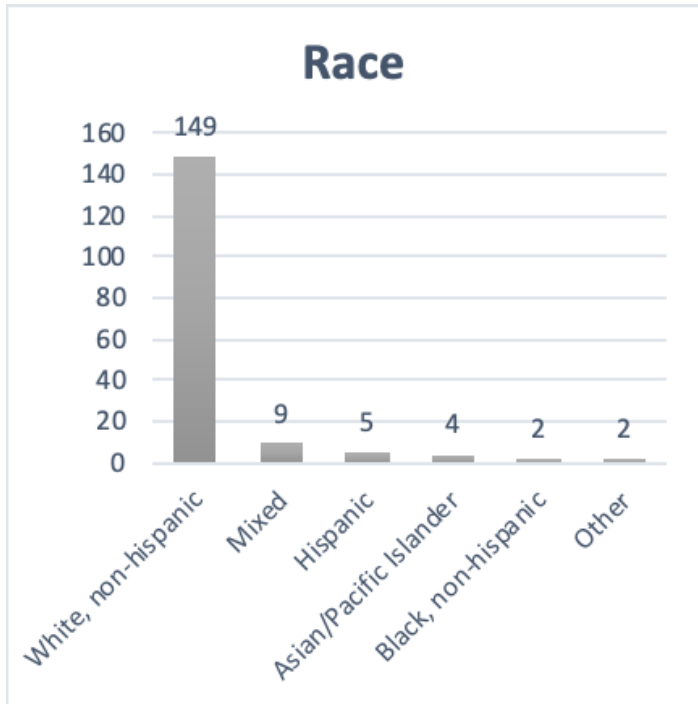
Some nudists rejoined the community after a prolonged hiatus. Of those in that circumstance, those I spoke with had grown up in a nudist community or home but moved or life circumstances resulted in them disengaging from the community. Their desire to rejoin the community was to shed pressures from their living circumstances and for a community that places a premium on sociability and family. It was similar to the lifelong nudists I spoke with. For nudists who were raised in the community, they mentioned the

continued positive feelings and commitment to values, suggesting that familial socialization occurs as a common rate despite being a minority community.

My observations, interactions, and survey results are consistent with the research that has studied sexual scripts in nudist-only spaces. I found that the individuals who spoke with us did not use a high degree of orthodoxy, sharing their own experiences in their own terms. In speaking with the manager of the nudist campground and later with the individuals there, I communicated the specific aims of understanding their politics and political participation. For that reason, the relaxed conversations with them about them likely put less performative pressure to use common scripts than has been documented for nudists at semi-nude or public nude spaces.

There were 173 nudist respondents that were acquired through a deliberative snowball sample, with representation in 27 states. The deliberate snowball relied on nudists sharing the survey to their contacts in the national community. This network would be very similar to the one needed to mobilize the community. The racial composition in the survey had 85 percent of the respondents identifying as White, 3 percent as Hispanic, 2.3 percent as Asian American Pacific Islander, 1.2 percent as Black, and 5.2 percent as multiracial (Chart 4.1). This reflects a higher degree of whites than the general American public, and fewer people of color. Given that nudist spaces are overwhelmingly located in rural locations, I believe that the racial and other demographic categories are representative of their local communities.

Chart 4.1: Racial Composition of the Nudist Community



The nudists surveyed are not meaningfully dissimilar from the general socioeconomic class distribution in the United States (Chart 4.2). A third of the respondents reported incomes between \$30,000-\$74,000; 11 percent reported incomes less than \$20,000; and a quarter of those sampled reported incomes greater than \$75,000. One fifth of the respondents preferred not to provide their income. Nudists were formally educated at rates only slightly higher than the overall US population (Chart 4.3). The highest degree obtained ranged from 19.3 percent having a graduate degree, 32.5 percent with a college degree, 36.7 with some college, and 11.4 percent with a high school degree or less.

Chart 4.2: Income Distribution of the Nudist Community

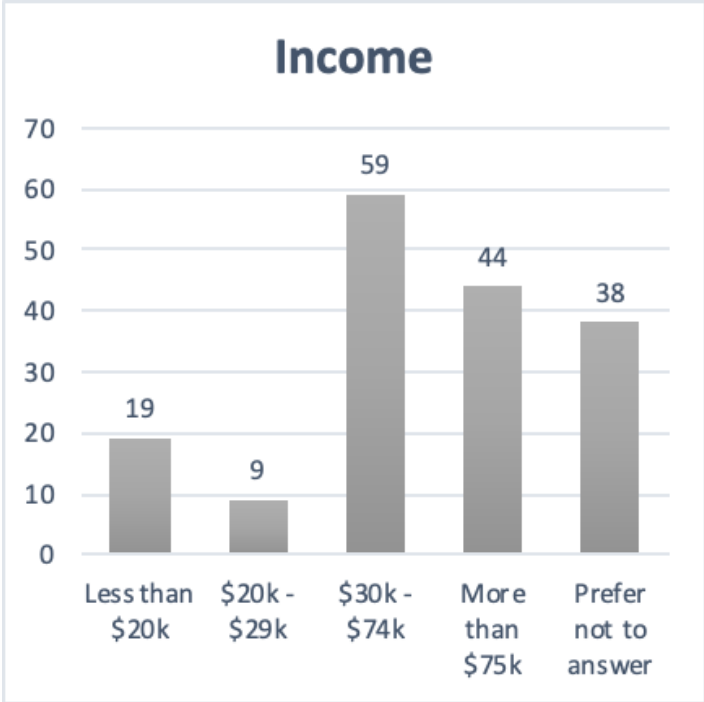
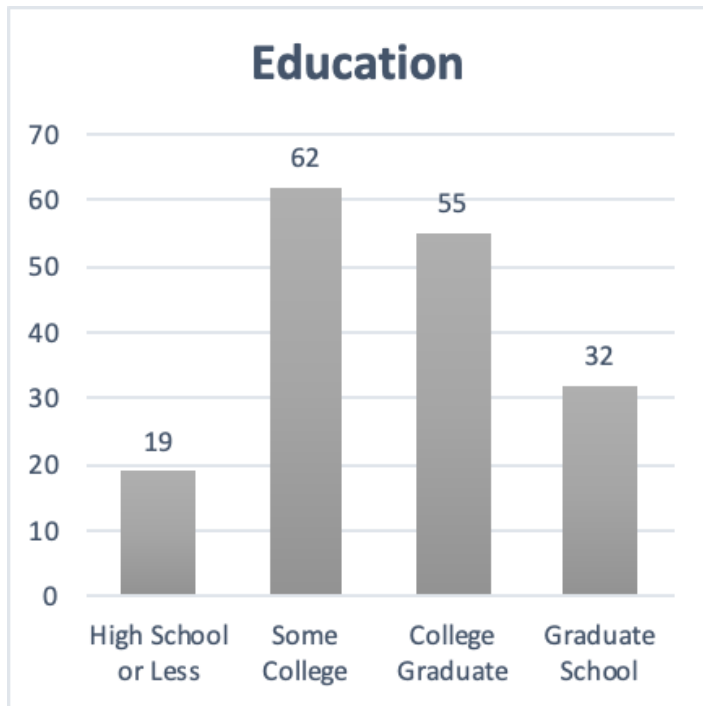


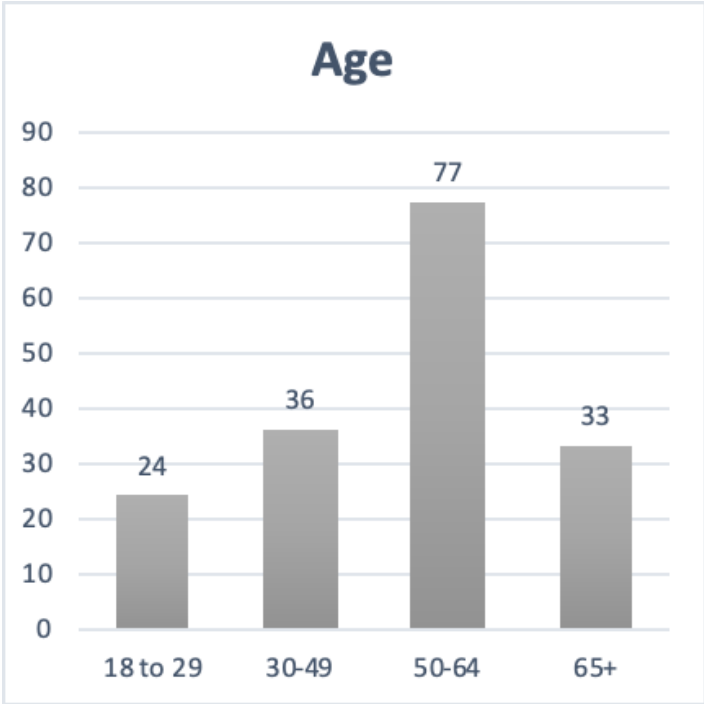
Chart 4.3: Levels of Education in the Nudist Community



The age of nudists fell close to a normal distribution, closely mirroring the overall American population (Chart 4.4). There were 18.5 percent of nudists aged 65 or older, 43.9 percent between ages 50-64, 20.8 percent between 30-49, and 14.9 percent between ages 18-29. The survey did not include nudists under age 18 because they do not yet have any voting behavior. Approximately 72 percent of the respondents identified as male. While this is a significantly higher percentage than the overall United States population, I am reasonably confident that this is actually consistent with the nudist community profile. It may be the case that elements of the nudist experience are gendered but there is a prevailing belief by organizational leaders that women who might enjoy being a part of the nudist community do not join because of their concern for being perceived as a sexual object. To that end, AANR has materials that specifically address the woman experience in

the community and potential misconceptions that arise from the non-nudist American's sexualization of the body.

Chart 4.4: Age Distribution of the Nudist Community



The religiosity of the nudists surveyed is reasonably similar to the overall population (Chart 4.5). Approximately 16 percent of nudists identified as Catholic, 11 percent as Evangelical Christian, 26.4 percent as Protestant, 1 percent Jewish, 13.5 as other, and 31.9 percent as not religiously affiliated. I also found that the respondents noted religious participation at high levels (Chart 4.6). Of those who expressed a religious affiliation, 36.4 percent reported attending a religious service at least weekly, 10.3 percent

attend monthly, 12.1 percent yearly, and 44.1 percent reported seldomly or never attending religious service.

Chart 4.5: Religious Affiliation of Members of the Nudist Community

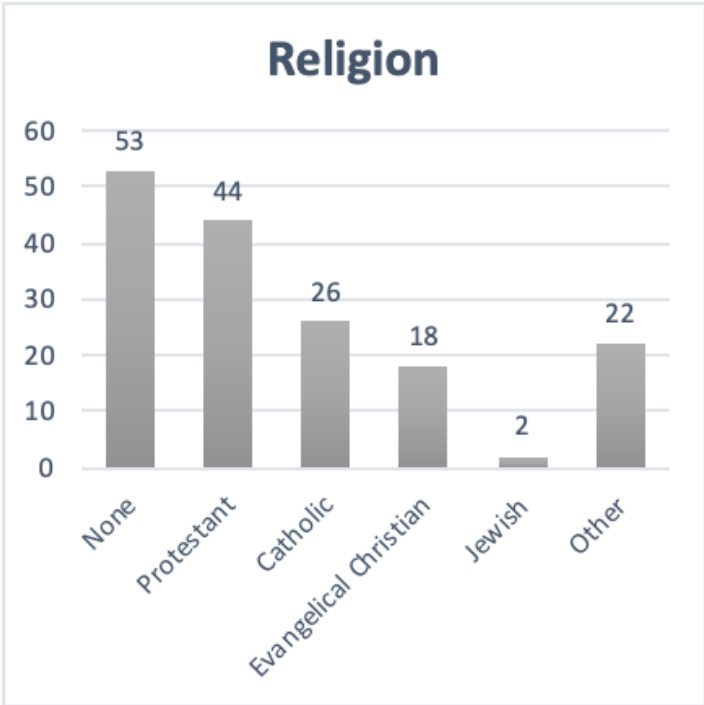
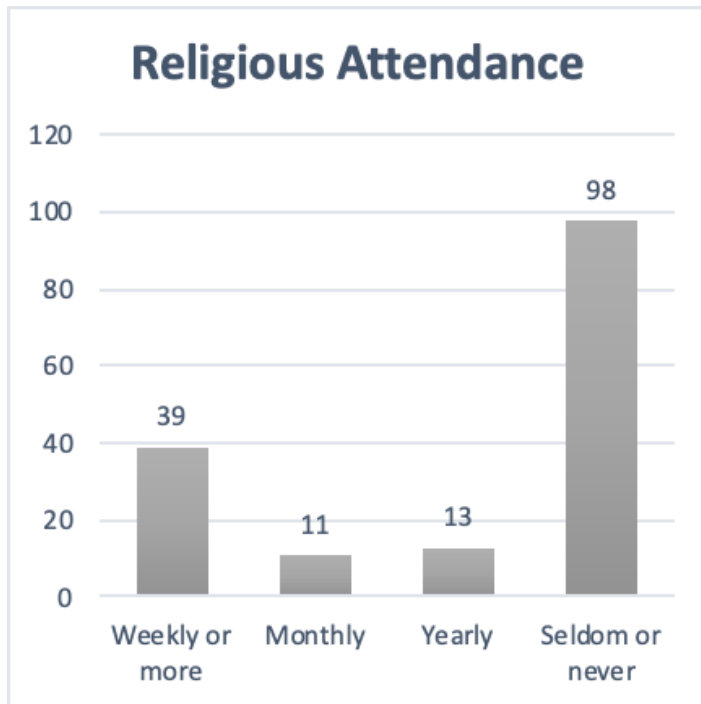
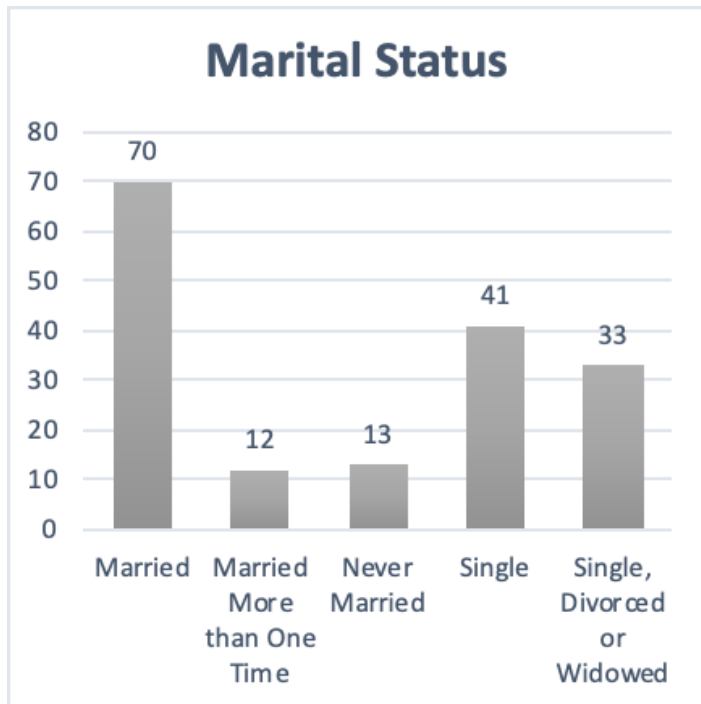


Chart 4.6: Religious Attendance of Members of the Nudist Community



The marital statuses of the respondents was as follows: 40.7 percent were married for the first time; 7.2 percent were married after being in a previous marriage (remarried after divorce or death of spouse); 7.8 percent reported being never married (but in a long-term relationship); 24.6 percent single (never married or in a long-term relationship); and 19.8 percent reported being single (divorced or widowed) (Chart 4.7). The proportion of single respondents who did not report being divorced or widowed is somewhat high considering the relatively older age distribution of the nudist community compared to the other groups in this study. Further research might explore attitudes about the institutions of marriage and family within lesser studied sexual minorities.

Chart 4.7: Relationship Statuses of Members of the Nudist Community



With respect to politics, nudists demonstrated a consistently high sense of political efficacy. Over 89 percent of nudists surveyed were absolutely certain that they were registered to vote (Chart 4.8). The partisan breakdown was far more conservative than the other groups, with nearly equal numbers of republicans, democrats, and independents (Chart 4.9). When considering the ideologies of registered independents, the slight majority of those leaning Democrat cancelled out the slightly higher number in the registered Republican nudists. Few nudists self-identified as either very liberal or very conservative (Chart 4.10).

Chart 4.8: Voter Registration of the Nudist Community

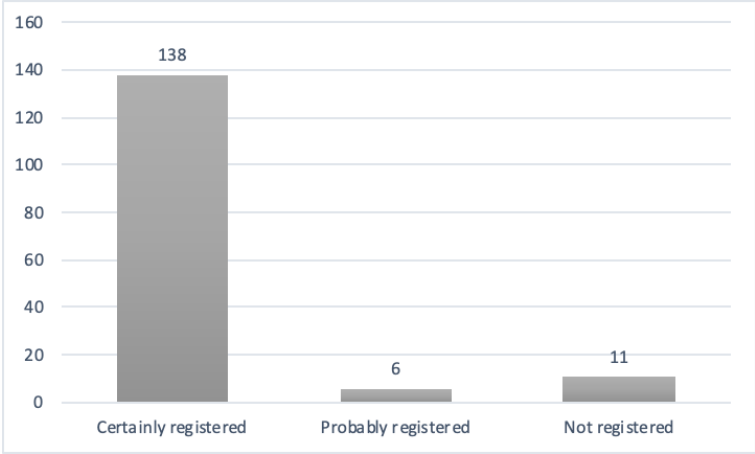


Chart 4.9: Partisan Affiliation of Members of the Nudist Community

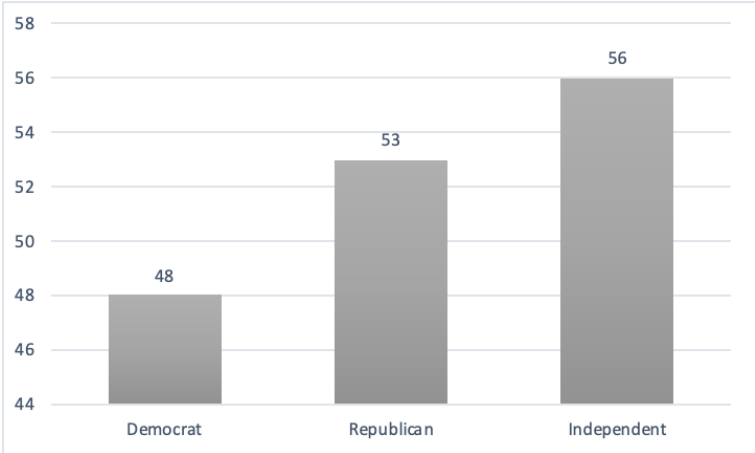
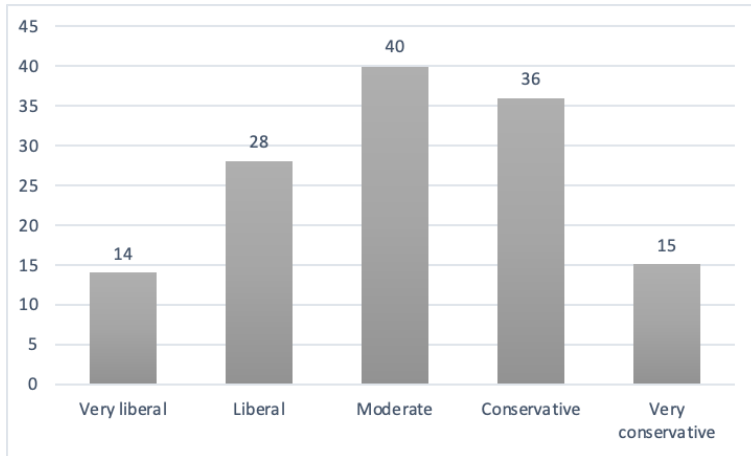


Chart 4.10: Distribution of Political Ideologies within the Nudist Community



On the issues, nudists consistently found Republicans too conservative on social issues like gay marriage and abortion while finding Democrats to be about equal numbers 'about right' or 'too liberal' on the same social issues. Nudists were consistently more conservative on tax and immigration issues. These libertarian qualities were shared often (Chart 4.11). They watch the news but found news organizations to be more liberal at about a 2.5 to 1 ratio (Chart 4.12), a higher rate than the other groups.

Chart 4.11: How Often Members of the Nudist Community Discuss Politics

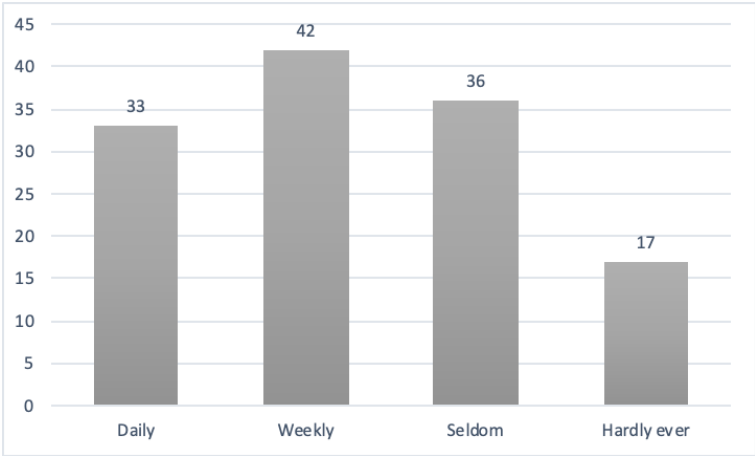
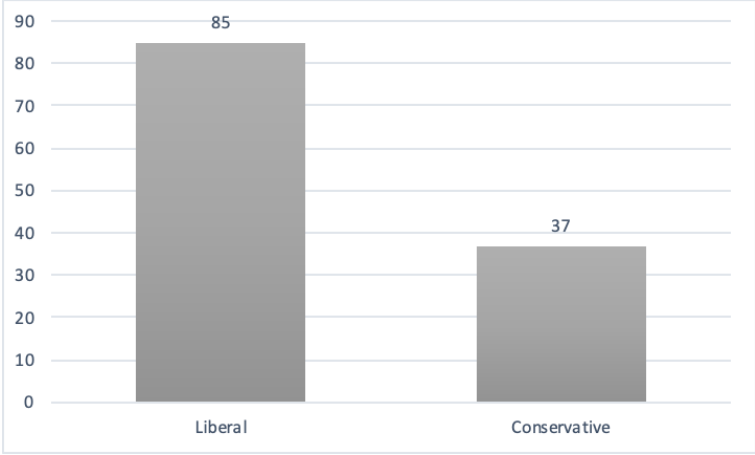


Chart 4.12: Beliefs of New Bias Among Members of the Nudist Community



In the open-ended portion of the survey, some unique patterns emerged. The nudists surveyed overwhelmingly self-reported as being straight. With few exceptions, the people in the study noted that they felt being a part of a community and that having a sense of community was important. Several noted that they have an at least somewhat active

presence on nudist chatrooms and websites, suggesting that some find meaning in the community beyond simply being nude around others. When asked about how important the community was to them, they consistently offered responses denoting that nudists were 'like a family.' They noted that, despite the closeness, they were less likely to discuss politics with fellow nudists than they do otherwise. Perhaps it is unsurprising, then, that the nudists in the study almost exclusively said that other members of the community did not influence their politics. They found only laws limiting nudism and a general value of freedom as the only unifying political issues the community shared. That said, the nudists we studied routinely thought that they should be more politically active as a group. The consistent impediment to the community was the belief that the broader American public thinks that nudism is all about sex and that politicians know nothing about nudists.

4.6 Nudists Mobilized?

From an organizational perspective, I anticipate that nudists would have a comparatively easy time mobilizing politically if a salient issue were to arise. The credentialing organizations that I previously discussed are well positioned to alert and communicate with local nudist leaders and centers, and to help initially frame the issues and why they matter to nudists. Having at least 50,000 dues paying members is sizable in two key ways. First, it has the potential to be a large donor base given that their membership already expresses a willingness to put their money towards their community. In an era when even local campaign fundraising has gone national thanks to the success of ActBlue and other platforms, tens of thousands of potential donors could be impactful at

the local and regional level in opposing candidates pushing harmful new laws and ordinances. Second, 50,000 members represents only the tip of the iceberg, as there are many times more nudists actively involved in the community who only hold local memberships or that pay per visit. That means that not only could the potential donor base be even larger, but the nudist electorate could easily exceed the size of congressional districts or the size of some key constituencies in intraparty decision making like the party platforms.

Dues-paying members is a unique feature among the groups in this study. While LGBTQ organizations do have annual donors supporting what they do (Lambda Legal, GLAAD, Trevor Project, etc.), those members joined precisely because of their advocacy work. The number of members of nudist organizations exceeds most union locals or even many statewide union groups throughout the country. As a result of *Citizens United v. FEC*, independent expenditures from unions have been influential in political campaigns at the state and local level. The sway of regular deployments of tens of thousands of dollars to challenge city council members who oppose pay raises or what unions perceive as adverse to their interests, has grown despite the dwindling union member roles nationwide. As the 2020 election cycle most clearly demonstrated, Americans are willing to donate to candidates and causes outside their district if they feel like their values or broader community's rights are at stake.

But the monetary impact of the nudist community pales in comparison to their potential as a significant voting bloc. As mentioned earlier, the community was diverse in the rates of party members and ideological leanings. This means that there is a tight

identity-based community that does not vote to the favor of one party or another, a rarity amongst minority religions and within Christian sects, and within ethnic groups. It also means that new votes from the nudist community could become new reliable voters. To achieve this, a party would not be able to write them off as a reliable part of the base like Muslims, Jews, or African Americans for Democrats or Mormon and Evangelicals for Republicans.

Mobilizing the nudist community on behalf of one party or a candidate does not necessarily require most candidates to even speak about nudism or nudists specifically. Instead, I believe that leveraging key values of the nudist community in broader debates can win over nudist voters and not alienate other voters as a direct result of the nudist realignment. For nudists, having platform planks or campaign pillars grounded in environmental conservation and recreation, and the freedoms of expression and association. If a candidate were to appeal to nudists in this way, it would make most sense to utilize the national accrediting organizations to serve as gatekeepers, signaling to members that a given candidate or party is truly aligned with the nudist commitments to the environment, family, and free expression and association.

The naturism movement has been driven by the desire to regain an unmediated relationship with nature. This is consistent with the finding that the party affiliation is not much different than the polity they live in. Most of the conservation movement's history had no direct overlapping with one political party. Republicans have several historical examples including Theodore Roosevelt who created the National Park Service and Richard Nixon passed the Clear Air and Clean Water Acts. Democrats' efforts include Jimmy Carter

who led major renewable investments and installed solar panels at the White House, the Udall family in Congress for expanding environmental protection, and Barack Obama's designation of hundreds of thousands of acres of lands as national monuments under the Antiquities Act. For some conservatives, conservation is as self-evident as the fact that conservative and conservation come from the same root. Liberals, at times, opposed environmental regulations out of concern for union jobs. Today, the salience of global warming and environmental issues tends to be more common in Democratic voters but there is considerable variance if you look to environmental issues at the state and local levels. States like Alaska, Montana, New Mexico, and Colorado have large natural resource sectors but also large tourism economies that are dependent on the pristine environment. Nevada has maintained decades of bipartisan opposition to storing the nation's spent uranium rods from power plants at Yucca Mountain.

Tapping into the importance of recreation has been an effective way of framing environmental concerns in a way that receives bipartisan voter support. Hunters, hikers, and tourism workers have often formed formidable coalitions at the state and local level in opposition of well-financed logging and energy. I believe this would be salient for nudists because of their long history of framing their community along a common value in recreation and rehabilitation, dating back to the prolific advertising campaigns in the 1930's and 1940's.

The previous research on nudists repeatedly found that nudists place an immense importance to the family, most arguing more than the overall American population. Every candidate says they are 'pro-family,' one of the most trite and vapid claims in politics. For

social conservatives, it means that the government should play a role in maintaining a family unit as led by a husband and wife by opposing unwed, gay, lesbian, or polyamorous households. Liberal framing has been more focused on work, making it easier for parents to provide for their families so they do not have to work second and third jobs. That has underpinned, for example, the growing push by Democrats to require extended periods of maternity and family leave.

Despite the seemingly dichotomous ways that family values are used by Democrats and Republicans, nudists of all political affiliations can still be appealed to. Municipal governments regularly sponsor family events, state parks across the country sponsor free-admission family weekends at varying points during the year, and things like the child tax deduction and Earned Income Tax Credit (EITC) have maintained broad public appeal. Some states are considering modifying child protective services in response to the growing opioid crisis, moving away from putting most to all children in the foster care system and instead supporting families as a parent or parents work their way through drug treatment programs and into sobriety.

However, neither the research nor preceding scholarship suggest that nudists hold a heightened commitment to a nuclear family, but rather the bonds and meaning that might make families special. It would follow then, that it would be highly implausible that the nudist community would mobilize around any anti-LGBT legislation, especially restrictions to adoption and other familial rights.

There is a particular kind of social libertarianism that runs through the nudist community in the United States, one that dates back in over a century's worth of activism.

Maurice Parmlee's work resulted in the Supreme Court narrowing what the government can consider obscene. Nudists worked with a diverse coalition over what they saw as censorship, government overreach. In the decades since, large participation from European immigrants and then counterculture movements demonstrate consistent inclusion of diversity. Negy and Winton's more recent work showing a broader connection between pro-nudity and pro-diversity attitudes suggests that parties or candidates that could easily be labelled as discriminatory would have a tough time mobilizing nudist support.

Supporting certain kinds of speech and association might be more immediately salient than others for the nudist community. Nudist resorts and campgrounds tend to be located in rural or lightly suburban areas, but some cities have noticeable pro-nudity populations like San Francisco and Austin. The survey respondents were less racially diverse than the population as a whole and a number of states and their religiosity was not meaningfully different from the at-large population, which when paired with the geographic spread of the nudist population, suggests that appealing to the values over a specific community under threat might be more effective most of the time and for building a sustained mobilization effort. And, because nudity is not an out-group discursive act for most nudists, meaning that nudists are not being nude in order to communicate something to non-nudists, campaigning on protecting political speech would be unlikely to mobilize nudists more than the average American.

Appeals to protecting the freedom of expression and association in the private sphere would be much more likely to appeal to nudists. For example, judges that have fallen in the tradition of Antonin Scalia and Clarence Thomas reject that the Constitution

affords citizens a right to privacy, see each of their dissents in *Lawrence vs. Texas* for explicit denials of that right (2003). So, while nudists and the parties they are a part of hold varied opinions on abortion and sodomy, there is a tremendous opportunity to recast the debates in terms of privacy and realign nudists. For example, Justices John Paul Stevens and David Souter were republicans from their appointments through retirements but were wrongly perceived as having become liberal because the rise of constitutional originalism and the Christian right drowned out the right to privacy in elite conservative circles. James Baldwin noted that it is the desire of every American to be left alone to toil and be with their family. If a politician or party could effectively brand their opponent(s) as being morally prescriptive and undermining nudists' right to privacy, then there would be a ripe opportunity to realign nudists under one party.

Digital censorship could also be another avenue for mobilizing the nudist community. Social media and companies like Facebook, Twitter, and Google filter content algorithmically and through human reviewers. At present, the algorithms have not meaningfully accounted for context, erroneously taking down images like pictographs about breast cancer as though it were pornography. This poses a risk for the nudist community, potentially stifling its capacity to advertise in the predominant media platforms and its ability to share photos and memories with members of the community. Nudist groups tend to utilize private group features of social media platforms, thereby minimizing the likelihood that a nudity-averse account holder would flag their images. But it is nonetheless important to see how Facebook's proactive image filters might affect nudist groups in the future.

In addition to the nudist community using social media platforms to maintain social ties, there is the commercial advertising that hinders nudist organizations from recruiting new members. Search engine algorithms, like those used by Google, Bing, and Yahoo, can filter out mature content or virus-laden websites from accidentally appearing in a search. If a prospective member is looking to see if nudist spaces or communities exist near them, they might never find out because of search engine protections. Once again, the risk of throwing the proverbial baby out with the bathwater results in the nudist community having a harder time staying connected and growing. The commercial risk to the community could be a useful angle to pique the interests of the community gatekeepers, the credentialing organizations and business owners. Given the present bipartisan skepticism about social media companies' ability to self-regulate, this would be a promising avenue for aligning the community and non-nudists in the process. The shared skepticism and confusion around social media companies has been a rare unifying topic in Congress, and a budding politician could optimize on that without needing to focus exclusively on the partisan approaches of whether social media companies unfairly target conservatives' perspectives or whether they fail to stop the spread of conspiracy theories and hate.

Chapter 5: Organizational Risk and Elastic Identities

5.1: Introduction

The preceding three chapters described the histories of three lesser studied sexual minorities through their unique histories in the United States and scholarly research that has been done about these communities. In this chapter, I put these communities in

conversation so as to understand how they forge and maintain vibrant, diverse communities that protect members and prospective members from opaque social, legal, and extralegal risks. Khaldun famously noted that there is a vital link between human social organization and *asabiyyah*.² This chapter shows how social organization and group identity can be co-constitutive and how that marriage affords different possibilities for group security, comradery, and growth. I argue that the degree to which communities have porous organizational characteristics and elastic criteria for group membership affects the depth of group identity, their adaptive strategies, and opportunities for broader social change. This relationship determined the distinct means by which these four sexual minority communities protected themselves and their members from risks brought on by latent illegality. Prior to delving into an overview of the literature on organizational structure's relationship to organizational culture, risk, stigma, and identity, I must first explain the objects of my analysis.

This project examines the social organization of four different sexual minority communities with particular attention to how these communities exist within different spaces and the processes of distinction that community members engage in to distinguish themselves and their community from what they believe are misperceptions of them by outsiders. It is important to understand the temporal circumstances under which these groups gather because the constitution of these communities allows individuals varying levels of anonymity, opportunity to partake in rituals and community practices, and affects the ability of the community to speak or act in unison.

² *Asabiyyah* is generally translated as group feeling but is used to reflect several kinds of social bonds including social solidarity, sense of kinship, or the German concept of *stimmung*

The porousness of the organizations and the criteria by which individuals make identity claims have an important shared relationship that determines the ability of the community to protect its members from risks. I use the notion of porousness instead of more common organizational behavior terms like agility or adaptability for the important reason that community members are not regularly exposed to sudden, unprecedented risks from the outside world. Instead, porousness represents the degree to which the community constrains who can engage in community events and restrict outsider malfeasance. A porous organizational structure is one where it is easier to partake in community events and to know and build relationships with individual community members. By contrast, a scrutinizing organizational structure is characterized by the ability of formal organizations, community elites, or lay members to restrict the participation of outsiders or even other members of the community. Porousness exists along a spectrum. After researching these four sexual minority communities, I inductively found that two communities had highly porous qualities (polyamory and furies) while two displayed the opposite, scrutinizing characteristics (nudists and BDSM) (See Table 5.1).

Table 5.1: Typology of Organizational Porousness & Criteria for Membership

Elasticity of Membership Criteria

	Inelastic	Elastic
<i>Organizational Porousness</i>	Porous Polyamory	Elastic Furies
	Scrutinizing Nudists	Scrutinizing BDSM

The co-determinate relationship between organizational porousness and elastic identities was not an initial hypothesis. Instead, I drew from some aspects of a grounded theoretical approach whereby I first sought to understand how individuals in these communities and the community organizations existed on their own terms. It was only after gaining a sense of what it means to be a part of these communities that I could begin to speculate *why* they responded to risk as they did and not merely how. There was some initial apprehension about extending prevailing theories based on rational choice theory to this case because such theories are contingent on knowledge that may exist inconsistently or not exist at all within these communities. The sociodemographic profiles of these communities showed diverse populations whose approach to risk could be, with equal probability, highly varied or uniformly risk averse. Therefore, it would be premature to think that they would 'hope for the best, but plan for the worst.' Similarly, the kinds of social, legal, and extralegal risks that members of these four groups face are similarly severe such that the risk of losing custody of one's children, for example, because of accusations of sexual violence and sexual harassment against someone engaged in conventional BDSM or nudist activities.

The importance of the relationship between the organizational porousness and the elastic identities stems from its consistency, meaning that individuals with varying risk profiles, levels of community engagement, and knowledge of risks were protected in the same way. That permanence, as counterintuitive as it may seem, is dynamic because it shapes symbolic features of the community through individual identity while bounding the universe of potential behaviors from members and outsiders through organizational

design. And because they were co-determinate, it is through their unique interplay that the communities express distinct approaches to dealing with risk.

The question of who counts matters for more than determining a sample population. For marginalized communities, the in-group/out-group distinction can be essential for providing vulnerable people's privacy and safety (ex. Goffman 1963). An identity claim can be ascribed by others or through self-identification. Who ascribes the label can affect the extent to which it is adopted throughout a community and affect both in-group and out-group outcomes. A community leader or elder supporting another person's identity claim can provide a greater sense of legitimacy and, in many cases, hone the grounds for valid identity claims. None of these communities have initiation ceremonies or rites. Instead, the important interplay was between the breadth of conventional criteria for making an identity claim and the scrutiny to restrict participation and affiliation with these communities exercised by community leaders, codified organization rules, and community members. I look at the porousness of these different communities where they maintain their community ties, including in-person and online spaces, and I pay particular attention to activities that are most central to the community and/or necessary for making an identity claim. I will situate this study within the relevant literature on organizations and deviance in order to further explain my analytical approach and to situate the contributions of this study.

5.2: Organizational Structure and Culture

There has been an immense amount of unidirectional research on how organizational structure shapes group identity broadly conceived. While less common,

there has been interesting scholarship that has shown how group culture informs group behavior and the ways organizations adapt or struggle to change. There has been less research that co-equally approaches organizational structure and group identity, and none that considers the effect of latent illegality on either or both key social characteristics. Much of the reason for this appears to be due to the fact that scholars who worked in this area, based on their other published works, tend to be interested in only treating one of these elements as their dependent variable. Another reason could be that many elements of culture that these studies have focused on are forms of culture in action. This would lead to structure-agency debates that complicated solutions like Giddens' structuration theory which often prove to be too cumbersome, while temporal requirements of Archer's dualist morphological approach may not be able to be satisfied in the data (ex. Giddens 1984, Archer 1995). More used and less ambitious frameworks articulate means of understanding the relationship between organizational structure and culture unidirectionally. These include Trompenaar and Hampden-Turner's typology and Handy's approach to splicing cultural expressions on a structure (Trompenaar and Hampden-Turner 2012; Handy 1979). There are innumerable frameworks in industrial and organizational design that try to understand how fields and networks shape culture.

Culture, as expressed in the relation between classes of workers, shapes the ways managers sanction, reward, and hold employees under their supervision accountable (Ranson et al 1980; Schein 2004). James et al provide a useful overview of how culture as manifested in values and conceptual schema shape organizational structure by impacting the logic of organizational leaders (1990). Culture, as Janićijević notes, is constantly

engaged with organizational structure and not just in the design or justification of structure (2013, p.40).

Janićijević's work has been the best approach to understand the relationship between organizational structure and culture. Drawing particular from Handy, Trompenaar, and Hampden-Turner's works with Mintzberg's theorizing on types of organizational structure, Janićijević created a model for understanding the relationship between levels of hierarchy in an organization and levels of formalization in social relations (Janićijević 2013; Mintzberg 1979). A key limitation of Janićijević's formulation, given that it is derived as a meta-typology, is that it understands organizations as entirely devoid of their situational context. An organization, even if it is the field itself, exists within a broader ecosystem that exerts rules, conditions, logics, and relations to the organization and its members. While Miller found that there was a relationship between group size and formalization that was consistent between countries, the fields (global capitalist system, local market economies, etc.) were consistent (1987).

Aldrich provides an excellent summary of the research that tries to understand how environmental (external) factors inform organizational change (1979, pp. 106-135). He noted that this area of research had been at odds over whether organizational change is primarily a product of environmental factors or through the agency of individuals within an organization to usher in change. Karpik's edited volume remains an excellent survey of competing theoretical approaches to understanding the relationship between organizations and their environments (1978). Peterson found that elements such as the law and organizational structure affect how an organization produces culture (1982). Yet,

these studies all consistently reproduced the structure-culture tension, giving primacy to one while not exploring the confounding effect of the other.

Gist's study found that the common sequence of practices and rites within secret societies leads to 'patterning,' whereby secret societies have merely different manifestations of functionally equivalent symbols and rituals (1936). It presages DiMaggio and Powell's piece on institutional isomorphism and what began the legacy of Weberian thought on organizational studies (1983). What makes Gist's short, theoretical piece so insightful is that it melds stigma, institutional practices, and belief to show that these groups find unique expressions of rites with similar purposes which are meaningful for building group trust and value. Gist's piece leaves open why and how stigma, or other external pressures, give rise to the constitution of these groups and their practices. Goffman, like many others since, reminds us that some groups may embrace stigma within their subculture's symbolic universe and social practice just as they may simultaneously try to manage some of the negative consequences of that stigma (1963). Whyte's detailing of the 'corner boys' in Boston's North End is a prime illustration of that balancing act (1955). *Streetcorner Society*, with all its seminal impacts on the study of social networks, participant observational methods, and informal organizations, did not differentiate between cultural markers of social stratification and how they are reinforced through stigma, on the one hand, and deviance as a product of illicit behavior that carried criminal risks.

Stigma researchers since have generally failed to separate stigma as a means of social stratification and reifying social norms from stigma derived, first and foremost, because something is illegal. When done in psychology, it is done through the standpoint of

the stigmatizer and not the stigmatized, and then necessarily also ignores how people respond to being stigmatized. This current study of four lesser studied sexual minorities is, therefore, novel in that it considers social, legal, and extralegal risks and the organizational and cultural responses to them.

5.3.1: BDSM, Elastic Identities and Scrutinizing Organization

The BDSM community operates in four primary spaces: online, conventions, local events/proprietors, and organically formed local groups.

Online, individuals in the BDSM community will teach members about the importance and ease of integrating consent into various roleplaying scenarios, discuss their passions and fantasies, create and share art, maintain dating and hook-up mobile applications, and share tips and ideas about different kinks, fetishes, and roleplaying scenarios. The importance of consent, both online and in person, bounds the ability of community leaders to establish and enforce all of the community's rules and makes the community more porous. Online activity can be on general use sites like Reddit or a variety of BDSM websites and fora that can appeal to the community-at-large or to specific subgroups and interests. These various platforms consistently allow for individuals to maintain their desired level of anonymity by letting individuals use usernames of their invention and provide personal information and post as they are comfortable. Many active members are completely unidentifiable based on their public information while others post identifiable photos and videos of themselves and a smaller few maintain businesses online by selling gear and art within the community. The online presence of the community is important because it allows for prospective members to familiarize themselves with the

mores of the BDSM community and one or more subgroups while enabling the community to exist continuously, beyond isolated conventions and in-person gatherings.

BDSM conventions can range from being regional or kink-specific events garnering a few hundred attendees to national and international conventions attracting thousands of members of the BDSM community, prospective members, and individuals without an interest in joining the community but with an interest in specific kinks, fetishes, and roleplaying scenarios. The conventions offer an array of panels and presentations. The topics were diverse including: how to talk about BDSM and related interests with friends, romantic partners, and strangers; centering consent in role-playing activity; tips for different interests; the history of BDSM; and BDSM at the intersection with other communities. While these panels and discussions were rather mundane, unfolding as they would at a trade show or academic conference, they were important and I observed those in attendance frequently taking notes, pictures, and otherwise being actively engaged.

At DomCon, a national convention that took place in Los Angeles with several hundred attendees, I observed a presentation from an online personality who is known within bondage and domination spaces. During the presentation, they remarked, “If you ever hear someone say they are down for anything, run! Those who know, know no one ever is.” The remark garnered applause, laughs, and vigorous head nodding from the 75 or so attendees. The remark is notable because it highlights not only the importance the BDSM community places on consent throughout a scene³ but also how having nuanced or clear preferences in how one engages in kinks, fetishes, or scenes is an important discursive

³ A scene refers to the roleplaying scenario that consenting partners take part in. The roles, expectations, and personal preferences of parties are discussed ahead of time to ensure that the scene will play out to the satisfaction of everyone.

practice for distinguishing community members from prospective members or the otherwise curious. Studies of group culture too often define language by the slang, nomenclature, accent, and symbolic content that differentiates members of the group from outsiders. Here, we see that the BDSM community illustrates that specificity is also an indicator of whether people really ‘get it.’

Moreover, the BDSM’s understanding of the importance of knowledge in the consent process is important in avoiding moral and legal hazards. Informed consent requires a party to have at least a general understanding of what is going to occur and the effects that situation might have on this. The way that members of the BDSM community stress *informed* consent helps to create a clearer distinction for outsiders to understand the difference between routine BDSM activities and violence. Its importance in the community is taught through community leaders, event organizers, and through the routine interactions of community members. It came up commonly by conference presenters and forum moderators. But, it is a part of the script in establishing a scene between members of the community. It is interesting to note this educational process considering the high levels of formal education in the BDSM community (see Chart 2.7). It also neutralizes the expressive fluency of wants and desires that might otherwise be a preexisting form of social capital.

While there are plenty of presentations and panels at BDSM conventions that are explicitly sexual in nature, one might be surprised to learn that it is not uncommon for a majority of events not to be about sex or sexuality. In fact, I observed conference programs, websites, and in-person conventions where I found that classes resembled acting and dance classes in their language and pedagogical techniques. Panelists and presenters would

stress the importance of being accommodating to the movements and words of scene partners. In a presentation about bondage, domination, and submission a dom (the dominant role) went to great lengths to explain that the role is responsible for guiding the movement of the sub (the submissive role) and used multiple references to the dom being like the lead in a pair of dancers. Analogies like these are examples of how these convention spaces are designed by organizers to be palatable to a range of people from the curious to the old guard and to those with or without identity commitments. In so doing the material presented is understandable to individuals without a BDSM identity or are the most casual of conference spectators.

Discursively, sex is 'non-centered' in the BDSM community. I used this albeit clumsy phrase because decentering or uncentering presupposes that sex was or may be properly understood as being central to the culture of the BDSM community. Instead, sex is as parallel or independent from community life as it is for most groups. Importantly, sex as a non-centered variable has important consequences for how one comes to understand themselves as a member of the community, how the community is structured, and how the community engages with the broader population.

5.3.2.: BDSM, Elastic Identities

What it means to be a part of the BDSM community is highly elastic. Like the furry community, individuals in the BDSM community can have sustained, impacted relationships with other members of the community while plausibly not engaging with members of a variety of subgroups. Members of different subgroups often have some in-group specific terms for their interests, engage in scenarios that are different from those of

other subgroups, and are attractive for differing reasons. What makes someone part of the BDSM community is their affiliation and participation in group rituals, scenes, and activities. The social element is an essential component of the community, making it far more than a group of people who might share a common kink, fetish, or other commonality.

The sociocultural boundaries between the BDSM subgroups are often opaque. This is a product of both individual and organizational reasons. At the individual level, members might have interests that align with more than one subgroup and/or their interests may change over time. Organizationally, conferences, local proprietors, and groups have programming that appeals to individuals from multiple subgroups to grow attendance and sustain the social and commercial viability of these spaces. There are plenty of subgroup-specific events and spaces, particularly online. But the in-group porousness between subgroups helps explain why individuals with niche interests and marginal social ties might nonetheless see themselves and be regarded by others as members of the broader BDSM community.

5.3.3: BDSM, Scrutinizing Organization

The BDSM community is, relative to other groups, more scrutinizing in who partakes in several kinds of community events. Conferences and local BDSM events often have minimum age requirements set at either 18 or 21 years of age. Like many lesser studied sexual minorities, there are also often restrictions on photography ranging from it being permissible with the consent of the photographed person(s) to outright prohibitions. Online, the sheer number of different platforms allows for a wide range of regulations on participation. While anyone can participate in some public web pages like those on Reddit

or some BDSM platforms, others may require individuals to create accounts, and some, like apps that facilitate in-person interactions, may require biographical data and photos like a mobile dating application would.

The moral and experiential importance of consent limits the ability of community leaders and formal organizations to establish all of the community's rules and makes the community more porous. Here it is important to note that a community can be scrutinizing of its members while still being welcoming to non-members. I observed it was common to observe individuals who attended conferences and online spaces simply to learn more about various aspects of BDSM and/or 'spice things up' within their existing intimate relationships. Registration at conferences and local events did not require any pre-existing organizational memberships.

What makes BDSM more scrutinizing is the primacy of the 'scene' and experiencing the group's shared interest. While individuals might, for example, create art or share tips and experiences online, during conventions, or in in-person groups, they center on the shared social interest. Scenes require the consent, and thereby admission, of potential partners in order to act out a scene. If no members of a group are interested in and consent to acting out a scene, then a person is unable to partake in the constituting interest of the group. Would an individual be a part of a running community if no one let them run with the group?

Because individuals regulate participation between each other, authority within the BDSM community is highly decentralized. While whoever is hosting a BDSM event can set overarching regulations, a person's participation is largely regulated by the extent to which other members of the community are interested in engaging with them. At conferences and

events which anticipate the likelihood of having people new to the BDSM community, the power of elites still has some importance insofar as they determine what makes it onto the event program and who may present or serve as a panelist.

That decentralization fuels the importance of consent and the scrutinizing nature of the community organization. Consent, rather than a limiting force, was consistently characterized as making the exchange of power within a scene all the more meaningful. This was not limited to elites like conference organizers or panelists. I observed a large number of strong positive audience reactions when that sentiment was shared and saw pins and sew-on badges on conference attendee backpacks that said as much. Some pins and shirts were mass market and had the phrase “consent is hot” while others were BDSM-specific like a shirt that said, “consent is a power move.”

The elastic membership criteria and organizational porousness shape the ability of the community, through elites and rank-and-file members, to shape the broader public’s perception of BDSM and those who practice it. Because the BDSM community is maintained through interactions between members, it allows for every member to be an authority on what is and is not BDSM. That organizational feature enables the community to respond rapidly and organically when members sought to differentiate the BDSM community from what they saw as abusive and misogynistic features in the *50 Shades of Grey* book and film franchise. The absence of seminal organizations and elites that are recognizable outside the community reasonably limits the ability of journalists or policymakers to gain some essential understanding of the BDSM community in the same way that the Anti-Defamation League has become seen as the authority at labeling anti-Semitism, the Williams Institute or Human Rights Campaign on the LGBT community, and the National Association for the

Advancement of Colored People (NAACP) for Black Americans. The elasticity of the membership criteria also means that the lack of an essential interest, canon, or practice can make it harder to excite a common group efficacy. In responses to open response survey questions, individuals noted that they understood their sociolegal risks being fairly consistent between subgroups. The history of BDSM and the observed sense of a common threat help provide an enduring sense of community.

In summary, the BDSM community had a high degree of elasticity in member criteria while being scrutinizing organizationally, particularly for the more consequential aspects of community life. These qualities reinforce one another, and there is nothing in my observations or survey data to suggest that one caused the other. As we will see in the exploration of the other communities, there is no essential relationship between high degrees of elasticity and low degrees of organizational porousness.

5.4.1.: Furrries, Elastic Identities and Porous Organization

The Furry community operates in three primary spaces: online, conventions, and organically formed local groups.

Furrries have a prolific presence online. While this is, undoubtedly, aided by their comparative youth, the internet appears to be a natural medium for facilitating their common interests. Furrries create, commission, and trade art, allowing for the spread and hyper-distinction between Furry art and other works of anthropomorphized animals. While the unobserving viewer would likely glance over such differences, furrries care immensely about the subtle differences in the eyes and, depending on the animal, ears in artwork that render it a piece of furry art or not. The ability of scores of furrries to share

their aesthetic sensibilities allows them to help artists shape their work in real-time and helps satiate the community's need for art and culture. Moreover, the internet is where most furies maintain their community ties. There are general interest forums as well as websites and pages dedicated to specific subgroups and interests. Like in-person events, material that might even border on the sexual appears to be well segregated from the general interest and youth spaces. Even in the absence of digital avatars, graphic representations, or tokens of an internet user, furies benefit from the internet as a mediated platform for communication and exchange. Fursuits are expensive and require care. Posting online allows people to express their fursonas without feeling the pressure to purchase furry wears. While they were excluded from this study, the internet is likely a helpful social medium for furies under the age of 18 who might lack the means to attend in-person gatherings and purchase wears. The anonymity of digital spaces also provides individuals with greater means of avoiding stigma and legal persecution that they might otherwise face in person.

Furies put on a range of international, national, and regional conventions. These conventions can attract several thousand attendees. These range from artists and fursuit designers who travel the conference circuit as a primary source of income to young children with their parents who are curious to learn more about furies. The proceedings of a conference are similar to what you would find at an academic conference or large conventions held by the other groups in this study. They have panels, workshops, and ask-me-anythings with famous furies. There are also a variety of general social events and organized meetups for subgroups. At CaliFur, a large national convention, I observed a panel led by Indigenous Americans who discussed the origins of 'spirit animals,' how the

notion had been appropriated, and how to differentiate a spirit animal from a fursona. There was another panel led by two pre-college women where they introduced the community, fursuits, and addressed commonly asked questions. Both presenters were accompanied by their mothers who occasionally shared their perspectives as parents who were not themselves a part of the community. These young women, like the common displays on placards throughout the convention center, stressed important community norms. These included not taking pictures unless you received permission from a furry, with the exception of the end of the conference parade. Conventions serve as an opportunity for furries to socialize in the safety of large numbers in an accepting space while also affording prospective members an opportunity to gain a deeper understanding of the community. This is truer than is the case for the other communities in this study because furries in a fursuit have their face hidden and, in the most elaborate suits, voices modulated.

Local groups of furries also meet up. Some of the examples I heard discussed at conventions and online included bowling events, picnics, and activities akin to a paint night. For many if not most of these local events, furries may be unrecognizable from non-furries. The reason is, as furries in convention spaces explained, is both social and practical. Some mentioned not wanting to wear their fursuits in spaces that they were not certain would be safe and welcoming for them. Others referred to the fact that the poor ventilation in many fursuits can make it rather hot, that the fursuits might restrict their range of motion too much, and that the upkeep and durability of fursuits make frequently wearing fursuits prohibitive. Furries may wear clothes with furry art printed on them, but the effort it takes to distinguish furry art from non-furry art means that generally most non-furries

'in the know' are more likely to be sympathetic than uniquely hostile. From what I saw discussed at conferences and on online forums, local groups tend to exist in more densely populated areas of the United States and are the least common means of having community ties for most furies.

5.4.2.1.: Furies, Elastic Identities

I observed that many furies at conventions and online actively participate in discussions about what it means to be a furry and the tastes, behaviors, and beliefs that differentiate the furry community from other communities that have varying degrees of similarity. Furies are united by a common interest in anthropomorphized animals but lack a canon or set of common stories and quasi-ethical maxims like many fandoms such as the large community of fans of the shows *Star Trek* ('Trekkies') or *Dr. Who* ('Whovians'). While furies are visually exemplified by individuals in fursuits, furies do not require an individual to be in a fursuit let alone own one in order to be considered a member of the community. Large numbers of individuals do not have an active fursona and a considerable number do not produce art. Some members reject any sexual dimension to the community, others embrace sexuality, and others see it as being a feature as common as it is in any community. To be a furry is purely a means of self-identification.

The furry subgroups allow for an array of people to express themselves. Subgroups, generally divided by the animal of a person's fursona, are varied and allow individuals to act out a variety of exaggerated personalities. Wolves, bunnies, foxes, dragons, and many other common fursonas allow people to express themselves. Individuals adopt a particular fursona for a variety of reasons. Many expressed some interest in adopting a fursona that

brought out attributes they wished they had or expressed more prominently in the non-furry world. A person may select a wolf, for example, because it affords them an opportunity to be more confident or confident than they might otherwise be. As I commonly heard, the community boasts that there is a fursona for everyone. The transhumanist dimension of this community, whereby they can enhance or go beyond the limits of their human body and comfort zone, is crucial here. So long as every individual with a fursona follows the general anthropomorphic qualities ascribed to that animal, they are fully welcomed into the subgroup. Many people have more than one active fursona and people often shift between fursonas over time. That allows people to adopt behavioral and personality scripts that are salient to them and their desires.

5.4.2.2.: Internal Battles: Respectability Politics

The negative media, scholarly missteps, and the perception of strangeness by the general public lead many in the furry community to be wary of discussing the Furry Fandom outside of a furry-heavy setting. This wariness comes not from a closed or scrutinizing nature of the community, but out of a desire to control the external narrative about the community and avoid being made into a spectacle. At Anthrocon, for example, any members of the media who attend the convention are required to be escorted by a member of the event staff. Some exceptions to this rule are granted if the journalist has been vetted and seen as less likely to exploit eccentric examples or focus on the salacious (Brown 2015: 3-4). Anthrocon's long-running chairman, Samuel Conway, leads a talk every year called "Furries and the Media" where he coaches attendees on best practices for engaging with the media to avoid unintentionally fueling negative stereotypes to outsiders

(Brown 2015:5). Conway's talks can garner more than 100 new, engaged attendees. Many of the attendees of Brown's talk nodded their heads enthusiastically as he described the motivation of journalists as looking for the weird and sensational and primarily focused on the furies' sex lives. Brown's instruction to those present was an effort to engage in respectability politics and downplay or completely dismiss the role of sex within the Furry Fandom. One way some furies have responded to the focus on sexuality from those outside the furry community is definitional and boundary setting within the community. For instance, "many non-yiff furies don't consider yiff furies part of the furrydom at all, and they sometimes resent the attention yiff receives from the general public, fearing that yiff gives the impression that all furry activity is erotic" (Reid 2006: 122-3).

Some furies who embrace that sex plays a role in the community, but prefer the sexual aspect to be de-emphasized because of the associated negative publicity, might employ a different strategy and remove or limit the sexual references from some types of furry spaces. Online, we see routine efforts by non-erotic artists to exclude the erotic furry artwork from creative spaces with the argument that the association between the erotic and non-erotic might diminish their credibility as serious artists (Seabrook 2010: 124). Moreover, controversy has also engulfed many furry conventions over the visibility of sex-related products and representations in convention spaces, with continuously changing protocols regarding what can and cannot be sold or displayed in the vendor/dealer rooms (Seabrook 2010: 126).

Some organized groups within the Furry Fandom have actively tried to sanitize the community with efforts to remove the sexual aspects from both online spaces and offline spaces. Some of the activities of these groups have been described as follows:

“Within the Fandom, the issue of explicitly sexual Furry art came to prominence in September, 1998 when ‘Squee Rat’ (Charla Trotman) and several associates....formed the “Burned Furs,’ an association of Furrries who felt that the explicit art and actions of Furrries at ConFurences undermined and degraded membership in the Fandom. The Burned Fur ‘Manifesto’ launched ‘The Great Internet Flame War,’ an episode in Furry history that went on for several years and finally ended with the demise of the Burned Furs website on December 7-8, 2000, although the relentless pursuit of Furry Internet “pornography” continues ... Various ‘backlash’ groups have formed since the Burned Furs, among them Antifur, now inactive, Something Awful, an active and intrusive Internet presence, and Portal of Evil, as well as Crush Yiff Destroy, and Third Rail Furs, characterized by Furry essayist, Simo, as “another crop of self-righteous dumbasses with delusions of cleaning up Furrydom” (Seabrook 2010: 127).

These efforts are at the extreme frontier of the politics of respectability and go beyond just ensuring the sexual aspects of the Furry Fandom are contained and those who are uninterested are insulated from the erotic. Like most communities, there is a wide range of opinions among the members of the Furry Fandom regarding the role of sex and sexuality in the community. So, while some might prefer there be no association between the Furry Fandom and sex and sexuality, there are also many members of the community who see the link between furry identity and sexuality as inextricable with varying degrees of intensity. Importantly, the non-furry world links sexuality and the furry identity, so the debates about sex and sexuality within the Furry Fandom are not dispositive of the topic. As long as the general population perceives the Furry Fandom as a community that at least

in part revolves around sexual identity, the dynamics of sexuality politics will still come into play.

5.4.3.: Furrries, Porous Organization

The furry conferences in many ways would be familiar to anyone who has attended any conference. There are panels throughout the days that cover a variety of aspects of the Furry Fandom. Some may cover artistic aspects – like building or designing a fursuit, developing graphic skills, or color and design theory. Other panels focus on topics about communication – like how to navigate your disclosure to family and friends that you are part of the Furry Fandom, how to find like-minded Furrries, or how to keep your squad from squabbling when you all go to conferences. Other panels may focus on very practical issues like hydration, health, and first aid issues for those in the fursuits or very typical orientations for first-time attendees or novices of any sort.

The conferences are overtly family-friendly, and all have straightforward codes of conduct that prohibit public lewdness. There are a host of etiquette rules regarding photography - you should ask before you take a photograph of anyone in a fursuit, and you should never photograph someone in a fursuit if they have taken the head off or are otherwise only partially suited. Exceptions to the ‘ask permission before taking a photograph’ rule exist for the fur parade. The fur parade is a highlight of the conferences where all those in fursuits literally march through the event and often the surrounding area in full regalia. This invariably attracts local press coverage and is truly a remarkable spectacle. While each suit is impressive in its own right, a line of several hundred or as many as several thousand people in unique fursuits joyfully marching along the corridors

of the conference rivals the large-scale national parades like Macy's Thanksgiving Day Parade in joy and excitement. All of the other (non-fursuited) attendees, as well as other spectators, line the parade route and applaud non-stop for the passing menagerie.

The different species-types have different aesthetic sensibilities although, recall that since there is no literary canon that dictates authenticity, each member of the community can construct their fursona, or fursonas, as they see fit. Some fursuits include moveable jaws connected to the chin of the wearer and these include a device or prop that allows the wearer to make non-human squeaks or squawks or noises that replicate a language. Some furies are mute. Some wear elaborate costumes, others wear only the basics. One furry in Philadelphia at Anthrocon asked us about the larger project. He was extremely excited about the brief description of the plan for the research and explained "I'm also a nudist! See, my fursuit only wears a hat, shoes and a weapon and I'm nude under the fursuit so I can always be true to myself!" His fursuit presented as a primarily reddish-brown fox with a white belly and neck. He had a green cloth vest that was open in the front. He carried a bow and arrow and had a small hat with a feather. The inspiration for his costume was the 1973 Disney animated film *Robin Hood* which many people mentioned as one of their earliest examples that piqued their interest in anthropomorphic anime or the Furry community.

At the conferences, there are also receptions of several types, social events like dances, contests, meet and greets, and a vendor room. Some conferences also have a guest plenary speaker – like the San Diego Chicken, the fursuited mascot of the San Diego Padres baseball team, or a prominent artist or social media entertainers and influencers. In short,

furry conferences are remarkably similar to every other fandom conference but also every other academic or trade conference.

Furries, both elites like conference organizers and rank-and-file members, work hard to maintain a sense of inclusion for a diverse community. I observed an incredibly high percentage of conference attendees with a visible disability, far higher than the average population. The reliance on transhumanism is likely a compelling feature of disabled furries. Furries also work hard to ensure that the spaces that they administer are age appropriate. Content blockers on furry websites and the segregation of adult-only convention spaces are generally more rigorous than the internet generally.

Despite the significant efforts the furry community goes to in hopes of maintaining a broad culture of inclusion, they do nonetheless express a collective interest in differentiating their community from other communities. It is why the distinction between furry art and Disney fan art has grown over time in order to differentiate the community from non-furries who might otherwise be interested in cartoon animals or even anthropomorphized animals. Many furries also work to exclude 'bronies,' a group composed largely of adult men interested in the cartoon and toy series *My Little Pony*. Brony is a portmanteau of bro, meaning adult men, and pony. Some furries see bronies with skepticism to outright hostility for what they see as a pedophilic quality in almost exclusively adult men's engagement with a franchise otherwise consumed by children, particularly young girls.

The furry community has a high degree of organizational porousness. Compared to the BDSM community, there are few gatekeepers. Aside from maintaining mature material away from children as online platforms must do for legal compliance, members of the

community and those interested in furrries can engage freely in furry spaces so long as they do not infringe on the ability of others to form community ties. The furry community is unique through a non-bodied interest, the interest in anthropomorphized animal art. That enables people to engage actively in the community without anyone needing to know their legal identity or to see anyone in person. Online accounts of active community members tended to be tied to a specific fursona and there were a few instances of individuals mentioning having separate accounts for each of their fursonas.

Unlike the BDSM community, furrries do not need to engage with other individuals discursively or in action to be a furry and there is little gatekeeping. As free responses to the open response survey suggest, individuals feel like they are a part of the community even if they privately consume furry media context because of how prolific and decentralized the furry media marketplace is. Individuals can commission pieces or buy original pieces of art, but there is an extensive amount of free furry media. While furrries of this kind might have fewer discrete ties with other furrries, the refuge that being a furry provides them makes the identity claim more enduring and salient.

The community's porousness fosters the elasticity of the membership criteria. It allows individuals the ability to express themselves as they see fit through a variety of fursonas and, more importantly, through an ethos of radical inclusivity. Yet, the elasticity of the membership criteria informs the porousness of the community organizations. There are certain personalities that correspond to different fursonas, so the limits of a fursona set the boundaries for subgroup behavior. Relatedly, because there is a wide opportunity for diverse expression, there is not much that a gatekeeper could do. There is, as one panelist as CaliFur noted, no canon to the community; if you are interested in furry stuff then you

are in. Engaging in the core interest of the furry community does not require a membership or the permission of other furrries, the forums are a free deluge of online furry content.

5.5.1.: Nudists, Scrutinizing Organization

The contemporary nudist community in the United States exists primarily through local sites, to a lesser extent on periodicals and trade association zines, and with a scant presence online.

There are almost 200 local nudist proprietorships (clubs, resorts, campgrounds, etc.) in the United States, although the number of open businesses may have decreased due to the financial consequences of the COVID-19 pandemic. Like a country club, many of these venues are supported by regular, local members but also have non-member attendees and individuals who might attend as a part of their vacation. Some individuals I spoke to went to nudist resorts annually as a part of their annual cross-country vacation and suggested that this is relatively common. The number of campers and residential vehicles (RVs) present during in-person observation and on club websites suggests that it might be relatively common. These proprietorships are normally chartered by the American Association for Nude Recreation (AANR), which was founded in 1931 as the American Sunbathing Association. They may also be affiliated with the Naturist Society. Individual members of AANR, which claims more than 30,000 dues-paying members in North America, may recreate at any AANR chartered club and individual membership to the Naturist Society is generally treated similarly by nudist venues.

Nudists in the United States have a rich history of using magazines and periodicals to forge and maintain community as well as to proselytize. As detailed in Chapter 4, their

use of print and film to advertise nudism and nudist resorts helped lead to a growing interest in nudism. At the same time, nudist propaganda was targeted by obscenity laws at a time when conservatives scapegoated nudists as bohemian immigrants with communist sympathies. The legal challenges continued, albeit sparingly, even after the United States Supreme Court's 1958 decision in *Sunshine Book Co. v. Summerfield* which protected nudist magazines from obscenity charges on the grounds that depicting nude adults is protected under the First Amendment to the United States Constitution. Today's nudist print media is directed far more towards members of the nudist community than its original emphasis on advertising. The American Association for Nude Recreation manages a monthly periodical for members called *The Bulletin*, which originally began as a supplement to *The Bulletin*. The Naturist Society has been printing *N* magazine since 1980, also known as *Nude and Natural: The Magazine for Naturist Living*.

A survey of *The Bulletin* and *N* magazines led to some common themes that help explain the role they play in maintaining the community. They both highlight events of common interest and spotlight recent or upcoming events at chartered resorts. Beyond marketing, magazines are the clearest manner by which nudist elites frame nudism to nudists, contouring the ideologies in the nudist community. These magazines are for members of the nudist community which is a narrower target audience than the goal of earlier magazines and pamphlets that sought to recruit non-nudists to experience the nudist lifestyle. Reinforcing the value proposition to committed nudists can be an essential feature of group maintenance. It is similar to how the other groups used inside jokes and panel discussions to a largely or entirely in-group audience. Magazines, then, serve some similar framing functions for nudists as some facets of conventions do for the other groups

by sharing ideas for group activities, having organizers frame issues, and allowing community members to share their perspectives.

Nudists have a scant presence online, especially in comparison to the other groups in this study. This can be attributed to two primary reasons. The nudist community is comparatively older, in both the age of community members (Chart 4.4) and the historical age of the community, and increased age is negatively associated with internet use. However, there are a variety of nudist pages and forums on the more prominent social media platforms like Facebook and Reddit. The American Association for Nude Recreation also manages The Naturist Hub, which they called “The Only Social Network for Naturists.” Its purpose is “dedicated to wholesome Naturism with a strong #NoPorn and #NoHate policy.” The Naturist Hub allows AANR members and non-members to post with a set username. Admission is by invitation only, although individuals can fill out a short form to apply for an invitation. Interestingly, the Naturist Hub advertises to prospective members that the username of the inviter would be attached to their profile. Having an existing member vouch for a prospective member helps to further ensure that network participants will follow the community rules and share a common ideology.

After observing nudists through nudist spaces, publications, and forums, there are limited differences between in-group and out-group discourse. This appears to be fairly constant over time as appears to be complimented by the organizational scrutiny of the community.

Nudist venues tend to have similar rules and precautions to maintain the privacy and safety of attendees. It is common for venues to require guests to affix stickers to the cameras built into people’s cellular phones. The facilities themselves, regardless of whether

or not they are at a beach, forest, or enmeshed in a suburban neighborhood, are often fenced, gated, and have other precautions that visibly obstruct outsiders from viewing the goings on at the venue. These enclosures, however, are not dissimilar from what non-nudist resorts erect to ensure that only patrons use their facilities.

Other resort rules are clearly formal instruments for group norms. As a part of the community's efforts to de-sexualize the body, there are rules against staring at the genitalia of other resort guests and engaging in behaviors that might otherwise make the average guest uncomfortable. This also relates to the norm that penial erections are expected to be covered at all times, although I did not often observe explicit rules on this. For hygienic purposes, patrons are generally supposed to sit on towels.

To say that nudist community organizations and venues are scrutinizing should not be taken to mean that they are unwelcoming or even skeptical of outsiders. During my fieldwork, I was consistently met with hospitality by venue staff and regulars frequently sparked conversations with me through their own initiative. They are scrutinizing in that they go to great lengths to ensure that they insulate themselves from hostile or polluting (see Douglas) outgroup members and legal risks. The common total prohibition on guest-taken photography is far more expansive than the common rule of seeking permission in furry and BDSM spaces. Nudists cannot hide their identities through a costume. By restricting the ways that hostile outsiders might document or observe nudists, they also limit the instances in which they could be accused of indecent exposure or other charges related to obscenity. The literal and figurative walls nudist organizations create restrict the eyes of the state, voyeurs, and other hostile actors in equal measure.

5.5.2.: Nudists, Inelastic Identities

The criteria for being a part of the nudist community in the United States has remained narrow and durable in the century since many European immigrants popularized social nudism and naturism. To be a part of the nudist community means not simply that one prefers to not wear clothes or that one avoids wearing clothes in private. Nudism is an essentially social identity, meaning that being naked and amongst others who are also naked is an essential feature of the group. This harkens back to the earlier discussions about some of the goals of the nudist groups to desexualize the body and how some individuals gain or regain notions of body positivity. The social dimension to nudism is, then, important for being in a situation where you are highly exposed, and you do not feel judged or objectified.

Conversely, the nudist community in the United States has tried to set criteria that define what actions are anathema to community membership or might be disqualifying. Many resorts have explicit prohibitions around sexual activity in their code of conduct. As a resort worker explained, rules like these are aimed at prospective members or one-off resort guests and not active community members because community members sought the resort specifically because it is not a 'Club Med,' a chain of hedonistic resorts. Limiting criteria is a critical dimension of boundary marking and identity formation.

There are fewer gradations between the nudist and non-nudist worlds than is the case for either furies or the BDSM community. For example, a couple might engage in a BDSM-themed activity in the privacy of their own home without sharing that interest with anyone. They would not, by virtue of the interest alone, be a part of the BDSM community but share in some variation of the community's central interest. However, a person or

couple nude in the privacy of their home could not be said to be engaging in nudism.

Nudism is a binary designation; you are nude in public or you are not. That limiting factor helps to explain why nudists are far less engaged as a community through online forums and far less than their comparatively older age would otherwise suggest.

5.6.1: Polyamorists, Inelastic Identities and Porous Organization

The polyamory community maintains a rich, supportive in-person community with a supportive, but far less utilized online presence. This community is more than the aggregate of all the relationship networks of individuals in polyamory relationships. The polyamory community works hard to support individuals in polyamory, to help distinguish polyamory from polygamy, open relationships, and infidelity. The community protects members from external risks, including the consequences of latent illegality, in ways that are similar to the furry and nudist communities but with subtle, important differences.

5.6.2.: Polyamorists, Porous Organization

Polyamory requires individuals to have an interest in and generally hold more than one concurrent, sustained intimate relationship. A person who might not have more than one intimate partner could still be part of the community. For example, a person would not leave the community simply because their relationship with their second of two partners ended. Or a person might be a part of a polyamorous relationship because their partner has multiple partners, but they might not currently have the time or capacity for more than one intimate commitment. The polyamory community is porous because there are few formal or informal filters for engaging in community-hosted activities and one does not have to do

or wear anything (or nothing) at a given time in order to be seen and accepted as a part of the polyamory community.

Polyamory respondents to the survey mentioned learning about the polyamory community after someone they knew mentioned that they were polyamorous or had an intimate partner broaching the topic, more often than individuals from the other communities who were more apt to report learning about BDSM, furies, and nudist spaces through online or print materials. It would, however, be a mistake to think that there is a high degree of gatekeeping in the polyamory community. While nudist groups, through the security at facilities and their staff, work to ensure that individuals hostile to nudists are prohibited, polyamory groups are far less scrutinizing, especially at first and at their larger events. Large polyamory events, like Furry conventions, attract a sizable number of individuals and partners who are interested in the community but are looking to gain a first-hand, thorough understanding of the community, its practices, and its values. Other than sometimes seeing individuals holding hands with or having their arm over more than one person there are very few symbolic or gestural indicators of the polyamory community. The polyamory community is represented by the symbol of a heart interwoven with the symbol of infinity. There are no equivalents to fursuits, leather and gear, or social nudity for polyamorists. This means, as a practical matter, event staff could not even begin to differentiate in-group or out-group by appearance, while nudists, for example, could make accurate determinations off costumes alone.

Polyamory communities will hold a variety of family-friendly events and local groups often host regular or semi-regular support groups to help group members talk through potential challenges that might arise or be heightened from being in more than one

committed relationship. If a non-polyamorist were to routinely show up to these spaces, I did not see anything to suggest that they would be treated with hostility, but it could be seen at least awkwardly like a non-alcoholic attending Alcoholic Anonymous meetings and not having testimonials or experiences of their own to contribute. I say at least awkwardly because someone may not presently be in more than one sustained relationship at the moment but otherwise has been engaged with the community and able to contribute thoughts, experiences, and reaffirm values that would make the support groups effective.

There is no exact number of polyamory support groups in the United States. In observing forums online, their importance stems from a few features of marriage and family counseling. The polyamorists who responded to the survey consistently believe that most people have no accurate idea about how polyamory is and often conflate them with illegal or socially toxic behaviors like polygamy and misogyny. Some common remarks are that many marriage therapists have no understanding of polyamory and, at best, not be helpful and, at worst, give speculative, harmful advice or report polyamorous families for endangering their children. Polyamory support groups work by allowing polyamorists to learn from one another or to simply vent their normal relationship frustrations with people who are more apt to understand them.

Like the BDSM community, engagement with the polyamory community is often routed through intimate interactions. That is, members of the polyamory community maintain their sense of community primarily through their sustained, intimate relationships with other members of the community. The support groups are also intimate because of the vulnerability they require of participants to share the highs, lows, and mundane aspects of their relationships. Because dyadic relationships in the polyamory

community give every indication of being as sustained and intimate as non-polyamorous relationships, the value of polyamory is reinforced through the positive relationships they hold with the people they are closest to. This might give the impression that there is a higher degree of gatekeeping like the BDSM community because it requires other people to consent to enter into intimate relationships. But the BDSM community and its culture are predicated on the 'scene,' a specific category of actions, whereas members of the polyamory community are united in a particular idea about relationships and not an action. Being unified by an idea absent any signifier (being nude, wearing a fursuit, etc.) means that there are far fewer grounds for regulating how one joins or takes part in polyamory space. It is fair to say that furies are somewhat more porous because the absence of a fursuit, fursona, and masking characteristics in most situations requires a greater degree of comfort. So, while the most intimate and exposing features of being a part of a polyamory group may have varying degrees of scrutiny, maintaining meaningful ties to vital aspects of the community is not contingent on organizational leaders or clear ways of differentiating in-group and out-group individuals.

5.6.3: Polyamorists, Inelastic Identities

Polyamorists share the feature of having inelastic identities with nudists because the polyamory community is united with a common belief system about intimate relationships and actively works to exclude from the community those whose beliefs they find to be parasitic and, thereby, avoid ideological drift. The polyamorist identity is centered on belonging to a community of people who share the belief that monogamy is not

only not essential for healthy, lasting relationships but can even be deleterious in some instances.

The polyamory identity is based on a system of ideas about deep relationships and a community that shares those views. There is not a dearth of subcultures or group roles like there are in the furry and BDSM communities. They are people united solely by the belief that there are merits to having more than one sustained relationship and that one can do so healthily for themselves, their partners, and any children in their family.

The ways the polyamory supports healthy relationships within their community mirror the ways they rhetorically distance themselves from groups that they are both conflated with by outsiders and that polyamorists see as deeply problematic and hostile to their beliefs about relationships. There are recurring conversations on polyamory forums and at conferences where they take issue with polygamy misogyny, and explain what makes polygamy different from those two labels as well as other forms of ethical non-monogamy, 'friends with benefits,' and 'free love' cultures. There are a variety of examples that suggest that these differences are foundational to the polyamory identity. Support groups, conferences, and online forums will have topics about how to spot power imbalances in relationships and how to maintain balance and strong romantic ties between multiple deep relationships. Polyamorists that I observed communicate that maintaining more than one lasting relationship is more than additive and requires the presence of mind in order to maintain their relationship network and not just the relationships in isolation as if a person were living separate lives.

Polyamorists distance themselves from polygamy for two reasons. First, they believe that people can and should be able to have polyamorous relationships. Second,

their aversion to the State and its negative reaction to their relationships means that legal recognition and rights of various partners in a relationship tend to be tertiary concerns after combatting initial misperceptions. Some localities have developed rights frameworks for throuples, three-person relationships, so it is possible that the discussion of legal rights may grow more salient in the near future for some polyamory groups in the United States.

5.7.1.: The combined effect of organization porousness and identity

I first set out to explain the organizational and identity criteria for the nudist, furry, BDSM, and polyamory communities before explaining in detail how these two co-determinate variables affect the ability of these communities to respond to opaque social, legal, and extralegal risks as groups and how they teach community members about risks and adaptive strategies for avoiding risk. Through immediate comparison, I argue that the marriage between structure and identity has a significant impact on the adaptive strategies and development of these communities. Inelastic groups (Polyamory and Nudists) did not respond to external risks the same way, and neither did the elastic groups (BDSM and Furies). Similarly, the two porous groups (Polyamory and Furies) responded differently from one another, as did the two scrutinizing groups (BDSM and Nudists). Special attention was made to ensure that there were no confounding factors, beyond the demographic and legal considerations discussed earlier in this chapter. The adaptive strategies make it clear that the union between the level of organizational porousness and identity elasticity is the significant basis for their differences.

5.7.2.: BDSM's adaptation (Scrutinizing, Elastic)

BDSM's emphasis on consent, which is taught and normalized at conferences, local events, and online forums, empowers the rank-and-file members of the community to effectively differentiate potential in-group and out-group scene partners and, thereby, help reduce legal risks. By creating an environment that invites outsiders who might be interested in aspects of BDSM but are not interested in forging community, the BDSM community is able to further normal BDSM culture and behavior by creating a larger group of people who like or, at a minimum, have no animus to BDSM and the BDSM community. The BDSM sites use waivers to help immunize them of liability.

The reliance on education and consent scripts is important because they are natural responses to the fundamental nature of BDSM, such that it is hard to imagine the community constituted differently or protecting members differently. Determining a scene partner is about syncing individual interests. So, while an organization might be able to connect people with complementary interests, it cannot force individuals into scenes with which they are not comfortable. Doing so would not only take some of the power out of the dynamic but would also expose the organizations to an incredible amount of direct legal liability while not absorbing any risks for the scene partners.

Educating a decentralized community is importantly paired with a variety of subcultures, thereby using the specific interests, symbols, and languages of different insiders from individuals who are not 'in the life.' The subcultures are formed around increasingly specific interests. The nuances that elastic identities allow for also empower individuals to be more scrutinizing because they can have a rich sense of themselves, their interests, and how consent plays into the different facets of a scene in order to satisfy that interest.

Education based around consent, even when members of the group make light fun of people with 'vanilla' sex lives, is an efficacious strategy because it also has resulted in the BDSM community discussing a limited number of things with insiders that they would not want most outsiders to know about. The words subcultures use to communicate if someone is part of the in-group but do not constitute a new language. This means that outsiders can engage with members of the in-groups and understand the gist of a conversation while in-group members would know that they are outsiders simply by the words they would use. It is like someone traveling to New England and giving directions involving a traffic circle. New Englanders, who call them rotaries, can make clear sense of what the outsider is talking about and can discuss their travel while knowing that the traveler is an outsider. Some BDSM cultures might be seen as too extreme by outsiders but people curious about BDSM that I observed in-person and on online forums tend to gradually try out different BDSM practices. So, even if a person were to be exposed to something that they found to be too extreme, the intense value placed on consent seemed to have the effect of not making anyone observed participate in a subculture they were not interested in or would be uncomfortable being associated with.

5.7.3: Furies' Adaptation (Porous, Elastic)

The furry community's porousness and elastic identities have resulted in the need for community leaders to emphasize general values and cultural distinctions while limiting its ability to set canonical practices and values. Furies are united by a common interest in anthropomorphic animal art and have a variety of linguistic and artistic ways of differentiating furies from other groups and non-furry art. Their porousness means that it

can be difficult to differentiate a furry from a non-furry. Recall that many furries do not wear fursuits and those that do wear them to do so infrequently. The elasticity of the furry identity allows individuals to adopt a variety of possible fursonas and encourage a wide range of individuals and personal expressions.

The diffusion of furry culture and elasticity of furries identity criteria mean that they have a harder time quickly differentiating themselves from groups and acts they find to be at odds with the community. I sat through a presentation at a furry conference where a furry who is an academic by profession spent an hour explaining why the furry community is not like most other fandoms due to a lack of a canon and what comes with them. It was only through extended observations of the community that I was able to truly make sense of the presenter's (who is an academic by trade) well-organized, plainspoken presentation. Similarly, I have seen that it takes time for furries to explain why bronies are often not welcome in many furry spaces. The lack of a canon makes it difficult for individuals inside and community the furry community to quickly identify what is consistent or inconsistent with the furry community's values.

Furries seem to have a tradition of being welcoming to everyone since the community's inception. This has something to do with the fact that the furry community was initially a niche subculture that faced some ostracization from some other anime fandoms. Such a welcoming first, ask second disposition makes the borders of the furry community harder to ascertain. It does, however, limit the ability of the community to communicate outward and confront their latent illegality, the basis of the stigma that the community faces. That is to say, furries lack sufficiently well-known elites and concise, digestible culture for an ignorant outsider to understand why furries are not interested in

bestiality. Instead, the furry community's radical commitment to tolerance pushes out the judgmental, those whose observations of the community might cause social, legal, or extralegal risks to anyone in the community that they observe.

5.7.4.: Nudists' Adaptation (Scrutinizing, Inelastic)

Today's nudist community in the United States uses its scrutinizing organizational characteristics to limit opportunities for hostile outsiders to surveil them. The essential element of nature can help those with a passing familiarity with nudism to distinguish it from individuals who might expose their genitalia on public transportation for sexual gratification or at a sporting match to make a spectacle.

The permanence of the nudist community adds an important facet in considering how and why the community goes about insulating itself and its members from risk. Today's nudist community is a far cry away from the immigrant entrepreneurs and nudist resorts that would advertise in movie theater previews or on bustling city street corners. It would be wrong to chalk up this change to cohort replacement, whereby newer generations of nudists have distinct reasons for being a part of the community, different political orientations, and are socialized under a different sociolegal landscape. For one, I observed many nudists who grew up in a family of nudists. While this may not be the majority, the intergenerational transfer of beliefs coupled with the codification of mores through nudist resorts, associations, and periodicals, reduces the likelihood of a pronounced shift from newer members. My observational and survey data suggest that the driving motivations of nudists a century ago remain the same as they are for today's nudists in the United States: to be unmediated with nature and desexualize the body. The

partisan affiliation mirrors that of the general public (see Chart 4.9). The limited history of the politics of nudists suggests that there has always been a healthy dose of nudists on the right and left, but who share some civil libertarian beliefs.

The less visible, political disposition of the American nudist community is directly a function of the deterministic effect of having scrutinizing organizational dynamics and inelastic criteria for member identity. This combination inhibits new member recruitment and the ability to confront external challenges. Their iron cage, this inevitable, gradual closing, has nothing to do with the friendliness of nudists of the generations or what the prevailing political elites might think of nudists. The seeds for today's nudist community in the United States were sown many decades ago. But, at least compared to the two previously discussed communities, the current combination does not seem as necessary for nudism and the community. This is evident in that nudists were less scrutinizing in the past even as there has been a low degree of identity elasticity. Further research would be needed to understand this change, but it appears that the nudist community became more scrutinizing and even a bit less elastic after public perception subsumed nudists into the free-love, hippy movement in the 1960s.

5.7.5.: Polyamory's Adaptation (Porous, Inelastic)

The polyamory community's porous organizational structure requires a high degree of openness, particularly for in-person events, while allowing individuals to control the circumstances in which they are most vulnerable. Unlike furries who share some porous features, polyamorists rely on well-defined and inelastic criteria to differentiate themselves

from groups and behaviors that both put them at heightened risk and those that they find antithetical to the polyamory identity.

To be a part of a polyamory community requires sharing aspects of how you live polyamorously with other members of the community. Because they are unmasked in in-person events, unlike how furies may elect to be with fursuits, there must be a higher minimum level of trust or acceptance of risk in order for polyamorists to discuss their polyamory identity with unfamiliar people. That corresponds with the fact that polyamory conventions are consistently smaller than in the other three communities. The porous quality of the community is also set by the most important relationships in the community being the intimate partnerships, which take time to forge. Because of the initial higher level of vulnerability and need to forge personal intimate relationships, there is a higher 'start-up cost' in time and effort than there is for the other communities.

A foundation of the community is the support system for those in polyamory relationships. This creates a positive incentive for people to share because it creates a gift system based on reciprocity (Mauss 2016). If the community were porous and elastic, it would, at best, have a harder time combating misperceptions that can be easily labeled onto specific individuals. And, if the community was scrutinizing, they would have a harder time supporting people as they learn about polyamory and live in polyamorous relationships. This could also have a downstream effect of making it harder to normalize polyamory because it would increasingly resemble closed networks like polygamist religious sects.

5.8.: The Relationship between Structure, Identity, and Latent Illegality

Identity and structure are crucial to consider in partnership with one another. Too many studies consider how identity affects structure or vice versa out of analytic simplicity rather than grappling with their often-co-determinate relationship. Understanding structure and identity concurrently is more than analytically interesting, a new domain for knowledge production. This relationship determined the distinct means by which these sexual minority communities protected themselves and their members from risk. These combinations were also the logical manifestation of the history, cultural location, and risks that each community has to grapple with.

Each of these communities dealt with the risks brought on by latent illegality differently. The BDSM community used language and the importance of consent to attend to risk in interpersonal relationships and to immunize organizations from legal risks. Furies focused on creating a safe haven buttressed by subtle distinctions between other groups which have positioned them to be more responsive to social stigma and efforts to pathologize them more than a focus on connotations with bestiality outright. Nudists have gone to great lengths to shield hostile members from hostile outsiders at the expense of as actively promoting nudism to outsiders as they had decades ago. Polyamorists have been developing their own forms of therapy and support to avoid risks from the medical establishment and the State. Taken together, we see that the relationship between structure and identity determines if and how a group responds to latent illegality.

Conclusion

The author James Baldwin said in a speech reflecting on civil unrest in 1968 following the assassination of Dr. Martin Luther King Jr.:

The reason that Black people are in the streets has to do with the lives they're forced to lead in this country, and they're forced to lead these lives by the indifference and the apathy and a certain kind of ignorance — a very willful ignorance — on the part of their co-citizens. I want exactly what you want: I want to be left alone. I simply want to be able to raise my children in peace and arrive at my own maturity in my own way, in peace. I don't want to be defined by you.

The law, as an instrument of social control, is uniquely positioned to be interpreted, re-interpreted, and enacted at the helm of moral crusaders without needing to pass new laws. The law is used as a moral shortcut while they can change subtly and unbeknownst to the many who are preoccupied trying to meet the mere material necessities of their families. This dissertation proposed the novel concept of latent illegality to capture the surprising reach of the law to regulate new people and behaviors by stretching existing law beyond its initial scope. In addition to finding that the extralegal consequences of latent illegality can be greater than direct State sanctions, I have argued that the opaque augmentation of the law can influence our moral intuition and social organization. It suggests that there are important features of highly discursive legislative and democratic processes deserving great public and academic attention.

Through a comparative study of lesser studied sexual minorities-- nudist, furry, BDSM, and polyamory communities -- I have shown why the relationship between identity and structure affects how these groups adapt to the threats they face from latent illegality. Identity and structure are co-constitutive. The elasticity of their identities comes from the nature of their interests and in response to their latent illegality. These communities are

structured around engaging in their shared interests and minimizing the risks posed by latent illegality.

Looking at sexual minority groups was a sensible choice given the historical prevalence of moral panics appealing to concerns over sex. That said, the potential existence of latent illegality in other contexts is expansive. Corporations can face fatal blows to their reputation when the State deploys novel uses of its regulatory power that do not need to pass muster by a court. The federal government has repeatedly used the loose phrasing in the Commerce Clause of the United States Constitution to attempt to regulate new activities, including those that are not principally economic in nature. Similarly, vagueness in statutes regarding immanent domain, Defense Production Act, and Antiquities Act have allowed the federal government to temporarily or permanently acquire land and commercial assets for varying reasons and interests, including non-State interests.

Similarly, non-State actors can use the law beyond its intent in civil matters that can have severe financial and reputational consequences. For example, homeowners have used the California Environmental Quality Act (CEQA) to thwart new housing construction. The Act's vague statutory language, which was mildly updated during the 2022 legislative session, had been stretched by homeowner associations to block infill projects --- vacant, unused lots in a highly developed area often aimed at housing those pushed to society's margins --- by expanding what can count as a 'pollutant' that needs to be studied. In 2021, homeowners in Berkeley, California thwarted efforts for the University of California to build more student housing on its existing property to reduce the rent burden for college students in one of the most expensive housing markets in the United States. They were successful in stretching the term pollutant to consider students, who had existed in similar

numbers in the city already. An association will undertake protracted litigation that would often require developers to start their environmental reports from the beginning given that they are no longer up to date, thus enabling a cycle of frivolous litigation. Even if plaintiffs lose in court, the time and money spent fighting CEQA lawsuits that have no conventional basis in environmental protection have become a strong deterrent, stifling development even when plaintiffs lose in court. [couple sentences on SLAPP suits].

This dissertation is important not only for its findings and novel conceptualization of latent illegality but also for studying large, under-researched communities and its potential to engage with research throughout sociology and across disciplines, including legal studies, sexuality studies, and organizational studies. The study of sexual minorities has largely been focused on gays and lesbians. Yet, the communities studied in this dissertation comprise a larger population in the United States than gay and lesbian Americans. The partisan and ideological distributions of these communities can, in the case of nudists, resemble the overall United States population and all the groups had sizable libertarian leanings. Future research should further unpack the relationship between sex, the body, and political ideology. While sociolegal research is often orientated by the limits of the law, this project illustrates the importance of exposing the surprising reach of the law.

The COVID-19 pandemic constrained the data collection process and has provided a clear sense of where future research ought to go. As outlined in Chapter 1, future research should trace the historical development of norms about sex and the body. It would be invaluable to have an exhaustive, genealogical mapping of how moral crusaders utilize the State, through its use of latent illegality, to prime the moral dispositions of the American

public and covertly regulate previously acceptable behaviors. Additional fieldwork is needed to fully map how the identity-structure relationship itself affects the fundamental nature of organizations. Exhaustive histories of local community groups and interviews with community leaders can help explain if the identity-structure relationship is completely co-determinant or if certain external or internal variables cause identity or structure to condition the other. These insights can contribute to organizational studies and change management.

The hundreds of individuals and families that I met through the course of this project believed deeply in the bedrock American values of the freedom of expression and peaceful assembly, and the tendency to buck convention in pursuit of individuality while inventing new and dynamic communities. Members of these communities ran the gamut of who is America, echoing values of pluralism, inclusivity, and hospitality. These groups, whose histories range from preceding the founding of the United States to only a few decades old, are important civic organizations of engaged Americans who protect and uplift one another and could be formidable political interests if they were to mobilize.

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