

## Chapter 5

# Explaining Policy Adoption: An Empirical Analysis

### ABSTRACT

*The response by government officials to heartbreaking events such as the suicides of Ryan Halligan and Phoebe Price has been mixed. At the state level, actions have ranged from attempting to use traditional aggression policies to halt the rise of cyber aggression crimes to passing new laws aimed specifically at cyber aggression. What explains the differences in the state responses? In exploring this question, this chapter examines the influence of state-level variables on policy adoption for four different forms of cyber aggression. For laws addressing cyberbullying, cyber-harassment, and cyberstalking, this chapter explores the level of legislative action concerning the updating and/or passing of new laws for the years 2007 through 2015. Pooled cross-sectional time series data that controls for variation between states and over time is used. Revenge porn laws are examined, but because they are relatively new, a cross-sectional analysis is presented for the year 2016.*

### INTRODUCTION

Chapters 3 and 4 discuss existing cyber aggression policies including their legislative history and preliminary policy evaluation of their effectiveness. Among the findings of these two chapters is that policy adoption for this issue area is that policy is far from uniform. An important question is, “why isn’t there greater consistency among jurisdictions in the U.S. for addressing forms

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### *Explaining Policy Adoption*

of cyber aggression?” Although there are many factors that influence policy adoption, in this issue area public opinion has become an important factor in placing the topic on the agenda. In 1999, the tragedy at Columbine drew national attention to the problem of bullying. Similarly, in 2003, the suicide of Ryan Halligan became one of the first tragedies to alert the American public to the problem of cyberbullying and was instrumental in the adoption of early state-level cyberbullying laws. The suicide of 15-year-old Phoebe Price in 2010 further increased calls by citizens for state-level school policies to address cyberbullying. As the Internet has evolved, so have the opportunities for online crimes and the continued need to change existing policy. For example, the suicide of Amanda Todd in 2012, focused a spotlight on revenge porn or “nonconsensual porn.” Existing policy was not designed to address this type of cybercrime and necessitated changes to current policy. Tyler Clementi’s suicide in 2010 made us aware of the need for colleges and universities to provide a supportive environment for LGBTQ students on college campuses. These examples help illustrate the evolution of cyber aggression and how the circumstances surrounding these individual cases helped draw our attention to several barriers in crafting laws that can adequately address them. One barrier is that cybercrimes do not respect geographical boundaries. It can be difficult to pass a policy that will stop cybercrimes when culprits are beyond legal jurisdiction. In the case of Amanda Todd, the perpetrator was arrested and sentenced in the Netherlands, but jurisdictional issues can make it difficult to obtain justice (Nobullying.com, 2017).

The second lesson is that public demand (while important in placing an issue on the agenda) does not always result in policy change. Although Amanda Todd’s death brought public demand for legislation addressing online bullying; Bill C-13 was proposed in Canadian Parliament to help protect children from cyberbullying but never passed. Similarly, following the suicide of Tyler Clementi in 2010 there were calls for government action. In response, the federal government has made several attempts to pass the Tyler Clementi Higher Education Anti-Harassment Act which would require institutions of higher education receiving federal funds to have an anti-harassment policy in place. It was introduced on March 27, 2014 and reintroduced on March 18, 2015 with Congress failing to enact it on either occasion. It has again been reintroduced on April 27, 2017 but it seems unlikely that it will be enacted (Civic Impulse, 2017). In addition, although all 50 states have adopted anti-bullying policy, some of the policies are only symbolic. In some states, public

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