

A Web of One's Own: Situating the Queer Child in Digital Rights Discourse  
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## Abstract

This thesis investigates the evolving role of the queer child in discourses of digital rights and internet privacy. Emerging out of anxieties surrounding the wellbeing and safety of children in an increasingly networked environment and media panics about alarming rates of queer youth suicide, the protection of this figure has become critical for policy makers and educators. In the eyes of these actors, the queer child is seen as being at risk and in need of protection from new media technologies which encroach on the traditional boundaries of childhood. This thesis critically examines how the figure of the queer child is conceptualized by actors working to legislate its protection. By analyzing legal arguments, policy initiatives, and social media campaigns aimed to protect queer children, this thesis demonstrates how the queer child is conceptualized primarily through the lens of injury and victimhood, paving the way for a protectionist approach which understands the internet as an object of danger and works to restrict access to potentially formative resources for queer youth.

La thèse préfigurée étudie le rôle changeant de l'enfant queer dans les discours entourant les droits numériques et la confidentialité sur Internet. En raison des angoisses liées au bien-être et à la sécurité des enfants dans le contexte d'un environnement de plus en plus réseauté et de la panique médiatique entourant les taux de suicide alarmants chez la jeunesse queer, la protection de cette statistique est devenue une priorité critique pour les décideurs politiques et les pédagogues. Ces instances perçoivent l'enfant queer comme étant un.e enfant à risque et en besoin protection vis-à-vis des nouvelles technologies médiatiques qui empiètent sur les frontières traditionnelles de l'enfance. Cette thèse examine de manière critique les façons dont la figure de l'enfant queer est conceptualisée par les instances législatives qui travaillent à garantir sa protection. En analysant les arguments juridiques, les initiatives de politiques et les campagnes sur les réseaux sociaux qui visent à protéger les enfants queers, cette thèse montre comment l'enfant queer est conceptualisé.e principalement à travers les prismes de la blessure et de la victimisation. Cela ouvre la voie à une approche protectionniste qui comprend Internet comme un objet de danger et œuvre à restreindre l'accès des jeunes queers à des ressources potentiellement formatrices.

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## **Birth of the Gay Child: Towards a Genealogy of the Figure of the Gay Child in the Age of Digital Rights**

2014 is an oft-cited year among theorists writing on children and the internet. The year saw the twenty-fifth anniversaries of both the UN Convention on the Rights of the Child and the World Wide Web. This coincidence, remarked upon by researchers and policy-makers interested in internet governance and children's well-being, ignited a rush of activity. As Sonia Livingston notes in her essay "Reframing Media Effects in Terms of Children's Rights in the Digital Age", in 2014 The UN Committee on the Rights of the Child organized its first Day of General Discussion on digital media. Additionally, the Council of Europe assembled its Committee of Experts to foreground digital rights as its new priority. Workshops on the theme were held internationally at the Internet Governance Forum (a multi-stakeholder forum established by the UN Secretary General in 2006) and at UNICEF-instigated events internationally. To celebrate the 25th anniversary of the World Wide Web Tim Berners-Lee, the creator of the web, called for a universal Bill of Rights to guarantee users' rights and freedoms online.

Sonia Livingston and Amanda Third note elsewhere that the timing of these activities was just right; "influential policy and standards-setting child rights organizations are now paying attention, ready to take action in the interests of advancing children's information, education and participation rights while also concerned with online infringements of these rights in relation to their privacy, safety and development" (Livingston and Third 2). These actors harnessed the symbolic power of the dates to draw attention to the condition of children and their rights in the digital age. Scholars in the field of childhood and media studies use the term digital age to demarcate "the profound shift from the internet as a useful tool to society's reliance on global digital networks for its very infrastructure" (Livingston and Third 2).

The authors note how several decades after the birth of the World Wide Web “claims for equality, privacy, dignity, speech and protection appear more contested than ever, with possible paths remaining elusive and political choices as controversial as ever” (3). The digital age has brought with itself a new kind of space, one in which existing legislation is incomprehensive and thus new rights and protections need to be developed for internet users. For some, this has meant that the rights one has protected offline one must also be protected online (NETmundial 2014), while others refer to, or invent, new and specifically digital rights, such as the right to delete or remove content (3). According to the authors each approach has proven both controversial and relatively ineffective since they have left significant struggles over internet users’ rights to be fought in national law courts which rely on pre-digital legislation (3).

Livingston and Third situate this concept of digital rights within Brian Phillips and Samuel Moyn’s idea of the “rights turn” in Western democracies; an intellectual and an activist shift towards fundamental human rights in the 1970s (building on the 1948 Universal Declaration of Human Rights) (3). This means that many of the discursive claims for, and contestation about, the World Wide Web typically prioritize “freedom of speech, association, privacy, information and equality as an ethical-political alternative to the assumption of state and/or commercial power online, thereby countering the dominant political economy that defines society offline” (3). Discussions of digital rights thus operate with the assumption that the internet is a free space uniquely open to democratic potential and that this democratic quality must be protected against state and commercial interests. The continued necessity of digital rights, however, demonstrates that the internet does not in fact operate this way.

The necessity of these protections and rights are especially heightened when discussing the status of children in digital spaces. Yet, as Livingston and Third note “the figure of the child

is commonly referenced in public expressions of concern over rights in the digital environment to call attention to that which is threatened – innocence, privacy, freedom and human frailty – current internet provision and regulation, including the emerging internet bills of rights, pay children little specific attention” (4). In her essay “Children: A Special Case for Privacy?” Livingston remarks that children’s voices remain absent, being rarely consulted or included in national or international deliberations, even though they constitute a valuable segment of internet users, often pioneering in their adoption of new services and experimental in their media practices. Despite this, they are not easily incorporated into considerations of the “population” or the “public” or “users” (4). This a problematic omission for Livingston because as she notes child welfare advocates believe it is critical to ensure that children benefit from the opportunities enabled by the internet without fear of being exploited, surveilled or monetized. (18)

Livingston and Third argue that “children and young people are simultaneously hailed as pioneers of the digital age and feared for as its innocent victims, the World Wide Web – and the internet more generally – has been largely conceived, implicitly or explicitly, as an adult resource in terms of provision, regulation and ideology” (Livingston and Third 2). This means that in public policy regarding children, the right to protection, understood as a negative right which focuses on removing impediments rather than defining positive outcomes, tends to take precedence in theory, policy and practice (6). Monica Bulger, Patrick Burton, Brian O’Neill, and Elisabeth Straksud have shown that in general, individual countries have conceptualized their responsibility to safeguard children’s rights by integrating special provisions within existing laws and regulatory efforts or by creating special laws aimed at securing the three key domain areas of provision, protection and participation rights (752). Of the three P’s, protection has emerged as the privileged area which policy and research has focused on securing.

This body of emerging scholarship along with policy and institutional efforts to understand and protect the digital rights and privacy of children online has worked to correct the omission of a large subset of internet users, bringing the well-being of children to the forefront of debates surrounding digital rights. However, despite this scholarship's intentions to correct the presumptive subject of digital rights, it has instilled in its place another subject which needs to be further deconstructed and analyzed. This is because much of this work has operated with a heterosexual child in mind. While critical scholarship in media studies surrounding the child has begun to explicate the child at the center of these policies in order to see the actual effects of these provisions on children, they have not given enough space to the queer child, a child whose presence in the U.S has been at the center of recent debates surrounding children's relationship to privacy and the internet.

In the U.S the queer child's presence has been ushered in by the "epidemic" of queer youth suicide which has put a figure once left out of public discourse into the center of the debate around children and the internet. However, in these debates this queer child occupies an uncomfortable position because of the long-standing difficulty of understanding queer children as a group, a difficulty related to the separation of childhood from the realm of sexuality. Queer children appear to be the most at-risk of the dangers of digital privacy breaches and yet their presence in policy is often symbolic or misapprehended, leaving actual queer children unprotected or over-surveilled. As much of the work in the field of childhood media studies shows, the most severe anxieties around children's digital rights has to do with children's sexuality, most clearly demonstrated by moral panics around sexting. These panics are a result of an understanding of children's sexuality through a media-effects approach which understands children's rights online in terms of negative freedom; that is freedom from dangers of the net,



rather than one which sees the digital as a now integral part of social life and development especially when it comes to sexuality.

As will be demonstrated by this thesis, the internet provides queer children with avenues for exploring their gender and sexuality which are often not afforded to them offline. The internet for queer children acts not only as a resource for kinds of knowledge which are inaccessible in offline spaces or traditional places of learning such as schools, but it can also act as a refuge and space of socialization for those who feel marginalized or don't have access to queer networks in person. For this reason, queer children stand to lose the most from protectionist restrictions to online content enacted in the name of their protection. Yet because of the increasing media attention given to queer youth suicide in the U.S, queer youth have come to hold a prominent position in debates surrounding online privacy. This is most evident in the suicide of Tyler Clementi, a Rutgers University freshman who committed suicide days after his roommate, Dharun Ravi, secretly shared a feed of his sexual encounter with another man recorded through his webcam. His death sparked outrage and led several political organizations and news outlets to suggest that an epidemic of queer youth suicide was occurring in the U.S. Given the role of the webcam, among concerns around homophobia in schools, cyberbullying and privacy emerged as key concerns.

This thesis takes up the critical interventions made by scholars writing on children and media and puts them in conversation with work in queer theory and childhood studies on queer children in order to better understand how to adequately address queer children's digital rights. These are rights which not only protect them from harm but allow them to use digital and social media as tools of self-development. While queer children have recently entered public discussion about privacy and cyberbullying, their needs and perspectives remain absent. Queer children are

increasingly the subjects of policy initiatives, legal battles, and media campaigns, but how effective are these projects in securing the well-being of queer children? The three cases this thesis studies are; the legal case against Dharun Ravi and the surrounding media discourse, anti-bullying legislation aimed at protecting LGBT students, and social media campaigns aimed at LGBT children such as the ItGetsBetter project, in order to deconstruct how these projects understand queer children and their needs. In doing so, this thesis attempts to evaluate the effectiveness of these projects.

Queer children are not only a new political group in public consciousness, they also use media in ways which exceed and complicate adult understandings of these technologies. These media practices cause the greatest anxieties amongst adults when they exceed the strict boundaries between childhood and sexuality. This is why a protectionist approach has emerged as the privileged response to these practices. This protectionist approach comes from specific understandings of the figure of the child and its relationship to new media, most prominent being the media-effects approach through which children's relationship to media has often been conceptualized. Sonia Livingston states that "in relation to the dominant mass media of the twentieth century, risks and opportunities were primarily examined through the social psychological study of the effects of media exposure on children's attitudes, beliefs and behaviors. Often too, the focus was on the potential media harms of exposure to aggressive, sexual and commercial media contents" (Livingston 2). Monica Bugler et al, citing Elisabeth Staksrud, show how this concern about risk of harm to children's development through exposure to media has a long history of regulatory efforts, moral panics and knee-jerk regulation in many regions. Though the specific fear or danger is often culturally dependent and socially constructed, such efforts are often motivated by a desire to protect children as "innocents, and or

impressionable against perceived or real cognitive, moral and developmental harm that may be caused by children's exposure to content not intended for their age" (Bugler et al 752).

Such fears, while often publicly acknowledged, are rarely articulated in terms of actual harm (Slavtcheva-Petkova). Instead, they can often take the form of media panics especially when relating to new media technologies, emerging abruptly with public opinion pushing for authorities to *do something*" (752). This can lead to hasty legislative and regulatory interventions, not always targeting the actual welfare of children, but rather the public expectation that measures have been taken (Cricher, 2006; Sutter, 2000). Bulger et al thus argue that, "In this way, risk and harm are seen as two sides of the same coin: one an inevitable consequence of the other, rather than – as by definition – the *possibility*, not the certainty, of loss, danger, hazard or harm" (752).

Issues may arise when policies designed to secure children's basic rights of protection, and to a lesser extent provision and participation, come into conflict with their practices and online behavior. Bugler et al cite research that engages directly with children on the subject of media harm to illustrate how children's own views and perception on what kinds of media content is harmful and/or problematic challenges adult perceptions and is at odds with the worries and concerns of parents and other adults (Downes, 1999; Livingstone et al., 2014). Kirsten Drotner argues that the long history of 'media panics' or emotionally charged reactions to the appearance of new media can be considered a "recurrent feature of modernity, essentially representing a cultural power struggle through which adults seek to negotiate and control the developmental forming of character in children" (753). This research demonstrates that the perception of children as vulnerable and in need of protection stands in contrast to "the evidence

of children's own agency and independent peer-driven engagements, limiting the understanding of the complexities of children's online participation" (753).

Bugler et al show that to date, internet safety policy has been inclined to respond to the anxieties that such risks raise rather than addressing the underlying problem (753). Concerns over the apparent rise of cyberbullying and harassment among teens have resulted in restricting or closing off the use of information and communication technologies (ICTs) in schools and other settings. Relatedly, concern over the supposed prevalence of sexualized content in teen culture has given rise to a range of responses including content classification schemes, filtering software, access control and age verification requirements (Staksrud and Kirksæther, 2013). Building on a long history of regulatory intervention, "the notion of restricting access to content that may be age-inappropriate or harmful for children's development remains a central feature of the protection regime for children's physical, mental, moral – and even religious – welfare" (753).

Applying this to a specific piece of policy, Livingston demonstrates how in 2017 Article 8 of the General Data Protection Regulation (GDPR), the European Union's data privacy regulation attracted considerable attention among the child rights and welfare community regarding children's rights to protection and privacy online on the one hand and participation, information, and expression online, on the other (Livingston 20). The main dilemma dividing stakeholders was whether to increase or lower the age of consent for accessing online resources. The rationale was that "a higher age of consent (if not routinely flouted) would favor protection rights and a lower age would favor participation rights, the stakeholder community has been divided in trying to determine where and how to strike the optimal balance" (20).

The efforts made by those on the protectionist side of the debate to raise the age at which children can use online services are because the stakes of the issue are not only commercial but also interpersonal (such as bullying, harassment, hate, grooming). This also explains the interest of the child safety community; they are interested in what will change now that

the GDPR rather than safety specific regulation that, for instance, specifies the age at which children can access services, the conditions under which children can request removal of problematic content (“the right to be forgotten”) or the requirement for parental oversight (via consent mechanisms) as well as, more broadly, the requirement on platforms to conduct risk impact assessments. (20)

This key division in how policy approaches the well-being of children on the internet reflects differing conceptions of how these policies understand children and their security online. The question of whether or not to address children’s rights online as being distinct from already existing digital rights already brings with it questions surrounding how we understand and conceptualize childhood.

Livingston and Third illustrate how it is argued by some that ‘children need no particular recognition in debates about the digital because they are accorded speech and all other rights implicitly, insofar as they are included tacitly in the “human” of human rights instruments’ (4). However, as scholars in the field of childhood studies and media studies have demonstrated, “in practical terms children do not enjoy such rights, and over and over again, efforts to protect them unthinkingly curtail their participation rights in ways that they themselves are unable to contest, given the nature of internet governance organizations” (4). Much of this has to do with the contentious boundaries of the child as a figure.

Livingston and Third argue that the child is simultaneously both a rigid and a slippery category (4). The UN Convention on the Rights of the Child defines a child as anyone under the age of 18. The authors however point to the fact that the seeming clarity this definition is

betrayed by “the complex discursive operations of the child as imagined in the largely Western-influenced research, policy and practice” (4). Barbara Arneil has argued that the figure of the child is the site of discursive labor, constituted as “a tool to illuminate the nature of the autonomous adult citizen by providing the perfect mirror within which to reflect the negative image of the positive adult form” (Arneil 74).

The authors cite Ulrich Beck and Elisabeth Beck-Gernsheim who suggest that this figure projects both forwards and backwards in time; “Looking forward, the child is the subject who shall inherit the earth, bear the mantle of our legacy, and thus adults invest the category of the child with all their hopes and aspirations as well as their dystopian fantasies” (Livingston and Third 4). While the child acts a symbol of human possibility, she also represents a site of necessary containment; the securing of her proper socialization is needed to the preserve the future (4).

Looking backwards, the figure of the child “highlights the difference between today’s childhood and the childhood adults experienced, pointing to cultural transformations over which we have little control” (4). Livingston and Third go onto argue that “As a boundary-marking figure, the digitally enabled child threatens to exceed the limits through which they are disciplined and co-opted into securing and ordering the future” (4). The newness of the digital threatens the ability for adults to discipline and socialize children in ways which fit their desires, thus the digital threatens the established norms between children and adults. A presumption behind this logic is that children and adults use digital technologies for different purposes. Kath Albury in her essay “Just because it’s public doesn’t mean it’s any of your business: Adults’ and children’s sexual rights in digitally mediated spaces”, cites Kate Crawford who observes that within the contemporary Western cultural imaginary, the different uses of digital technologies

can serve as a boundary-marker on the border of childhood and adulthood (714). This is because within this imagined space adult citizens are constructed as mature responsible users who use their phone as a working tool to conduct business that “need not be scrutinized or commented on by others. In contrast, children use their phones to play games or send selfies – to make public what could (or should) be private. Children, then, are legitimate subjects of surveillance, as their play makes them vulnerable to scrutiny” (714).

This logic of framing children as being inherently vulnerable online and adults as being entitled to privacy is problematic because it “falsely constructs the child as precisely unlike adults in being only vulnerable, thereby denying them rights that go beyond vulnerability, notably the right to participate in society as agents, let alone citizens” (Livingston and Third 5). These kinds of arguments explain why those working in the field contest the widespread positioning of children’s concerns as an exception to an unmarked adult focus on ‘internet users’ or ‘the public’ or ‘human’ rights in new media theory (5). Livingston argues elsewhere that “one problem with the problem of treating children as a special subgroup is that this conjures a problematic normative vision of all other users as somehow invulnerable and invincible” (23). Ultimately, she argues instead that in the future it may work better for data controllers to protect the rights of all users than to try to identify children in order to treat them differently (23).

A major realm in which the distinction between adult users of the internet and children is established is online sexual expression. Livingston and Third suggest that ‘while adults can and do claim legitimacy through discourses of free expression and privacy, for teenagers online sexual expression is widely framed through ‘gendered pedagogies of shame and regret’, as evident in the burgeoning e-safety curricula on “sexting”’ (6). This is because youth are seen as engaging in transgressive practice online that leave digital traces which render their practices

visible to the adults that regulate their lives. The issue of “teen sexting” in particular has caused great tension between participation and protection rights. The authors illustrate that ‘until recently, teenage sexual practices – both voluntary and coercive – have remained “under the radar” of public visibility and, thereby, regulation. But the digital has changed all that, unleashing an avalanche of moralizing judgements that, Albury argues, reveal and exacerbate a double standard in society’s response to adult and adolescent sexuality’ (6).

In this way children become ever more spoken for rather than being seen as speaking subjects. Kath Albury has shown that since the mid-2000s, adults have expressed concern over children and young people’s participation in cultures of “mediated intimacy”, with specific attention to “sexting” or the sharing of naked and semi-naked selfies via digital media (714). She demonstrates how this discourse frames the sexting teen (usually presumed to be a heterosexual woman) as both lacking agency and sexual rights, while also having to bear individual responsibility for the consequences of public exposure. In response, many cyber safety and “sex education” campaigns (anti-sexting campaigns) have sought to deter young people, especially young women, from mobile and online sexual self-representation by “raising the specter of non-consensual picture sharing: a sullied ‘digital footprint’ and inevitable public shame, tactics that (following Brown and Gregg, 2012) might constitute a pedagogy of regret” (714). Albury argues that this approach constitutes a negative model of children’s sexual rights, which excludes a positive right to access sexual information and a right to self-representation (714).

Albury instead pushes for a positive rights understanding of children’s sexual rights. Sonia Correa, Rosalind Petchesky, and Richard Parker identify promiscuous youth among categories of people whose citizenship and very humanity is “called into question because they fail to conform to normative standards of sexual truth, thus justifying legal, medical or moral



interventions” (159). They argue for a framework of sexual rights which emerged from feminist and LGBT activism in the 1990s that reframed sexual rights not only as negative rights, a sense of protection from coercion and violence, but also as positive rights, “such as a right to access sexual information or a right to experience sexual pleasure if one so desires” (715). Albury demonstrates how in Articles 13 and 17 of the United Nations Convention on the Rights of the Child young people’s right access and information is supported, and in Article 34 their right to freedom from sexual exploitation is supported; but ultimately the UN CRC does not recognize children’s positive sexual or digital rights (716).

For Albury the stakes of the issue lie in the fact that when young people are denied sexual rights, particularly rights to sexual information and self-representation, “they are excluded from an emerging ethical conversation” (714). This is because, as noted by many scholars, young people’s rights to digital participation is often seen as coming into conflict with their rights to protection and privacy. However, Albury is adamant in her endorsement of positive sexual rights, because as Petchesky argues “the negative, exclusionary approach to rights, sometimes expressed as the right to ‘privacy’ or to be ‘let alone’ in one’s desires and choices, can never, in itself help construct an *alternative vision* or lead to fundamental structural, social or cultural transformations” (Petchesky 91). This is because positive rights can only be recognized with a universal recognition of sexual autonomy or personhood which extends to both children and youth as well as adults (93). Albury argues that “for adults to insist that young people only have sexual rights where they are assured of *absolute* privacy can, therefore, be seen as a de facto demand for digital non-participation or abstinence” (Albury 715).

These are not fears unique to the digital. Albury draws on cultural geographers and sexuality scholars who have shown tensions inherent within adult's attempt to regulate children's sexual conduct:

On one hand, curfews, Internet filters and other boundaries and restrictions on access to public spaces are justified by adult concerns regarding the innocence of children and their need to be protected from sexual content (Pyburne and Jolly, 2014). On the other, the regulation and restriction of a range of forms of sexual expression (from dress codes to 'no touch' rules in schools) are justified by anxieties around adolescents' 'wayward' sexuality, which requires constant external surveillance (Allen, 2005) (715).

This leads Albury to suggest that contemporary mediated youth cultures which involve suggestive or explicit selfies, sexual chat and other forms of digital sexual expression are threatening to adults “*not* because they are unprecedented but because they make sexed and gendered bodies and identities visible in concrete (and at times discomfoting) ways” (720).

Amidst some of the alarmist concerns about children's online safety, new research is beginning to demonstrate and document a broad range of benefits associated with children's online participation. Livingston and Third cite work that demonstrates that digital participation can have benefits for children such as formal and informal learning, health and wellbeing, literacy, civic and/or political participation, play and recreation, identity, belonging, peer, family and intergenerational relationships, individual and community resilience, and consumer practices (Swist et al., 2015). This thesis takes its lead from authors working in the field of childhood media studies to explore “routes to enhance child agency by mobilizing the affordances of the digital, to counter the tendency to sequester children to the purely private sphere”(Livingston and Third 10). As Livingston and Third suggest, “we must concern ourselves not only with what happens online but also with how what happens online is entwined with the conditions and possibilities of children's everyday lives” (12).

Many of the tensions between protectionist approaches and youth digital participation played out in the legal case against Tyler Clementi's roommate Dharun Ravi. On September 22<sup>nd</sup> 2010, Rutgers University freshman Tyler Clementi committed suicide by jumping off the George Washington Bridge, three days after his college roommate Dharun Ravi secretly viewed and shared feed of him with a male guest. Following his death, Tyler Clementi came to be the face of what many considered to be an epidemic of gay youth suicide. His death received intensive media coverage, fueled partially by the ongoing legal case against Ravi at the time. The story was taken up by several LGBT organizations. Clementi's name was cited in legal battles and an anti-bullying bill was passed in his name in the state of New Jersey. The highly publicized nature of Clementi's suicide made it a case study for both for the increasing phenomenon of gay youth suicide and lingering anxieties surrounding the safety of young people in online environments.

The singularity of Clementi's death came to be read by many as being symptomatic of a larger cultural phenomenon. Clementi's death was one of the first suicides to be reported on using the language and narrative of an epidemic of queer youth suicide, and media commenters, politicians, and LGBT organizations alike looked towards the specificities of his situation to distil a recognizable pattern which would help them to explain why gay youth were committing suicide in large numbers. This was regarded as particularly troubling because it was occurring at a time where legal victories such as the repealing of Don't Ask Don't Tell and the legalization of gay marriage had ushered a new paradigm of tolerance surrounding gay rights in the US.

The particularities of Clementi's case - his age, his status as a student, the role of the webcam, his relationship to Ravi, Ravi's own identity - came to take on larger significance as Clementi's case came to be the go-to exemplar of the epidemic. Ravi's presumed homophobia, specifically expressed through his racialized identity and legal status as an Indian national, and a

culture of bullying among young people made more dangerous by the incursion of new media into everyday life were believed to be the culprits in the situation. While the focus of this thesis is not the suicide of Tyler Clementi, it uses the reading of his death as characteristic of an epidemic to explore the historical and political conditions which have allowed for an understanding of gay youth suicide through the lens of privacy. In doing so it does not take the relationship between privacy and gay children to be merely coincidental or novel. Instead, it argues for a historical approach which situates this relationship in both the history of childhood and privacy in the United States, looking for overlaps, dialogues, and shared interests between these histories. Thus this thesis begins by taking the case of Clementi's suicide as a case study for the growing phenomenon of using privacy and privacy rights to understand the newly found status of gay children. Specifically, it uses this case to show the roots of the protectionist approach which dominates debates about gay children and privacy and the ways that this approach misapprehends how Clementi and other gay youth negotiate their privacy online.

The highly publicized suicides of a number of gay youth has led policy makers and political organizations to claim that there is currently an epidemic of gay youth suicide occurring. One of the primary ways this has been communicated is through the demand for a public health intervention on the basis of these deaths, a demand which relies on the language of epidemic to prove severity and scale. John Ayers, a senior researcher on a report published by the *Journal of the American Medical Association* about the elevated risks of suicide for sexual minority adolescents, states in response to the conclusions of the report that "We must recognize LGBTQ teen suicide is a national public health crisis and bring extraordinary resources to bear to address the crisis" (Rapaport). The study found that of the 16,000 high school students they interviewed who identified as gay, about 40% had thought about suicide and 35% had planned an

attempt in the past year (JAMA). Journalist Jared Keller in an article for *Vice* titled “The Scariest Part About the LGBTQ Suicide Epidemic is What We Don’t Know About It”, laments the failure of public health agencies to adequately collect data on LGBT suicide rates and warns that the lack of public health intervention allows the epidemic to spread.

This epidemic framing is mirrored by the media, whether as an attempt to sensationalize these deaths for content or as more earnest attempts to provoke policy initiatives by eliciting sympathy and outrage. In her contribution to the *ItGetsBetter* project, television personality Ellen DeGeneres broadcasted an emotional message to her viewers at the end of her talk show which subsequently went viral. In the message, DeGeneres begins to cry and choke up as she looks directly at the camera and says "Something must be done. This needs to be a wake-up call to everyone that teenage bullying and teasing is an epidemic in this country, and the death rate is climbing. We have an obligation to change this." While the use of the term epidemic changes in meaning and connotation following each iteration, moving from a mode of classification to a rhetorical device, in all three instances it is used to present the deaths of LGBTQ youth as a problem that needs to be solved by state intervention.

Much of this public concern has targeted the internet and digital media as playing a fundamental role in these suicides. Building on already existing anxieties surrounding children, sexuality, and the internet, the concept of privacy has become the primary analytic through which this epidemic has been understood. This thesis explores the consequences of centering the notion of privacy in how we understand the rise in suicide among gay youth. It does so in order to argue that the emphasis on, and centrality of, privacy as a mode of understanding and combatting the supposed epidemic is in itself a politically loaded framing which has consequences for how the epidemic is understood and what resources are provided for vulnerable

populations of gay youth. A focus on privacy elides the structural conditions which put queer youth at risk.

To do so, this thesis takes seriously what an emphasis on privacy may make or keep hidden. How did this relation between gay youth and internet privacy come to be? At the center of both this thesis and the epidemic is the elusive gay child, a figure which has only recently entered the public sphere and whose status and rights remain in-flux. As Kathryn Bond Stockton describes in her essay “Feeling Like Killing, Queer Temporalities of Murderous Motives among Queer Children”, “With no established forms to hold itself in the public, legal field, such a child is the perfect sign of an explanation unavailable to itself in the present tense” (303). Stockton describes how unable to access the categories of “homosexual” or “queer”, sexual categories culturally deemed too adult, the gay child had remained outside of conscious grasp for much of the 20th century.

Stockton’s description of the gay child as a figure who has lacked the social and political forms to become legible in any public or legal sense, especially given the way childhood has been constructed as being separated from the realm of sexuality, is affirmed by Eve Kosofsky Sedgwick in her famous 1991 essay “How To Bring Up Your Kids Gay” in which she begins by boldly proclaiming “It has always been open season on gay kids” (18). Sedgwick’s essay comes in response to the then Secretary of the Department of Health and Human Services Dr. Louis W. Sullivan’s repudiation of a report released by the same department two months prior calling for an end to discrimination against youth on the basis of sexual orientation after finding that gay youth were two or three times more likely than other youth to commit suicide. Dr. Sullivan claimed that the views expressed in the paper *Gay Male and Lesbian Youth Suicide* “do not in any way represent my personal beliefs or the policy of this Department. I am strongly committed

to advancing traditional family values.... In my opinion, the views expressed in the paper run contrary to that aim” (18), successfully erasing gay children as an object of interest for the state and removing them from the public record.

In what is widely regarded as the first prolonged theoretical engagement with the question of the gay child, Sedgwick’s essay takes up a series of psychoanalytic literatures surrounding male homosexuality and femininity written following the depathologization of homosexuality in the DSM, to show how this literature not only fails to offer, but “seems conceptually incapable of offering, even the slightest resistance to the wish endemic in the culture surrounding and supporting it: the wish that gay people not exist” (23). This new psychology, which presumably offered a new paradigm of gay acceptance by not viewing homosexuality as pathological, depended on a gender essentialist model of sexuality where a man could love a man as a *man*, but any sense of femininity was diagnosed under a new disorder called gender non-conformance. Sedgwick notes that this new psychology maintained a baseline pathology, one which developed during childhood.

For Sedgwick this type of thinking supports the idea that homosexuality is something to be avoided; “There are many people in the worlds we inhabit, and these psychiatrists are unmistakably among them, who have a strong interest in the dignified treatment of any gay people who may happen already to exist. But the number of persons or institutions by whom the existence of gay people is treated as a precious desideratum, a needed condition of life, is small” (23). Sedgwick argues that these institutions are predicated on therapists’ disavowed desire for a non-gay outcome. However, Sedgwick is careful to not merely indict heterosexual society at large or psychoanalytic institutions for this type of thinking, she also takes to task gender

constructivist approaches to sexuality for not providing a theoretical space for supporting gay development.

The constructivist approach deploys the concept of Core Gender Identity - one's base sense of being male or female as separate from and prior to, or even potentially independent of, any solidification of sexual fantasy or sexual object choice (25). Gender Identity Disorder of Childhood is seen as a pathology involving the failure to develop a Core Gender Identity consistent with one's biological sex. (25). This approach distinguishes between gender and sexuality, in such a way that, while denaturalizing sexual object-choice, radically renaturalizes gender (26). Under this approach, sexual object choice is not pathologized if an essentialist idea of gender remains intact. This constructivist model holds many dangers for those who purport to support homosexuality; "the danger of the difficulty of intervening in the seemingly natural trajectory from identifying a place of cultural malleability, to inventing an ethical or therapeutic mandate for cultural manipulation, to the overarching, hygienic Western fantasy of a world without any more homosexuals in it" (25).

Stockton's claim about the conceptual issue at the heart of the problematic presented by queer children, that they remain an impossibility outside of conscious grasp until an act of retrospection or death, is affirmed by Sedgwick's critique of both psychoanalytic and constructivist models' inability to engage with queerness as a desired possibility rather than an unwanted outcome. Stockton is more explicit about how this affects the ways gay adults come to embody and understand the impossibility of the gay child when she claims that the only grammatical formulation allowed to gay childhood is "I am not straight, I was a gay child". She states that "The phrase 'gay child' is a gravestone marker for where or when one's straight life died. Straight person dead; gay child now born — albeit retrospectively (even, for example, at



the age of twenty-five)” (304). The political and scientific erasure of queer childhood seeps into the way queer adults understand their own trajectories.

The difficulty of engaging with queer childhood is present in some of queer theory’s most famous and canonical approaches to childhood such as Lee Edelman’s *No Future: Queer Theory and the Death Drive*. In this text Edelman presents his polemical take down of the figure of the Child, whose innocence solicits our defense and whose unquestionable value transcends beyond partisan discourse structuring the very logic of politics. As Edelman puts it, the fantasy subtending the image of the Child “invariably shapes the logics within which the political itself must be thought” producing the logic of reproductive futurism, “ terms that impose an ideological limit on political discourses as such, preserving in the process the absolute privilege of heteronormativity by rendering unthinkable, by casting outside the political domain, the possibility of a queer resistance to this organizing principle of communal relations” (2). For Edelman all already existing politics is a future-oriented politics which the Child comes to represent, hence the phrase “fighting for the children”. Edelman suggests that queerness names “those not fighting for the children, those outside the consensus by which all politics confirms the absolute value of reproductive futurism” (3).

Some have critiqued Edelman’s figure of the Child by suggesting that it does not address or ignores the realities of actual children or that the Child which Edelman describes does not include children who are not straight and white (Muñoz 2009). While these claims point to very real shortcoming in Edelman’s text, they misinterpret the central claim in *No Future* that it is the figure of the Child, not actual children, who structure reproductive futurism. As Harri Khala states, “The Child as figure is a discursive, structural-situational entity, whose very figuration yet finds its fuel from the casualness of real situations, not unlike the one described above” (Khala

19). The figure of the Child as the innocent figure which needs to be protected is created with its situational counterpart- the sinthomosexual. The sinthomosexual is a figure which Edelman describes as rejecting the logic of reproductive futurism by rejecting not only the call of futurity, but the social itself. For Edelman the sinthomosexual is a figure which queers should embrace as a form of ethics to reject the demands of reproductive futurism.

Khala goes on to elaborate that ‘The Child is social order’s affective ’face’, the dominant trope of suffering and protection, whose vulnerability is played off against the anti-social otherness represented by another figural trope, that of the sinthomosexual’ (21). This figure represents an orientation away from the future in the search of a desubjectifying moment of jouissance. Khala continues, “To put it simply – much more simply than Edelman does: the Child is that which sinthomosexuality threatens; sinthomosexuality is that which fails to baby the Child. And since the Child always already represents futurity and compulsory/compulsive reproduction, sinthomosexuality is doomed to figure no future” (23). Edelman’s polemic puts homosexuality in direct opposition to the Child.

This emphasis on a figural understanding of childhood has had consequences for how queer theory has understood the question of queer childhood. Scholars of childhood studies and childhood literature Karin Lesnik-Oberstein and Stephen Thompson argue in their essay “What is Queer Theory Doing with the Child” that queer theory approaches to the child essentialize rather than interrogate the protogay child, such that said child becomes "an anti-theoretical moment, resistant to analysis, itself the figure deployed as resistance" (36). Lesnik-Oberstein and Thompson are critical of queer theory’s use of child as figure, a move which they suggest does not help queer theory theorize about actual protogay children.

In his essay “Queer Theory’s Child and Children’s Literature Studies” Kenneth Kidd organizes queer theory’s engagement with the child into two camps: one concerned with queering the child (Sedgwick, Moon), and one with understanding the normative power of the Child. Like Edelman, Lauren Berlant in her critique of infantile citizenship demonstrates how America’s national value is “figured not on behalf of any actually existing and laboring adult, but of a future American, both incipient and pre-historical, especially invested with this hope are the fetus and the American child” (6), demonstrating how the Child’s normative power works to structure national fantasy and organize the bipartisan desires and goals which all forms of politics, whether electoral or activist based, set out to accomplish.

Those working to critique the normative value of the child have connected this figure directly to the future and the politics of futurity. In doing so however, these critiques have assumed a narrow heterosexual understanding of the child, whether real or figural; one which does not find the same resonance in the 21<sup>st</sup> century. As the editors of a special edition issue of *GLQ* titled “The Child Now” state, while the child and the future have circled around each other in the 20<sup>th</sup> century, the child must be separated from an automatic association with the future: “The child, to be sure, has been a creature of chronology. Built on the assembly lines of the last one hundred years, the child now stands for a future out- of-date” (495). In this century the concept of the future has changed; “the question of the future is no longer primarily social or even exclusively human; in the catastrophe of climate change, the future can no longer be counted on to serve as a blank backdrop for human life” (Gill, Sheldon, and Stockton 495).

The editors propose a renewed study of the child in a moment where the child now stands for a future out-of-date. Whereas, given the rapid rise and spread of global capitalism and development of new technologies, the future in the 20<sup>th</sup> century was a site of possibility and

development, the future facing the 21<sup>st</sup> century does not point to this this same possibility. The future now is a site of anxiety given the presence of climate change and collapse. This thesis follows Gill, Sheldon, and Stockton's lead as they argue that thinking the child now means moving from an emphasis on futurity to the historicity of the present and having queer theory engage with children's literature, childhood study, and the history of childhood. The 21<sup>st</sup> century has witnessed massive breakdowns of the fantasized modernity of childhood and the protections and benefits it brings, a childhood which has already been denied to racialized, queer, and disabled children. As changes in global labor processes and the rise of automation start to make the futures of white American children more precarious, childhood comes to symbolize less and less the possibility of a better future. In doing so, it comes to more accurately reflect the experiences of childhood for those who are excluded from the formation of the imagined child due to their race, ability, sexual orientation, and class.

Kathryn Bond Stockton has argued in "The Queer Child Now and its Paradoxical Global Effects" that the queer child needs a new theoretical capture which she provides through three theoretical rubrics; kid Orientalism, reverse pedophilia, and manifest latency. Kid Orientalism refers to the outsourcing of the innocent child once the innocence of childhood has been encroached upon in the U.S context by sexuality via technology. Stockton writes about media panics surrounding teen sexting and suggests that "One can almost hear a collective plea from parents, at least these parents, who are crying out: is there a child somewhere who is innocent and, yes, maybe sexual, and *wants* our protections?" (508). Reverse pedophilia refers to the relationship which Western adults have to children of the global south in which they feel that the child in need is desiring them, or in need of their help. Describing this pattern as it plays out in the reoccurrence of uplift narratives documentary films about children in need, Stockton suggests

that these narratives are “not just the wish to make children something other than victims, which of course is laudable. It’s a concession to Western heartbreak—the filmmakers’ fear of breaking *our* hearts—which we might feel threatened with and so might cause our turning away (the filmmakers’ nightmare)” (517). Reverse pedophilia is required for Western viewers to engage with the child of the global south without turning away. Finally, manifest latency describes the “making manifest of meaning-as-latent in simple surface” (521). For Stockton these are the new theoretical captures through which the West thinks about the child once the futurity that has been symbolized by childhood is put at risk.

The driving force behind Stockton’s reformulation is the idea that we have now come to fear the child we were meant to protect. Stockton suggests that the fundamental feature of childhood in Anglo-American culture in the 20<sup>th</sup> century has been the idea of delay, delay on the path to adulthood, but that this experience of delay is withering away. Stockton argues that this moment of delay is being taken away by the encroaching presence of child sexuality via new media technologies and phenomenon such as teen sexting, and instead is displaced onto the figure of the “innocent” third world child, or as she states “So, paradoxically, we may look for “our” child, “our” disappearing child—the child who needs protection, the child who wants protection—where we should know, where we do know, the Western-child-on-its-long-delay cannot be found” (515).

Clifford Rosky’s “Same-Sex Marriage Litigation and Children’s Right to be Queer” illustrates the stakes of lacking a critical or theoretical space for queer children by exploring how law-makers and judges have framed children’s queerness in litigation surrounding same sex

marriage. The essay argues that the Supreme Court defined the limits of sexual liberation for children and adults along the tropes of dignity, injury, and immutability. The Court places emphasis on the dignity of the institution of marriage as a way to legally codify and understand same-sex marriage: “the Court dignifies marriage; marriage dignifies the petitioners; the petitioners dignify marriage; the Court dignifies the petitioners not only because marriage dignifies them, but also because they dignify marriage” (543). The consequence of this is that while granting same-sex couples the right to marry, “the Court denigrates millions of unmarried persons or nonmarital couples” (543). The court emphasizes the promotion of children’s best interest in defending same sex marriage suggesting that “The right to marry . . . safeguards children and families and thus draws meaning from related rights of childrearing, procreation, and education” (544).

Rosky goes onto to claim that children’s welfare has long played a pivotal role in the LGBTQ movement’s setbacks and triumphs. The court’s willingness to protect the children of same-sex couples and the couples themselves was premised on the recognition of injury to both groups. Rosky then turns to work within legal theory on the queer child, specifically Teemu Riskola’s foundational essay on the “legal construction of the fantasy that gay and lesbian youth do not exist” (550). Riskola argues that there is no legal conceptual space for a coherent gay adolescence. His argument is thus to provide protections for gay and lesbian youth we must legally name and recognize them as such, as they recognize themselves. Rosky wants to trouble this notion and move beyond a the principle of self-identification in order to ask “What protections might the law offer to children who entertain same-sex fantasies, harbor same-sex desires, engage in same-sex behavior, and enter same-sex relationships—but are either unable or unwilling to identify as lesbian, gay, or even bisexual during childhood?” (553).

Rosky's essay draws out several interesting concerns regarding how queer children are seen under the law. Understood through the tropes of dignity, injury, and immutability, queer children can only exist within the law as figurations. That is, the queer child exists as a figure to be protected through the enactment of certain laws. Actual queer children however do not occupy a conceptual space within the law because they present a legal contradiction as minors whose sexuality is excluded from the law. Currently existing jurisprudence can only offer protections to queer children if they themselves are able to or chose to identify as such. This leaves a large legal blind spot for children who either do not, or cannot currently, identify as gay but nonetheless engage in sexual behavior which could be deemed queer and could put them in contact with the legal system.

Rosky and Riskola both point to interesting tensions within the definition of childhood vs adolescence. Adolescence is commonly referred to the transitional stage from childhood to adulthood, usually starting at around 12 or 13. According to a paper in the journal *Lancet Child and Adolescent Health*, adolescence encompasses both elements of biological growth and major social role transitions. However, the timing of these development varies across temporal and spatial context. The idea of adolescence being from ages 10-19 comes from the mid 20<sup>th</sup> century, a time where patterns of growth and timing of role transitions were very different to modern patterns. The study instead suggests that a more inclusive definition of adolescence as being from 10-14 aligns more closely with our current patterns of growth and understandings of this life phase. This study was met with a lot of controversy around how long it extended the boundaries of adolescence. This controversy points towards is the flexible boundaries what is termed adolescence and its relation to childhood. In this thesis the terms are child and adolescent are often used interchangeably reflecting the way they are talked about in the literature used.

However, when sexuality is referenced relation to these terms the term adolescent is often used because it connotes the transitional period in which sexuality is intensified by puberty.

While the gay child has lacked a conceptual or legal form for much of the 20<sup>th</sup> century, the epidemic of gay youth suicide has allowed for the gay child to enter the public sphere in a way which was not previously possible. In 2010 Dan Savage and his partner Terry Miller created the *It Gets Better* project, a suicide prevention social media campaign started directed at gay youth. The IGB project is a social media suicide prevention campaign in which adults submit videos addressed to gay youth relaying their experiences of coming out and highlighting the message that “it gets better”, asking youth to persist despite their current circumstance because the experience of being gay becomes easier in adulthood. In an interview with NPR’s *Fresh Air*, asked about President Obama’s contribution to the project, founder Dan Savage remarked,

I came out in 1980 right before AIDS hit. And Ronald Reagan couldn't bring himself to say the word AIDS until 1987, after tens of thousands of gay men had already died. For us to go from launching the project and 3.5 weeks later, the president records a video for the It Gets Better campaign to address gay youth suicide? That was amazing.

Savage’s comment implies a teleological narrative of progress where things have *already* gotten better for us as a nation, that we’ve gone from a president whose inability to even mention the word AIDS cost thousands of gay men their lives, to a president who is hastily ready to publicly support gay youth.

How in the span of about 20 years, from the publication of Sedgwick’s essay to Obama’s IGB video, did we go from the exclusion of gay youth as a group of concern for the state to the highest state actor expressing concern for the very same group’s wellbeing? Perhaps a better way to frame this question is to ask when specifically did gay youth appear in the public sphere and through what means were they conceptualized? It is crucial not to follow the same progress



narrative used by Savage to approach this question because as the reoccurrence of the language of epidemic shows, gay youth remain a vulnerable class despite their supposed visibility and status in the cultural imagination. Instead, a better question to ask is what conditions have allowed for the production of the gay child as a figure in 2010, when in the past the lives of queer youth were either excluded from the state record or unaccounted for in the organizing efforts of the mainstream gay rights movement. To trace and historicize the emergence of the figure of the gay child we must locate the specific discourses which shape the contours of this figure in order to understand the conditions determining its birth.

In her essay “Coda: The Cost of Getting Better: Suicide, Sensation, Switchpoints” Jasbir Puar makes a crucial intervention by stating that the supposed sudden string of queer suicides is obviously at odds with the claims of purported progress by the gay and lesbian rights movement (151). She goes on to argue that “Part of the outrage generated by these deaths is based precisely in a belief that things are indeed supposed to be better, especially for a particular class of white gay men” and that this amounts to “a reinstatement of white racial privilege that was lost with being gay” (151). Puar lays out one of the structuring discomforts proposed by the entry of the gay child into the public sphere; the child’s emergence is marked by death. The epidemic framing of gay youth suicide disrupts a teleological account of gay progress by showing how the movement’s victories have left a large portion of the population vulnerable. Implied is the idea that gay children shouldn’t be compelled to suicide because of the victories of gay movement and the cultural shift towards tolerance surrounding homosexuality.

These are critiques shared by queer theorists responding to how the *ItGetsBetter* project has understood the phenomenon of queer youth suicide and the rhetoric of its message. Queer theorist Tavia Nyong’o argues that the videos exhibit a

melancholic refusal to work through the grief that might come with the recognition that it doesn't always get better, that in many ways its gotten a lot worse in this country, and that making a YouTube video, reaching out a hand, each one teaching one, or any of the other individualizing modes or participation which sentimental culture makes defines as "doing something," isn't always going to cut it (Nyong'o).

Nyong'o stresses that the message can only apply to certain types of gay men who have access to the benefits promised by the message that it gets better; men who are white, gender-conforming, and educated. Jack Halberstam suggests that the reality of gay youth suicide is different than what is being presented by the media, stating that "looking for hard and fast reasons for suicide, particularly in young people, is a fool's game and it ignores the multiple pressures facing young adolescents on account of the messed up worlds that we adults pass on to youth" (Halberstam). This essay puts these timely and crucial critiques coming out of queer theory in conversation with media studies work on privacy and digital rights.

The first chapter of this thesis begins with an analysis of the legal case against Dharun Ravi on behalf of the state of New Jersey. This chapter uses the media discourse around Tyler Clementi's suicide and the subsequent legal case against Dharun Ravi as a case study to show how privacy is understood in relation the queer youth suicide. It illustrates how Ravi was framed in the media and how this framing allowed the prosecution and many commenters to see him as the primary cause for Clementi's suicide. In the chapter I will address the organizing done by queer critics and activists critiquing Ravi's prosecution on the grounds of both the carceral approach of this act and the way in which Ravi's racialization makes him an easy target for a more complex set of circumstances.

As legal scholar Andrew Gilden has argued, the case depended on the prosecution presenting Clementi through what Gilden describes as an innocence narrative, a narrative which has developed in several legal contexts to protect gay teens like Clementi. This chapter will

begin by historicizing American childhood and its relationship to innocence and sexuality. By focusing on the specifics of Clementi's life online as illuminated by his digital footprint, I will argue how Clementi like many teens who use social media navigated and negotiated his privacy in ways that exceed the narrative pushed by the prosecution and the media. I will instead offer accounts of theorizing privacy by digital media scholars focusing on youth which better account for Clementi's negotiation of privacy. Finally, having laid out this context I will explore how and where privacy emerges in these debates and what purposes it serves. I will also show the innocence and protections assigned to childhood as assigned to certain bodies and withheld from others.

The second chapter turns towards policy responses to cyberbullying enacted in response to Clementi and the suicide of other gay youth. This chapter begins with a summary of how the U.S public education system has understood queerness and queer students. Engaging with the security culture of U.S universities, this chapter will analyze how educational institutions come to understand the safety and well-being of queer students through the management of risk from legal and financial exposure. Finally two pieces of legislation aimed curbing anti-LGBT bullying will be analyzed. The first text analyzed will be the "New Jersey Anti-Bullying Bill of Rights act" which the state of New Jersey administered in response to Clementi's death. The second text will be SOGI 123 in British Columbia. I will also attempt to draw a link to the language of these policies and anti-hate crime laws and legislation to show the prehistory of LGBT anti-bullying policy in earlier LGBT centered legal initiatives. In doing so, I will bring on work by Dean Spade and other anti-violence critics who are at the same time anti prisons to show how these policies can benefit from the critiques of hate crime laws and how punishment factors into solutions for the epidemic.

The final chapter will look at two distinct cultural forms which have represented the queer child online and looks at the way these forms understand the role of shame in queer childhood in relation to different social and historical contexts. This chapter will analyze “It Gets Better” as the primary message of the LGBT response to the epidemic and will look at how IGB videos frame the relationship between queer identity and shame through the platform vernaculars of YouTube. In contrast, the chapter will focus on a different set of YouTube videos, “sissy-boy videos” which highlight shame in ways are in direct opposition to IGB videos. I will compare the two in order to situate them as objects who perform different kinds of political goals- either propagating the idea of tolerance or showing the persistence of disgust in how people see queerness. This chapter concludes with an exploration of Sianne Ngai’s work on disgust and Herbert Marcuse’s work on tolerance to contextualize the political work performed by both sets of texts.

## **Chapter 1: “Everything is Fair Game and Privacy is Just a Facebook Option”: Locating the Role of Privacy in the case of Tyler Clementi**

On September 22nd 2010 Rutgers University freshman Tyler Clementi committed suicide after posting a Facebook status which read “Jumping off the gw bridge sorry”. Three days prior to posting the status, Clementi had asked his roommate Dharun Ravi to use their dorm room for the evening to meet up with a male guest he had met from the gay dating site Adam4Adam. Before leaving, Ravi set up his webcam so that he could remotely view a feed of his room from his friend Molly Wei’s computer. Later in court Ravi would claim that he had installed the feed for safety measures, worrying that Clementi’s guest might steal from his room. Ravi and Wei watched the stream which displayed Clementi with his guest a total of three times on two separate occasions, including one session in which Ravi tweeted “Anyone with iChat, I dare you to video chat me between the hours of 9:30 and 12:00, yes its happening again”.

Clementi’s death sparked a media outrage of which Ravi became the primary subject of scorn. Clementi’s suicide came at the heels of the suicide of several other gay youth such as Raymond Chase, Asher Brown, Seth Walsh, and Billy Lucas, whose deaths were also widely reported on. As comments made by executive director Shane Windmeyer in a press release for Campus Pride, the leading non-profit for student leaders and campus groups working to make college campuses more inclusive for LGBT students, demonstrates, these deaths were linked together and spoken about as a national crisis. Windemeyer in October of 2010 writes,

The loss of Raymond this week is the second college LGBT-related suicide in a week and the fifth teenage LGBT suicide in three weeks. The suicide of this openly gay young man is for reasons currently unknown; however, the recent pattern of LGBT youth suicides is cause for grave concern. Campus Pride demands national action be taken to address youth bullying, harassment and the need for safety and inclusion for LGBT youth at colleges and universities across the country. We must not let these tragic deaths go

unnoticed. Together we must act decisively to curb anti-LGBT bias incidents, harassment and acts of violence (Windemeyer 2010)

It was not only LGBT campus groups who were observing this pattern. Several weeks prior, advice columnist Dan Savage shared a letter about Billy Lucas, a 15-year-old boy in Indiana who took his life after homophobic bullying, signing off as “Gay Bullying Victim Who Survived” (Savage). In the letter, Savage wrote that he regrets not having been able to tell Lucas that life gets better, “however bad things were, however isolated and alone he was, it gets better”. He also noted that the online memorial set up for the teen had begun to receive hate messages which inspired Savage and his husband to set up a YouTube channel to display videos of themselves and others speaking directly to gay adolescents. Savage’s video campaign ItGetsBetter picked up immediate traction, with celebrities, corporations, and major political figures submitting their own videos. As the gay publication *Gaytimes* notes, after the news of Clementi’s suicide “every national daily newspaper and major television network ran features on gay youth suicide, ranging from special reports by CNN anchors Anderson Cooper and Larry King, to day-time television discussions by Ellen DeGeneres and Dr. Phil, a clinical psychologist who previously sparked controversy for his treatment of gay issues” (Gaytimes). Several networks ran multiple stories, including pieces acknowledging National Coming Out Day, Safe Schools Week and Anti-Bullying Month, all of which take place annually in October.

Of the many cases of suicide among gay youth reported on by the media, Clementi’s story arguably received the most attention. The story was taken up by several LGBT organizations; Clementi’s name was cited in legal battles, and an anti-bullying bill was passed in his name in the state of New Jersey. Clementi became the face of what many considered to be an epidemic of gay youth suicide. Several different factors, from the way his whiteness allowed him to be read as innocent and granted him the protection of youth and the fact that there appeared to

be to many a single discernable cause or event leading to his death, contributed to the centrality given to Clementi's story. However, a reoccurring theme which emerged in media responses to his death was the way his story exemplified the dangerous effects of social media on youth and their privacy.

In his article for *The New Republic* titled "Privacy Strikes Back", former legal affairs editor Jeffery Rosen begins with the claim that "In the era of Facebook and YouTube, it's often said that privacy is dead. The recent suicide of Tyler Clementi seemed only to reinforce this conclusion"(Rosen 2010). Rosen writes that Clementi committed suicide after his roommate secretly webcast his sexual encounter with a man in their dorm room and publicized the livestream on Twitter. Like many other commenters, Rosen is not simply linking these events chronologically; he is drawing a causal relationship between the actions of Dharun Ravi, Clementi's roommate, and Clementi's eventual suicide. Sandip Roy for *The Huffington Post* similarly describes the case as "just life in the online world where everything is fair game and privacy is just a Facebook option" (Roy 2011). These sentiments are shared by *The Washington Post* who released an editorial titled "Tyler Clementi Suffered a Grotesque Invasion of Privacy" the October following Clementi's suicide.

Clementi's story coalesces seemingly disparate anxieties about youth into one narrative. It combines fears about the safety of students in schools, increasing rates of youth suicide especially among gay teens, and the constantly changing role social media plays in the lives of youth and the effects of this increasingly mediated experience of childhood especially as it is understood through the concept of cyberbullying. Following his death, the State of New Jersey brought a criminal trial case against Dharun Ravi in which he was tried and convicted on 15 counts of invasion of privacy, bias intimidation, tampering with evidence, witness tampering,

and hindering apprehension of prosecution for his actions. Because of the highly publicized nature of the Clementi's suicide and the legal trial against Dharun Ravi, there exists a breadth of textual material, such as newspaper articles, legal transcripts, and public statements, documenting the emerging and shifting public discourse surrounding the case and its relation to wider cultural concerns and anxieties.

I will use Clementi's legal case and its surrounding public discourse as a case study to show how privacy is understood in relation to queer youth suicide. To do so I will begin by laying out the trajectory of the case and the events leading up to Clementi's suicide, the way that the prosecution presented these events, and how this framing was upheld and validated by various mainstream media outlets. I will explore how Clementi was framed as innocent through what Andrew Gilden calls "the innocence narrative" and show how this narrative is at odds with the realities of Clementi's biography. In doing so, the aim is not to discount a certain portrait of Clementi. Rather, the aim is to show the ideological underpinnings of the image of Clementi put forth by the prosecution and the consequences this framing has for queer children who are subject to the laws and policies enacted on behalf of this case.

Having laid this out, I will draw out the different conceptions of privacy which emerge in different legal and social contexts discussions of the case and evaluate their ability to capture the wide array of queer youth media practices in consultation with research on how queer youth engage with digital media. I will then shift the focus to the framing of Ravi and analyze how this framework allowed the prosecution and many commenters to see him as the primary cause for Clementi's suicide. I will address the organizing done by queer critics and activists critiquing Ravi's prosecution. These critiques point towards dissensus within the public discourse surrounding queer youth suicide and the role of social media by moving away from a carceral



approach that attempts to pinpoint and isolate individual causes of suicide to a more multifaceted approach which takes into account the myriad of different ways queer youth navigate everyday experiences of homophobia, especially online. As scholars of media studies point out, privacy on social media cannot be understood merely through the binary of secrecy and exposure. A more nuanced understanding of privacy is demanded, especially when it comes to understanding how youth navigate social media.

### **The Innocence Narrative and Childhood Sexuality**

Legal scholar Andre Gilden has argued that an “innocence narrative” has been developed in several legal contexts to protect gay teens like Clementi. In this narrative, “the relevant actors insist upon the vulnerable innocence of gay teens and filter out more empowered, or at least more nuanced, alternative accounts of gay teen experiences” (360). As Gilden shows, there are several discursive discrepancies between the ways the details of the case were constructed and presented by the media and the prosecution, and Clementi’s online correspondences with friends and members of various gay social networking sites. However, Gilden himself remarks that it is impossible to access Clementi’s interiority at the time or to figure how he actually felt about certain incidents, let alone attempt to do something as impossible as find a motive for his suicide. Yet Clementi’s correspondences do show a picture of Clementi, as a sexual agent with informal networks of support and an attitude towards his sexual identity which cannot be simply be encapsulated by shame or being closeted, that are ignored even by many progressive commenters. For Gilden, such a narrative reduces these experiences to a simple victim/bully framework and seeking punitive antibullying measures, at the expense of promoting capability enhancing resources, which ignore the role of the internet in the development of teenage sexuality (360).

The innocence narrative works in tandem with the figure of the child. Both narrative and figure work in similar ways insofar as they are both modes of abstraction which create forms that can be embodied and projected onto victims. The innocence narrative constructs a gay teen's experience in order to present them as innocent by both extenuating sympathetic qualities and filtering out others which could detract from this narrative. This narrative depends on the ability of the subject to be read as a child in order to be granted the innocence associated with childhood. Gildea shows that "Narrative is thus both normative and performative: it produces what it purports to represent in service of a particular set of ideological commitments" (362).

In the rhetorical realm of legal arguments, we can best observe the process of figuration because argumentation mobilizes logic and language we can trace. The state's legal defense relies on portraying Clementi as innocent victim because innocence and vulnerability are the "pillars of socio-legal narratives surrounding youth sexuality" and "protecting the sphere of purity around children has become a non-partisan responsibility of our legal culture" (Gildea 362). The influence of Edelman's thinking is explicit in Gildea's characterization of the role of children and sexuality in our contemporary legal culture, in which protecting the supposed innocence of children becomes a non-partisan legal imperative structuring the very goal of policy. However, as scholars of childhoods studies have shown, the link between childhood and innocence is not an essential quality, rather it is a historically situated social construction, one that is administered along sexual and racial lines.

Christine Piper in her essay "Historical Constructions of Childhood Innocence: Removing Sexuality" demonstrates how "the public image of the child - the image which both encourages and also justifies social policy in relation to children - is of one who has not become sexualized in any adult sense of the word but rather is vulnerable, weak and innocent" (Piper 3). Piper

historicizes this construction of childhood in the Victorian era, when both the link between childhood and innocence was formed, and where the possibility of that innocence being corrupted emerged. She notes that while the western Judeo-Christian tradition agonized over the nature of childhood innocence, referencing St Augustine's modification of the doctrine of 'original sin' which meant that children, though born evil, could be - and routinely were - 'made' innocent by baptism which was the responsibility of parents and the church, the idea that children were born evil began to change in the second half of the 17<sup>th</sup> century as is documented by writers of the Enlightenment such as Locke, Kant, and Rousseau.

Piper turns to two major shifts in the Victorian era which solidified the construction of children as innocent. The first was the reformation movement which sought to ameliorate the lives of children. For the reformers, "the idea that the essence of childhood is innocence and dependence and that innocence not only needs protecting but is inherently fragile was one of great utility" (14). This fragility was used to demand immediate action by parliament and charity organizations. These campaigns relied on maintaining an image of purity because of the belief that those deserving of help and protection must be "blameless" - there must be no hint of wrong-doing in the one seeking justice. Piper argues that "the more clearly the child is constructed as innocent, weak and dependent, the more powerful the image as a force to legitimate protective action" (14). The second main idea involved the construction of the city as a space of evil by 18<sup>th</sup> century philosophers and Romantic poets who "forged an enduring link between childhood and nature", contrasting the dangers of urban violence from a pristine vision of nature.

### **Race and The Contours of American Childhood**

Robin Bernstein in her book *Racial Innocence, Performing American Childhood from Slavery to Civil Rights* demonstrates the history of this connection in the American context,

highlighting the explicitly racialized underpinnings of childhood innocence. She notes that “by the mid-nineteenth century, sentimental culture had woven childhood and innocence together wholly. Childhood was then understood not as innocent but as innocence itself; not as a symbol of innocence but as its embodiment. The doctrine of original sin receded, replaced by a doctrine of original innocence” (4). Bernstein is explicit in noting that this original innocence was racialized as white. For Bernstein this innocence was primarily understood as obliviousness- not merely as an absence of knowledge, but a repelling of knowledge; “Individual nineteenth-century children, like all people, forgot and remembered, but to be legibly childlike—to perform “childhood innocence”—was to manifest a state of holy ignorance” (6). Childhood was to be understood as space of time separated and unmoored by the burdens of adult life, including and especially distributions of power. More specifically this performance of 19<sup>th</sup> century sentimental childhood innocence manifested as the ignoring of social categories, through the performed transcendence of social categories of class, gender, and race (6).

Drawing on theorists of whiteness such as Richard Dyer who identify whiteness as deriving power from its status as an unmarked category, Bernstein argues that “Childhood innocence— itself raced white, itself characterized by the ability to retain racial meanings but hide them under claims of holy obliviousness—secured the unmarked status of whiteness, and the power derived from that status, in the nineteenth and into the early twentieth centuries” (7). Using this understanding of childhood innocence as inherently raced, Bernstein goes on to argue that pain, and the ability or inability to feel it, functioned as way to split white and black childhood into two different directions in the mid-nineteenth century (20). Analyzing the figure of the pickaninny Bernstein suggests that as childhood came to be increasingly defined by innocence and

vulnerability, and as the pickaninny was increasingly defined by the inability to feel pain, the pickaninny and the black juvenile it was meant to represent were defined out of childhood (20).

It is crucial to note that the childhood written about here is referring to a pre-pubescent childhood and is distinct both temporally and symbolically from late adolescence and youth. The main distinction here is the separation of sex and sexuality which can be more easily mapped onto the pre-pubescent child. What both Piper and Bernstein make clear is the way which an essentialist idea of childhood innocence is a politically loaded construction that derives its power through negation, through what is not considered to be innocent; whether that be adulthood, urban space, or blackness. As a young white man, in many ways this was an easy narrative to assign to Clementi. In order to deduce the boundaries and borders of innocence, we need to approach it through the negative by seeing what prosecution actively left out in their characterization of Clementi. Gilden does an exquisite job parsing this information out, being careful to give Clementi's life and story the dignity it deserves while still being sharply attuned to the ways in which certain elements of Clementi's life were vastly different than what was being presented. As Gilden notes, following the death "details about the webcam incident and its major players remained largely undeveloped, but nonetheless a consistent narrative of a lonely, vulnerable, closeted teenager emerged to fill in the gaps of Clementi's story (364)".

Gilden shares a number of accounts in the media which portrays Clementi as a young closeted boy who finally has a chance to explore his romantic feelings towards another boy, or claim that Clementi was closeted and "outed" by Ravi. Instead, Gilden shows how Clementi's digital history actually reveals that

- (1) Clementi was not closeted;
- (2) Clementi's "boyfriend" was twelve years older than he was, had met Clementi on the gay-sex website adam4adam.com, and did not know Clementi's last name;
- (3) Clementi had discussed the webcam incident

with friends, the Residential Advisor in his dorm, and multiple community forum members on the website JustUsBoys.com; and (4) Clementi had his own adult webcam profile on the website cam4.com (359).

These details demonstrate that the account of Clementi's life presented by the media and the state's legal team present a one-dimensional account of Clementi's sexuality with the underlying logic that these details undermine the innocence originally imbued to Clementi. This is not just part of a legal strategy, this is a narrative repeated countless by the media in order to support the state's characterization.

This innocence narrative is one way in which the conceptual difficulty presented by queer children has been handled. The figure of the gay child deals with the presence of sexuality surrounding the child by understanding it exclusively through an identity formation based on injury and vulnerability. Whereas Victorian conceptions of childhood have rooted the innocence of childhood in the absence of sex, these conceptions of childhood innocence cannot be directly translated onto queer children because the mere presence or suggestion of queerness sexes the child. Queerness is seen in this way as inherently sexualizing the child, whereas children's presumed heterosexuality does not produce the same effect because of queerness's association with perversity. However, if the child's identity, especially its relationship to sexuality, is understood through injury and vulnerability, the child can keep its association to innocence by demonstrating itself as in need of external interference and guidance.

While the legal argument against Ravi and the media support for Clementi depended on the latter's ability of Clementi to be read as a child and thus innocent, these same protections of youth were not extended to Ravi who was the same age as Clementi. Columnist Philip Dayle for *The Guardian* writes about the case that "As cyber culture is so heavily driven by youth, an older generation of legislators will be hard-pressed to legislate for this murky terrain – at least,

sufficiently to put in place agreed rules of engagement. From a tragic incident such as this, it is clear that social media technologies can produce outsized consequences for seemingly self-contained actions” (2011). Dayle correctly points to both the unfamiliarity legislators face in trying to process cases involving youth and social media especially as they relate to questions scale of scale in action and consequence. Ravi’s actions were labelled as part of a culture of bullying so often ascribed to youth yet his consequences were squarely adult. Whereas Clementi was described as a boy, child, youth, or student, such terms were scarcely used to describe Ravi who was charged as an adult for his role in Clementi’s suicide.

Certain groups, such as New Jersey based non-profit *Garden State Equality*, pushed for a 10-year sentence for Ravi, while others called for his deportation, given that despite having been raised in the U.S he was not a naturalized US citizen and still held Indian citizenship. Support for Ravi’s prosecution became bipartisan. Many commenters in the U.S were able organize around Ravi as the sole object of blame. The culprits indicted for Clementi’s suicide were both seen as foreign in some way, and the danger of Ravi and social media were construed as external threats, aberrations external to American childhood.

Ravi’s conviction was primarily seen as a victory against homophobic bullying and was praised by state officials, activist groups, and the media alike. However, the sensationalism behind Ravi’s trial and the push by many pro LGBT groups to incarcerate Ravi were also met with criticism by several queer activists and academics. Queer media theorist Mary L. Gray argued that rallying to punish Dharun Ravi “does not do justice to Clementi’s life, nor does it move us one step closer to preventing another young person, like him, from turning to suicide”. danah boyd cautioned during the trial that “Ravi has been portrayed as a malicious young man, hellbent on making his roommate miserable. Technology was blamed for providing a new mechanism by

which Ravi could spy on and torment his roommate. The overwhelming presumption: Ravi's guilty for causing Clementi's death. Ravi may well be guilty of these crimes, but we have trials for a reason" (boyd 2012). And as Jasbir Puar notes Clementi's suicide predictably occasioned anti-Asian backlash with over-determined notions of "Asian homophobia" and calls to "go back to where you came from," as seen in numerous online articles (Puar 150). These queer critiques were not attempting to forgive or absolve Ravi of his actions; instead they are asking to more subtly shift the way we understand and talk about queer youth suicide especially as it relates to social media.

These calls to rethink how queer youth suicide was being talked about were occurring most prominently in the field of queer theory. Jack Halberstam suggested that the reality of gay youth suicide is different than what is being presented by the media; stating that "looking for hard and fast reasons for suicide, particularly in young people, is a fool's game and it ignores the multiple pressures facing young adolescents on account of the messed up worlds that we adults pass on to youth" (Halberstam). Jasbir Puar brings these concerns together shifting the registers on the conversation about queer suicide by approaching it through Lauren Berlant's concept of slow death

what kinds of "slow deaths" have been ongoing that a suicide might represent an escape from. It is also to "slow" the act of suicide down — to offer a concomitant yet different temporality of relating to living and dying. Berlant moves us away from trauma or catastrophe, proposing that "slow death occupies the temporalities of the endemic (756).

Here Puar is arguing for a reorientation of queer youth suicide from event to the everyday and ordinary.

Puar's intervention into this conversation is crucial because it allows us to switch from the realm of the event, the extraordinary, the epidemic, to the everyday endemic registers of injury and their effects on queer bodies. Puar argues that discourses surrounding gay youth



suicide rely on a “spurious binarization of what I foreground as an interdependent relationship between bodily capacity and bodily debility. These discourses reproduce neoliberalism’s heightened demands for bodily capacity...” (149). Here Puar is highlighting that something is lost in naming the event of queer death a suicide. The death is separated from the intricacies of the specific life and is understood as a symptom of a larger crisis. In this process the affective energies and moments of injury which happen to individual bodies are swept up into a larger cultural narrative. This process privileges a binary understanding of ability and debility, framing queers on the side of ability who can overcome the debilitating effects of homophobic structure by persisting despite the costs of survival. Here, persistence and survival become the privileged responses, ignoring the social and psychic cost of survival in an inhospitable world. Survival becomes so central in these narratives that the question of flourishing becomes overshadowed.

These critiques point towards the way in which discussions of queer youth suicide often ignored the everyday experiences of homophobic injury and the structural conditions which allow these forms of quotidian violence to flourish by framing suicide as an event with a single discernable cause. They also subtly point towards the ways our understanding of queer youth’s relationship to media operate on adult understandings of behaviors and forms of communication which cannot blankly be applied onto the way youth interact with and experience social media because they miss the way that youth culture networks create their own modes of communication. Youth often reappropriate and use media in ways that exceed their designed purpose. These critiques show us that the decision to commit suicide by queer youth cannot be reduced to a single event or reason such as the webcam incident. The queer critiques of Ravi’s prosecution suggest that the desire to prosecute Ravi was overdetermined by a carceral or punitive drive aimed not at doing justice to Clementi’s life, but locating and displacing blame and motive to a single object.

Clementi's own correspondences with a friend demonstrate how he felt violated and considering Ravi a "perv", but they also show him saying that the incident was "soo funny" and repeatedly joking about how to deal with Ravi going forward. Ravi became an easy scapegoat because the presence of homophobia could be displaced onto a racialized Other who despite having grown up in the US, was not an American citizen. This is seen in the calls for his deportation, as if to align the nation with progress by the act of deporting Ravi. Ravi did not come to bear the sole burden of blame. A new common enemy appears in the process of the case, an enemy whose rhetorical power could not only explain Clementi's suicide, but could also explain why gay youth were committing suicide despite the proponent liberal acceptance of the state: the breach of privacy to which children are vulnerable.

### **Beyond Exposure: Privacy, Sexuality, and Networks**

As mentioned earlier, Ravi was not charged with committing a hate crime, he was charged on a count of invasion of privacy. Privacy here operates on the level of technical via technology in the sense that Clementi's privacy was breached by the feed on the webcam which was set up without his knowledge, but also as Gilden states on the level of the subject: "Embedded in both the innocence narrative used against Ravi and the invasion of privacy statute under which he was convicted is the idea that the exposure of Clementi's "intimate parts" or "sexual contacts" is inherently intrusive" (384). The exposure of Clementi to the webcam and the exposure of his sexuality are conflated, historic anxieties about the boundaries between the public and private sphere are mapped onto new media technologies.

In her chapter titled "Inhabiting Writing: Against the Epistemology of Outing" Wendy Chun argues that new media call into question the separation of the public from private and that "internet users are curiously inside out- they are framed as private subjects exposed in public. They

are children with porn shops in their bedroom" (12). Instead, Chun wants us to take seriously the "leakiness of new media" and reject these understandings which reduce privacy to secrecy. This notion that there can be separate public and private networks come from, what Chun calls, "an epistemology of outing which constantly exposes open secrets" (13). This notion of privacy as secrecy is operative in the legal case where Clementi is framed as "closeted" and is then "outed" by Ravi.

However, we know from Clementi's digital footprint that he negotiated his privacy in relation to sexuality in much more nuanced terms than the binary of exposure and secrecy. Gilden aptly describes the harm suffered by Clementi as falling under Julie Cohen's term *boundary management* which is the idea that "Intimate relationships, community relationships, and more casual relationships all derive from the ability to control the presentation of self in different ways and to differing extents" (Gilden 384). Ravi's action broke down Clementi's perceived barriers between these different contexts of his life, but to frame the privacy being breached solely in terms of the exposure of Clementi's sexuality is to ignore that "In certain contexts (e.g., gay-themed websites), Clementi desired to share certain aspects of his "intimate" life (e.g., details about his sexual desires) and not others (e.g., his last name) while in other contexts (e.g., the Rutgers community) his preferences were starkly different" (384).

Wendy Chun traces the logic of calls for networked safety in several high profile bullying cases and links them a long history within the United States of defining privacy in relation to white, bourgeois, femininity; "the right to privacy in the United States was defined in relation to white femininity that was purportedly injured by the mass circulation of images" (147). This circulation was seen as inherently pornographic, racialized, and racializing. Chun draws on the work of Eden Osucha who makes this point by comparing the case of Abigail M. Roberson, to whom the Right

To Privacy was recognized for and inspired New York state's first privacy law, to Nancy Green, the woman who would become Aunt Jemima. Both women's images were used to sell commodities; Roberson's to sell flour and Green's to sell pancake mix. As Chun notes, Green's image, like that of many people of color used in advertising at the time was assumed to be general rather than individual. Green did not have, nor was she ever perceived to have, a right to privacy (147). Citing Hortense Spillers, she notes "captivity and slavery de-gendered the slave body, reducing the female slave body to unprotected flesh that could be exposed so others could be private subjects" (147).

Chun's genealogy of the right to privacy in relation to the circulation of images in the U.S demonstrates that this understanding of privacy is rooted in desire for a private bourgeoisie subjectivity which has historically been defined against racialized others. The notion of privacy as an inherent value in a networked society needs to be troubled because of privacy's naturalized relationship to the nation and citizenship. The relationship between privacy and citizenship is best demonstrated in Sarah Igo's book *The Known Citizen: A History of Privacy in Modern America* in which claims that "Arguments about privacy were really arguments over what it mean to be a modern citizen. To invoke its shelter was to make a claim about the latitude for action and anonymity a decent, democratic society ought to afford to its citizens" (3). She goes on to claim that "to conceive of privacy as a social benefit and a mark of belonging enlarges the standard meaning of citizenship as a status conferred and regulated by the state" (4).

For Igo, privacy has always been a crucial category of public life and feature of partisan politics, "it regularly punctuates public life as a policy concern, a legal claim, and an individual hope" (6). As she states historically, "To call something private, an option more and more American's exercised in the twentieth century, was almost never to make recourse to an agreed-

on definition. It was to make an argument about the proper relationship among citizen, state, and society” (8). Igo shows the intimate relationship between demands for privacy and citizenship by illustrating the ways in which privacy was and is used to negotiate between personal autonomy and the desire to be recognized by the state. Privacy is in fact inherently social because it represents how citizens understand themselves in relation to the state.

As a result, privacy is tied up in the same exclusionary logic which underlies the concept of citizenship, or as Igo notes those who are excluded from full political citizenship because of their class, race, gender, age, nationality, ablebodiedness, or sexuality also suffer most from the lack of privacy (9). Privacy is unequally distributed along the lines of the political citizenship. Igo concludes the introduction to her book by stating that, “Precisely because privacy in the United States has been billed as a personal possession, outside the realm of the state or politics, its history opens an illuminating window onto the social strains of modern citizenship” (10). By framing the figure of the gay Child through the discourse of privacy, asserting the recognition of Clementi’s injury by means of claims to having his privacy invaded, this figure can enter the public sphere by being granted political citizenship.

If the granting of privacy as a social value and legal right is a fundamental feature of citizenship, then to define this figure through the discourse of privacy is to understand it first and foremost as a citizen. This way the figure remains one defined by injury and in need of protection by state, but the source of this injury can be displaced from forms of state and structural violence onto new media technologies which reshape previous understandings of privacy. For this very reason calls for Ravi’s deportation cannot be separated from the forces which allowed for Clementi’s story to take on national status. Celebrations of Ravi’s prosecution as a pro LGBT gesture lose their rhetorical power when one sees that the recognition of Clementi’s injury hinged

more on his ability to be recognized as a political citizen via his status as a child and his right to privacy than on a condemnation of anti-homophobic violence.

Chun concludes the chapter by arguing that rather than fighting for the right to privacy ("hermeneutic bubbles of protection") we fight for the right to loiter in public, or rather the right to be in public and not be attacked (159). In his essay, Gilden comes to a similar conclusion. As he notes, the innocence narrative surrounding Clementi's death has garnered a broad set of legal reforms. Gilden states that "The innocence narrative produces a certain knowledge of gay teens that denies their capacity to chart their own social and sexual courses, and [s]uch ignorance effects can accordingly be harnessed, licensed, and regulated to their detriment" (385). By asking the state to codify and protect against certain forms of injury, the position of victim is rendered a reality so that to claim these protections one must identify as a victim. Gilden also warns that the slippage from benevolent protection to doubting paternalism is already visible in society's broader legal treatment of minors' decision making (387).

By prioritizing the right to privacy and the innocence narrative in our understanding of gay youth the more allowance there is for increased surveillance on their internet habits; "The legal immaturity and vulnerability of children may grant them special status with regard to criminal punishments, yet the same characteristics can be used to subordinate a young person's legitimate decisions to the prerogative of the parent" (388). This framing legally codifies a paternalism which is administered through a monitoring of teen's activities in order to protect them from injury. Gilden is explicit about the consequences of such an approach; the more parents and educators insert themselves into teenagers' social media habits and messages, the fewer opportunities remain for adolescents to manage their own boundaries and develop their sexual identities without fear of disclosing their not yet fully formed views on such matters. (390)

These debates surrounding queer youth suicide and digital media have a direct precedence in the teen sexting panic. As Amy Adele Hasinoff suggests in her book *Sexting Panic: Rethinking Criminalization, Privacy and Consent*, the idea that minors should be protected from seeing representations of sexuality is so deeply embedded that the harmful effects of such prohibitions are not often discussed (26). Hasinoff is directly addressing the phenomenon of sharing sexual pictures among people under the age of 18 and the criminalization of teenage sexting. Critiquing this pattern, she instead argues for allowing teens to sext, suggesting it could accomplish three things; “(1) shielding youth from discriminatory prosecutions for consensual behavior; (2) enabling youth to seek recourse against privacy violators without incriminating themselves; and (3) confirming that young people are entitled to free expression” (27).

Hasinoff writes about two U.S supreme court cases filled by the ACLU which have attempted to help teens at risk of being charged for distributing pictures and messages. As she notes, the ACLU won both of these cases by “arguing that forcing the girls to attend Skumanick’s education program (an education program as part of their punishment) would violate their parents’ right to control the upbringing of their children and the girls’ right to freedom from compelled speech” (28). Despite the ACLU’s rhetoric being explicitly sympathetic to the girls, Hasinoff argues that the rhetoric of the argument, with “its exclusive focus on desexualization and innocence—that the girls took the photos for “fun” and were topless only because of the summer heat—precludes a larger discussion about teenagers’ right to freedom of expression” (28). By taking this mode of argumentation the ACLU is agreeing with the judge that adolescents are not entitled to the same rights as adults. Much like Gilden suggests about the reframing of Clementi’s sexual history to fit the innocence narrative, Hasinoff notes that “Removing sexual agency from

sexting may work to garner sympathy for some girls, but this rhetorical strategy ultimately reaffirms restrictions on girls' rights and freedom" (28).

The overwhelming similarities between legal cases of teen sexting and the case against Ravi demonstrate the underlying assumptions that the legal system operates upon when discussing youth sexuality and media usage. One major assumption is a normative understanding of agency which reduces ways of interacting with mass media to a binary of participation and resistance. This binary is invoked frequently when the notion of a culture sexualization, a culture in which everything is sexualized and constantly presented to young people, is used to describe teenager's relationships to sexuality. As Hasinoff notes, "The antisexualization rhetoric reinforces the idea that girls can prevent sexual violence—at both an individual and social level—if they embody a particular type of gender presentation that adheres to norms of respectability by appearing to be middle-to-upper class" (107). This rhetoric both strips girls of an agential understanding or experience of their own sexuality by predetermining how they receive media while also putting the onus of preventing sexual violence on themselves and not a larger culture of misogyny. Hasinoff argues that "by positioning girls as dangerously and excessively obeying dominant media culture, discourses about sexualization inadvertently pathologize conformity and exalt resistance to mass culture as the only healthy or genuine form of agency" (110).

Hasinoff goes on to note the rhetorical similarity between discourses about false consciousness experienced by teen girls who sext and third world women. Drawing on Lila Abu-Lughod's critiques of mainstream feminist discourses that position Muslim women who wear veils as dominated by men and incapable of agency, she argues that "Like choosing to wear a veil, sexting is such an incomprehensible choice for some observers that they insist that the choice is inauthentic and thus the practice should be banned or criminalized in order to protect women from



themselves” (113). These paternalistic attitudes operate on a binary understanding of agency in which one understanding of choice is positioned as more legitimate than another and is thus enforced as the only possible option. Here submission to norms or conformity is inherently seen as stripping one of agency rather than as form of self-making or participation in public life. In terms of sexting and queer youths’ media habits, this is directly related to a consistent belief that youth are particularly vulnerable to media and technology (Mastronardi 2003)” (113). This reductionist media-effects understanding of media suggests that youth are particularly vulnerable to uncritically consuming media, lacking the critical thinking skills or media literacy to experience media beyond mere reception. And as Hasinoff shows, sexualization frames girls as uniquely susceptible to mass culture which is thought as having a strong one-way effect on them.

A particularly salient notion brought up in Hasinoff’s book is the way in which sexuality is marginalized in queer and feminist media studies research about youth and media. Hasinoff notes that despite feminist media studies research reclaiming agency for girls by viewing them as actively interpreting media and representations of sexuality (Durham, 2004; Kehliy, 2004; McRobbie, 1999a; Weekes, 2004), there is still considerable scholarly anxiety about mass media victimizing girls. Many researchers argue that media production can offer girls an important way to respond to the objectifying media portrayals of women (Driver, 2007; Durham, 2008; A. Harris, 2004; Kearney, 2006).

While this research critiques the idea that girls can only respond a culture of sexualization in one way, it frames critique as the only valid response, as noted by Hasinoff in a quote by The American Psychological Association which states that “by becoming cultural producers rather than just consumers of media, girls can resist sexualization because it “enables them to be more effective cultural critics” (Zurbriggen et al., 2007, p. 40). 14. While this makes space for an

understanding of media reception beyond a one-way media effects approach, it ignores the pleasure of participation and production. Hasinoff instead asks us to consider teen sexting as a form of media production which is neither inherently progressive nor exploitative. She points to a breadth of research on mediated self-representation by young women which suggests that “girls’ sexual media production practices, like more celebrated forms of media production, might provide new ways for young people to negotiate, respond, and speak back to sexual representations of youth and femininity in mass media” (17).

Thinking of queer youth’s usage of media in terms of media production allows us to keep open the possibilities of pleasure inherent in both contingency and risk which undergird social media. Benjamin Haber suggests that limits of privacy discourses can be addressed better by queer literature on ephemerality which “better frames the increasingly diverse temporalities of digital social media” (Haber 4). Haber goes on to argue that “To speak of social media mainly in terms of the *loss of* privacy misses the foundational ways that *giving up* privacy is at the heart of having a public life and being involved in cultural change, a project that can be particularly fraught for those whose lives and bodies are seen as threatening to normative order” (6). Similarly to Julie Cohen’s concept of boundary management, Haber seeks the risk of social media not in the loss of privacy, but in the “lack of balance between risk and reward that is wrapped up in the incentives for content circulation” (14).

I have argued in this chapter that the notions of privacy operating in discussions of queer youth suicide and specifically the legal case against Ravi fundamentally misapprehend the way queer youth negotiate various conceptions of privacy on social media, reducing them instead to a binary of secrecy and outing that conceptualizes the presence of sexuality as a risk that needs to be legislated. The discourses of privacy which emerge from fears around cyberbullying allow for

the codification of paternalistic approaches to teenage sexuality which ultimately can harm the development of queer youth sexuality. They view the figure of the gay child as someone who is constantly at risk by being online. If this figure is monitored, if the content they see is regulated, then the complexity of childhood sexuality can be solved by being under state administration. This theoretical gay child must be protected at the expense of actual gay children negotiating their sexuality in terms beyond injury and victim.

## **Chapter 2: Indecent Exposure: Sex, Security, and Legislating the Queer Child in U.S Public Schools**

In her book *Campus Sex, Campus Security*, queer theorist Jennifer Doyle describes how “The campus promises safety, security. To see that promise through, it must police and expel. It must establish a procedure and manage its risk” (28). Doyle’s book is interested in how administrative structures understand and manage the risk of sexuality on college campuses in the U.S. She does so by tracking and studying the use of Title IX in different case studies where the presence of sex and sexuality has threatened the safety of a university. Her interest is not in the effectiveness of different policies and procedures. Instead she describes her book as being about “campus security as a structure of feeling” (7). When a university “responds” to an incident of sexual violence through formal procedures, what exactly is the university responding to? What constitutes a response? To identify the effects of these procedures one cannot rely solely on statistics and policy reports, one must also analyze the role of these policies and procedures in the larger affective economies that inform the university as an institution, specifically its investment in a culture of security.

As Doyle states explicitly, “Anxiety about the university’s legal exposure, especially where sex is concerned (in all senses of that word sex) registers on every campus as background hum” (14). The suicide of Tyler Clementi highlights the longstanding and contentious relationship queer students have had, and continue to have, with the American public education system. The school is the primary institution queer youth encounter and thus the focus of policy responses to queer youth suicide have organized around making educational institutions, from high schools to universities, safer for queer students.

These responses have been widely praised and celebrated by politicians and gay rights groups as being tough on bullying and effective at reducing incidents of bullying in

schools. The most prominent policy response related to Clementi's suicide is the New Jersey Anti-Bullying Bill of Rights. Garden State Equality, the largest LGBT rights organization in New Jersey, state that the bill was made to response to death of Tyler Clementi and address short comings in the already existing anti-bullying laws: "Given the painstaking year of work that went into the Anti-Bullying Bill of Rights, the bill is not just a response to the tragic death of Tyler Clementi, though New Jersey must respond to that – and this bill does" (Garden State Equality 2011). The group is careful to note that though the bill is not merely a symbolic response to Clementi's death, it was created to specifically address both the issue of sexual orientation-based discrimination and cyberbullying as they specifically pertained to Clementi's case. Barbara Buono, the senate majority leader of New Jersey and co-sponsor of the bill described it as a "powerful message to every child in New Jersey" (Cohen).

The Anti-Bullying Bill of Rights has been widely celebrated as being the toughest existing anti bullying legislation in the United States. The policy was given an "A++" by Bully Police, a national watchdog organization that reports on anti-bullying legislation. It has been described by numerous publications from NPR, to Time Magazine, to The Huffington Post, and the New York Times, as one of the toughest anti-bullying legislations in the nation. Writer and Yale law-professor Adam Cohen writes in a defense of the bill for Time Magazine that despite critics who are concerned by the cost of implementation and strain on teachers it could potentially have, the bill is necessary and important because its strength lies in the message it sends: "The Anti-Bullying Bill of Rights unambiguously puts the state, school officials and law enforcement on the side of victims and it puts bullies on notice" (Cohen). Missing from this praise is the question of what it means for the state and law enforcement to be on the side of victims?

This chapter takes up two different policy responses to the issue of queer youth bullying and suicide in schools to locate the evolving status of queer students in schools. Much of the outrage and anger surrounding highly publicized instances of queer youth suicide has demanded a response from the state, questioning how they will make schools a safer place for queer students. As demonstrated, these responses, which have come in the form of anti-bullying legislation aimed at providing schools a formalized procedure process for dealing with homophobic bullying, has been widely celebrated from both mainstream liberal media outlets and gay rights groups. While neither claim that the issue has been resolved, these groups believe that something has been *done*; some form of injury has been recognized, some form of justice has been taken place. Or, as Doyle might say, something has been policed and expelled, some form of procedure has been established and risk has been managed.

Given the newness of these procedures, statistics have not yet been collected to validate the effectiveness of these proposals. Statistics, the language through which universities measure progress, are not needed to analyze how these procedures conceptualize queer youth and their place in educational institutions. Taking Doyle's lead and situating these policy responses to queer youth bullying and suicide within the security culture of universities, I argue that these responses must be analyzed through the ways they help institutions manage and calculate risk. The well-being of queer students is important insofar as it shields these institutions from exposure and vulnerability to legal and financial risk. To begin, I will draw on the history of queerness in public schools to illustrate the way in which public education institutions have attempted to erase the presence of queerness. Having articulated this historical relationship, I will then turn towards Title IX as the primary

procedure used to respond to instances of sexual orientation-based discrimination and violence in schools in order to situate contemporary responses within a longer history.

I will return to the specific responses in question, the New Jersey Anti-Bullying Bill of Rights and British Columbia's SOGI 123 to analyze what these procedures do and how they understand discrimination. The NJABBR will be analyzed through hate-crimes legislation critiques from queer legal scholars. SOGI's approach I argue, is a possible alternative to the NJABBR's insistence on punishment and discipline. SOGI's approach to the recognition of injury and the combating of sexual discrimination-based bullying will be highlighted. Doyle describes that "Victims report because they need help; a campus receives reports because it is bound by law to do so. This asymmetry wraps their interaction" (33). This asymmetrical relationship is the guiding principle behind the critique in this chapter.

The media attention around queer youth suicide brought to surface the difficult conditions faced by queer students in school. The Human Rights Campaign reported that LGBT students were twice as likely as non-LGBT students to be verbally harassed (51 vs 25%) or physically attacked (17 vs 10%) (HRC). LGBT students are more likely to skip school, to drop out of school, and correspondingly have lower academic achievement and lower reading and math skills (APA 2012). The APA (2011) also reported that bullying appears to contribute to lower test scores. These statistics cannot be divorced from the ways the U.S public education system has understood queerness. Catherine Lugg in her book *US Public Schools and the Politics of Queer Erasure* argues that "Quite simply, queerness in the public school is viewed as contagious" (Lugg 2). This originates from the view that "queers present existential threats to children, to their "natural" identities as non-queers, and possibly to their very religious salvation" (2). For much of the 20<sup>th</sup> century, queerness was

conceptualized as a corrupting moral force which needed to be kept away from innocent children who were presumed to be straight.

This language of contagion informed the treatment of queer teachers and students throughout much of the 20<sup>th</sup> century. Lugg begins her historicization not with the more common historical demarcation of before or after stonewall, but rather with the depathologization of homosexuality by the American Psychiatric Association in 1973/1974 because “‘mentally ill’ people during this era were banned from obtaining teaching and administrative certificates’ (10). Morality and conservatism were engrained into the licensure process for teachers in the early 20<sup>th</sup> century because of the belief that public-school teachers were meant to reflect the values of the communities in which they taught. Lugg shows that in the 1920s, due to the “popularity of the public high school, the rise of mass-media depictions of gay men and lesbians and the increasing educational requirements for teachers and administrators, schools began worrying about the sexual orientation of their charges and staff and worked to ensure both followed the correct gendered activities” (13).

These fears were exaggerated by the end of the second World War and the rise of the Cold war where “queer identity would become conflated with being a communist. Queers, as presumed communists, would come to be seen as an existential threat to the nation-state” (Lugg 15), a conflation which laid the ground for anti-queer witch hunts in public schools in the 60s and 70s. Lugg goes on to show that for public school educators, the advent of the Cold War meant increased scrutiny of their private lives: “the mere suspicion of homosexuality would not only endanger one’s job and/or professional licensure, but suspected queers faced the real possibility of imprisonment—in jail or, more likely, a mental institution” (18).



However, in the early 1970s as the APA removed homosexuality as a mental illness from the DSM and the medical justification for banning queer educators from public schools collapsed. Despite this, school districts and religious groups worked to outlaw queer educators based on fears of corrupting children. In the 1980s with the rise of the HIV/AIDS epidemic queerness became repathologized as queers were seen as social pariahs, a status which was further reinforced by the US Supreme Court ruling in *Bowers v. Hardwick*, which drew on a supposed tradition rather than actual history and law stating that states were free to criminalize queer identity (42).

Up until the late 1980s and early 90s, because of the intense scrutiny faced by queer educators in public schools, the presence of queer students was not accounted for. Following the cultural politics of the AIDs crisis which saw queerness emerge as a more mainstream political identity, the status of queer students in public schools began to rapidly change. Motivated by greater queer visibility in the popular media as well as a “growing body of research detailing the dismal conditions confronting queer youth in the United States, and bolstered by an ironic US Supreme Court decision in *Board of Education of Westside Community Schools v. Mergens* (1990), some states and public school districts began offering tepid to more-vigorous supports for queer students attending their public schools” (Lugg 48). The Mergens ruling, which allowed a group of students looking to form a Christian bible study group at their school, along with the Equal Access Act, a 1984 act passed by Ronald Regan which stated that if a public school district maintained “either open or limited open forums for student groups that were not curriculum-related (for example, the chess club, but also football), and if the district received federal funding (which all districts do), it could not

discriminate against other student groups, including religious groups” (49). This opened up a space for queer students to publicly stake their place in schools.

These rulings which were enforced in order to ensure protection for religious groups laid the groundwork for students to form Gay-Straight Alliances(GSAs) in public schools for the first time. Gay-Straight alliances would be protected as a non-curriculum student groups in the same way a bible study group would. There were several initial challenges to this, such as one Salt Lake City public school banning all extracurricular activities rather than recognizing the GSA. One of the students who initially requested the GSA at East High School and was slated to be its first president, Jacob Orasco, committed suicide due to the public outcry and vitriol leveled at him. With the help of the American Civil Liberties Union, after 5 years of litigation the district finally agreed to comply with the EAA and demonstrated that “GSAs were and are protected by the federal government—regardless of state sodomy laws and laws banning the promotion of homosexuality by schools (otherwise known as “no promo homo” laws)” (50).

GSAs also gained critical political support as research began to reveal that queer youth experienced high rates of bullying, violence, and suicide. As Lugg describes, in 1989 the US Department of Health and Human Services (HHS) released a study it commissioned examining youth suicide: *A Report by the Secretary's Report on Youth Suicide*. The report included a highly controversial chapter on gay male and lesbian suicide by Paul Gibson. Consequently, the administration of President George H.W. Bush, whose HHS secretary Louis Sullivan, had long-standing ties to the Protestant Right, tried to suppress the report, and when that failed, only allowed a few copies to be released to the general public (51).

Jason P. Murphy in his essay “Does it Get Better? The On Going Political War Against Queer Youth” states that “public schools, given their historic mission to *erase* queer identity, have been strikingly ill-equipped to change their homophobic, heteronormative, and transphobic course” (Murphy 85). As Lugg’s history makes clear, in many instances schools had be forced into compliance through federal laws which would leave schools and school districts legally and financially vulnerable if they failed to comply. These federal procedures were often challenged not through direct opposition but through a variety of procedural loopholes which attempted to keep homosexuality outside of schools. As Murphy states, “many states and local school districts also place restrictions on participating in GSAs, such as requiring parental permission, not being able to post announcements, and the like” (93).

Murphy crucially notes that “A major reason that US public schools are more resistant to queer identity than, say, the US military, is the ongoing political–cultural war on queer children” (95). For Murphy, this is because “Educational policy is the last venue where one can vote with one’s homophobic preferences” (95). Additionally, in the U.S educational system one has three arenas in which to influence public educational policy: the federal, state, and local governmental levels. Educational policy is also a realm in which children, and especially, queer children are powerless because they do not have the right to vote.

For these reasons, Murphy is critical of the dominant framing of queer youth suicide which, by focusing on “queer youth in distress,” leaves the larger political culture and the relentless homophobic educational policies ignored. Murphy is clear in his indictment that

The “It gets better” effort strives to reduce queer youth suicide, but by focusing so obsessively on “our poor tortured queer children”, it misses the larger issue of who is actually inflicting all the pain, and of the policy mechanisms that allow it to happen. Issues of structural oppression and the homophobic politicians busily building and reinforcing these structures are never addressed. (96)

Instead, he asks us to read these deaths as political acts, which if only weakly articulated by the actors, give us a perspective of the violence experience by queer youth in public schools; “Our responses need to focus on the political conditions that give rise to their pain and oppression” (98).

Murphy highlights the main law through which schools are forced to comply with federal mandates that attempt to bar sexual orientation-based discrimination. After several suicides by students who faced bullying for being queer in the Anoka-Hennepin school district in Minnesota, public school districts were forced to at least comport with Title IX- the rule that public schools cannot promote homophobia as a matter of policy. Nevertheless, many states and locales maintain their “no-promo laws” despite the change of legal status for adult queers and the federal government’s use of Title IX” (93). Sarah Warbelow and Ty Cobb in their essay “Bullying of LGBT Youth in America: Prevalence, Effects, and Government Responses” state that Title IX of the U.S. Civil Rights Act is the federal law most applicable to bullying in the educational environment (Warbelow and Cobb 408). Title IX, most commonly thought of in relation to women’s sports programs in the U.S universities, is law is meant to address sex-based discrimination in public U.S universities. The law states that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance”.

Though the law refers merely to sex and not sexual orientation or gender identity, federal courts, the DOE, and the Department of Education and the Equal Employment Opportunity Commission have interpreted the relevant statutes and regulations in ways that have allowed them to cover sexual orientation and gender identity (408). Thought the

Supreme Court has not yet had an opportunity to hear a case specifically addressing student based LGBT bullying, the issue has arisen in lower federal courts, which have applied the principles from Title IX cases. Thus, despite the fact that Title IX refers explicitly only to sex-based discrimination, precedents in federal courts applying Title IX to sexual orientation and gender identity render Title IX a powerful tool in the fight against the harassment of LGBT youth (410). Weeks after the string of youth suicides in 2010, the U.S. Department of Education issued a letter to schools that clarified how Title IX applies to bullying and harassment of LGBT youth (USDOE Office for Civil Rights 2010). The letter states that “Although Title IX does not prohibit discrimination based solely on sexual orientation, Title IX does protect all students, including lesbian, gay, bisexual, and transgender (LGBT) students, from sex discrimination” (414). The lack of clarity around the term sex discrimination often lead schools to be unaware of their obligations protect LGBT youth from bullying behavior.

Thus, while Title IX “prohibits a school from overlooking sexual harassment between students, regardless of the sex of the harasser and the victim” and prevents schools from “overlooking gender based harassment, which often overlaps with the harassment experienced by LGBT youth because of their sexual orientation or gender identity”, it is not a silver bullet (414). Because the law was created to protect sex based discrimination issues of sexual orientation based bullying are not inherently protected. The full extent of Title IX’s protections for LGBT youth may not reach students who are— “aside from their sexual orientation or gender identity—otherwise gender conforming” (414).

Title IX is also the main legal procedure used by universities to deal with issues of sexual assault on campus. As Jennifer Doyle describes,

Title IX, a 1972 amendment to the Higher Education Act, governs how a college campus in the United States responds to accusations of sexual discrimination, harassment, and assault. Title IX is the civil anti-discrimination law designed to bar sex/gender discrimination in education. Insofar as sexual assault is a gendered form of violence, insofar as a campus may create a hostile environment for a victim, insofar as a university depends on federal funding, it has an obligation to the state to work towards a rape and harassment free community (23)

Despite its aims to increase access and possibility for those at risk of sex-based discrimination, Doyle claims that “the social mobility it enables is shadowed by a negative sense of possibility.” (24) This negative sense of possibility comes from the fact that schools administer Title IX hearings in order to shield themselves from legal and financial vulnerability rather than to make the victim feel safer. Doyle suggests that Title IX shapes the university’s experience of its own vulnerability. A university that obeys the letter of the law is “compliant”; a university that does not is “noncompliant”. The noncompliant university is “in-violation” and vulnerable to fines and lawsuits (24). Therefore Doyle argues that “Title IX is the administrative structure through which the university knows what exposure feels like, what vulnerability is. It is the sex of bureaucracy” (24).

Doyle situates the relevance of Title IX for the university within the university’s investment in a culture of security. This culture is about calculating and managing the risk of sexuality. Title IX investigations involve student conduct committees and expulsion hearings which promise to “administer and redistribute injury for the minority that does come forward with a complaint” (29). These investigations and reports attempt to “absorb and contain all that sex, and sexual disaster lets loose into the world” (29). The risk experienced by the university is not of violence but of retaliation. The university uses Title IX to protect itself against retaliation by absorbing and bureaucratizing sexuality. Or, as Doyle goes on to suggest “The management of sexuality has been sewn into the campus. Sex has its own administrative unit” (46).

Whereas Warbelow and Cobb suggested that limits of Title IX lie in its inability to name sexual orientation as protected identity, Doyle suggests that the limit of Title IX is that it is “not concerned with justice; it is concerned with equity. Have you been violated? Or was it your rights?” (35). She cites feminist scholar Sharon Marcus who observes that victims of sexual violence are encouraged to ‘identify with a state that elaborate our subjectivity but denies it’ (35).

Like Murphy, Doyle is critical of the framing of queer youth suicide especially as it is presented in the case of Tyler Clementi. She attempts to better dissect the sense of injury Clementi might have felt, rejecting the narrative that it was Ravi’s homophobic actions which lead him to suicide. She locates this injury in a scene of boundary-crossing rather than simply privacy invasion. Doyle states that, “For people not used to living under explicit surveillance, finding oneself stripped of a sense of privacy is profoundly disturbing” (56). It forces one to realize how much work privacy does to maintain a specific kind of self-hood. Doyle goes onto argue “That sense of privacy gives us our shape- our psychic skin. The sense of an inside and an outside- it is a foundational fiction. Even a movement in that boundary (me/not me) can be traumatic- but its sudden evaporation?” (56). This boundary is a site of stress for many new college students who must share a bedroom with a brand new stranger. Doyle suggests that this is the boundary Ravi himself was playing with. “He wanted to watch his roommate hookup- why he wanted to watch, with friends, is not something that can be explained by either the world “bullying” or even the word “homophobia”. It has something to do with the sociality of sex, and the sexuality of friendships” (56).

The victim perpetrator binary demanded by procedures such as Title IX fossilize certain narratives which cannot fully account for the experience of the parties involved. “Tyler

Clementi- the sexed subject- the white gay man becomes understood only through this story about the invasion of his privacy. Dharun Ravi is, here, cast as the raced subject- the invading non-affiliate” (56). The victim in a case of sexual violence, which Doyle argues is always in the university's eyes a woman, and the sexual gay man share an openness or willingness which the school can only register as risk and danger. Doyle describes that ‘In the straight world, sexual coercion- emotionally, physically, economically enforced- positions the sexual subject as a child. That victim is a weakling, a foo, a naif. (Like the “girl” who gets “knocked up”. The man who cruises the park is naïve if he is murdered: otherwise he is a predator)’ (56). In the eyes of the institution shielding itself from exposure, “One’s openness- a willingness to walk down the street at night alone, to not be afraid, to trust, to take a ‘risk’, to accept a drink from a stranger, to get in a crowd, to fuck people you don’t have- these are ‘mistakes’, failures” (56).

### **The Anti Bullying Bill of Rights: An Overview**

Clementi’s suicide elicited a strong response by the State of New of Jersey whose Justice Department decided not only to charge and prosecute Dharun Ravi, but also to add an extension onto its already existing anti-bullying legislation in Clementi’s name. New Jersey originally enacted its first anti-bullying legislation in 2002. The law was the first of its kind. by 2003 14 other states had passed anti-bullying laws primarily in response to the number of school shootings which occurred in the 1990s, most prominently the Columbine shooting. The anti-bullying law of 2002 was regarded as being thoroughly comprehensive at the time, addressing not only the definition of bullying but also purportedly giving educators guidance in handling incidents of bullying. However, these early anti-bullying laws did not provide much tangible direction for schools with regards to dealing with actual incidents of bullying beyond state mandates to report such incidents.



These shortcomings in policy became most clearly apparent in 2007 after a court case against the Toms River Regional Schools Board of Education was filed by the ACLU on behalf of a student who was forced to move school districts because of the harassment and bullying he faced based on his perceived sexual orientation (ACLU). The student, referred to as L.W, was successfully able to sue the school board for damages under the Law Against Discrimination, for not responding reasonably to bias based student bullying and harassment. According to The Supreme Court of New Jersey,

Students in the classroom are entitled to no less protection from unlawful discrimination and harassment than their adult counterparts in the workplace... [R]easonable measures are required to protect our youth, a duty that schools are more than capable of performing. . . . [W]e require school districts to implement effective preventive and remedial measures to curb severe or pervasive discriminatory mistreatment (ACLU).

Following this ruling the New Jersey Commission on Bullying in Schools was formed in order to respond to failures outlined by this case and to suggest further policy changes that would better allow the State to deal with the issue of bullying in schools.

In 2009 the commission released a report titled “There Isn’t a Moment to Lose: An Urgent Call for Legal Reforms and Effective Practices to Combat Bullying in New Jersey Schools” which outlined legal and policy reforms to improve New Jersey’s handling of bullying. The Education Law Center states that this report contributed significantly to New Jersey’s “Anti-Bullying Bill of Rights”. The report found empirical evidence that HIB (harassment, intimidation, and bullying) is “damaging to all involved parties and that these destructive effects are not short lived” (3). The report specifically highlights the role of bias and discrimination, suggesting that beyond research and anecdotal evidence the topic has received a lot of attention because “at its core, it is a human rights issue. Increased awareness of HIB has grown out of a focus or increased sensitivity to protect the rights of people who

are at substantial risk of discrimination” (3). The report cites the United Nations Convention on the Rights of the Child which they suggest supports their ideas because it considers freedom from abuse a fundamental right that should be safeguarded for all children (3).

In response, the report offered 22 policy changes and legal reforms that would better help New Jersey address the issue of bullying. These changes sought to expand the definition of HIB to include a more detailed and nuanced approach to discrimination, provide funding for school districts to invest further resources in combating bullying, reform already existing bullying policies, and establish new ad-hoc groups and positions in schools specifically to handle incidents of bullying. In November of 2010, just over a year after the publication of the report, both the New Jersey House of Representatives and the Senate unanimously passed the New Jersey Anti-Bullying Bills of Rights act which was signed into effect by Governor Chris Christie on January 5<sup>th</sup> 2011. The policy was created with the support of Democratic and Republican legislators and with support by organizations such as Garden State Equality, the Anti-Defamation League of New Jersey, and the New Jersey Coalitions for Bullying Awareness and Prevention.

Despite the overwhelming bi-partisan support for the bill by members of the New Jersey state and public, there have been several criticisms leveled at the bill. While most of the mainstream criticisms of the bill have to do with the structure of the legislation and the lack of funding given to schools to comply with the new rules, the new legislation contains many troubling conceptual attributes which demonstrate how the state understands bullying and is choosing to address the issue. The bill charges school districts with determining their own procedure for reporting and dealing with incidents of bullying. In Ridgewoods School district, where Clementi was a student, the policy states that repeated bullying could reach

response at the level of formal law enforcement if necessary. Similarly, at East Hanovers school district students can anonymously report incidents of bullying to the police through a crime stoppers hotline (Zhao). These responses on behalf of school districts along with the prosecution of Dharun Ravi demonstrate that the state is putting forth a carceral approach to Clementi's suicide and the problem of anti-LGBT bullying, what Adam Cohen describes as putting "state, school officials and law enforcement on the side of victims" (Cohen 2011).

While these responses, from the prosecution of Dharun Ravi to "tough on bullying" policies, have been praised by many LGBT political groups and journalists, some queer critics have been quick to highlight the uneasy relationship between the state/law enforcement and queer communities which remain unaddressed in these carceral responses. By associating effective responses to anti-gay bullying with participation of law enforcement and the criminal justice system, whether through the language of "tough on bullying policy" or through setting up procedures for reporting incidents of bullying which directly involve law enforcement, these responses participate in a carceral mode of gay politics. This sort of politics finds its precedent in earlier gay rights activism around hate-crime laws.

In their essay titled "Confronting the Limits of Gay Hate Crime Activism: A Radical Critique", Dean Spade and Craig Willse describe the central goals of hate crime activism as "1.) increasing public consciousness about violence committed against individual members of subordinated groups and 2.) providing specific legal protections to these subordinated groups, groups often positioned on the 'bad side of the law', [i.e victims of police brutality or personal violence]" (39). This type of activism and legislation has successfully increased public recognition of violence against queer and trans people and has allowed them to be named explicitly in the law in the context of protection from violence (40). The authors

celebrate the symbolic work that hate crime activism can accomplish, stating that “When most popular rhetoric about “homosexuals” condemns us as immoral individuals and threats to public health, hate crimes activism can produce a counter-discourse asserting that homosexuals in fact deserve the status of protected minorities” (41).

However, they also draw attention towards the failures of hate crime-based activism specifically in terms of its investment in the criminal justice system and the system’s punitive measures. As they ask, “Knowing that the criminal justice system disproportionately targets and punishes people of color and poor people, does it make sense from an anti-racist perspective to consider seeking remedies for homophobia within the criminal justice system?” (43). The consequences of this approach include a form of politics in which “the emancipation that is sought yields benefits disproportionately, and sometimes exclusively, for white people, men, sexually normative homosexuals, and people with money” (44). This type of activism does not address the distribution of privilege on a larger structural scale by upholding and pouring resources into a criminal justice system which disproportionately incarcerates poor people of color. As the authors state, this type of politics is a part of and reflects “the weaknesses of, the overall assimilationist, inclusion-focused mainstream gay agenda” (44).

The idea that involving law enforcement in anti-bullying initiatives in high schools works to protect victims of bullying ignores the immense amount of violence the criminal justice system perpetrates against students of color. These initiatives cannot thus be separated from the larger national trend of a school to prison pipeline wherein “children are funneled out of schools and into juvenile detention facilities and criminal justice systems” (ACLU). The ACLU in their description of the school to prison pipeline directly indict zero-tolerance

policies which “criminalize minor infractions of school rules, while cops in schools lead to students being criminalized for behavior that should be handled inside the school”, specifically students of color. While these zero tolerance policies and the presence of law enforcement are meant to act as deterrents, the consequences of such actions disproportionately affect students of colors and funnel them out of schools and into prisons. Given this trend it worth asking: who are these policies enacted to protect and whose safety is disregarded in the process? As Spade and Wilse suggest, it does not make sense from an anti-racist perspective to seek remedies for bullying from the criminal justice system.

Spade and Wilse also point towards a second troubling aspect of hate crimes activism: how the focus on violent crimes committed against members of subordinated identities frame hate crimes as individual expressions of personal prejudice, and ignore a systemic understanding of inequality (45). This comes from the way hate crimes legislation focuses on the punishment of individuals whose “racism (or homophobia, transphobia, xenophobia, etc.) results in violent crime against members of a subordinated group” (46). This is compounded with the fact that the process of detailing what constitutes a hate crime, and most importantly, who can be positioned within the law as the object of a hate crime requires “a reification and legislation of sexual identity” (46). The legal discourse of hate crime legislation favors a simplistic notion of identity over one which acknowledges the multiple and shifting characteristics of identity, a notion which understands identity as being the same in all people and as being produced in isolation from social variables such as language and class (47).

The individualizing logic on which hate crime legislation operates on is demonstrated in both the prosecution of Ravi and anti-bullying legislation which focuses its efforts on the

punishment of individual incidents of bullying. The prosecution of Dharun Ravi is based on the idea that there can be a single discernable cause of Clementi's suicide, ignoring the wide array of structural factors which contributed to Clementi's mental health. While it may seem that the anti-bullying laws put forth in Clementi's name remedy this by attempting to address the bullying on a larger scale, these approaches focus on how to handle and discipline individual incidents of bullying in hopes of deterring future incidents.

They do not focus on why students bully in the first place. Nor do they focus on how to educate students about political issues in order to avoid bias-based bullying. Additionally, they do not offer information on how to support marginalized students in classroom environments when specific incidents of bullying aren't occurring but students are still feeling experiencing marginalization. These policies don't work to make classrooms more accessible for queer students and thus can only account for injury against these students when it is made explicit through bullying. This ignores more minor micro-aggressions which can occur from off-hand comments or even from educators. The fact that bills were passed hastily and without concern for funding demonstrates that their symbolic value was prioritized over their effectiveness.

It is understandable given the way the mainstream gay rights movement in the United States operates that the most visible efforts made against anti-gay bullying follow the histories and logics of anti-discrimination bills and hate crime laws. As Dean Spade later argues in his chapter "What's Wrong With Rights", both anti-discrimination laws and hate crime laws are promoted under a related logic. Aside from increasing access to jobs and housing there is hope that these laws and their enforcement by courts will act as a deterrent, sending a preventative message to potential discriminators (39). Spade is quick to point out

that hate crime laws also do not have a deterrent effect, they focus on punishment and cannot be proven to actually prevent bias-motivated violence (40). Their ineffectiveness comes from the difficulty of proving discriminatory intent which has come to play a central role in courts. Spade states that these laws also have “such narrow scopes that they often do not include action taken by some of the most common discriminators against marginalized people: prison guards, welfare workers, workfare supervisors, immigration officers, child welfare workers, and others who have significant control over the lives of marginalized people in the United States” (41).

In the New Jersey Anti-Bullying Bill of Rights the primary role played by the teachers is that of a bystander. In an attempt to halt bullying the ABR includes harsh punishments for school districts, and specific educators and teachers, if they are seen as allowing instances of bullying to continue. The law states that teachers are responsible and held accountable for ensuring that student’s learning is supported by their educational environment. A failure to comply with the bill’s methods of responding to bullying leaves faculty and staff vulnerable to litigation. As Stacey Zaremba notes, even though “no conclusive evidence has been gathered for a successful educator-only driven prevention program, New Jersey is requiring their teachers to represent the frontline against bullying” (2). Zaremba argues that these changes mark a paradigm shift. “What was once seen as the collective responsibility of many can now be pinpointed to the specific failure of one or a few educators, as per the law” (4). Teachers may suffer punitive damages, the most severe being the loss of their license, as a result of a single failed attempt to deescalate aggression.

Teacher involvement is central to these measures and while other stakeholders such as parents or administrators are also accountable for preventing bullying, “no other

stakeholder is burdened equally with the responsibility of ensuring the enforcement of the policy, as the teachers perform on the front line” (Zaremba 19). While this may seem as effective means of putting pressure on educators to intervene into incidents of bullying, this is misplaced logic. According to Zaremba, research shows “despite generally low teacher victimization identification rates, primary or elementary educators are the most adept at properly recognizing the negative bullying behaviors in their students” (32). She cites Leff and Kupersmidt who attributed this observation to the amount of time spent with the students. Middle school teachers were found to spend only one class period, usually less than an hour, with each student group whereas elementary school teachers spend most of the day with their students, “allowing them the opportunity to sample a range of behaviors” (32). The results determined that teachers were able to identify 47% of primary school bullies but only 22% of the bullies found in middle school (32). Because of this Zaremba suggests that “HIB situations may go unnoticed, not as a result of a teacher’s blind eye, but rather because of reduced or smaller structured periods of contact with students” (32).

The Bill does not provide any distinguishable boundaries for the punishments associated with a failure to notice or report HIB behaviors; it only affirms the immunity of those who comply with the law. Zaremba illustrates how the word choice of surrounding punishments for educator is presented as ‘a careful distinction from school administrators, as noted in Section 4d, as their failure to notice HIB behaviors and/or act “may be subject to disciplinary action” (A. 3466, 2011)’ (77). These punishments exist because the law presupposes that HIB behaviors have been witnessed and have gone unreported by educators; but the possibility exists that the HIB behaviors have taken place but have gone unobserved by faculty and staff.



By making teachers liable to lose their licenses and face other disciplinary measures for not being able to detect HIB behaviors only makes them more vulnerable to litigation and more likely to misjudge situations. The focus of the ABR is identifying and systemizing incidents of bullying in order to show that the school is taking the issue seriously. It does not provide extra funding or resources to teachers despite giving them substantially more responsibility and consequence for not acting. The bill is more concerned with avoiding litigation than it is with providing teachers with the proper resources required to actively be able to curb bullying in schools.

Both the bill's history and the way it perceives the role of educators reflects its larger ethos and its priorities. The ABR approaches bullying prevention by attempting to implement a system for recording incidents of bullying and sharing these reports across channels. Citing Foucault, Andrew Gilden calls the law a model of "disciplinary surveillance": "Through its multiple layers of hierarchy, simplistic categorization and subcategorization of students, and selective disclosures and concealments, the New Jersey bullying law installs a framework for seeing gay teens only in relation to the norm of victimhood" (394). Gilden is referring to the process by which the ARB frames anti-bullying prevention in terms of bureaucratic procedures between educators, school administrators, and parents who only understand the gay student's experiences through the binary of victim.

New liaison roles were created for staff to streamline the process of reporting, managing, and ensuring the safety of students under the title of The School Safety Team. Their role was to review all complaints, determine whether patterns of HIB exist within the school, and adjust policy to improve the school environment. Gilden suggest that the bullying law "mandates a hierarchy of oversight by educators, administrators, and a new cadre of

bullying experts” (395). Zaremba sees these safeguards as a shift from the original procedure which called for students to be protected by those advocacy groups already established to prevent discrimination. “Now, individualized supports must be developed on a case-by-case basis to ensure that the support and protections are tailored to each unique victim” (73).

The need for this comes from a change in language to the original policy to “any other distinguishable characteristic”, making the recognition of HIB behaviors the victim’s domain. Zaremba suggests that this change marked “an intentional shift in power within the process of managing antibullying at the expense of making the terms harassment, intimidation, and bullying less concrete. In response to this, a standardized process for managing, reporting, and processing HIB incidents was outlined by the newest version of the law” (73).

Gilden critiques the way this system imposes a binary of positions onto students, disallowing them the ability to narrate their experience in more nuanced terms. As he notes,

In other words, if a student objects to being labeled a bully, wishes to show that the situation was more complex than the school presumed, or contests the presence of sexual orientation bias, such counter-stories are entirely closed off from the public eye. The bullying law mandates a multi-level investigation and “specialist” input, but the various assumptions, complications, and inferential leaps involved in the multi-step process of labeling a victim and punishing the bully remain obscured to everyone but the specific student who is labelled a bully (397).

Despite the purported goals of gathering better data on school bullying and holding school districts accountable for their efforts in combating it, Gilden argues that “the data reporting requirements of the bullying law do little to capture the complexities of bullying and instead perpetuate the victim-status of gay teens and other enumerated minorities” (397).

### **SOGI 123, Possible Alternatives?**

Whereas the ABR follows the legacy of the Title IX as formalizing a procedure which shields schools from legal and financial exposure, other approaches to LGBT bullying have approached the issue from a different framework. SOGI, which stands for sexual orientation gender identity, is an initiative which connects educators to “proven tools and resources for aligning schools with provincial policies protecting people of all sexual orientations and gender identities” (SOGI). SOGI has three major foci, 1.) policies and procedures, 2.) inclusive environments, and 3.) curriculum resources. SOGI 1 2 3 was created by ARC Foundation, a private foundation based out of Vancouver which supports LGBT awareness issues, in collaboration with the BC Ministry of Education, BC Teachers’ Federation, school districts across BC, UBC Faculty of Education, education partners, and various local, national, and international LGBTQ+ community organizations. The ARC Foundation states that their primary focus is on schools because they believe that “school might be the only place students feel safe to be their authentic selves” (ARC Foundation).

Part of SOGI’s mandate is to create a province wide standard to which all school districts must conform with regards to including language which protects gay and trans students. The BC government agreed to this in September of 2016 after BC Liberals refused to amend the language in the human rights code, rejecting a private member's bill introduced four times by Opposition NDP member of the legislative assembly Spencer Chandra Herbert who wanted language added that would require schools to specifically protect LGBTQ kids in their anti-bullying policies. Unlike the ABR, SOGI was formed over time through a collaborative process which involved LGBT organizations, educators across different groups, and years of fighting from legislators. SOGI was not put in place in response to an event and thus doesn’t have the burden of holding

the same symbolic power that the ABR does. The effects of this are immediately present in the way the different bills approach the role of educators and how they understand student welfare.

In SOGI educators are conceptualized as the primary source of support for queer students. The ARC foundation states on their website that “For youth who don’t experience a sense of belonging at home, a teacher could be the one supportive adult that helps them feel valued”. SOGI does not merely understand the teacher as someone whose role is to intervene into specific incidents of bullying; it understands the teacher as someone who can create a safe space for students even, and especially, when these safe spaces don’t exist for students in other aspects of life. This comes from a different understanding of the role of the school in a student’s life. “When a student feels connected to their school, they have a higher chance of graduating, are less likely to experience substance abuse and experience better mental health into young adulthood” (ARC). SOGI sees the school through a holistic lens as space that can allow a student to flourish by providing them with resources that would otherwise not be available to them.

One of the main ways in which SOGI accomplishes this is to include curriculum material which explicitly deals with sexual orientation and gender identity. SOGI has received major pushback from certain community members and religious groups who feel that it forces a certain ideology onto students. However, SOGI has affirmed this approach and has created resources for educators to deal with these concerns. In a fact sheet created for Okanagon Schools, the question “If you are worried about children feeling unsafe or excluded, why not just focus on bullying?” is included. The fact sheet answers

Just as adults do, children tend to fear or dislike what they do not understand. Sadly, at a young age some children already learn to use homophobic and transphobic slurs against people who appear to be different. SOGI education builds respect and acceptance of diversity, so that every single child in Central Okanagan Public Schools feels safe and welcome (SOGI FAQ)

Educators in SOGI's approach are seen as advocates on behalf of students and this advocacy is done through sexual and gender diversity curriculum education. Teachers are not seen to be working on behalf of parents and sometime can be indirectly put into an oppositional relationship with parents.

SOGI's approach to student welfare and anti-bullying comes through mixing SOGI curriculum with the already existing B.C teaching curriculum. This curriculum explicitly includes topics surrounding gender and self identity and is administered through the SOGI 123 website, "a resource that provides schools and teachers with ready to use, grade-level appropriate lesson plans, online learning modules, and customizable templates and tools that align with B.C.'s new curriculum" (BC Gov). This curriculum is not aimed exclusively at LGBT students. SOGI states on their website that these tools create an inclusive environment for all students regardless of sexual orientation or gender identity.

Research shows that harassment on the basis of sexual orientation or gender identity is experienced by approximately equal numbers of students who identify as LGBTQ+ and not LGBTQ+. This is because homophobia and transphobia can be directed at anyone and invariably have a negative effect on school culture, emotional well-being and academic success (SOGI)

Unlike the ABR, SOGI focuses more of its attention on creating safer spaces for LGBT students by way of incorporating gender and sexual identity affirming knowledge into already existing curriculum. This does not require students to identify as queer and it does not limit this identification to victimization. It affirms the classroom as a space of acceptance.

SOGI also provides resources to help teachers deal with situations that may arise with LGBT students. One of these primary resources is a worksheet and debrief which shows

educators how to handle various scenarios. These include scenarios in which a student and parent want to discuss the student going by a different pronoun, a fellow teacher not respecting a student's gender identity, and more traditional forms of bullying such as a student whose locker is vandalized with homophobic slurs. In the latter of the scenarios the worksheet gives several steps, including:

The graffiti should be removed as soon as possible, If those responsible are known, regular disciplinary procedures should apply, Is there a trusted adult who would be best to check in with Taz? What school supports (if any) would she find helpful? Counsellor? GSA (Gender-Sexuality Alliance) Club? Are there other family or community supports that could be explored? Siblings? Does she want other staff members to know and/or to be watching for further harassment? How close and supportive are Taz's friends? Can they help support? It's important for Taz to know that she is supported and should report any further harassment. Is Taz having difficulty reconciling her faith with her sexuality? Are there books or web-based resources that would be helpful? Even if she is not, it might be beneficial to invite a guest speaker who can speak to the way that faith or spirituality can be inclusive of SOGI issues as other students may have similar struggles. Would Taz like to be connected to a counsellor who can help her through potential family conflicts? (SOGI)

This information takes a proactive approach to anticipating the needs of the students with regards to the types of resources the school is able to offer. While disciplining of the perpetrators is a part of the response, the focus of the response is on how to make the student feel comfortable and supported going forward. The student's context is considered; it is not assumed that educator in question is the best to handle the situation. Information about the social life of the student is taken into consideration and nothing is assumed about their relationship to their sexuality.

Unlike, formalized procedures such as the ABR the subjectivity of the student is not summed up by the term victim. The response does not end at punishing the bullying nor does it exclusively frame the student as a victim. It also focuses on immediate actions such as removing the graffiti and more long-term actions to make sure that the student continues to feel supported. It gives educators several direct and tangible steps to take to address the situation.

While both the ABR and SOGI include the increasing importance of dealing with cyberbullying in their mandates, neither outlines a clear approach to addressing the issue. The ABR in their part includes language which extends the boundaries of the school to include online communication between students outside of school grounds. However, beyond extending traditional school boundaries the bill does not do much to consider cyberbullying as separate from bullying in person. In February of 2018, the B.C government gave \$100,000 in funding to help create social media workshops for parents to help determine if their children are being cyberbullied titled “Raising Digitally Responsible Learners”. The government is also providing an additional \$35,000 to SOGI to develop new online videos that will work concurrently with these workshops.

The way the privacy of children and especially queer children is understood cannot be separated from the way that policy made to protect them works and operates. In Clementi’s case, the supposed invasion of his privacy solidified his victimization which lead to responses that operated with this same victim/bully dichotomy. The ABR does not take into account the full spectrum of experience of LGBT students; instead it focuses on recording and systematizing individual incidents of bullying in order to demonstrate that perpetrators will face severe consequences. This individualizing logic finds its prehistory in hate crime legislation which marked to focus of the gay rights movement for many years. This approach understands injury only insofar as it occurs between a bully and a victim. SOGI offers a more holistic approach to understanding the prevention of bullying which focuses on education surrounding issues of gender and sexual identity marks a step in the right direction as it moves beyond an understanding of bullying as individual incidents and thinks more environmentally. Both

approaches however have yet to fully address the challenges and possibilities presented by digital and social media for LGBT students.



### Chapter 3: Sissy Boy, Interrupted: Shame and the Archive of the Gay Child

In her essay “Queer Performativity: Henry James’ *The Art of the Novel*”, Eve Kosofsky Sedgwick argues that “If queer is a politically potent term, which it is, that’s because, far from being capable of being detached from the childhood scene of shame, it cleaves to that scene as near-inexhaustible source of transformational energy” (4). Shame has been widely theorized in queer theory given that the experience of marginality produced by the pathologization of homosexuality following its emergence as a category in the 19<sup>th</sup> century installed shame as a structuring affect of gay identity. While contemporary mainstream gay rights movements have attempted to distance themselves from shame by emphasizing a politics of pride which understands the political potency of gay identity in the refusal of shame, shame remains the specter against which this form of politics asserts itself. Many of the most prominent legal battles of the contemporary LGBT movement in the U.S, such as the repealing of *Don’t Ask Don’t Tell* and the legalization of gay marriage, have distanced queer identity from shame in order to minimize difference from heterosexuality and highlight the foldability of gay identity into the contours of normative citizenship.

Whereas many of these struggles have attempted to detached shame from queerness, recent struggles over what has been labelled by many as an epidemic of gay youth suicide have explicitly named the presence of shame in the experience of gay identity. However, shame has been understood here as a teleological phase of development the gay child passes through to become the out and proud gay adult. This is notable most prominently in Dan Savage’s anti-bullying campaign aimed at gay youth *ItGetsBetter* where gay adults produce YouTube videos which encourage gay youth to persist living in their current conditions based in the promise that the traumas of gay childhood can be overcome through transition into adulthood. Tavia Nyong’o

critiques the message behind this campaign by highlighting how it involves the “melancholic refusal to work through the grief that might come with the recognition that it doesn’t always get better, that in many ways its gotten a lot worse in this country” (Nyong’o). In a political landscape where the shame associated with gay childhood is understood primarily as a phase to be passed through, what would a queer politics which heeds Sedgwick’s call to cleave to the scene of childhood shame look like?

In June of 2010 critic Jon Davies and artist Sholem Krishtalka curated a series of videos for *Ryeberg*, an online magazine which publishes discursive essays on online videos, which they titled *The Gays of Tomorrow*. Davies and Krishtalka see these videos of young effeminate boys lip-syncing and dancing to pop songs by female artists as archives of queer childhood on YouTube. They describe being drawn to “the trauma of queer childhood that plays itself out on YouTube – the faggy boy-children dancing, but just as often, crying, sometimes in the same video” (Ryeberg). In a subsequent essay for a catalogue of the same screening series produced for the Toronto art-gallery *VideoFag*, Davies terms these videos “Sissy-Boy YouTube videos”.

Drawing on the queer energies identified by Davies and Krishtalka in these videos but further engaging the platform specificity of YouTube, I argue that sissy-boy videos, as videos which isolate and repeat the experience of shame, act as archives of queer childhood that exist in tension with both dominant conceptualizations of the queer child and the popular media forms used to capture and understand this child on YouTube. By isolating a single moment of queer childhood, one charged by the presence of shame, these videos illustrate the radical singularity of childhood, producing childhood not as stage in the chronological development of the out and proud gay adult, but as event. The shame of queer childhood is removed from its narrative boundary and put on display. These videos are not documentations of the “moment of gay

realization” as Krishtalka argues, rather they are repeated enactments of the shame which structures the experience of queer childhood.

Writing at the end of 2013 in the wake of *ItGetsBetter*, Davies gestures towards the scores of videos being uploaded to YouTube by young people narrating their coming out story with the hopes of supporting other kids and states that “The song-and-dance videos, however, make their declaration in a very different way: corporeal rather than discursive, ecstatic in lieu of didactic” (21). Using Silvan Tomkins’ conceptualization of shame as an auxiliary affect which involves the precondition of interest and subsequent interruption of that interest, I read these videos and their circulation as a practice of habituated shame enacted by gay users who upload these videos to repeat the primal scene of queer shame in order to experience shame differently.

This process can be understood as a practice of what scholar Gilad Padva calls femininostalgia, an empowering queer nostalgia that stresses that effeminacy is not derogative while also stressing that that effeminophobia and homophobia are; “Femininostalgia, in its reimagining of effeminate days of [boys’] childhood, creates new landscapes, opens new sites of exploration, constitutes new spaces, and nourishes a countercultural queer legacy” (94). These videos reject a conceptualization of shame as a stage which the queer child must pass through on its way to “out and proud” adulthood by centering shame. By isolating and repeating the scene, they stay with this moment in order to reorient and reembody this experience of shame differently.

The viral nature of these videos means that they circulate in ways which exceed their uploaded purpose, leaving the queer micro publics often imagined as the audience for these videos and entering what danah boyd terms super publics, those publics infused with the features of digital architecture in order to understand “what it means to speak for all time and space, to

audiences you cannot conceptualize” (boyd). I aim to illustrate how the reception of these videos, observed through comments left on the video’s page, display processes of witnessing where viewers put themselves into the scene of primal shame not as the child, but as the adult witnessing the child.

These comments display moments of contact where, as Sara Ahmed in *The Cultural Politics of Emotions* suggests, “Feeling instead take the ‘shape’ of the contact we have with objects”(Ahmed 5). This feeling is observable in the content of these comments which index the complicated relationship between disgust, interest, and the structuring of online participation through affect. In the super publics which these videos circulate, the humor underwriting the viral nature of these videos can quickly shift to cruelty, a shift which can be analyzed through discourse. The comments display responses to the videos which are mediated by both the platform vernaculars of YouTube and the larger cultural discourses surrounding the figure of the sissy-boy.

I will begin by highlighting what makes sissy-boy videos a unique archive of queer childhood on YouTube by contextualizing them within recent work done on queer youth and social media. Then, I will illustrate what exactly these videos represent and the stakes of this representation by situating them in relation to work on the figure of the sissy-boy and shame. Finally, I will turn to the circulation and reception of these videos to show how they enact practices of witnessing which make communicable the way shame is mediated within super publics. By actively engaging with shame through repeated display and circulation, these videos disrupt an understanding of shame as merely a stage of development, countering dominant conceptions of the gay child.

### **Sissy Boy Videos in the Context of YouTube “Coming Out” Tropes**

In his essay “Sissy-boys on YouTube: Notes Towards a Cultural History of Online Queer Childhood”, Jon Davies argues that YouTube is a vital archive of gay childhood. But he also makes explicit the how sissy-boy videos differ from more popular documentations of gay childhood on YouTube. Davies refers primarily to coming-out videos as the most popular form of video which captures the gay child, suggesting that the gay child was born in tandem with the closet. As he states, “Once the structuring fact of queer identity, the closet required subtly navigating privacy and publicity, passing and disclosure” (22). Davies critiques the narrative structure of coming out which requires the disclosure of “a true identity” that is understood as having been kept private. “The coming out story is the narrative form that the conquest of the closet takes, but what to make of these videos that speak in vogue and twerk, not testimonial. I find something restrictive about the coming out format- too cozy with the idea that the self is knowable” (22).

The testimonial form embedded in the narrative structure of the coming out video lends itself to an understanding of the self as knowable and sexuality as a cohesive identity. Whereas, for Davies “Singing and dancing expresses a queer feeling, not necessarily an identity, which carves out a space of joy that is socially stigmatized to male-born children” (22). Davies locates queerness in the performance enacted by these videos which illustrate queerness not through identity but through desire; “In terms of their subsequent circulation, these videos provoke a visceral identification and empathy that is even stronger, I think, precisely because they seem pre-identitarian (if not pre-political)” (22). This is not same-sex desire which tends to define homosexuality, but a desire for femme embodiment which is read as queering the child. As Davies himself puts it, “These videos harness the power of queer spectacle- and instead of

promising access to a true, authentic, knowable and articulate subjectivity, they revel in the glories of self-mythologizing" (23).

Davies' insistence on the uniqueness of sissy-boy videos is mirrored in the dominant scholarship on queer youth engagements with social media and, specifically YouTube, which has focused primarily on the coming out process and questions of authenticity and self-branding. Michael Lovelock in his essay "'My coming out story': Lesbian, Gay and Bisexual youth identities on YouTube" demonstrates some of the key characteristics of coming out videos created by gay youth on the platform. For Lovelock, "YouTube coming out videos offer a unique vantage for exploring how the medium specificities of YouTube, and broader norms of selfhood, shape how LGB identities become intelligible in the digital arena" (1).

Lovelock examines how narratives of LGBT life are made intelligible through the discursive and aesthetic specificities of YouTube self-representation: that is, through "intimacy, authenticity, and discussion of feelings" (2). The videos Lovelock looks at differ from *ItGetsBetter* videos as they turn inwards towards the affective contours of the lives of young LGBT individuals as it is currently being lived rather than looking out towards an imagined future. He argues for the lasting importance of the coming-out process stating that "In their quantitative and qualitative dimensions, YouTube coming out videos emphasize that coming out *continues* to be a defining framework through which LGB youth identities become intelligible in and through media technologies, even as what it means to come out is in a process of transition. (4)

The creation of affective publics and communities is highlighted in Lovelock's account, a point made explicitly in his citation of a vlogger who suggests that "making and uploading a coming out video involves 'becoming part of [a] support system' which aims to 'help some other

people” (9). Lovelock stresses that in the dialogic economy of YouTube, coming out videos “bridge the personal and the political, positioning individual, negative feelings as symptomatic of a *shared* status in relation to heteronormative social organization” (9). The sharing of apparently ‘authentic’ feelings in these videos work to bridge the private and the public, assembling an affective public united by shared experiences of being queer in a straight world. (14)

Another key element Lovelock highlights is the cultivation of authenticity; “Crucially, in the videos, an LGB youth subject position defined by notions of authenticity and truth is made intelligible through the optic of ideals of authenticity already bound to the vlogging form more broadly” (10). In coming out videos, gay identities become intelligible through a “conceptual convergence between normative understandings of both coming out and vlogging as processes of revealing an inner ‘truth’. (11) Lovelock argues that in making LGBT identities intelligible through the tropes and conventions of the vlogging form, YouTube coming out videos literalize a broader cultural process. “The imperative to ‘be yourself’ occupies a vociferous position in contemporary popular culture, and YouTube coming out videos express how this authenticity paradigm has become consolidated as the normative understanding of LGB personhood because it *makes sense* in the context of a more pervasive cultural fixation with the concept of authenticity” (11).

Moving away from the genre of the coming out video, Aymara Jean Christian in his essay “Camp 2.0: A Queer Performance of the Personal” turns to videos of camp performance and specifically lip-syncing to demonstrate how camp performers on YouTube negotiate camp differently given the platform vernaculars of YouTube. Christian attempts to analyze “what role audiences play in shaping queer vloggers; how the Internet as a site of performance (i.e., more than a technology or medium) has shifted the style of camp; and how performers are crafting

their identities and politics to fit a new media environment... camp is being redefined for the era of YouTube "(353). Identity and community are, for Christian, the core concepts driving shifts in notions of camp. Many of the performers he spoke to expressed "greater levels of individuality and less connection to community and traditional labels, and showed a tendency to privilege personal and emotional development over politics" (357). Christian suggests that this shift toward the self in camp online is likely driven by Web 2.0 culture and YouTube, which "profess to connect people and create venues for self-expression" (357).

Christian notes that his analysis suggests a shift from marginal, ironic, community-forming camp to more mainstream, earnest, and personal forms online, labelling this new form as camp 2.0. This shift involves an understanding of the platform as a space of self-expression and self-branding which results in the presentation of one's identity as "cohesive and solidified, even if it is not—given the tools to do so, this solidity is in many ways structurally enforced, a claim to be explained" (360). Because the features of the site allow users a great, though not unlimited, deal of control over their self presentation and reception, Christian finds that discourses of individualism and "personality" put camp 2.0 in proper context (363).

Christian concludes that camp 2.0 vloggers work with camp's tradition of challenging the rigid boundaries of gender and sexuality, but add a "new media, neoliberal era spin of often-rigorous individualism" (367). Thus the fundamental difference between camp and camp 2.0 seems to be that "in traditional camp, performers camp 'with' the audience, whereas on YouTube some performers camp 'to' the audience (367).

As both Lovelock and Christian highlight, the platform vernaculars of YouTube which involve the propagation of discourses of authenticity that come from vlogging inflect the ways in which queer YouTube users understand their identity and the presentation of it. It is evident that



the dominant forms of capturing the gay child on YouTube, whether through the predominance of coming out videos whose narrative structure implies a linear teleological account of the revealing of an authentic gay identity or through new forms of camp which index a shift towards camp performance as a mode of self-branding, stress self-narration and branding.

These platform vernaculars have consequences for how gay identity is conceptualized, a point made explicit by Christian when referring to how shame, which underlies early performances and understandings of camp, is eschewed in favor of a general humanization.

YouTube is full of people, queer and not, and of all different races and ages, all proclaiming their individuality; so, in very concrete ways, these “humanized” expressions of camp are coded ways of saying they are just like everybody else, which is truly a remarkable historical shift from the pronouncement “I am psychologically sick” only decades earlier. (363)

Once situated within the larger affective and branding economies of YouTube, queer content has the potential to shift tone and nature if this content is to remain legible and circulate widely on the platform.

This shift away from shame however is not solely the cause of YouTube vernaculars, it also reflects larger shifts in gay politics and culture. As Heather Love states early in the introduction of her book *Feeling Backward, Loss and the Politics of Queer History*, “For groups constituted by historical injury, the challenge is to engage with the past without being destroyed by it” (1). She notes not only how contemporary pride politics have left shame behind in the past, but how early work in lesbian and gay studies championed “utopianism, affirmation of gay identity, and hope for the future” which resonated with the new found gay liberation movement’s transformation of “shame into pride, secrecy into visibility, social exclusion into outside glamour” (28). Love explains how the history of gay politics has associated a turning away from the negative affects related to the experience of marginalization, offering instead a future oriented politics which attempts to associate progress and victory with feelings of pride and

affirmation. Yet, as Love notes shame continues to lives on in pride, and pride can easily turn back into shame (28). Like Sedgwick's call to cleave the scene of childhood shame, Love argues that we embrace the history of marginalization and abjection, exploring the ways it continues to structure queer experience in the present (28).

### **Re-Orienting Shame in Sissy-Boy Videos and their Spread**

Sissy-boy YouTube videos remain closer to the history of marginalization and abjection because as media objects they exist for very different purposes than coming-out videos and videos of camp 2.0 performers. The videos negotiation of authenticity differs, in both content and uploading practice, from the types discussed by Lovelock and Christian. These videos are either uploaded by the parents of the child in which case they tend to be uploaded as isolated videos either meant to be shared among family members as home videos or made to go viral as humor videos; or they are uploaded by the user themselves. In both situations given that the videos depict isolated moments of childhood, they are not originally uploaded with the intention of self-expression. They are instead more akin to home videos meant to document specific moments of a subject's life. The virality of these videos is facilitated by their isolation of specific moments of performance which can be read or experienced outside of a larger narrative structure, a feature which increases the potential for spreadability. Isolated from a larger narrative structure the context of these videos is more susceptible to change, especially when these videos are read primarily through the rubric of humor.

In fact, understanding these videos through their viral nature, regardless of whether this was their intended purpose upon upload, attunes us to the ways in which these videos differ from the kinds of YouTube videos described by Lovelock and Christian. In her essay "ALL YOUR CHOCOLATE RAIN ARE BELONG TO US?" Viral Video, YouTube and the Dynamics of

Participatory Culture”, Jean Burgess proposes an alternative to understanding viral videos, defined as videos which are viewed by a large number of people generally due to spreading rapidly through online word of mouth, through the lens of cultural participation and participatory culture. Burgess notes that many of the most popular YouTube videos of all time are “both performance-based and music-related, rather than narrative or information-based” (103).

As she states, there is much more going on in viral video than ‘information’ about a video being communicated throughout a population. Successful viral videos have textual hooks or key signifiers, which cannot be identified in advance (even, or especially, by their authors) but only after the fact, when they have been become prominent via being selected for repetition (105). The forms of vernacular creativity that emerge from personal musical performances videos on YouTube operate as sites of play and learning and have emerged out of “the conversational dynamics of YouTube as a social network as much as out of any desire for self-expression” (107).

Sissy-boy videos share many of the characteristics of viral videos that Burgess highlights, features which speak more accurately to what is occurring in these videos than genres such as the coming-out video or camp 2.0 performances do. The videos feature musical performances which are less about narration or the transmission of information and instead features key signifiers which become taken up in their subsequent circulation. I argue that in these videos the key signifiers are the moments of performance in which audiences read queerness most explicitly either because an exaggerated or excessive form of femininity is being performed, or, because the feminine performance is interrupted by an adult causing the child to react in a way that is read by many as humorous. These are the moments most remarked upon in the comments. They are the moments that are used as titles for videos when then are reproduced

and reuploaded. The key signifiers of these videos virality is inseparable from the comedy of queer childhood shame.

To track the presence and place of shame in Sissy-Boy videos I look at four specific videos which index the primary routes of circulation these videos follow. The first set of videos, “Shaun Sperling Bar Mitzvah Dance- Madonna, Vogue- 3/14/92” uploaded by user Shaun Sperling, and “VOGUE BOY”: ME AT NINE, PERFORMING TO MADONNA IN SUMMER ‘91!” by kstarwarez, originally uploaded on Vimeo by Robert E. Jeffery are videos uploaded by gay users who are the subject of the videos. The second set of videos, “Single Ladies Devestation” uploaded by user Carlos Whittaker, and “Mom Scares the Shit Gay out of Kid” uploaded by user nizzly1115x2, are videos uploaded by straight adults.

The first set of videos are circulated as queer objects insofar as they are uploaded by users who themselves identify as gay and upload them as intentional documents of their own gay childhood. Additionally, they are meant to be seen by either family, friends, or viewers in queer micro publics which would seek out these kinds of videos on the site. The second set of videos are uploaded by those who are not the child in the video, either by a parent or a stranger, and are uploaded primarily as humorous videos meant to circulate widely. These videos and the kids in them are read as queer in their circulation, a reading which is contested by some viewers. The videos will be analyzed as sets in order to highlight the characteristics and the work done by each but will also be put into dialogue with each other to show different ways in which shame structures the objects and their circulation.

Sperling’s video is a recording of him performing Madonna’s *Vogue* at his Bar Mitzvah in 1992. The description of the video reads “On March 14, 1992, Shaun Sperling read from the Torah and became a Bar Mitzvah in the northwest suburbs of Chicago. The theme Shaun chose

to signify the religious celebration of him becoming a man was, 'Madonna'. To kick off the party, he performed a dance to 'Vogue' - now strike a pose and lets get to it...". In the video, Sperling takes center stage and performs a move-for-move recreation of the *Vogue* music video. Half way through the video he removes his blazer to reveal an airbrushed image of Madonna imprinted on his shirt. The camera follows Sperling as he moves across the stage to an audience clapping and cheering him on. The video ends with his family coming up to him to congratulate him as the camera tracks across the audience excitedly watching on.

At the time of writing the video has 1.4 million views and has been shared widely across different platforms, being featured on several talk shows, most significantly on an episode of The Ellen DeGeneres Show where Madonna was the guest and Sperling was in the audience. Clips from the video are also included in the opening credits of the television show *Transparent*, a show about a family's reaction to one of their members, Maura, announcing her transition. In *Slate* Stephen Vider analyzes the significance of this clip in the opening credits which culls a series of clips from various activist documentaries on the history of trans rights in the U.S and home videos of Bar Mitzvahs together, proactively asking "What does it mean for the bar mitzvah boy to 'become a man', and the drag queen to 'become a woman'?" (Vider). Included between clips from films such as *Paris is Burning* (1990) and *The Queen* (1968)- "one of the earliest screen portrayals of the lives of female impersonators—some identifying as gay men, some beginning to identify as trans women" (Vider), the clip becomes part of a specific repertoire of images which make up an un-official history of trans representation through film in the U.S.

In the opening of *Transparent* the home video aesthetic of Sperling's video is meant to nostalgically allude to Maura's childhood. In the context of this opening sequence, dispersed

between some of the most recognizable and earliest documentations of trans culture in the U.S, the video becomes iconized as an image of queer childhood more generally where the slippage between various forms of gender performance and non-conformance from “female impersonator”, “drag queen”, “gay man”, and “trans woman” become expressed through Sperling’s performance. This slippage gestures towards the way in which the figure of the sissy-boy exceeds the boundaries of male homosexual identity, instead opening onto more critical configurations of gender and sexual identity.

Jack Halberstam reads the figure of the sissy-boy as the incarnation of the shame experienced by gay white men in childhood which “has to do with exposing their femininity and dramatizing their failure to access their privilege that has been symbolically reserved for them” (225). Halberstam is critical of the dominance placed on shame in queer theory because he sees it as an investment in the reclaiming of this lost male privilege. Despite this, he claims that shame is a gendered form of abjection- “it belongs to the feminine, and when men are ‘flooded’ with shame, chances are they are being feminized in some way against their will” (226). The gendered nature of this form of abjection points towards some of the lasting critical energies embedded in the figure.

Halberstam claims that “The sissy boy is the incarnation of shame, so we should not be surprised to find that the centerpiece of today’s gay pride movements has to do with reclaiming gay masculinity” (226). He shows how feminism has developed a language for the shame experienced through femme embodiment and has organized against this shame through consciousness raising groups and political marches, suggesting that “the only people really lacking a politically urgent language with which to describe and counter shame are gay white men” (226). If we are to take Halberstam’s critique seriously it remains the case that the figure of

the sissy-boy acts as an uncomfortable but urgent container for the unaddressed shame experienced by gay white men. This shame remains unaddressed because it requires those gay men to inhabit a position in which their privilege as cis-men is at stake.

Sissy-boy videos are documents of the shame associated with the figure of the sissy-boy. This occurs not only through the documentation of these shameful performances but through the way in which they are put on display, isolated, and repeated for the internet; amplifying the potentially shameful feelings encoded in the scene. In Sperling and Jeffery's video shame cannot be read on the body of the child, it is displaced instead onto the decision by the uploaders to share what many of the viewers who comment on the video call an embarrassing childhood memory. This embarrassment is directly related to the *lack* of shame being experienced by the boys in the video whose earnest performance, most likely a practice of fandom, makes public the private act of admiration and devotion to an object one is not supposed to desire. In the same way that the sharing of home videos of one's childhood is often associated with embarrassment, these private documents of childhood are made public exceeding their traditionally domestic domain and entering the public sphere. The context of the video's uploading involves a negotiation of the shame associated with sharing and revealing; the uploader's decision to recirculate the videos rejects the imposition of shame.

Whereas in the videos uploaded by Whittaker and nizzly1115x2 the physically visible display of shame is the key signifier behind the videos' popularity. In "Single Ladies Devestation" a camera records a 3-year-old boy sitting in the back of a car with his two older sisters singing along to Beyonce's Single Ladies. As the boy, Losiah, begins to dance excitedly his father jokingly tells him "Losiah you're not a single lady buddy". Upon hearing his father's comment, Losiah slowly begins to break down and cry for the duration of the video which ends

with the father turning the camera towards himself and guiltily stating “I’m a horrible father”. Krishtalka, somewhat sarcastically reading Losiah’s interiority through his expression, points towards the stakes of this moment; “I want to be a Single Lady; I thought I was a Single Lady; The Father has told me I am not a Single Lady; The Father has told me that I do not and cannot belong to this club; The Father has revoked my membership, and therefore told me that wanting to belong to this club is wrong” (Davies and Krishtalka).

Similarly, in “scaring the gay out of him”, an unnamed boy is dancing and singing along to Britney Spears’ “Baby One More Time” in what he assumes to be the private space of his bedroom. In the last 20 seconds of the video however, his mother abruptly slams open the door and screams in order to frighten him. The boy screams and shakes as he slowly falls to the ground and the video cuts out as the mother is seen laughing for a brief period in front of the camera. These videos, with 7 and 2 million views respectively, have many more views than Streling or Jeffery’s videos. The popularity of these videos demonstrate the in-exhaustible potential for the sissy-boy to remain a figure of mockery. The humiliation of these boys being shamed for their performance of femininity is isolated, put on repeat, and shared. The popularization of this genre of videos demonstrates the pleasure viewers take in witnessing the humiliation of these children, a pleasure which I argue cannot be separated from the anxieties produced by the sissy-boy and the desire to see this figure punished.

All four videos analyzed in this essay are less than 6 minutes long and begin and end with the performance, eschewing any insight into what happens after the performance ends and the video stops recording. This has the effect of producing a depiction of gay childhood in these videos not as a narrative stage of development as it is often depicted in gay fiction and film, but as singular event. Elspeth Probyn argues for the importance of examining queer childhood as



event- “a tangled discursive skein, a multi-level production in which lines of truth, representation, history, science, and experience compete” (440), as opposed to essence. Probyn is interested in how childhood is produced as a sustained mode or structure of feeling within some gay and lesbian fiction and thus she suggests that considering childhood in these terms, as event, turns our attention to:

the ground upon which several orders of things are ranged: on the one hand, historical facts, scientific propositions, empirical observations, actual experiences, and attempts to render them concrete; on the other hand, phantasmatic features of childhood, images that carry childhood into the realm of the pathologizable, images that float as memory” (440). By isolating these performances from larger narratives of coming out or adulthood, sissy-

boy videos produce queer childhood as a sustained object of engagement, rather than a psychological phase that subjects pass through, which takes into account the heterogenous elements that produce queer childhood. “Moral panics about gays and lesbians having children; the American Psychiatric Association’s pathologizing of childhood gender identity; childhood as structuring modus operandi in gay and lesbian writing” (440). Probyn wants to refuse childhood the anterior status of being a guarantee of queer adulthood by placing it on the surface. Rather than seeing in childhood a common point of queerness, she would have queer theory use childhood to “record the singularity of events outside of any monstrous finality” (440). Probyn rejects a teleology of origin arguing instead for a strategy of mining the richness of childhood, a “tone of writing that encourages a diverse exploitation of childhood with an eye to present exigencies. I want a tactic that enables certain formulations of belonging but disables general statements about identity, statements that would ultimately stall the singular force of queer interventions” (444).

Unlike most work on queer children, sissy-boy videos claim a radical singularity for queer childhood rooted in their refusal to present childhood as the origin of queerness. This is not

to say that these videos are not often read as being exactly that. Various comments suggest that these are moments where the boys find out they're gay. Rather, this reading is not substantiated by the videos themselves which contain insulated performances that allude to a more general structure of feeling of queer childhood through the shared presence of shame. The shame which weaves through these videos is a product of the pathologization of queer childhood which expresses itself most explicitly and aggressively through gender non-conformity.

As Sedgwick has shown, "the American Psychiatric Association's much-publicized 1973 decision to drop the pathologizing diagnosis of homosexuality from its next Diagnostic and Statistical Manual (DSM-111) [was followed in 1980 with a] new diagnosis, numbered (for insurance reasons) 302.60: 'Gender Identity Disorder of Childhood'" (448). Probyn states that following this, there has been an active move within quantitative psychology to study what is called "gender conforming" and to figure childhood experience as an indicator of future homosexuality (448). This leads Jay Paul to argue that, "the focus and interpretation of research findings on cross-gender behavior in childhood as a sign of broader 'prehomosexual' configuration ...have uncritically incorporated our culture's longstanding folk belief in homosexuality as a form of flawed maleness or femaleness" (448).

By isolating moments of exaggerated or dramatized gender non-conformance, sissy-boy videos illustrate the continued pathologization of gender non-conformity as a signifier of proto-homosexuality, synthesizing the psychological discourses which inform the experience of queer childhood and its structuring relationship to shame. The popularity and virality of these videos, located most commonly in their status as objects of humor, pushes against the idea that shame is worked through in the development between gay childhood and adulthood. Instead, these videos index the on-going and structuring relationship between queerness and shame. The shame

present in these videos can be understood through Silvan Tomkin's formulation of shame as an auxiliary affect which is fundamental to a subject's understanding of itself.

### **Rethinking Queer Shame via Sissy-Boy Videos**

As an auxiliary affect, shame modifies the positive affects interest and enjoyment. In Tomkin's theory, shame's activator is the incomplete reduction of excitement or joy, "Like disgust, [shame] operates only after interest or enjoyment has been activated, and inhibits one or the other or both" (Sedgwick and Frank 97). Sedgwick argues that this understanding of shame is different than colloquial understandings of shame that find their lineage in Foucault's argument against the repressive hypothesis which understands shame as the feeling produced by the breaching of a prohibition. Whereas this understanding of shame would regard shame as a turning away from the other, for Tomkins shame is about the desire to continue communication with the other even after one has been made strange to the other. Shame is "inherently social given that in shame the individual wishes to resume his or her commerce with the exciting state of affairs, to reconnect with the other, to recapture the relationship that existed before the situation turned problematic" (400).

For Tomkins, shame, like disgust and contempt, is activated by the drawing of a boundary line or barrier, the "introduc[tion] of a particular boundary or frame into an analog continuum... Without positive affect, there can be no shame: only a scene that offers you enjoyment or engages your interest can make you blush" (116). This boundary formation is how shame is seen as being related most directly to understandings of the self. Shame produces bodily knowledge; "as precarious hyperreflexivity of the surface of the body, can turn one inside out—or outside in" (116). According to Tomkins, shame is one of the affects which "works to punctuate the system as distinct" (116).

In sissy-boy videos shame is experienced as the interruption of interest or joy in the lip-sync and the performative possibilities it endows. As Krishtalka's reading of Losiah's inner state reveals the Father tells these boys that he does not and cannot belong the club, not only revoking his membership, but telling him that *wanting* to belong to this club is wrong. What is being shamed is not only the performance itself, but the desire for the performance and what that desire symbolizes. To read these video performances as indicators of the children's undiscovered sexuality is to retroactively interpret certain visual signifiers as clues to an undisclosed true identity. These videos document the performance of a wide set of desires; the desire for access to pop-stars by practices of fandom, the desire for femininity, the desire to belong, and the desire to simply sing and dance. The reading of these desires as signifiers of proto-homosexuality pathologizes them, making way for the punishment of this desire through humiliation. More specifically, at stake in these videos is not only the desire for femininity but the making public of this desire through performance and the video sharing. The interruption of this desire through humiliation introduces the affect of shame creating the boundaries which form the subjectivity of the child; "To desire what I want is to be X, to be X is to be the subject of ridicule".

To understand how shame structures not only the content of the videos but also their circulation, I return to Halberstam's definition of shame as a gendered form of abjection. In "Powers of Horror", Julia Kristeva presents abjection as the counter to Lacan's object of desire where abjection "preserves what existed in the archaism of pre-objectal relationship, in the immemorial violence with which a body becomes separated from another body in order to be" (10). Like shame, abjection is the experience of creating a boundary between the self and other. Through abjection, one defines themselves in negative relation to what they cannot incorporate or take in. However once expelled, "the 'other', or the object does not disappear but hovers and

challenges the boundaries of selfhood “(Arya 6). Because one cannot fully expel the abject object, “we are impelled to move away, but then to look back, setting up a cycle of repulsion and attraction, fear and intrigue” (2). This cycle of repulsion and attraction points towards a fundamental tension which can explain the popularity of sissy-boy videos despite many, if not most, of the comments on these videos are expressions of explicit homophobia. The repeated watching and sharing of these videos by those who find the child’s performance shameful and abject is structured by a cycle of repulsion against what they define themselves against but cannot fully separate from.

Abjection helps explain how hatred or repulsion continue to mark a fundamental investment in the object. Jodi Dean’s essay “Affective Networks” helps explain how this psychoanalytic relation structures online participation in order to see how the desire to turn away from sissy-boy videos simultaneously facilitates their popularity. Dean argues that blogs, social networks, Twitter, and YouTube “produce and circulate affect as a binding technique” (21). By understanding the circulation of affect on networks as a binding technique that produce feedback loops which trap us in circuits of enjoyment, Dean alludes to the ways in which one is always participating in these networks even when one is critiquing them at the same time. Dean uses the term “contribution” to describe the split within a message between its content and the fact of it being sent to illustrate a key feature of networked communication: “the displacement of content by contribution, more specifically, by communication for its own sake. Contemporary affective networks rely on the marking, adding, forwarding, and circulating of messages not because doing so ‘means’ something but simply to communicate” (27).

In critiquing Deboard’s understanding of spectacle as relying on broadcast media and thus not being able to speak to new media, Dean states that “in choosing for ourselves, in

participating in the production of the spectacle, we might contribute to our own capture” (33). Under communicative capitalism, “Everyone not only has a right to express an opinion, but each is positively enjoined to—*vote, text, comment, share, blog*. Constant communication is an obligation”. Dean shows how participation and contribution are structured by enjoyment, reorienting our understanding of communication not only as an exchange of information but also a circulation of affects; “networks are not only networks of computers, protocological, and fibre-optic networks—they are also affective networks capturing people” (36).

For Dean, the loops and repetitions of the circuit of drive describe the movement of the networks of communicative capitalism; “Accompanying each repetition, each loop or reversal, is a little nugget of enjoyment. We contribute to the networks, as creative producers and vulnerable consumers, because we enjoy it” (37). The open architecture of the Internet enables and requires the capture of enjoyment because it is based on user’s contribution and engagement in which the enjoyment attached to communication for its own sake displaces “intention, content, and meaning... we enjoy our endless circulation, our repetitive loop. We are captured because we enjoy” (43).

Both Kristeva’s theory of abjection and Dean’s theory of the circuits of communicative capitalism illustrate how relations to objects can exist in cycles of simultaneous disgust and enjoyment. In abjection one cannot fully turn away from the object of abjection despite their disgust, and in communicative capitalism even when one complains about blogging, one is still trapped in its circuit. This dynamic structure the types of discursive practices that occur in the comments section of many of sissy-boy videos. While there exists a wide variety of comments made in response to these videos, certain forms of comment emerge most commonly in the videos uploaded.

The framing of these videos by the uploaders often determines the responses which are displayed most prominently in the comments section. For example in Sterling's video, because it framed as being a celebration of a moment in which Sperling was able to express himself and be supported by his family, the comments tend to celebrate his decision to upload the video. The two most popular comments that appear at the top of the comments section read "you've got balls of steel dude. Awesome" and "I applaud him for being himself and fantastic in 1992". In the storytelling podcast *The Moth*, Sperling recounts the story of his Madonna themed Bar-Mitzvah "I'm not a very easily embarrassed person, I say whatever is on my mind, but I kept this video a secret for 20 years. I mean I talked about it but I didn't tell anyone there was a video. As time went on, I thought it was time". His decision to ultimately upload that video is narrated as being the result of pressure from his friends but nonetheless marks a shift in his feelings of embarrassment.

If the shame of the sissy-boy is associated to the feminization of the gay male subject which puts his male privilege at risk, for however brief a period, the return to and celebration of the primal moments of sissy-boy shame challenge the imposition of gender regimes which structure gay male identity. This decision can be best understood through Gilad Padva's concept of femininostalgia, the practice of remembering the scene of childhood shame via femininization through affirmation rather than victimization; "This femininostalgic scene colors this gay childhood in feminine shades, remembering fondly his early queer identification and his effeminate performance that challenges conservative sex roles and gender dichotomies" (84). For Padva, femininostalgia enables the queer subject to "challenge the powerful gender regime and its imposed heteromascularity and heterofemininity" (93).

Videos that are not framed through a similar affirmative frame, where the decision to upload and the subsequent circulation is based more in humor and humiliation, display different forms of comments. Whittaker has disabled the comment feature on his video most likely in response to the amount of negative comments directed at both his son and his parenting. Instead he has remade the video where he recreates the video but when he tells Losiah that he is not a single lady, Losia displays a different response telling his dad “I know” and continuing to sing. In “mom scares the gay out of him” the comments display more explicit forms of homophobic sentiment; “GREAT and hilarious !!! That gay singing should be stopped immediately !” (andreas dobberman), “Best mother ever” (nate doane), “He'll thank her later” (LordAteag).

Like the comments to Sperling videos, many of the comments are left by adults who are involved in a rehearsal of putting one’s self into the scene of primal shame not as the child, but as the adult witnessing the child. In his book titled *Humiliation*, Wayne Koestenbaum states that humiliation involves a triangle: “(1) the victim, (2) the abuser, and (3) the witness. The humiliated person may also behold her own degradation, or may imagine someone else, in the future, watching it or hearing about it. The scene’s horror—its energy, its electricity—involves the presence of three. An infernal waltz” (11). By watching these videos the viewers put themselves in the position of the witness. Whereas the comments in Sperling’s video display responses of care or consideration when put into the position of witness, celebrating rather partaking in the humiliation of Sperling, the comments in “mom scares gay out of him” reproduce and strengthen the shame by validating the position of the parent as punisher.

In the afterward to her book *Ugly Feelings*, Sianne Ngai describes disgust’s relationship to pluralism and tolerance citing Melville who suggests that “tolerance is always, in some fundamental way, a negation of disgust” (333). As Ngai states, part of what makes the object of



disgust abhorrent is its outrageous claim for desirability (335) ,which in sissy-boy videos announces itself through the public display of a performance that was supposed to remain private and hidden. She goes to state that the identification of an object as intolerable can be used to mobilize against what Herbert Marcuse calls repressive tolerance, “the ‘pure’, ‘indiscriminate’, or nonpartisan tolerance that maintains the existing class structure of capitalist democracy” (340).

Ngai describes the object of tolerance as being perceived to be harmless or relatively unthreatening, “its ability to be tolerated in this sociopolitical context thus becomes an index of its sociopolitical ineffectuality—in particular, its ineffectuality as a mechanism for dissent and change” (342). The status of sissy-boy videos as objects of disgust demonstrates their political efficacy in a climate of gay politics defined by pride where shame is understood as a phase to be passed through. Critics, politicians, and legislators have attempted to combat increasing rates of gay youth suicide by framing online privacy and bullying as the main culprits of homophobic violence against youth. These videos and their uptake as objects of disgust via humor remind us that the shame associated to queerness, femininity, and gender non-conformance have not been collectively worked through and remain as complicit in violence against gay youth as factors such as internet privacy and bullying. Whereas other forms of media forms of representing the gay child on YouTube emphasize narratives of overcoming the injury of queer childhood, upholding an image of society where pluralistic values of acceptance and tolerance reign true, sissy-boy videos remain stark reminders of the shame and disgust which continue to structure the construction of the gay child.

## Conclusion

In this thesis, I have attempted to illustrate the position of the queer child in digital rights discourse. As the digital rights of children have commandeered the attention of policy makers, educators, child-welfare advocates, and scholars, the queer child has emerged as a figure uniquely at risk and vulnerable to the dangers of privacy breaches. This is due to several high-profile cases of queer youth who have committed suicide after experiencing what many would describe as cyberbullying. This vulnerability has been codified through legal strategies such as the innocence narrative and LGBT focused anti-bullying policies by education institutions which reduce privacy to a binary of secrecy and outing rather than understanding it as dynamic process of boundary management. Fears around outing and exposure frame sexuality as a risk which needs to be assessed and managed, often through bureaucratic procedures which are aimed to protect institutions from legal and financial harm.

These paternalistic ideals are rooted in long standing historical anxieties around childhood and sexuality wherein childhood is conceptualized as innocent because of its separation from the realm of sexuality. As such, queer children have presented a conceptual difficulty and have been left out of public consciousness. Their entrance into public discourse has been facilitated by what had been commonly described as an epidemic of queer youth suicide. In response, popular media campaigns such as ItGetsBetter have highlighted the message that the traumas of queer childhood can be overcome by the transition into adulthood. As the mainstream LGBT movement has distanced itself from shame, in this thesis I have argued for the continued importance of centering shame as a structuring affect of queer identity because following Sedgwick, I believe the childhood scene of shame remains a source of transformational energy for queer politics.

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