Of Worthy and Worthier Blood:
Anti-HIV Medication, Gay Families and the FDA Blood Ban

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This research empirically studies the relationship between PrEP, a prophylactic HIV drug, the recognition of gay marriage and gay families, and the public trust in blood donation policies. Current FDA policy forbids blood banks from accepting blood from men who have had sex with other men in the previous year. An online experiment conducted with two nationally representative samples of more than 6,000 participants examined how public support for the blood ban varies with gay men's marital status, parental status, and use of PrEP. The experiment included random assignment of eight variations of a vignette with these characteristics. The findings indicate that even when laypeople are educated about the health benefits of PrEP – which has been proven to prevent HIV infection – they are more reluctant to use blood donated by those taking the drug than by those who are not. Furthermore, the only category of gay men who were trusted to be able to donate blood were married couples with children (as compared to married couples with no children, single parents, and single gay men). Those two findings raise questions regarding the role that stigma might play in the implementation of public health policies and in the understanding of legal institutions such as marriage and family in the post-*Obergefell* era. This paper will conclude with proposing legislative solutions in order to lift the blood ban restrictions.

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The FDA Blood Ban for MSM

In 1983, amid the AIDS crisis, the Food and Drug Administration (FDA) made its first recommendation for a blood donor deferral policy that was aimed at ensuring the safety of blood supply for transfusions.[1] In 1985, the FDA recommended that blood banks indefinitely defer blood donations from men who have sex with men (MSM), even one time, since 1977.[2] This public health policy was enacted at the time of the AIDS crisis, when a strong connection between HIV-AIDS, sex between men and blood transfusion was identified for the first time, and before the first screening tests for HIV were approved in 1985.[3] It is clear therefore that it was born out of a necessity.[4] This policy has been revisited a few times since it was first enacted. Those revisions have been attributed to the technological advancements that have reduced the risk of HIV transfusion through blood transfusion from 1 in 2,500 prior to 1985 to about 1 in 1.47 million transfusion.[5] Currently, the policy does not accept blood donations from men who had sex with men in the year prior to the donation, stating that:

> "FDA recommends that blood establishments defer potential donors as follows:
> …
> 9. Defer for 12 months from the most recent contact a man who has had sex with another man during the past 12 months."[6]

The ban has been criticized by scholars as well as many in the gay and LGBTQ community who argue it is discriminatory, unnecessarily stigmatizing, and unconstitutional.[7] They point to research

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[1] CTR. FOR BIOLOGICS EVALUATION & RESEARCH U.S. DEP'T OF HEALTH & HUMAN SERVS., REVISED RECOMMENDATIONS FOR REDUCING THE RISK OF HUMAN IMMUNODEFICIENCY VIRUS TRANSMISSION BY BLOOD AND BLOOD PRODUCTS 2 (2015) https://www.fda.gov/media/92490/download.

[2] *Id*.

[3] *Id*.

[4] Brian Noicek, *The Case of the Religious Gay Blood Donor*, 60 WM. & MARY L. REV. 1893, 1899 (2019); Mathew L. Morrison, *Bad Blood: An Examination of the Constitutional Deficiencies of the FDA's "Gay Blood Ban"* 99 MINN. L. REV. 2363, 2375 (2015).

[5] CTR. FOR BIOLOGICS EVALUATION & RESEARCH, *supra* note 1, at 2; Morrison, *supra* note 4, 2397.

[6] The FDA also recommends to "defer for 12 months from the most recent contact a female who has had sex during the past 12 months with a man who has had sex with another man in the past 12 months." See:
U.S. Food and Drug Administration, *Revised Recommendations for Reducing the Risk of Human Immunodeficiency Virus Transmission by Blood and Blood Products - Questions and Answers* (February 2, 2018), https://www.fda.gov/biologicsbloodvaccines/bloodbloodproducts/questionsaboutblood/ucm108186.htm.

[7] Dov Fox, The Expressive Dimension of Donor Deferral, 10 Am. J. Bioethics 42, 43 (2010); Morrison, *supra* note 4, 2390-91; Luke A. Boso, *Dignity, Inequality, and Stereotypes*, 92 WASH. L. REV. 1119, 1158-60 (2017); Michael Christian Belli, *The Constitutionality of the "Men Who Have Sex with Men" Blood Donor Exclusion Policy*, 4 J.L. SOC'Y 315, 362-75 (2003); Dwayne J. Bensing, *Science or Stigma: Potential Challenges to the FDA's Ban on Gay Blood*, 14 U. PA. J. CONST. L. 485, 495 (2011); Vianca Diaz, *A Time for Change: Why the MSM Lifetime Deferral Policy Should Be Amended*, 13 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 134 144 (2013).

based on experiences in other countries, like Italy[8] or Israel[9] that suggests that having gay men donatie blood does not increase the risk of HIV transmission.

This research empirically investigates whether and how two recent biomedical and socio-legal developments pertaining to gay men, arguably the main category within the medical category of MSM, would influence the public legitimacy of the FDA's blood ban. Those new developments are the new preventive HIV drug PrEP (Pre-Exposure Prophylaxis) and the legal recognition, followed by growing social acceptance of gay families. Those will be discussed next.

PrEP: New Anti-HIV Drug

An estimated 1.1 million individuals in the US are currently living with HIV, and more than 700,000 people have died of AIDS since the first cases were reported in 1981.[10] Despite sex education and safe sex campaigns by state organizations, advocacy organizations, and among the medical profession, HIV incidence remains high in Europe and North America mainly among the risk group of MSM.[11] In 2017, there were 38,281 new diagnoses of HIV infection reported in the US; 81% of the new diagnoses were males and 19% were females.[12]

Recent progress in biomedical science has allowed for major breakthroughs in the field of HIV treatment. For example, with regard to people who are HIV positive, a combination therapy medicine helps them live long healthy lives,[13] and antiretroviral medicinal treatment has lowered the level of the virus in their bodies until it becomes undetectable, thus eliminating the risk of transmitting HIV.[14]

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[8] I. Glenn Cohen, Jeremy Feigenbaum & Eli Y. Adashi. *Reconsideration of the Lifetime Ban on Blood Donation by Men Who Have Sex With Men*, 312 JAMA 337, 338 (2014).

[9] Itay Stern, *Mobile Blood Donation Unit to Be Set Up at Gay Pride Event in Tel Aviv*, HAARETZ (May 18. 2018), https://www.haaretz.com/israel-news/.premium-mobile-blood-donation-unit-to-be-set-up-at-gay-event-in-ta-1.6096958.

[10] US Preventive Services Task Force, *Preexposure Prophylaxis for the Prevention of HIV Infection: US Preventive Services Task Force Recommendation Statement* 321 JAMA 2203, 2204 (2019).

[11] See generally: Chris Beyrer, Patrick Sullivan, Jorge Sanchez, et al, *The increase in global HIV epidemics in MSM*, 27 AIDS 2665 (2013); Patrick S. Sullivan, Robertino Mera Giler, Farah Mouhanna, Elizabeth S. Pembleton et al, *Trends in human immunodeficiency virus diagnoses among men who have sex with men in North America, Western Europe, and Australia, 2000–2014* 28 ANNALS OF EPIDEMIOLOGY 847 (2018).

[12] US Preventive Services Task Force, supra note 10, at 2204.

[13] Margaret May, Mark Gompels & Caroline Sabin, *Life expectancy of HIV-1-positive individuals approaches normal conditional on response to antiretroviral therapy: UK Collaborative HIV Cohort Study*, 15 J. INT'L. AIDS SOC'Y 18078 (2012); Christoph D. Spinner, Christoph Boesecke, Alexander Zink, et al, *HIV Pre-Exposure Prophylaxis (PrEP): A Review of Current Knowledge of Oral Systemic HIV PrEP in Humans*, 44 INFECTION 151, 151 (2016)

[14] Robert W. Eisinger, Carl W. Dieffenbach, Anthony S. Fauci, *HIV Viral Load and Transmissibility of HIV Infection: Undetectable Equals Untransmittable* 321 JAMA 451, 452 (2019).

This research specifically looks at the biomedical advances in the prevention of HIV infection, keeping HIV negative individuals negative, namely with a treatment called Pre-Exposure Prophylaxis (PrEP).

PrEP is a combination antiretroviral orally administered drug, developed and manufactured by Gilead Sciences (Gilead) under the brand name Truvada. In 2004, Truvada was first approved by the US Food and Drug Administration (FDA) to treat HIV positive patients in combination with other antiretroviral drugs, and in 2012 the FDA licensed it for use among sexually active HIV negative individuals for PrEP.[15] The FDA recognized that "when used along with safer sex practices, [PrEP] can help lower the chances of getting sexually-transmitted HIV."[16] Nevertheless, clinical trials on the effectiveness of PrEP show that even with the inconsistent use of condoms, when the drug is taken daily it is up to 99% successful in preventing HIV infection.[17]

The use of PrEP in the US has been on the rise since the drug has been approved by the FDA. A recent study by the Center for Disease Control and Prevention (CDC), conducted in 20 urban areas across the US, found that between 2014 and 2017, the use of PrEP has been up by over five times, from 6% to 35% among almost all racial-ethnic subgroups of MSM in all of the areas examined.[18] Estimates talk about over 100,000 Americans using PrEP in 2017,[19] and the

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[15] Alison Hunt, *FDA In Brief: FDA Continues to Encourage Ongoing Education About the Benefits and Risks Associated with PrEP, Including Additional Steps to Help Reduce the Risk of Getting HIV*, U.S FOOD AND DRUG ADMINISTRATION (July 1, 2019), https://www.fda.gov/news-events/fda-brief/fda-brief-fda-continues-encourage-ongoing-education-about-benefits-and-risks-associated-prep.

[16] Hunt, *Id*.

[17] *See*: Centers for Disease Control and Prevention, *PrEP*, CDC.GOV, https://www.cdc.gov/hiv/basics/prep.html; Peter L. Anderson, David V. Glidden, Albert Liu et al, *Emtricitabine-tenofovir exposure and pre-exposure prophylaxis efficacy in men who have sex with men* 151 SCIENCE TRANSLATIONAL MEDICINE 125, 127 (2012); Gus Cairns, *Overall PrEP effectiveness in iPrEx OLE study 50%, but 100% in those taking four or more doses a week*, AIDSMAP.COM (July 22, 2014), http://www.aidsmap.com/news/jul-2014/overall-prep-effectiveness-iprex-ole-study-50-100-those-taking-four-or-more-doses. For a review of older clinical trials showing over 90% success, *see:* CTRS. FOR DISEASE CONTROL & PREVENTION, PREEXPOSURE PROPHYLAXIS FOR THE PREVENTION OF HIV INFECTION IN THE UNITED STATES - 2014: A CLINICAL PRACTICE GUIDELINE 12–13 (2014), https://www.cdc.gov/hiv/pdf/risk/prep/cdc-hiv-prep-guidelines-2017.pdf;

[18] Although the differences between the use of PrEP among white MSM PrEP users (42%) and black MSM PrEP users (26%) remain statistically significant even after controlling for income, health insurance and religion. The differences between Hispanic MSM PrEP users (30%) and whites as well as the differences between older and younger MSM were not found statistically significant after controlling for these factors. *See*: Teresa Finlayson, Susan Cha, Ming Xia et al, *Changes in HIV Preexposure Prophylaxis Awareness and Use Among Men Who Have Sex with Men — 20 Urban Areas, 2014 and 2017*, 68 MORBIDITY AND MORTALITY WEEKLY REPORT 597, 599 (2019).

[19] Patrick S. Sullivan, Robertino Mera Giler, Farah Mouhanna et al, *Trends in the use of oral emtricitabine/tenofovir disoproxil fumarate for pre-exposure prophylaxis against HIV infection, United States, 2012–2017*, 28 ANNALS OF EPIDEMIOLOGY 833, 835 (2018).

numbers keep growing. Awareness of PrEP which was boosted by media and social marketing campaigns has been increasing, and as of 2017, over 80% of MSM have been aware of the treatment.[20] Nevertheless, despite the trend, of the estimated 1 million Americans at substantial risk of contracting HIV and thus could benefit from PrEP, less than 1 in 4 are actually using this medication.[21]

In February 2019, the U.S. Department of Health and Human Services (HHS) proposed a strategic initiative to end the HIV epidemic in the US by reducing new HIV infections by 90% during 2020–2030, a plan that includes the utilization of PrEP.[22] HHS will thus make the medication available to uninsured, at risk of HIV infection, individuals[23] to whom the cost of the medication can amount to more than $2,000 a month, as currently there are no generic versions of the PrEP drug Truvada.[24] Although Gilead, the developer and manufacturer of Truvada, pledged to donate the medication for up to 200,000 individuals each year for up to 11 years,[25] in November 2019, HHS sued Gilead for infringement of government patents. The rationale behind this lawsuit is that if HHS prevails, it would allow for greater availability of PrEP as generic versions of Truvada could be manufactured.[26]

PrEP signals a new dawn in the treatment of HIV and its prevention. There is a chance that this new drug would help decrease stigma around HIV and also be a catalyst for the abolition of the blood ban.

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[20] Finlayson et al, supra note 18, at 599. Nevertheless, in December 2019, attention was called to false ads on social media have been spreading misleading information about alleged severe side effects of PrEP. The ads appear to have been purchased by personal-injury lawyers and entities affiliated with them. The ads raised concerns with public health professionals about dissuading new patients from taking the drug. *See* Tony Romm, *Facebook ads push misinformation about HIV prevention drugs, LGBT activists say, 'harming public health'* The Washington Post (Dec. 9, 2019), https://www.washingtonpost.com/technology/2019/12/09/facebook-ads-are-pushing-misinformation-about-hiv-prevention-drugs-lgbt-activists-say-harming-public-health/.

[21] *What is 'Ending the HIV Epidemic: A Plan for America'?* HIV.GOV (Sep. 3, 2019), https://www.hiv.gov/federal-response/ending-the-hiv-epidemic/overview.

[22] Anthony S. Fauci, Robert R. Redfield, George Sigounas, et al, *Ending the HIV Epidemic A Plan for the United States*, 321 JAMA 844, 844 (2019).

[23] What is 'Ending the HIV Epidemic, *supra* note 21.

[24] George Citroner, *Cost of HIV Prevention Drug Discouraging People from Doing PrEP Therapy*, HEALTHLINE (July 11, 2018), https://www.healthline.com/health-news/cost-of-hiv-prevention-drug-discouraging-people-from-doing-prep-therapy#1.

[25] Press Office, U.S. Department of Health and Human Services, *News Release: Trump Administration Secures Historic Donation of Billions of Dollars in HIV Prevention Drugs*, HIV.GOV (May 9, 2019), https://www.hiv.gov/blog/news-release-trump-administration-secures-historic-donation-billions-dollars-hiv-prevention.

[26] Donald G. McNeil Jr. & Aprooca Mandavilli, *Who Owns H.I.V.-Prevention Drugs? The Taxpayers, U.S. Says*, THE NEW YORK TIMES (Nov. 8, 2019), https://www.nytimes.com/2019/11/08/health/hiv-prevention-truvada-patents.html?smid=nytcore-ios-share.

Gay Families and the Push for Normalcy

As many scholars pointed out, marriage equality was the alpha and omega of the LGBTQ+ rights agenda since the 1990s.[27] Arguments about the central role of marriage in a one's personal and social settings found their way into the majority opinion of the 2015 historic case *Obergefell v. Hodges* by Justice Kennedy recognizing same sex marriage across the US:

> "Choices about marriage shape an individual's destiny… The nature of marriage is that, through its enduring bond, two persons together can find other freedoms, such as expression, intimacy, and spirituality. This is true for all persons, whatever their sexual orientation… just as a couple vows to support each other, so does society pledge to support the couple, offering symbolic recognition and material benefits to protect and nourish the union."[28]

Some pointed out the symbolic role of marriage as countering stigmas about gays and lesbians as deviant and abnormal, and specifically with regard to the first as sexually promiscuous.[29] As marriage often thought of as coming with a lifetime commitment of monogamy,[30] it allows for confirmation of social legitimacy, respectability, and acceptance. It provides the "necessary ethical imprimatur to gay relationships."[31]

An implied argument in pushing the marriage equality agenda forward was that legitimizing same sex relationships would lead to the acceptance of LGBTQ identity in other arenas as well.

Together with same sex marriage, parentage has also been playing a role in the "normalization" agenda of gays and lesbians. Gay fatherhood has been seen as another powerful counter-example to the stereotype of gay men as unwilling or unable to commit to long-term intimate relationships.[32]

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[27] MICHAEL WARNER,THE TROUBLE WITH NORMAL: SEX, POLITICS, AND THE ETHICS OF QUEER LIFE 87 (1999). This is despite claims that the campaign for marriage equality was never supported by a majority of gay and lesbian activists, see *id*, at 85

[28] *Obergefell v. Hodges* 135 S.Ct. 2584, at 2599-2601 (2015).

[29] WILLIAM N. ESKRIDGE, JR., THE CASE FOR SAME-SEX MARRIAGE: FROM SEXUAL LIBERTY TO CIVILIZED COMMITMENT 10 (1996); Sonu Bedi, *An Illiberal Union*, 26 WM. & MARY BILL OF RTS. J. 1081, 1150-51 (2018).

[30] Elzabeth F. Emens, *Manogamy's Law: Compulsory Monogamy and Polyamorous Existence,* 29 N.Y.U. REV. L. & SOC. CHANGE 277, 298 (2004).

[31] Bedi, *supra* note 29, at 1151. See also: ANDREW SULLIVAN, VIRTUALLY NORMAL: AN ARGUMENT ABOUT HOMOSEXUALITY 182 (1995). As queer theorist Michael Warner put it: "Marriage, in short, would make for good gays—the kind who would not challenge the norms of straight culture, who would not flaunt their sexuality, and who would not insist on living differently from ordinary folk," WARNER, *supra* note 27, at 113.

[32] E. Gary Spitko, *From Queer To Paternity: How Primary Gay Fathers Are Changing Fatherhood And Gay Identity*, 24 ST. LOUIS U. PUB. L. REV. 195, 211 (2005).

The literature has discussed multiple stereotypes associated with gay parents, and specifically with gay fathers. Earlier research, from 2009, analyzing court cases involving gay and lesbian parents suggested that gay fathers have been subject to two main stereotypes. First, they have been stereotyped as HIV agents – men who carry HIV and infect children with the virus.[33] On a similar note, it was argued that the opposition for gay fatherhood arises from public visceral disgust with gay sex, leading many members of the public to conclude that it is better for children to be raised in heterosexual households so they will not be exposed to a promiscuous lifestyle.[34] Second, gay fathers have been viciously stereotyped as child molesters.[35] Gay fathers do conform to the gender stereotype of fathers as bread winners and not as caregivers.[36] They are often also painted as dishonest or untrustworthy, a perception that is the result of the first generation of gay fathers who became fathers through marriages to women, then divorced and entered into a relationship with a man.[37] "Such circumstances would tend to reinforce an existing negative gay male identity as unfaithful and untrustworthy, unsuited for long-term intimacy, self-absorbed, and hyper-sexual."[38]

Despite these stereotypes, sociologists have argued that no measured public opinion attitude in the US has changed more quickly than support of same-sex marriage and gay rights.[39] Michael Rosenfeld empirically proves that how Americans feel about gay rights is closely related to the way they feel about the morality of gay sex.[40] After 1991, there was a sharp increase in tolerance toward gay sex that enabled crucial breakthroughs in gay rights.[41] These change in public opinion have gone hand in hand with the tolerance and acceptance of LGBTQ relationships in the Supreme Court.[42] This trajectory included cases as *Romer v. Evans* (1996, declaring the Colorado state constitutional amendment preventing protected status based upon

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[33] Clifford J. Rosky, *Like Father, Like Son: Homosexuality, Parenthood, and the Gender of Homophobia*, 20 YALE J.L. & FEMINISM 257, 280 (2009).
[34] Richard E. Redding, *It's Really About Sex: Same-Sex Marriage, Lesbigay Parenting, and the Psychology of Disgust*, 15 DUKE J. GENDER L. & POL'Y 127 (2008).
[35] Rosky, supra note 33, at 262; Dara Purvis, *The Sexual Orientation of Fatherhood*, 2013 MICH. ST. L. REV. 983, 998 (2013).
[36] Purvis, *supra* note 35, at 992.
[37] Purvis, *supra* note 35, at 992, referring to Spitko, supra note 32, at 198.
[38] Spitko, *supra* note 32, at 198-99.
[39] Michael J. Rosenfeld, *Moving a Mountain: The Extraordinary Trajectory of Same-Sex Marriage Approval in the United States*, 3 SOCIUS: SOCIOLOGICAL RESEARCH FOR A DYNAMIC WORLD 1, 2 (2017).
[40] Rosenfeld, *supra* note 39, at 10.
[41] Rosenfeld, *supra* note 39, at 11. Rosenfeld attributes this sharp increase in public acceptance of gays and lesbians to Bill Clinton's path-breaking endorsements of the issue on the campaign trail in 1992, see *id*, at 19.
[42] Rosenfeld, *supra* note 39, at 11; Purvis, *supra* note 35, at 1003.

homosexuality unconstitutional),[43] *Lawrence v. Texas* (2003, overturning *Bowers v. Hardwick* that upheld the Georgia sodomy law criminalizing oral and anal sex in private),[44] *U.S. v. Windsor* (2013, striking down part of the Defense of Marriage Act of 1996),[45] and finally *Obergefell v. Hodges* (2015).[46]

In the post- *Obergefell* era and with historic and ever-growing representations of gay families in the popular culture and everyday life,[47] there is a foundation to presume that the trend of supporting and accepting gay families would affect support of other gay agendas such as the abolishment of the blood ban.

Can Knowledge of PrEP and Gay Familial Status Affect the Public Legitimacy of the Blood Ban? An Experimental Approach

This research examines if and how public support for the blood ban varies with a potential gay donor's use of PrEP, his marital status, and his parental status. Specifically, this project asks the following questions:

1. Does familiarity with PrEP have an effect on one's willingness to accept blood from a gay donor and on the public legitimacy of the blood ban?

   The hypothesis is that knowledge of PrEP will assuage concerns about HIV infection, thus increasing the likelihood of one's willingness to accept a blood donation from a potential gay donor and decreasing support of the blood ban (the effect will be both on a personal and a policy level).

2. Does a potential gay blood donor's familial status (being single/married/single parent/married parent) have an effect on one's willingness to accept blood from a gay donor and on the public legitimacy of the blood ban? On a broader level, this question could be phrased as whether the recognition of gay marriage and the social acceptance of gay parenting could promote further policy change in other areas, such as public health.

[43] 116 S.Ct. 1620 (1996).
[44] 123 S.Ct. 2472 (2003).
[45] 133 S.Ct. 2675 (2013).
[46] 135 S.Ct. 2584 (2015).
[47] Andre Cavalcante, *Anxious Displacements: The Representation of Gay Parenting on Modern Family and The New Normal and the Management of Cultural Anxiety*, 16 TELEVISION & NEW MEDIA 454, 456 (2015).

The hypothesis is that gay marriage and parental status will each increase the likelihood of one's willingness to accept a blood donation from a potential gay donor (but will not affect the issue on the policy level, i.e., will not have an effect on views of the legitimacy of the blood ban).

To answer these questions, I designed and executed a survey experiment conducted with two nationally representative samples, totaling more than 6,000 participants, which I ran in 2017 and in 2019.

The participants were first introduced to PrEP and were asked whether they had any knowledge of the medication. They were then given a short vignette about Jim, a gay man who is a universal donor, meaning that his blood type is compatible with all other blood types. The participants were randomly assigned to two independent variables: Jim's use of PrEP and his familial status. Each participant received only one treatment out of the eight possible combinations (between subject design). Here is a table summarizing the random treatment in the experiment:

Treatment[48]	
Jim is taking PrEP	**Jim is not taking PrEP**
Married and a parent	Married and a parent
Married	Married
Single parent	Single parent
Single	Single
Straight	

After being presented with the FDA's policy and the vignette, participants were asked: (1) Whether they would accept a blood transfusion if they knew Jim was the donor (measured on a 5-point Likert scale) and (2) Should the FDA policy allow Jim to donate blood (measured on a 4-point Likert scale). These questions comprise the dependent variable for the study.

The survey included questions related to possible mediators and moderators. Those might explain the relationship between the two independent variables (use of PrEP and the donor's familial status) with the willingness to accept a gay donor's blood and the support of the blood

[48] I kept the issue of the testing of transfusions constant by assuring the participants that blood banks always test donations for contamination.

ban. Such questions were related to, for example, perceptions of the donor's promiscuity, trust in blood banks, fear of HIV, and homophobia. The survey also included an open-ended question, which provided some insights into the participants' considerations and decision-making processes. The qualitative answers to this question were coded separately.

Preliminary Results

Preliminary regression analysis of the data (regression tables from 2019 study found below) reveals that even when laypeople are educated about the health benefits of the new PrEP medication, they are more reluctant to accept blood donated by those taking the drug than by those who are not. This was true both for the personal decision to accept a blood donation from a potential gay donor and on the policy level. This finding countered the initial hypothesis on the issue of PrEP having a positive effect on abolishing the blood ban. In the 2019 study I included a control group of a straight person on PrEP (without including his familial status). Respondents were always more willing to get blood from a straight PrEP patient than from a gay one (regardless of the gay man's familial status). This finding should be attributed to the ban's specific language relating only to MSM but could also speak to the stigmatizing effect of the ban on gay men. It demonstrates the stigmatizing effect the ban itself has on the gay community.

Furthermore, the only category of gay men who were trusted to be able to donate blood were married couples with children (as compared to married couples with no children, single parents, and single gay men). As hypothesized, this finding only held true with regard to the personal decision of accepting a blood donation from a gay donor, but not on the policy level. In other words, it's not enough to be married or to be a parent to garner the public's trust to be able to donate blood. In order to be deemed trustworthy in this context, a gay man needs to conform to the full heteronormative expectation of being married and a parent. This finding is interesting because it sheds light on the limited effect marriage equality could have on other LGBT-related causes.

Other strong predictors related to both the personal choice of accepting a blood donation for a gay men as well as to support the policy change were: having a personal relationship with a person who belongs to the LGBTQ community (fitting with the contact theory originally

established by Allport,[49] and later developed by social psychologists[50]); support of the LGBT community, and trust in the blood banks. Age was found to have a small, yet statistically significant, effect on both individual and policy decision (as one gets older, they are slightly less likely to be willing to accept the blood or support abolishing the blood ban policy).

With regard to public health related concerns, I find that compliance with other blood bans, for example a donation deferral policy for someone who traveled to a foreign country like Turkey, as well as perceptions about having any kind of medication in the blood supply were also correlated both with the personal decision of accepting a blood donation and with support of abolishing the blood ban policy.

Those findings replicate ones from a similar study I conducted in 2017. Further statistical analysis of mediators and moderators as well as qualitative analysis of rationales given by the participants to come.

[49] See generally: GORDON W. ALLPORT, THE NATURE OF PREJUDICE: 25 ANNIVERSARY EDITION (1979).
[50] See, e.g.: THOMAS F. PETTIGREW & LINDA R. TROOP, WHEN GROUPS MEET: THE DYNAMIC OF INTERGROUP CONTACT 16-20 (2011).

Table 1: OLS Regression of Willingness to Accept a Blood Donation

	Model 1	**Model 2**	**Model 3**	**Model 4**
On PrEP	-0.158**	-0.136*	-0.121*	-0.117*
	(0.0574)	(0.0535)	(0.0524)	(0.0474)
Gay Single (ref.)	---	---	---	---
Gay Married	-0.0853	-0.0340	-0.0246	0.0140
	(0.0810)	(0.0754)	(0.0739)	(0.0668)
Gay Single Father	0.0541	0.0614	0.0814	0.0705
	(0.0810)	(0.0751)	(0.0736)	(0.0665)
Gay Married Father	0.0527	0.0709	0.103	0.153*
	(0.0804)	(0.0756)	(0.0741)	(0.0671)
Straight	0.603***	0.664***	0.701***	0.795***
	(0.107)	(0.100)	(0.0984)	(0.0890)
Age	-0.0135***	-0.00444**	-0.00635***	-0.00659***
	(0.00164)	(0.00157)	(0.00156)	(0.00143)
Gender (Female)	-0.00794	-0.0855	-0.0598	-0.0233
	(0.0545)	(0.0515)	(0.0505)	(0.0458)
Support Gay Men		0.415***	0.370***	0.291***
		(0.0197)	(0.0199)	(0.0184)
Contact w LGBTQ		0.190***	0.203***	0.140**
		(0.0545)	(0.0536)	(0.0485)
Trust in FDA			0.0331	0.0194
			(0.0275)	(0.0248)
Trust in Blood Banks			0.221***	0.0855**
			(0.0278)	(0.0262)
Prior Knowledge of PrEP			-0.0167	-0.0590
			(0.0553)	(0.0500)
Compliance w Other Bans (Foreign Country)				0.326***
				(0.0209)
Attitudes Towards Having Any Medications in Blood Supply				0.209***
				(0.0220)
Constant	3.528***	1.639***	0.980***	0.224
R Square	0.0461	0.2382	0.2710	0.4054
Adjusted R Square	0.0432	0.2348	0.2667	0.4013
N	2329	2035	2034	2033

* $p < .05$; ** $p < .01$; *** $p < .001$ (two-tailed test)

Table 2: OLS Regression of Support of Lifting the Blood Ban

	Model 1	**Model 2**	**Model 3**	**Model 4**
On PrEP	-0.139**	-0.118**	-0.110**	-0.109**
	(0.0428)	(0.0399)	(0.0395)	(0.0374)
Gay Single (ref.)	---	---	---	---
Gay Married	-0.0723	-0.0313	-0.0269	-0.00268
	(0.0605)	(0.0561)	(0.0556)	(0.0527)
Gay Single Father	0.000107	0.00566	0.0167	0.0123
	(0.0605)	(0.0559)	(0.0555)	(0.0526)
Gay Married Father	0.00212	0.0344	0.0516	0.0816
	(0.0601)	(0.0562)	(0.0558)	(0.0530)
Straight	0.344***	0.391***	0.411***	0.469***
	(0.0801)	(0.0747)	(0.0740)	(0.0703)
Age	-0.0129***	-0.00580***	-0.00673***	-0.00656***
	(0.00123)	(0.00117)	(0.00117)	(0.00113)
Gender (Female)	0.0156	-0.0216	-0.00802	0.0168
	(0.0407)	(0.0383)	(0.0380)	(0.0362)
Support Gay Men		0.328***	0.304***	0.260***
		(0.0147)	(0.0150)	(0.0145)
Contact w LGBTQ		0.114**	0.119**	0.0865*
		(0.0406)	(0.0403)	(0.0383)
Trust in FDA			0.0194	0.0126
			(0.0207)	(0.0196)
Trust in Blood Banks			0.117***	0.0462*
			(0.0210)	(0.0207)
Prior Knowledge of PrEP			0.0204	-0.00461
			(0.0417)	(0.0395)
Compliance w Other Bans (Foreign Country)				0.201***
				(0.0165)
Attitudes Towards Having Any Medications in Blood Supply				0.0905***
				(0.0174)
Constant	3.109***	1.591***	1.200***	0.776***
	(0.0952)	(0.103)	(0.128)	(0.125)
R Square	0.0584	0.2594	0.2759	0.3507
Adjusted R Square	0.0555	0.2561	0.2716	0.3462
N	2328	2034	2033	2032

* $p < .05$; ** $p < .01$; *** $p < .001$ (two-tailed test)

Preliminary Discussion of the Results

PrEP and the Reincarnation of HIV Stigma

As it happens often with new health related developments, taking PrEP has side effects on the consumer, however I am not referring to the medical ones but to social side effects. Some scholars have reported intragroup stigma,[51] or as one scholar referred to it "gay on gay shaming," with regard to PrEP use. Specifically, stereotypes about the promiscuity and willingness to engage in unprotected sex of those PrEP user have been shown to surface.[52] The stigma of the 'Truvada whore,'[53] has led to a situation that even senators in LGBTQ friendly places like San Francisco feel the need "to come out of the PrEP closet."[54] There is however some hope that as use of PrEP become more commonplace, as the trend predicts, the stigmas around the use would decrease as well.

Outside of the gay community, there had also been concerns from critics in the public health field who view PrEP as a license for users to engage more in unprotected sex and increase their infection with non-HIV sexually transmitted infections (STIs).[55] Although one clinical trial did show a small increase in a condomless sex for PrEP users, there is currently very limited existing insight about actual behavior among PrEP users to show that they engage more in unprotected sex.[56]

The stigmatization of PrEP has had discriminatory implications on users. In 2014, when a gay couple tried to purchase long-term care health insurance from Mutual of Omaha,[57] they were denied eligibility as one of them was taking PrEP.[58] Mutual maintained its decision to deny

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[51] As Erving Goffman, one of the fathers of the study of stigma wrote about intragroup stigma: "the stigmatized individual exhibits a tendency to stratify his 'own' according to the degree to which their stigma is apparent or visible. He can then take up in regard to those who are more evidently stigmatized than him the attitudes that the normals take toward him," see: ERVING GOFFMAN, STIGMA: NOTES ON THE MANAGEMENT OF A SPOILED IDENTITY 102 (1969, 2009 ed.).

[52] Julia Belluz, *The Truvada Wars*, 348 BMJ: BRITISH MEDICAL J. 1, 1 (2014); Sarah K. Calabrese & Kristen Underhill, *How Stigma Surrounding the Use of HIV Preexposure Prophylaxis Undermines Prevention and Pleasure: A Call to Destigmatize "Truvada Whores,"* 105 AM. J. OF PUB. HEALTH 1960, 1961 (2015).

[53] Belluz, *id,* at 1; Calabrese & Underhill, *id*, at 1961.

[54] Scott Wiener, *Coming Out of the PrEP Closet*, HUFFPOST (Sep. 17, 2014), https://www.huffpost.com/entry/coming-out-of-the-prep-closet_b_5832370.

[55] Belluz, *id,* at 1; Calabrese & Underhill, *id*, at 1960.

[56] Calabrese & Underhill, *id*, at 1961.

[57] Plaintiff John Doe's Statement of Undisputed Material Facts in Support of Motion for Summary Judgment at 2-3, Doe v. Mutual of Omaha Insurance Co., No. 1:16-cv-11381-GAO (D. Mass. July 18, 2018).

[58] *Id*, at 6.

coverage even after an internal appeal.[59] Mutual's designated medical director speculated that PrEP use may "foster promiscuity," but denied that promiscuity was grounds for exclusion of insurance. This is despite the director admitting that a person that is promiscuous but takes PrEP as directed is at "low risk" of getting HIV and that PrEP is "highly effective" against HIV.[60] The case was eventually settled.[61] Another instance that was publicized involves a healthy young gay single physician who was on PrEP and was denied disability insurance because of it. The doctor emphasized "[he] never engaged in sexually irresponsible behavior… and [has] always been in long-term monogamous relationships."[62] A lawyer for GLAD (GLBTQ Legal Advocates and Defenders) said he identified 14 instances where companies denied health insurance to gay men on PrEP and that it seems to be a trend.[63] When companies offer explanations, they said the company believed they must be engaging in high-risk sexual behavior.[64] Advocates say that even when they explained to the companies that PrEP was protective, regardless of behavior, "there seemed to be an understanding… but so far I haven't seen any policy changes."[65] The issue has been under investigation under New York financial regulators.[66]

[59] *Id*, at 7.
[60] *Id*, at 19-20.
[61] Joint Status Report at 1, Doe v. Mutual of Omaha Insurance Co., No. 1:16-cv-11381-GAO (D. Mass. Dec. 27, 2018).
[62] Donald G. McNeil Jr., *He Took a Drug to Prevent AIDS. Then He Couldn't Get Disability Insurance*, THE NEW YORK TIMES (Feb.12, 2019), https://www.nytimes.com/2018/02/12/health/truvada-hiv-insurance.html?auth=login-email&login=email.
[63] *Id*.
[64] *Id*.
[65] *Id*.
[66] Donald G. McNeil Jr., *New York Will Investigate Reports of Gay Men Denied Insurance*, THE NEW YORK TIMES (Feb.14, 2019), https://www.nytimes.com/2018/02/14/health/insurance-discrimination-gay-prep.html?module=inline.