Capital-izing Jurors: How Death Qualification Relates to Jury Composition, Jurors' Perceptions, and Trial Outcomes

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During the seventeenth and eighteenth centuries, Colonial America imposed the death penalty for various capital crimes. These capital crimes were specific acts that deemed the defendant eligible for the death penalty, including murder, treason, and burglary, among others (Banner 2002). Most of these death penalties were carried out via public hangings. After the U.S. gained independence, the legal system and punishment—including the death penalty—evolved (Banner 2002; Vidmar and Hans 2007). Currently, capital crimes are largely limited only to murder,[1] and death row inmates are generally executed in a private setting by lethal injection, which is considered to be more humane than previous methods such as hanging, beheading, electrocution, gas chamber, and firing squad.

The legal process involved in capital trials has also changed in that during sentencing decisions in death penalty trials, jurors are the fact finders while judges are the ultimate decision-makers based on the jury's recommendation (*Ring v. Arizona* 2002). Capital trials typically involve a bifurcated trial (i.e., two-phase) process. In the first phase, called the guilt phase, the jury weighs evidence and decides on the guilt of the defendant, similar to non-death penalty criminal trials. If the defendant is found guilty, the trial moves to the second phase, called the sentencing phase. In this phase, the jury must decide on the punishment for the defendant; options typically include life in prison without the possibility of parole or the death penalty (Vidmar

[1]Several states have statutes allowing the death penalty for the rape of a minor/child; however, this was considered unconstitutional in *Kennedy v. Louisiana* (2008; see also Kirchmeier 2006). Similarly, the federal death penalty guidelines allow for the death penalty for crimes such as wrongful deaths (in specific contexts), treason, and espionage (Snell 2014).

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and Hans 2007). In most states, the jurors "weigh" or compare aggravating and mitigating circumstances (Devine 2012) when making sentencing decisions. Aggravating circumstances are characteristics of a crime that make the defendant more worthy of the death penalty (e.g., the crime is especially heinous). Mitigating circumstances are characteristics of the defendant or crime that make the defendant more deserving of a "life in prison without parole" sentence (e.g., the defendant cooperated with the police; Butler and Moran 2002). At least one aggravating circumstance must be present for the death penalty to be an option. Typically, when aggravators are weighed more heavily or are more substantial than mitigators, then the death penalty is given to the defendant (see Latzer and McCord 2011).

Another aspect of death penalty trials that has evolved over the past century is the death qualification process. Death qualification is a process of jury selection unique to death penalty trials, and it occurs during voir dire, the general jury selection process by which potential jurors are excluded if they are unable to render a fair verdict (Vidmar and Hans 2007). Based on potential death penalty trial jurors' responses to judges' and attorneys' questions, some of them are excluded from jury service during death qualification (Haney 2005). Even though this process is in place, presumably to help choose a fair and impartial jury, death qualification might be inherently flawed because it systematically excludes some groups and increases the tendency for jurors to choose death sentences over life in prison sentences (Butler and Moran 2007b; Cowan et al. 1984; Haney 1984; Mauro 1992).

The purpose of this chapter is to: (1) give a brief overview, describing the evolution of the death penalty and death qualification process; (2) examine how the death qualification process might influence jury composition, jurors' perceptions, and jurors' verdicts and sentences; and (3) offer theoretical applications to help explain why death qualification has these effects and propose future research.

The Death Penalty

All but 16 states have sentenced a defendant to death or executed an inmate in the past 40 years; since then, several states have abolished the death penalty (Smith 2012). Currently, 31 states, the federal government, and the U.S. military allow the death penalty. Of the states that have executed inmates in the past 40 years, ten have executed one (or more) inmate per year and three states have executed two or more inmates per year (Smith 2012). This suggests that, although some states have abandoned their use of execution, a majority of states have retained it and many states use it somewhat regularly. However, the death penalty has not always been considered an acceptable method of punishment or criminological strategy. This section provides a brief case history of the death penalty and capital trial processes.

Although the death penalty was broadly applied to common criminals (e.g., thieves, arsonists, burglars, robbers, and petty treason offenders) in Colonial America, not all Americans supported execution for some of these lesser crimes (Banner 2002). For example, William Penn insisted that the death penalty be

reserved only for murderers, an idea that is reflected in modern law (Banner 2002; Palmer 2014). In the early twentieth century, support for and use of the death penalty began declining; then, in *Furman v. Georgia* (1972), the Supreme Court placed a moratorium on the death penalty stating that it violated the cruel and unusual punishment clause in the Eighth Amendment of the U.S. Constitution (Latzer and McCord 2011; Palmer 2014). This claim of cruel and unusual punishment was unrelated to the *method* of execution, but instead was based on the inconsistency and disparity in its *application*; specifically, death sentences were disproportionately given to individuals of certain races and social classes (Palmer 2014). The death penalty was then reintroduced and deemed constitutional in *Gregg v. Georgia* (1976) with the requirement that its application must include more objective criteria, outlined by each state that allows it. This case led to the adoption of several sentencing schemes; the most common is a system of weighing aggravating and mitigating circumstances.

In the decades leading up to *Gregg v. Georgia* (1976), Americans and legal professionals were introduced to the counterintuitive belief that criminal offenses might not necessarily occur under complete volition (Banner 2002). This belief had significant effects on individuals' determination of whether defendants were capable of assuming responsibility for the crime, and thus, eligible for the death penalty. Following *Gregg v. Georgia* (1976), several Supreme Court cases reflected the idea that the mental state of the defendant mattered. Ultimately, the death penalty was ruled to be unconstitutional for the criminally insane (*Ford v. Wainwright* 1986), the mentally retarded (*Atkins v. Virginia* 2002), and juveniles who committed a crime under the age of 18 (*Roper v. Simmons* 2005). Moreover, since 2000, seven states have abolished the death penalty (four states since 2010), and four of the 31 states that have not abolished the death penalty are currently on a governor-imposed moratorium (retrieved from http://www.deathpenaltyinfo.org). This provides evidence that the landscape of death penalty legislation across the U.S. is continuing to evolve.

This brief history highlights how prior controversies (e.g., disparity in application and the constitutionality of executing individuals with compromised mental states) manifest in changes in death penalty policies and legislation. Though lawmakers, indeed, consult public opinion when making legislative decisions, evidence of any causal association is tenuous (McGarrell and Sandys 1996). While the death penalty was abandoned for a brief period of time, it was reintroduced in 1976 (after *Gregg v. Georgia* 1976) with new reforms that required changes in the trial processes. This generated a new controversy related to changes that affected the death qualification process and jurors' discretion over who was sentenced to death and for what reasons. Specifically, the death qualification process was (and for the most part still is) critiqued to unduly influence capital juries, increasing conviction proneness. Similarly, capital juries were critiqued for using targeted, or channeled, discretion convicting specific groups of individuals at disproportionate rates. Alterations in the process of death qualifying jurors, as a result of evolving death penalty legislation, is identified as potentially underlying increased biases related to jurors' perceptions during capital trials, verdicts, and sentencing decisions (Haney

2005). The potential biasing effects of the death qualification process is the primary focus of the rest of this chapter.

A History of Death Qualification

The process of death qualification is considered to be a necessary component in capital trials because it minimizes the possibility that a jury would consist of individuals who are unable to evaluate evidence appropriately and impartially; however, research suggests that the process itself might bias various aspects of the trial (Banner 2002; Haney 2005). Beginning in the 1980s, researchers have examined the potential influence of death qualification on juries. This section includes a brief legal history of death qualification and then provides an extensive examination of the research related to how it impacts various aspects of the trial process.

Several cases outline the evolution of death qualification in the jury selection process. These changes mark attempts by the courts to best ensure a process that selects jurors who are not so biased that they cannot properly follow the law (Vidmar and Hans 2007). The following cases highlighted changes made in death penalty cases specific to death qualification.

In *Witherspoon v. Illinois* (1968), the Supreme Court ruled that, during voir dire, attorneys cannot systematically exclude jurors who did not endorse pro-death penalty attitudes (leaving a jury of only pro-death penalty jurors); this was considered a violation of the Sixth Amendment (impartial jury clause). Then, in the 1970s, after the *Furman v. Georgia* (1972) and *Gregg v. Georgia* (1976) cases, most states that allowed the death penalty adopted the bifurcated trial process (Vidmar and Hans 2007). Bifurcated trials changed the trial process such that jurors participated in two phases: a verdict phase and a sentencing phase (see Banner 2002; Haney 2005; Latzer and McCord 2011; Palmer 2014; Vidmar and Hans 2007). Because jurors now heard essentially two sets of arguments and evaluated case facts at two separate times, the jury selection process required changes. Potential jurors had to be screened for specific attitudes and beliefs that might influence their guilt judgments *and* sentencing judgments (see Banner 2002; Haney 2005; Latzer and McCord 2011; Palmer 2014; Vidmar and Hans 2007).

Nearly two decades after *Witherspoon v. Illinois* (1968), the Supreme Court ruled in *Wainwright v. Witt* (1985) that jurors can be excluded based on personal beliefs that influence their ability to sentence a person to death properly under the statute, and such exclusions do not violate the Sixth Amendment (impartial jury clause) or Fourteenth Amendment (due process clause). This ruling broadened the criteria for which potential jurors could be excluded (see Devine 2012; Haney 2005; Vidmar and Hans 2007), such as economic attitudes, religious beliefs, death penalty attitudes, beliefs about criminality, etc.

Under the *Witherspoon v. Illinois* (1968) death qualification criteria, jurors could be removed based on whether or not they would *automatically* choose one verdict over the other, with jurors typically conveying their inability to give a death

sentence. Jurors might be asked if they would vote for the death penalty if the defendant was found guilty. Jurors who answered that they would never be able to give a death sentence (under any circumstances) were likely removed. However, this process of removal could not be systematic such that it resulted in an only pro-death penalty jury. Under the *Wainwright v. Witt* (1985) death qualification criteria, jurors could be removed if their personal or religious attitudes rendered them unable to be impartial, despite whether or not they would automatically vote for or against sentencing the defendant to death. In this case, jurors might be asked if they had any personal attitudes or beliefs that related to the case or the defendant and whether or not these attitudes or beliefs would influence their sentencing decision. If jurors responded that their attitudes or beliefs would influence their sentencing decisions, or even if they simply *thought* that their attitudes might influence their sentencing decisions, then they were eligible for removal.

Challenges to the constitutionality of death qualification surfaced again in *Lockhart v. McCree* (1986), but the Supreme Court held that death-qualified juries were constitutional. *Lockhart v. McCree* (1986) was an important case because attorneys for the defendant McCree provided social science research supporting the notion that death-qualified juries were more "conviction prone," meaning that a jury made up of death-qualified jurors was more likely to give a conviction than a jury that was made up of a broader selection of jurors. The Supreme Court stated that this evidence was too weak to firmly conclude that that death-qualified juries were unconstitutional. Although this issue has yet to be revisited by the Supreme Court, research conducted after *Lockhart v. McCree* (1986) suggests that McCree's claim that death-qualified juries are conviction prone was valid. Several accounts (e.g., Butler and Moran 2007b; Cowan et al. 1984; Haney 1984; Horowitz and Seguin 1986; Mauro 1992) support the notion that death-qualified juries are more conviction prone and death sentence prone than non-death-qualified juries (which will be discussed in the following sections of the chapter).

Later, in *Morgan v. Illinois* (1992), the Supreme Court ruled that individuals who would automatically impose the death penalty every time for a convicted murderer eligible for the death penalty (called automatic death penalty jurors, or ADP jurors) could be removed as well as those who were absolutely opposed to the death penalty. Although it could be argued that removing ADP jurors offsets the removal of jurors who are strongly opposed, this is not necessarily the case. In a study by Miller and Hayward (2008), death qualification eliminated 11 ADP jurors and 147 jurors who were absolutely opposed to the death penalty. Thus, death qualification might still result in juries that are, as a whole, more supportive of the death penalty than the public in general.

More recently, the U.S. Supreme Court ruled that appellate courts cannot decide whether a lower court should have removed a juror during death qualification. In *Uttecht v. Brown* (2007), an appeals court reversed a trial court's decision based on its finding that the trial court's exclusion of a juror biased the jury against the defendant. However, the Supreme Court ruled that the trial court's decision to remove the juror must be upheld by the appellate courts. This ruling gives trial court judges and attorneys the sole discretion to decide which jurors are biased and which are not biased.

Each of these cases addresses the issue of the constitutionality of jury selection and death qualification in capital trials. Because attorneys exclude potential jurors who might exhibit bias (based on the jurors' attitudes, beliefs, or perceptions related to the case) during the death qualification process, attorneys might systematically remove specific social and demographic groups. The next section focuses on current research that addresses these issues.

The Biasing Effects of Death Qualification

Research has shown that death qualification procedures can result in biased juries. This bias is demonstrated in research regarding three general areas: (1) jury composition; (2) jurors' perceptions; and (3) verdict and sentencing decisions. Each of these is discussed in turn below, after a general discussion of the voir dire process. Then theoretical implications are discussed at the end of the chapter.

Death Qualification and Jury Composition

All of the case rulings discussed above argued that the death qualification process potentially results in biased juries, because it affects the jury's composition (*Morgan v. Illinois* 1992; *Uttecht v. Brown* 2007; *Wainwright v. Witt* 1985; *Witherspoon v. Illinois* 1968). This section discusses how the death qualification process affects the jury that is selected. Not all people who are summoned for jury duty will ultimately serve on the jury, as the process of voir dire (i.e., jury selection) eliminates some potential jurors. Concerns arise when this process results in some groups (e.g., Catholics or women) being eliminated more than their counterparts.

During the general voir dire process (unrelated to death qualification), lawyers and judges exclude potential jurors through two types of challenges: challenges for cause and peremptory challenges (Lieberman and Olson 2009). Judges and attorneys use challenges for cause to remove jurors for a specific reason that can be related or unrelated to the case. For instance, potential jurors who state that they have been raped are likely to be excluded from serving as a juror on a rape case through the use of a challenge for cause. These challenges are unlimited but must be confirmed by the judge (Lieberman and Olson 2009). Challenges for cause tend to be associated with more apparent biases or circumstances that could contribute to bias, such as family ties, personal experience, personal circumstances that make it difficult for a person to serve, or prior exposure to case facts or events.

Attorneys use peremptory challenges to exclude potential jurors based on their suspicion that the juror might be biased—even if they do not necessarily have evidence of this bias (Lieberman and Olson 2009). For example, a prosecuting attorney might use a peremptory challenge to exclude a Democrat potential juror in a case involving a shooting because of a belief that Democrats are less supportive of

gun rights than Republicans, even if the potential juror specifies that he does not have strong feelings about guns. Peremptory challenges can be used to exclude potential jurors for any reason other than race (*Batson v. Kentucky* 1986) or gender (*J.E.B. v. Alabama* 1994). Though it is likely that attorneys attempt to circumvent these two case laws (e.g., *Foster v. Chatman* 2016) and use death qualification criteria to remove jurors based on race or gender.

Potential jurors in death penalty trials can be removed through death qualification if the judge determines that they are unable to be impartial (Devine 2012). Typically, death qualification excludes individuals who are either extremely opposed to *or* extremely in favor of the death penalty, particularly after *Morgan v. Illinois* (1992). For example, during death qualification, attorneys and judges might ask potential jurors if they are able to give the death penalty at all. Those who answer "yes" might then be asked if they believe the death penalty should always be given to individuals who commit capital crimes. Using these types of questions, jurors who have extreme attitudes toward the death penalty are identified and then subsequent questions are used to help judges and attorneys decide whether these extreme attitudes will influence potential jurors' ability to be impartial. Jurors who are excluded (i.e., "excludables") might tend to share common identities, traits, or group affiliations. Therefore, death qualification might exclude specific groups of people that share common attitudes or beliefs that are associated with their opposition to or support for the death penalty.

It is possible that, if the death qualification process systematically eliminates certain groups or individuals with specific traits, then the process might result in a biased jury. For example, if the death qualification process systematically excludes religious conservatives who hold the law in high authority (i.e., legal authoritarians) and tend to be of a racial minority group, then the jury might be disproportionately made up of White, nonreligious liberals who believe the law is malleable and that a man's instinct has the highest authority. As a result, any biases inherent in these groups would then affect the jury verdict. This is also true if the exclusionary result was the opposite; then the prejudices embedded within minority religious conservatives who were legal authoritarians would permeate death-qualified juries. Research examining the effects of death qualification on jury composition suggests that death qualification often results in juries that are biased in ways that consistently disadvantage capital defendants (e.g., Haney et al. 1994). It is possible to argue that as long as those who are extremely against *and* extremely for the death penalty are excluded, that risk would be minimal. However, this is not necessarily true because, as mentioned above, the process likely excludes those who strongly oppose the death penalty at a higher rate than those who strongly support the death penalty. There are two aspects of death qualification that support this notion. First, one could argue that it is likely easier, in practice, to identify and exclude those who are extremely against the death penalty than those who are extremely in favor. Second, there may simply be more people in society who are extremely *opposed* to the death penalty than those extremely in *favor* based on a reading of recent Gallup polls (see also Miller and Hayward 2008).

We would contend that identifying those who are extremely against the death penalty is probably relatively easy in practice given that, procedurally, it involves asking a simple yes/no question (upon which the prospective juror could be categorized as "not death-qualified" and be excluded from the jury). For instance, the question might be phrased, "Would you be willing to consider the death penalty as a possible sentence if the defendant were found guilty?" If the answer is "no," then the prospective juror is identified as failing to meet the death qualification criteria and therefore is excluded from the jury. Even if follow-up questions are posed, these, too, would likely involve dichotomous yes/no answers that would result in exclusion. For instance, the judge may follow up with, "Are you sure there are no circumstances in which you would consider the death penalty as a possible sentence?" If the answer is, "yes," the prospective juror is likely to be dismissed and excluded from the jury.

In theory, identifying jurors who are extremely in favor of the death penalty should be as easy as identifying those against the death penalty. A simple yes/no question could be asked, such as "Would you be willing to consider life without parole as a possible sentence if the defendant was found guilty?" Identifying them in practice, however, may be more challenging. Sandys and Trahan (2008) discuss the difficulties associated with identifying those they refer to as "latent ADP" jurors. Latent ADP jurors are those whose attitudes and beliefs would lead them to always vote for the death penalty if a defendant was found guilty of a capital crime, but who are difficult to identify as ADP jurors during the death qualification process. As far as the authors are aware, there is no equivalent category of "latent anti-death penalty jurors" addressed in the literature. Moreover, because death penalty attitude questions are often framed to assess death penalty opposition, it is possible that latent ADP jurors are more likely to be misidentified or unidentified during the voir dire process (e.g., Dillehay and Sandys 1996).

Although admittedly anecdotal, the third author of this paper observed firsthand the difficulties associated with identifying ADP jurors during the voir dire phase of a murder trial. Jurors who were against the death penalty were very quickly identified and excluded within just one or two yes/no questions; it took much longer to identify and exclude jurors who were extremely in favor of the death penalty. In one instance, a prospective juror expressed his belief in the Biblical dictum "an eye for an eye" and made statements indicating strong support for the death penalty. He was only successfully identified as ADP and excluded from the jury when he stated that, in a hypothetical scenario, even his wife should receive the death penalty if she were found guilty of murder.

Although the above paragraphs provide insight into the death qualification process and the difficulties associated with identifying potential jurors with extreme death penalty attitudes, it is also important to understand these attitudes from a broader societal perspective. When examining public sentiment concerning the death penalty, a striking pattern emerges: approximately 37 % of the population is opposed to the death penalty (see, e.g., Gallup Polls on the topic, available here: http://www.gallup.com/poll/1606/death-penalty.aspx), while just 21 % of the population would be unwilling to impose a sentence other than death (Sandys and

Trahan 2008; in an analysis of Bowers 1995). Given the larger percentage of the population adamantly opposed to the death penalty relative to those strongly in favor, it is little wonder that statisticians have determined that even after various court decisions allowed for the exclusion of ADP jurors, their exclusion would do little to curb a jury's bias on juries (Kadane 1984). Simply put, removing the 21 % of ADP jurors is not enough to counter the effect of removing the 33 % of jurors who oppose the death penalty.

If the death qualification process resulted in the exclusion of more jurors in opposition to the death penalty than jurors in favor, death-qualified juries might exhibit specific biases. Though this bias might directly relate to death penalty attitudes and beliefs, it might also result in a disproportionate representation of jurors with certain demographic characteristics, legal attitudes, and justice beliefs. Juries that are not representative of all demographics, attitudes, and beliefs are not necessarily unconstitutional, but when the death qualification process consistently and systematically excludes individuals with particular attitudes and beliefs, problems can arise. For instance, issues arose during death qualification and jury selection in the trial of the Boston marathon bombing suspect Dzhokhar Tsarnaev in 2015 (MacDonald 2015). Catholics were disproportionately removed relative to other religious groups. This was particularly an issue because the greater Boston area is 46 % Catholic (MacDonald 2015).

The Tsarnaev case illustrates the concern that death qualification has potential to systematically exclude specific social groups. Research supports the notion that religion relates to death penalty support; Protestants are more in favor of the death penalty than Catholics or Jews (Bornstein and Miller 2009; Summers et al. 2010). Thus, it is not surprising that Catholics were being eliminated. Other groups are also at risk of being disproportionately excluded; analyses of data from the General Social Survey (GSS) show that men have been consistently more in favor of the death penalty than women over the past 30 years by an average of about 11 % (Haney 2005). There are also racial/ethnic differences such that Whites are more in favor of the death penalty than ethnic minorities. For instance, analyses of GSS data reveal a consistent difference between Whites and Blacks of approximately 28 % over the past 30 years (Haney 2005). Thus, prosecutors who know such statistics are likely to exclude women, minorities, Catholics, and Jews.

Some research more specifically addresses the question of whether death qualification systematically excludes jurors who hold certain religious beliefs. In a study assessing relationships between death qualification status and individual differences, Catholics were more likely to be excluded than non-Catholics (Summers et al. 2010). Further, religious fundamentalists and individuals who interpreted the Bible literally were less likely to be excluded, compared to their counterparts, and both fundamentalism and literal interpretation were related to attitudes in favor of the death penalty (Miller and Hayward 2008; Summers et al. 2010). This suggests that, through death qualification, juries are more likely to be composed of jurors with certain types of religious beliefs—beliefs that are related to attitudes in favor of the death penalty.

While this might be the case, attorneys and judges are not instructed to compose a jury based on religious beliefs but on death penalty attitudes and beliefs (*Witherspoon v. Illinois* 1968). Despite this understanding, several prosecutors still select jurors, using religious beliefs and affiliations (i.e., Jews) as exclusion criteria (Bornstein and Miller 2009; Darrow 1936; Dieter 2005). It is possible that attorneys and judges align their jury selection practices with official religious stances on the death penalty. For example, juries that constitute a prosecutorial advantage would *include* jurors who affiliate with the Lutheran, Evangelical, and Southern Baptist traditions because these groups officially support the death penalty. In contrast, juries that constitute a prosecutorial advantage would *exclude* jurors who affiliate with the Catholic, Episcopalian, Jewish, Presbyterian, Methodist, Unitarian Universalist, and Church of Christ traditions because these groups officially oppose the death penalty (Bornstein and Miller 2009). Moreover, research suggests Protestants, specifically fundamentalists and Evangelicals, tend to be more supportive of the death penalty than Catholics (Grasmick et al. 1993; Miller and Hayward 2008; O'Neil et al. 2004; Stack 2003; Young 1992, 2000).

Death qualification also systematically excludes jurors based on race, gender, political affiliation, and social class. Specifically, women, Democrats, and low income individuals are more likely to be excluded than their counterparts (Fitzgerald and Ellsworth 1984; Summers et al. 2010). Finally, death qualification affects the racial composition of juries, specifically excluding Blacks and other racial/ethnic minorities (Dieter 2005; Fitzgerald and Ellsworth 1984; Gonzalez-Perez 2001, 2002; Swafford 2011). In one example, a 12-person jury formed from a jury pool that was 44 % Black did not include a single Black juror; this likely was the result of death qualification and strategic peremptory challenges (Swafford 2011; see also Price 2009; Sarma 2012). Such findings support the idea that the death qualification process systematically eliminates jurors who belong to certain social and demographic groups, many of which are typically underprivileged (e.g., low income, Black). This is because members of these groups tend to have stronger oppositional attitudes toward the death penalty (Sullivan 2014). Changes in a jury's racial composition can also change the way in which case facts are interpreted and discussed by a jury (Lynch and Haney 2011). In sum, research suggests that death qualification is more likely to eliminate members of some groups than others. Whether or not death qualification influences jurors' perceptions of trial-related information and individuals involved in death penalty trials—possibly as a result of altered jury composition—is discussed in the following section.

Death Qualification and Jurors' Perceptions

Because death qualification systematically excludes jurors who strongly oppose the death penalty, death-qualified jurors might interpret trial-related information differently than excludables. These differences in interpretation potentially stem from differences in both death penalty attitudes and the death qualification process. Death

qualification is intended to exclude only those whose ability to do their duties as jurors would be affected by their attitudes toward the death penalty (as specified in the *Wainwright v. Witt* 1985 decision). Thus, death-qualified and excludable jurors should weigh evidence similarly, hold similar attitudes about defendants, attorneys, and judges, and perceive witnesses in a similar manner. However, this is not necessarily the case, as discussed in this section.

Over the past few decades, researchers have studied the effects of death qualification on jurors' interpretation of evidence, perceptions of trial participants, and beliefs related to the trial (Butler 2007a; Haney 1984; Haney et al. 1994). This research suggests that death qualification might affect jurors' mental frameworks, establishing biased information processing schemas and strengthening punitive attitudes.

In a seminal study on death qualification, Haney (1984) demonstrated that the process itself had an effect on perceptions of defendants and other individuals in the courtroom, attitudes toward the death penalty, and perceptions of others' attitudes. In this study, half of the participants were shown a video of a death qualification voir dire, and the other jurors were shown the same voir dire but with no death qualification. Then, both groups answered questions about a trial. Individuals who watched the death qualification process believed (more so than individuals who did not watch the death qualification process) that the judge, prosecuting attorney, and defense attorney thought the defendant was guilty. Also, those who watched the death qualification video were more likely to believe that the defendant would be convicted and sentenced to death for murder, and more likely to be convicted of *something* when compared to those who did not watch the death qualification portion of the video. Lastly, those who watched the death qualification video expressed more punitive attitudes toward the judge and prosecuting attorney and reported a stronger belief that the law disapproves of those who oppose the death penalty (Haney 1984). This suggests that simply being exposed to the death qualification process can have substantial effects on a juror's attitudes, perceptions of the defendant, judge, and attorneys, and perceptions of others' attitudes.

Butler (2007a) found that death-qualified jurors also displayed more general prejudicial attitudes than excludables. Specifically, death-qualified jurors reported higher levels of homophobia, racism, and sexism, which can potentially lead to prejudicial decisions regarding defendants who identify with various minority groups.

Death qualification also influences the interpretation of victim testimony and perceptions of victims or victims' survivors. Compared to excludables, death-qualified individuals were more likely to perceive themselves as similar to the victim and perceive the victim as more valuable to friends and family members (Butler 2008). They were also more likely to hold favorable attitudes toward the victim's survivors, feel similar to the survivors, and believe the survivors suffered psychologically. Finally, they were more likely to perceive the defendant unfavorably, perceive the defendant as not able to be rehabilitated in prison, perceive the defendant as less likeable, and believe that information about the impact on family was relevant in the trial and should be used by the jury (Butler 2008). This suggests

that death qualification influences the way in which individuals perceive and evaluate various people during the trial process (see also Haney 2005). Because death qualification both increases *negative* perceptions of the *defendant* and increases *positive* perceptions of the *victim(s)*, it is relatively easy to conclude that death qualification biases jurors' attitudes against the defendant.

Another important aspect of death qualification's effect on jurors in capital trials is jurors' information processing and evaluation of evidence. Since the ruling in *Gregg v. Georgia* (1976), juries are required to evaluate evidence in death penalty cases based on aggravating and mitigating circumstances related to the crime (Butler and Moran 2007a; Latzer and McCord 2011). Compared to excludables, death-qualified individuals endorsed aggravating circumstances more strongly and endorsed mitigators less strongly (Butler and Moran 2002, 2007a; see also Haney et al. 1994). Similarly, death-qualified individuals, under both the *Witherspoon* and *Witt* standards, found aggravating evidence to be more aggravating and mitigating evidence to be less mitigating, and some juries interpreted mitigating evidence as being aggravating during deliberations (Haney et al. 1994; Luginbuhl and Middendorf 1988; Stevenson et al. 2010).

Death qualification impacts the evaluation of aggravating and mitigating circumstances directly; however, it might also have an indirect impact. The effect of death qualification on jury composition likely shapes the ways in which jurors view and evaluate aggravating and mitigating circumstances, such that increasing White representation and decreasing Black representation leads to biased stereotype-driven interpretation of case facts and evidence (Swafford 2011). This stereotype-driven differentiation in evidence evaluation also stems from what is called the "empathic divide," which describes the process of dehumanizing defendants based on demographic characteristics (i.e., race). Dehumanizing defendants then leads to improper or biased interpretation of aggravating and mitigating evidence (Ghoshray 2013; Lynch and Haney 2011). Specifically, when jurors view defendants as depraved and dispositionally criminal, rather than committing crime as a result of psychological and environmental antecedents, jurors are more willing to endorse aggravating circumstances because they fit their criminal stereotype; jurors are also more willing to reject mitigating evidence because it does not fit their criminal stereotype. Juror and victim race can also perpetuate biases among these evaluations, and racial stereotypes can be used in sentencing arguments during deliberations (Devine and Kelly 2015; Foley and Powell 1982; Haney et al. 1994; Lynch and Haney 2015).

It is possible that stereotype-based evaluations of aggravating and mitigating circumstances might be a structural issue in which jurors are presented with an abundance of information they cannot effectively comprehend and complex instructions difficult to understand (Cho 1994; Hans 1995; Luginbuhl and Howe 1995; Morgan and Mannheimer 2009). This information overload results in intuitive or heuristic decision-making and improper consideration and use of aggravating and mitigating information (Morgan and Mannheimer 2009). It can also increase the likelihood that jurors rely on their own misinformed facts regarding the outcomes of their decisions. Jurors rely on misinformation during capital

sentencing, such as perceived parole likelihood and risk of future dangerousness, despite inaccuracies in those perceptions (see Costanzo and Costanzo 1994; Cunningham et al. 2009, 2011; Dayan et al. 1989; Reidy et al. 2013). Overall, death-qualified juries seem to disproportionately evaluate aggravating and mitigating circumstances with a punitive lens, often leading to prosecutorial advantage. These biases likely reflect both death qualification and the capital trial structure.

Death qualification also influences the evaluation of scientific testimony in a death penalty case. For example, death-qualified individuals were more likely to perceive ambiguous scientific testimony evidence as more valid, important, unbiased, and high quality, compared to excludables (Butler and Moran 2007b). While it seems apparent as to how death qualification influences perceptions of trial evidence, one issue unresolved by social science research is whether death qualification influences the accuracy of jurors' ability to recall evidence. While Butler (2007b) suggested that death qualification improved evidence recall and identification, Cowan et al. (1984) suggested that mock jurors in juries that included both death-qualified individuals and excludables were better able to recall evidence than juries of only death-qualified mock jurors. This research suggests that the role of death qualification in considering evidence recall remains unclear. Future research should address these inconsistencies.

Jurors' tendencies to use certain cognitive or emotional tools when evaluating and interpreting trial information likely guides their attitudes and verdict decisions. Because death penalty attitudes are often used as an exclusionary tool during verdict selection, death qualification might result in a jury of individuals who process information similarly. If homogeneity in information processing among jurors correlates with verdict decisions, death qualification might lead to biased jury decisions indirectly through jurors' information processing tendencies. Jurors who process information analytically, systematically, and strategically, but without intuition or emotion, are considered to process information rationally. In contrast, jurors who tend to process information intuitively or based on emotion are considered to process information experientially (Miller et al. 2014). Both rational and experiential processing are often measured as traits, indicating a relatively stable inclination to process information one way or the other. In this regard, Butler and Moran (2007b) found that death qualification was related to jurors' information processing traits. Specifically, death-qualification resulted in retaining jurors who tended to process information less rationally, using less systematic and analytical cognitive strategies when compared to excludables; this suggests that death-qualified jurors might be less likely to strategically and accurately incorporate trial evidence into their decision-making. This further supports the argument that the death qualification process affects jurors' decisions by excluding individuals who might otherwise provide a more rational understanding and interpretation of trial evidence.

Finally, death qualification not only influences jurors' perceptions of information related to the trial, but it also influences jurors' perceptions of information outside of the trial. Death penalty cases tend to receive more attention from the news and media than other cases, partly because of the gruesome nature of the crimes

(heinous murders, torture, rape, etc.). Therefore, jurors might be exposed to this publicity prior to serving on the jury for that case. Information about a defendant or case that is communicated publicly through various media prior to the beginning of the trial is called pretrial publicity. Pretrial publicity typically evokes juror biases against the defendant, potentially a result of the media's priority and emphasis on pro-death penalty stories (Butler 2007b; Haney 2005; Mowen and Schroeder 2011). Compared to excludables, death-qualified individuals attended to more news television and believed that pretrial publicity would not compromise the defendant's right to a fair trial (Butler 2007b). Therefore, pretrial publicity in death penalty cases might be excessively influential to death-qualified jurors, biasing them against the defendant.

In sum, it appears that death-qualified individuals not only perceive *individuals* differently in death penalty trials, but they also perceive and process the *evidence* differently. These studies suggest that death qualification might favor the prosecution through altered perceptions of evidence and defendants. Because jurors' decisions reflect capital trial structures and processes, biases related to the evaluation of evidence manifest in verdicts and sentence recommendations. The extent to which death qualification impacts jury verdicts and sentences is discussed in the next section.

Death Qualification, Verdicts, and Sentences

The most important issue related to death qualification is whether death qualification actually affects verdicts and sentences. Allen et al. (1998) conducted a meta-analysis, including 14 studies, examining the relationship between death penalty attitudes and the likelihood of conviction in a capital case. Overall, favorable attitudes toward the death penalty were positively related to the likelihood of conviction in a capital case, and this relationship was more pronounced among the studies that included a death qualification process. Including current research (approximately five additional studies not included in the meta-analysis) and the studies in the Allen et al. (1998) meta-analysis, the bulk of the research investigating this issue has confirmed that death-qualified juries are indeed more punitive in terms of their guilt verdicts and sentences (Butler 2007c; Butler and Moran 2007b; Cowan et al. 1984; Horowitz and Seguin 1986; Mauro 1992).

In context, it can be easily concluded that juries composed of individuals able to give the death penalty are more likely to give the death penalty, given conviction. However, the effects of death qualification come under stricter scrutiny when examining *Buchanan v. Kentucky* (1987), in which the defendant, David Buchanan, was tried for a noncapital offense by a death-qualified jury in a joint trial (Whisler 1988). In this case, the jury was death-qualified because his codefendant was being tried for capital murder. Thus, the issue of whether or not death-qualified juries are conviction prone played a substantial role. For Buchanan, the jurors' ability to give the death penalty was unrelated to his charges, yet these criteria were used when

selecting his jury; however, the U.S. Supreme Court ruled that this did not violate Buchanan's rights (*Buchanan v. Kentucky* 1987). This case highlights the importance of research that investigates the link between death qualification and conviction proneness.

As Haney (2005) pointed out, death-qualified jurors are asked to confirm that they are able to give the death penalty, and this confirmation likely biases them toward convicting the defendant. By thinking, "given the defendant is guilty, I will be able to give the death penalty," jurors may have already committed to a verdict choice, one they believe the judge wants them to pursue. This might bias jurors against the defendant before hearing any evidence. This mindset might then serve as a foundation in which the jurors interpret and comprehend trial information (Haney 2005). As such, the death qualification process is a suggestive and influential process that leads to conviction prone juries by creating juries that are less likely to share attitudes in opposition of giving a death penalty and reaffirming jurors' willingness and expectations to convict the defendant and sentence him to death.

In the verdict phase of the trial, juries must decide if the defendant is guilty of the crime. The verdict options typically are guilty or not guilty, but some jurisdictions allow for others (e.g., verdict of not guilty by reason of insanity or guilty but mentally ill). Several studies have tested the effects of death qualification on choosing a guilty verdict over a not guilty verdict. In a majority of the studies, death-qualified jurors were more likely than excludables to choose a guilty verdict over a not guilty verdict (Butler and Moran 2007b; Cowan et al. 1984; Horowitz and Seguin 1986).[2] Although it is reasonable to assume that excluding jurors who oppose the death penalty will result in juries that favor the death penalty more than juries that included jurors who oppose the death penalty, Haney (1984) highlights the independent effects of exposure to the formal death qualification process on conviction proneness.

Haney (1984) showed death-qualified participants a video of a jury selection. Half of the participants watched a noncapital voir dire and half of the participants watched the same voir dire with an additional 30-min segment of a death qualification process. The juries who had watched the death qualification process were more likely to convict the defendant even though they experienced the same trial materials as the group that did not watch the death qualification video. It is notable that the participants did not themselves participate in the death qualification process—they merely watched people in a video go through the process. It is possible that personally experiencing death qualification (e.g., answering the judge's questions) would influence a juror to be even more likely to convict the defendant. It is also notable that all participants in this study were death-qualified; thus, there are not only differences *between* death-qualified juries and excludables—but also

[2]One important note is that some of these studies used different exclusion criteria based on the year they were conducted. Different exclusion variables can lead to different jury compositions (Neises and Dillehay 1987; Seltzer et al. 1986; Dillehay and Sandys 1996).

differences *among* death-qualified jurors (Haney 1984). The results of this study suggest that being exposed to the death qualification process increases the likelihood of conviction *independent* of individual attitudes related to death penalty support (see also Allen et al. 1998). Thus, the process itself has an effect on jurors' verdict decisions over and above individual characteristics and attitudes.

Similar to its effects on *verdicts*, death qualification might also influence *sentences*. By thinking "I'm death-qualified," jurors might believe they should give the death sentence because they are qualified to do so. Death qualification likely increases the chance that a death penalty will be chosen because finding the defendant guilty of a crime worthy of the death penalty implies its imposition. In several studies, death qualification increased the likelihood of sentencing the defendant to death over life in prison (Haney 1984; Horowitz and Seguin 1986; Jurow 1971; Mauro 1992). For instance, Butler (2007c) found that jurors who were death-qualified were more likely to give a death sentence compared to jurors who were excludable. As with verdicts, jurors' sentencing behaviors are affected by the death qualification process itself.

Death qualification systematically excludes jurors who are considered unable to be impartial. However, this process inherently possesses several mechanisms that increase punitive attitudes and facilitate a higher likelihood of convicting and sentencing a defendant to death (Haney 2005). During death qualification, jurors are included based on their willingness to give the death penalty, reinforcing the desirability of pro-death penalty attitudes and behaviors. Also, jurors affirm their position by answering several questions about their death penalty attitudes with statements that reinforce and potentially solidify their willingness to give the death penalty upon a conviction. Death-qualified jurors are reoriented with a pro-death penalty mental framework during the trial, leading to increased receptivity to guilt confirming evidence and aggravating factors while simultaneously rejecting innocence confirming evidence and mitigating factors. During the decision-making process, jurors are primed with death penalty cognitions, leading to the desire to deliberate about the defendant's sentence. This results in hastened verdict decisions in which guilt is ultimately rewarded because it is required in order to advance the jury to deliberations about the death penalty, a penalty they were *qualified* and *authorized* to give (Haney 2005). These mechanisms, in combination, appear to link structural components of death qualification to increased convictions and death sentences.

Theoretical Applications and Extensions

Though research tends to support the notions that death qualification alters jury composition, influences trial perceptions, and affects verdicts and sentences, it is critical to consult social psychological theory to better understand these phenomena. The field of social psychology and law has provided various potential theoretical explanations as to how and why death qualification impacts various stages of

the trial process. Each of these theoretical approaches contributes to the current field's understanding of death qualification and its effects on jurors and juries, and combined, they offer significant insight into these effects and provide a foundation for future research.

Regarding jury composition, when attorneys exclude potential jurors, they might use statistics (e.g., showing that men are more in favor of the death penalty than women) to increase the possibility of creating a jury that will decide in their favor. Often, however, attorneys are likely to base their exclusions on intuitions related to certain attitudes and beliefs associated with individuals and their group statuses. This method of exclusion might have social psychological theoretical underpinnings. Individuals often hold lay theories about the world (Furnham 1988; Wegener and Petty 1998). For instance, jurors might believe that people do not deserve to be put to death no matter the crime. In their perceptions and understanding of the world, life might be considered a fundamental right and that no human has the right to determine life and death of others. Other jurors might believe that murderers deserve to die in order to deter crime, despite insufficient evidence supporting the effectiveness of the death penalty as a deterrent (Donohue and Wolfers 2005, 2009; Katz et al. 2003; Kirchgassner 2011; Land et al. 2012; Siennick 2012). These implicit beliefs and theories about crime and punishment might stem from religious beliefs, personal beliefs, or other determinants.

Understanding jurors' lay beliefs provides information to judges and attorneys about how jurors might perceive the defendant, victims, or witnesses. Based on this information, judges and attorneys might attempt to predict how jurors will vote in that particular trial. Specifically, attorneys might try to identify and exclude jurors who would vote against their side.

Judges and attorneys might also use their own lay theories to exclude jurors during voir dire. Darrow (1936) once suggested that prosecuting attorneys should seek jurors of specific Christian denominations because they are more likely to render guilty verdicts. Further, because attorneys might assume that Catholics are strongly opposed to the death penalty (and thus should be excluded from death penalty cases), attorneys might be more likely to exclude all Catholics. This might occur despite the fact that many Catholics support the death penalty (Carroll 2004).

From this research, we might suggest that there is some systematic evaluation and exclusion of jurors based on social or demographic characteristics related to shared lay theories and beliefs—especially when no statistics are available. However, these lay theories are not necessarily accurate portrayals of reality[3] or formal scientific theories. Nevertheless, they can still influence jury selection.

Regarding trial processes, one of the main issues related to death-qualified jurors is that the death qualification process itself influences jurors such that jurors who experience the death qualification process hold more pro-prosecution or

[3]Although Catholics tend to be excluded from death-qualified juries because of the Catholic Church's position and because they are believed to be opposed to the death penalty, nearly 60 % favor the death penalty (Kohut et al. 2012).

anti-defendant perceptions of the trial information than jurors who do not experience death qualification (Haney 2005). This argument centers on the notion that death qualification activates a mentality that is biased against the defendant.

Death qualification requires that jurors openly claim that they are able to give the death penalty if the defendant were to be found guilty and deserving of the death penalty under the guidance of the law. This commitment is agentic in nature. Rather than simply claiming impartiality, jurors are required to claim their willingness to consider sentencing a person to death. Thus, they are primed with the idea that the death penalty is an appropriate punishment for defendants found guilty of a capital crime (Haney 2005). They are also primed with the belief that they must decide both verdict and sentence based upon the entire trial. Therefore, death-qualified juries might be more likely to interpret trial-related information within this pro-death mental framework (meaning that when the evidence is presented, jurors are considering both guilt and death). By contemplating sentencing during the verdict phase of the trial, jurors are preparing themselves for a guilty verdict. Thus, death-qualified jurors might perceive the evidence against the defendant as more deserving of the death penalty (and a guilty verdict), when compared to excludables.

This effect might be a result of several different processes. Haney (2005) argues that judges and attorneys repeatedly ask jurors about their attitudes toward the death penalty; this bolsters these attitudes if they are in favor of the death penalty and questions their attitudes if they are opposed. Haney suggests that individuals who initially oppose giving the death penalty are asked repeatedly whether they are able to give the death penalty, *assuming* the defendant is *guilty*. This simple repetition of questions reiterates the statement that the defendant is guilty. This then biases jurors to think the defendant is guilty because they have contemplated an assumption of guilt related to this decision. Additionally, judges and attorneys might ask their death qualification questions repeatedly to make sure that the juror should not be excluded. However, this can often lead to jurors changing their minds (Haney 2005). Shuy (1995) even provides evidence that judges ask these types of questions in ways leading the jurors to answer questions consistent with being death-qualified. This leads to the conclusion that the death qualification process itself increases the likelihood of a potential juror to be death-qualified *and* assume guilt.

Assuming death qualification increases the likelihood of convictions and the assumption of a defendant's guilt, the process might not necessarily have an impact on death sentencing. While it is quite basic to assume that individuals who are excluded because of opposition against the death penalty would lower the likelihood of a jury's decision to sentence a defendant to death, this does not suggest that the death qualification *process* increases the likelihood of choosing a death sentence. However, Haney (1997, 2005) argues just this point. He proposes that death-qualified juries in capital cases experience moral disengagement, distancing jurors from the moral implications of their actions. This occurs through a process he calls "structural aggravation," in which death qualification and various aspects of death penalty trials facilitate and perpetuate more punitive responses toward

convicted defendants by devaluing the defendant's life and enhancing perceptions of future dangerousness (Haney 1997, 2005). Thus, death qualification might alter the ways in which jurors process information during capital trials.

Death qualification might also alter the ways in which jurors process information, such that death-qualified jurors might experience emotions that influence the way they process and interpret trial-related information (see Epstein 2008; Slovic and Peters 2006). Epstein's (1990) cognitive experiential self-theory suggests that individuals process information in two ways, *rationally* (analytical, calculating, and logical) and *experientially* (heuristic, emotional, and intuitive). Experiential processing leads to fewer cognitive evaluations and more decisions based on feelings and emotions (Epstein 1990). Death qualification might exclude jurors who naturally process information more rationally, resulting in a jury that processes information more experientially. This is partially supported in that death-qualified individuals reported lower trait rational processing scores than excludables (Butler and Moran 2007b). Moreover, individuals who experience heightened emotional *states* are more likely to process information experientially at the time of emotional experience (Epstein 1990). Jurors often experience intense emotions during capital trials, including the death qualification process, which suggests that capital jurors might be at an increased risk of processing trial-related information experientially (see Antonio 2008). Experiential processing might influence jurors' interpretation of evidence and perceptions of legal professionals, resulting in more intuitive evaluations driven by a "pro-death" mental framework compared to more impartial and rational evaluations.

In addition, priming and automaticity research suggests that individuals can be primed with certain ideas or beliefs, activating a mental schema or framework on which individuals then base their decisions (Bargh and Chartrand 2000). Death qualification might prime a certain set of beliefs or attitudes, and jurors might seek information confirming these beliefs. For instance, if death-qualified jurors are primed with beliefs that the defendant is guilty, they might seek information that confirms these beliefs and disregard information that opposes these beliefs, an effect called confirmatory bias (Rabin and Schrag 1999). Moreover, priming specific beliefs might also lead to different decisions. For example, Yelderman and Miller (2015) found that individuals who were primed with religious beliefs related to punitive attitudes and decisions were more punitive in their verdict and sentencing decisions (compared to individuals who were not primed). Although similar to the influence of emotion on information evaluation, priming beliefs might also lead jurors to disregard certain information altogether, rather than simply weighing it differently. This process would then lead to a greater propensity to convict the defendant and give a death sentence—as discussed next.

Regarding verdicts and sentences, these decisions might be influenced by several of the same processes that influence information processing related to perceptions of judges, attorneys, defendants, victims, testimony, and evidence (discussed in the last section). However, two new theoretical applications suggest that verdicts and sentences might also be influenced by unique processes including cognitive dissonance and subjective decision-making thresholds.

Springer and Lalasz (2014) suggest that jurors who are death-qualified experience psychological dissonance throughout the process. When jurors are initially death-qualified, they answer questions in ways that attest to the fact that they are able to give a death penalty based on their attitudes toward the death penalty. They reiterate this ability by stating that they are able to give the death penalty, assuming the guilt of the defendant. As Haney (2005) stated, this answering period emphasizes the assumption of guilt even though the trial has not started. Thus, death-qualified jurors enter the trial with a *biased* presumption of innocence instead of a complete presumption of innocence. Death-qualified individuals are more likely to assume the defendant is guilty than excludable jurors prior to the trial. Because jurors know that they are expected to assume innocence, yet might also assume guilt due to participation in the death qualification process, they experience stress or inner turmoil (Springer and Lalasz 2014). This then leaves them with an unpleasant feeling of cognitive dissonance. To eliminate this feeling, they might justify their beliefs of guilt by convicting the defendant and subsequently voting for the death penalty (Springer and Lalasz 2014).

Other approaches relate to individual differences between death-qualified and excludable jurors. Thompson et al. (1984) suggest that death-qualified individuals have a lower threshold for conviction. Because of the biased information processes and perceptions of trials, death-qualified jurors need less proof to return a guilty verdict and death sentence. This was based on the finding that death-qualified individuals anticipated being less regretful for erroneous convictions and more regretful for erroneous acquittals (Thompson et al. 1984). This might suggest that individuals with lower standards for conviction are more likely to be death-qualified or that, once death-qualified, standards for guilt and giving a death penalty decrease. Ellsworth et al. (1984) suggest that excludables are more likely to value due process over efficient crime control, thus leading them to be less punitive. This comports with Butler and Moran's (2007a) finding that death-qualified individuals tend to have higher legal authoritarian and just world beliefs. Such traits might lead to a higher propensity to convict and favor the death penalty.

Lastly, the experience of the death qualification process might lead to higher convictions and more death penalties because jurors are doing what they believe the judge wants them to do. Simply labeling jury service as jury "duty" implies the moral and honorable commitment of serving on a jury, which is often reinforced by judges and attorneys (Dillehay and Sandys 1996). Death-qualified jurors might fulfill this *moral* and *honorable* obligation by giving the death penalty. Also, individuals tend to obey authorities (Burger 2009; Milgram 1963); as judges are the ultimate authority in the courtroom, jurors are likely to take their cues from the judge. During the process, the judge could ask jurors if they could set aside their objections and give a death penalty (assuming the defendant is found guilty), if they could do their civic duty and be an unbiased juror, and if they are *so* strongly opposed to it that they could not set aside their opinions. Such questions imply that the "correct" thing to do is to find the defendant guilty and give the death penalty, even if they have to ignore their own opinions (though these opinions might resurface during the trial or deliberations; Dillehay and Sandys 1996).

Implications, Limitations, and Future Directions

Death qualification appears to be a process that systematically biases the jury against the defendant. Because of this, defendants in death penalty cases might be at an initial disadvantage, facing an increased likelihood of being found guilty and sentenced to death. This result seems to occur for three reasons. First, individuals with characteristics related to punitiveness are more likely to be selected for capital juries than their counterparts. Second, once they are death-qualified, jurors tend to interpret trial information differently compared to those who are not selected. This interpretation includes biased processing of evidence and biased perceptions of the defendant and victims. Third, the process of death qualification and the individual traits of those selected through death qualification both relate to higher rates of convictions and death sentences. In sum, it appears as if the death qualification process facilitates convictions and death sentences (see also Haney 2005).

Implications for judges and attorneys begin with the voir dire process. Understanding how the process of death qualification during voir dire can lead to the systematic exclusion of potential jurors might inform judges' and attorneys' current practices so that potential jurors are interviewed and screened with the intention to reduce or minimize bias toward conviction and death. Though judges and attorneys might assume that their selection process is unbiased, judges and attorneys should think introspectively and address the extent to which their own lay theories drive exclusion decisions.

Also, understanding how death qualification might influence jurors' information processing during trials might provide insights into attorney arguments and evidence presentation. Research suggests that death qualification relates to jurors' weighing aggravating factors more and mitigating factors less. Because of this research, attorneys might choose to emphasize aggravating and mitigating circumstances differently. For example, defense attorneys might use strategies to clarify and maximize understanding of various mitigating factors or use strategies to discredit or call into question the aggravating factors as likely they already do. Attorneys could point out jurors' biases and ask them to actively correct for these biases—assuming they can do so. In contrast, prosecuting attorneys might frame mitigating factors as aggravating, taking advantage of death-qualified jurors' tendency to interpret mitigating information skeptically and negatively. Enhancing mitigating evidence and minimizing aggravating evidence might also reduce jurors' moral disengagement and humanize the defendant. Several academic and legal scholars have suggested altering various aspects of the death qualification and voir dire process in capital trials to increase jury impartiality (e.g., Cox and Tanford 1989; Harvard Law Review 2014), and integrating current scientific research on the effect of death qualification on juries' decisions might help, at the very least, approach this goal.

Although each study reviewed here has limitations (e.g., fictional trials, non-representative samples, and lack of deliberation), overall this research is quite persuasive. Several of these relationships have been replicated in multiple studies,

and meta-analyses support many of these death qualification effects. Further, findings converge to show the breadth of the ways in which death qualification can affect trial processes and trial outcomes. However, general limitations still exist. The current literature needs to address the lack of verisimilitude by using more realistic trials. Experimental and survey studies are often criticized for not resembling real trials (Finch and Ferraro 1986). Moreover, the legitimacy of social science research's ability to influence court decisions has been contested as a result of perceived weak methodological validity and rigor (i.e., *Lockhart v. McCree* 1986; see also Thompson 1989). Studies need to use actual trials, trial videos, or reenactments in order to increase the realism related to participating in a capital trial. Although ecological validity is not always a major issue in research, it is still important to determine whether results hold with more realistic scenarios (see Bornstein 1999). Research also needs to include generalizable samples (Wiener et al. 2011). Although researchers often acquire venirepersons (people from actual jurisdictional jury pools) for death qualification research, many samples still consist of convenience and student samples, which may or may not influence the results (Bornstein 1999; Chomos and Miller 2015).

Another limitation is that there is no clear conclusion about exactly how the death qualification process affects jurors' information processing. Because research results are still mixed, future research should address this. Lastly, there is almost no inclusion of deliberations in death qualification research. Jury deliberations involve several aspects that can influence jury verdicts, including deliberation quality, structure, and content; foreperson characteristics and stance; majority and minority shifts; and polling procedures (Devine et al. 2001, 2007). Some studies suggest that jury deliberations might produce a leniency effect, decreasing the likelihood of conviction (e.g., MacCoun and Kerr 1988; Miller et al. 2011); however, other studies suggest that juries, specifically capital juries, do not show a leniency bias but often become more punitive after deliberation (e.g., Devine et al. 2004; Lynch and Haney 2009, 2015). This might result from a tendency to conform to the majority or the foreperson's stance or differences in participation, both of which might disproportionately reflect a pro-death view (Devine et al. 2007; see also, Cornwell and Hans 2011). Future research should strive to understand how death-qualified jury deliberations differ from non-death-qualified jury deliberations in decision-making and the independent effects of deliberations on verdict and sentencing decisions.

Future directions for this line of research include testing many of the theoretical explanations provided here. Researchers might utilize new techniques, such as priming techniques, to expand on the existing literature. They might also use statistical methods to determine whether perceptions of trial information (e.g., evidence of aggravation and mitigation) mediate the relationship between death qualification and verdict and sentencing decisions. Researchers might more directly use theories of cognitive dissonance, confirmation bias, processing states and traits. Finally, researchers should use diverse samples of mock jurors and actual jurors, naturalistic settings, and involve realistic trial stimuli in future research to increase the work's ecological validity.

Conclusion

Overall, death qualification has been studied quite extensively (though much of the research was conducted in the 1980s and 1990s), leading to results that suggest the process itself has an effect on jury composition, jurors' perceptions of trial-related information, and verdict and sentence decisions. Though the purpose of death qualification might be to assist judges and attorneys in choosing a jury absent any extreme death penalty biases, it might instead create or perpetuate such biases.

Death-qualified juries are different from non-death-qualified juries in ways beyond the inherent differences in death penalty attitudes. These differences stem from the systematic exclusion of specific social groups and individuals with shared attitudes or beliefs that are thought of as prejudicial toward defendants in death penalty trials. Because death-qualified juries differ on these types of characteristics, they might actually be more susceptible to systematic biases toward defendants.

Death qualification also appears to influence the ways in which individuals interpret trial-related information. By simply being exposed to the death qualification process, jurors perceive various trial-related information in ways that disadvantage the defendant. Thus, beyond individual characteristics, the death qualification process itself creates biases in jurors' understanding of the trial and perceptions of the defendant.

Even more concerning are findings that demonstrate that the death qualification process produces conviction prone juries, independent of jurors' individual death penalty attitudes, that are more willing to give a death sentence to a guilty defendant. Thus, from this research, it is fairly easy to conclude that the death qualification process has important effects on juries and trial outcomes, and these effects should continue to be studied.

References

Allen, M., Mabry, E., & McKelton, D. M. (1998). Impact of juror attitudes about the death penalty on juror evaluations of guilt and punishment: A meta-analysis. *Law and Human Behavior, 22*, 715–731.

Antonio, M. E. (2008). Stress and the capital jury: How male and female jurors react to serving on a murder trial. *The Justice System Journal, 29*(3), 396–407.

Atkins v. Virginia, 536 U.S. 304 (2002).

Banner, S. (2002). *The death penalty: An American history*. Cambridge, MA: Harvard University Press.

Bargh, J. A., & Chartrand, T. L. (2000). The mind in the middle: A practical guide to priming and automaticity research. In H. T. Reis & C. M. Judd (Eds.), *Handbook of research methods in social and personality psychology* (pp. 253–285). New York, NY: Cambridge University Press.

Batson v. Kentucky, 476 U.S. 79 (1986).

Bornstein, B. H. (1999). The ecological validity of jury simulations: Is the jury still out? *Law and Human Behavior, 23*, 75–91.

Bornstein, B. H., & Miller, M. K. (2009). *God in the courtroom: Religion's role at trial*. New York, NY: Oxford University Press.

Bowers, W. J. (1995). The capital jury project: Rationale, design, and a preview of early findings. *Indiana Law Journal, 70*, 1043–1102.

Buchanan v. Kentucky, 483 U.S. 402 (1987).

Burger, J. M. (2009). Replicating Milgram: Would people still obey today? *American Psychologist, 64*, 1–11. doi:10.1037/a0010932

Butler, B. (2007a). Death qualification and prejudice: The effect of implicit racism, sexism, and homophobia on capital defendants' right to due process. *Behavioral Sciences and the Law, 25*, 857–867. doi:10.1002/bsl.791

Butler, B. (2007b). The role of death qualification in jurors' susceptibility to pre-trial publicity. *Journal of Applied Social Psychology, 37*, 115–123. doi:10.1111/j.0021-9029.2007.00150.x

Butler, B. (2007c). The role of death qualification in capital trials involving juvenile defendants. *Journal of Applied Social Psychology, 37*, 549–560. doi:10.1037/t04485-000

Butler, B. (2008). The role of death qualification in venirepersons' susceptibility to victim impact statements. *Psychology, Crime, & Law, 14*, 133–141. doi:10.1080/10683160701483534

Butler, B. M., & Moran, G. (2002). The role of death qualification in venirepersons' evaluations of aggravating and mitigating circumstances in capital trials. *Law and Human Behavior, 26*(2), 175–184. doi:10.1023/A:1014640025871

Butler, B., & Moran, G. (2007a). The impact of death qualification, belief in a just world, legal authoritarianism, and locus of control on venirepersons' evaluations of aggravating and mitigating circumstances in capital trials. *Behavioral Sciences and the Law, 25*, 57–68. doi:10.1002/bsl.734

Butler, B., & Moran, G. (2007b). The role of death qualification and need for cognition in venirepersons' evaluations of expert scientific testimony in capital trials. *Behavioral Sciences and the Law, 25*, 561–571. doi:10.1002/bsl.758

Carroll, J. (2004). *Who supports the death penalty? Gallup poll*. The Gallup Organization. Retrieved from http://www.deathpenaltyinfo.org/gallup-poll-who-supports-death-penalty

Cho, S. (1994). Capital confusion: The effect of jury instructions on the decision to impose death. *The Journal of Criminal Law and Criminology*, *85*(2), 532–561.

Chomos, J. C., & Miller, M. K. (2015). Understanding how individual differences are related to community sentiment toward safe haven laws using a student sample. In M. K. Miller, J. A. Blumenthal, & J. Chamberlain (Eds.), *Handbook of community sentiment* (pp. 83–97). New York, NY: Springer.

Cornwell, E. Y., & Hans, V. P. (2011). Representation through participation: A multilevel analysis of jury deliberations. *Law & Society Review, 45*(3), 667–698. doi:10.1111/j.1540-5893.2011.00447.x

Costanzo, S., & Costanzo, M. (1994). Life or death decisions: An analysis of capital jury decision making under the special issues sentencing framework. *Law and Human Behavior, 18*(2), 151–170. doi:10.1007/BF01499013

Cowan, C. L., Thompson, W. C., & Ellsworth, P. C. (1984). The effects of death qualification on jurors' predisposition to convict and on the quality of deliberation. *Law and Human Behavior, 8*, 53–79. doi:10.1007/BF01044351

Cox, M., & Tanford, S. (1989). An alternative method of capital jury selection. *Law and Human Behavior, 13*(2), 167–183. doi:10.1007/BF01055922

Cunningham, M. D., Sorensen, J. R., & Reidy, T. J. (2009). Capital jury decision-making: The limitations of predictions of future violence. *Psychology, Public Policy, and Law, 15*(4), 223–256. doi:10.1037/a0017296

Cunningham, M. D., Sorensen, J. R., Vigen, M. P., & Woods, S. O. (2011). Life and death in the lone star state: Three decades of violence predictions by capital juries. *Behavioral Sciences & the Law, 29*(1), 1–22. doi:10.1002/bsl.963

Darrow, C. (1936). Attorney for the defense. *Esquire, 5*, 36.

Dayan, M., Mahler, R. S., & Widenhouse, M. G, Jr. (1989). Searching for an impartial sentencer through jury selection in capital trials. *Loyola of Los Angeles Law Review, 23*(1), 151–192.

Devine, D. J. (2012). *Jury decision making: The state of the science*. New York, NY: New York University Press.

Devine, D. J., Buddenbaum, J., & Houp, S. (2007). Deliberation quality: A preliminary examination in criminal juries. *Journal of Empirical Legal Studies, 4*(2), 273–303. doi:10.1111/j.1740-1461.2007.00089.x

Devine, D. J., Clayton, L. D., Dunford, B. B., Seying, R., & Pryce, J. (2001). Jury decision making: 45 years of empirical research on deliberating groups. *Psychology, Public Policy, and Law, 7*(3), 622–727. doi:10.1037//1076-8971.7.3.622

Devine, D. J., & Kelly, C. (2015). Life or death: An examination of jury sentencing with the capital jury project database. *Psychology, Public Policy, and Law, 21*(4), 393–406. doi:10.1037/law0000060

Devine, D. J., Olafson, K. M., Jarvis, L. L., Bott, J. P., Clayton, L. D., & Wolfe, J. M. T. (2004). Explaining jury verdicts: Is leniency bias for real? *Journal of Applied Social Psychology, 34* (10), 2069–2098. doi:10.1111/j.1559-1816.2004.tb02691.x

Dieter, R. C. (2005, October). *Blind justice: Juries deciding life and death with only half truth: How death penalty jurors are unfairly selected, manipulated, and kept in the dark*. Death Penalty Information Center. Retrieved from http://www.deathpenaltyinfo.org/

Dillehay, R. C., & Sandys, M. R. (1996). Life under *Wainwright v. Witt*: Juror disposition and death qualification. *Law and Human Behavior, 20*, 147–165.

Donohue, J. J., & Wolfers, J. (2005). Use and abuses of the empirical evidence in the death penalty debate. *Stanford Law Review, 58*, 791–846.

Donohue, J. J., & Wolfers, J. (2009). Estimating the impact of the death penalty on murder. *American Law and Economics Review, 11*, 249–309.

Ellsworth, P. C., Bukaty, R. M., Cowan, C. L., & Thompson, W. C. (1984). The death-qualified jury and the defense of insanity. *Law and Human Behavior, 8*(1/2), 81–93. doi:10.1007/BF01044352

Epstein, S. (1990). Cognitive-experiential self-theory. In H. Plessner, C. Betsch, & T. Betsch (Eds.), *Intuition in judgment and decision making* (pp. 23–37). New York, NY: Erlbaum.

Epstein, S. (2008). Intuition from the perspective of cognitive-experiential self-theory. In H. Plessner, C. Betsch, & T. Betsch (Eds.), *Intuition in judgment and decision making* (pp.23–37). New York, NY: Erlbaum.

Finch, M., & Ferraro, M. (1986). The empirical challenge to death-qualified juries: On further examination. *Nebraska Law Review, 65*, 21–74.

Fitzgerald, R., & Ellsworth, P. C. (1984). Due process vs. crime control: Death qualification and jury attitudes. *Law and Human Behavior, 8*, 31–51. doi:10.1007/BF01044350

Foley, L. A., & Powell, R. S. (1982). The discretion of prosecutors, judges, and juries in capital cases. *Criminal Justice Review, 7*(2), 16–22. doi:10.1177/073401688200700203

Ford v. Wainwright, 477 U.S. 399 (1986).

Foster v. Chatman, 578 U.S. 399 (2016).

Furman v. Georgia, 408 U.S. 238 (1972).

Furnham, A. (1988). *Lay theories*. New York, NY: Pergamon Press.

Ghoshray, S. (2013). Capital jury decision making: Looking through the prism of social conformity and seduction to symmetry. *University of Miami Law Review, 67*(2), 477–519.

Gonzalez-Perez, M. (2001). A model of decision making in capital juries. *International Social Science Review, 76*(3/4), 79–91.

Gonzalez-Perez, M. (2002). The potential for bias in capital juries. *The Justice System Journal, 23* (2), 235–247.

Grasmick, H. G., Cochran, J. K., Bursik, R. J., & Kimpel, M. (1993). Religion, punitive justice and support for the death penalty. *Justice Quarterly, 10*, 289–314.

Gregg v. Georgia, 428 U.S. 153 (1976).

Haney, C. (1984). Examining death qualification: Further analysis of the process effect. *Law and Human Behavior, 8*, 133–151. doi:10.1007/BF01044356

Haney, C. (1997). Violence and the capital jury: Mechanisms of moral disengagement and the impulse to condemn to death. *Stanford Law Review, 49*(6), 1447–1486.

Haney, C. (2005). *Death by design: Capital punishment as a social psychological system*. New York, NY: Oxford University Press.

Haney, C., Hurtado, A., & Vega, L. (1994). "Modern" death qualification: New data on its biasing effects. *Law and Human Behavior, 18*, 619–633. doi:10.1007/BF01499328

Hans, V. P. (1995). How juries decide death: The contributions of the capital jury project. *Indiana Law Journal, 70*(4), 1233–1240.

Harvard Law Review. (2014). Live free and nullify: Against purging capital juries of death penalty opponents. Note. *Harvard Law Review, 127*(7), 2092–2112.

Horowitz, I. A., & Seguin, D. G. (1986). The effects of bifurcation and death qualification on assignment of penalty in capital crimes. *Journal of Applied Social Psychology, 16*(2), 165.

J.E.B. v. Alabama, 511 U.S. 127, 1994.

Jurow, G. L. (1971). New data on the effect of a "death qualified" jury on the guilt determination process. *Harvard Law Review, 84*(3), 567–611.

Kadane, J. B. (1984). After Hovey: A note on taking account of the automatic death penalty jurors. *Law and Human Behavior*, *8*, 115–120.

Katz, L., Levitt, S. D., & Shustorovich, E. (2003). Prison conditions, capital punishment, and deterrence. *American Law and Economics Review, 5*, 318–343. doi:10.1093/aler/ahg014

Kennedy v. Lousiana, 554 U.S. 407 (2008)

Kirchgassner, G. (2011). Econometric estimates of deterrence of the death penalty: Facts or ideology? *KYKLOS, 64*, 448–478. doi:10.1111/j.1467-6435.2011.00515.x

Kirchmeier, J. (2006). Casting a wider net: Another decade of legislative expansion of the death penalty in the United States. *Pepperdine Law Review, 1*, 1–40.

Kohut, A., Doherty, C., Dimock, M., & Smith, G. (2012). *More concern among opponents about wrongful convictions: Continued majority support for death penalty*. Pew Research Center. Retrieved from http://www.people-press.org/files/legacy-pdf/1-6-12%20Death%20penalty%20release.pdf

Land, K. C., Teske, R. H. C., & Zheng, H. (2012). The differential short-term impacts of executions on felony and non-felony homicides. *Criminology & Public Policy, 11*, 541–563. doi:10.1111/j.1745-9133.2012.00834.x

Latzer, B., & McCord, D. (2011). *Death penalty cases: Leading U.S. Supreme Court cases on capital punishment*. Burlington, MA: Elsevier.

Lieberman, J. D., & Olson, J. (2009). The psychology of jury selection. In J. D. Lieberman & D. A. Krauss (Eds.), *Jury psychology: Social aspects of trial processes* (pp. 97–128). Burlington, VT: Ashgate Publishing Company.

Lockhart v. McCree, 476 U.S. 162 (1986).

Luginbuhl, J., & Howe, J. (1995). Discretion in capital sentencing instructions: Guided or misguided? *Indiana Law Journal, 70*(4), 1161–1181.

Luginbuhl, J., & Middendorf, K. (1988). Death penalty beliefs and jurors' responses to aggravating and mitigating circumstances in capital trials. *Law and Human Behavior, 12*(3), 263–281. doi:10.1007/BF01044384

Lynch, M., & Haney, C. (2009). Capital jury deliberation: Effects on death sentencing, comprehension, and discrimination. *Law and Human Behavior, 33*(6), 481–496. doi:10.1007/s10979-008-9168-2

Lynch, M. & Haney, C. (2011). Mapping the racial bias of the white male capital juror: Jury composition and the "empathic divide." *Law & Society Review, 45*(1), 69–101. doi:10.1111/j.1540-5893.2011.00428.x

Lynch, M., & Haney, C. (2015). Emotion, authority, and death: (raced) Negotiations in mock capital jury deliberations: Emotion, authority, and death. *Law & Social Inquiry, 40*(2), 377–405. doi:10.1111/lsi.12099

MacCoun, R. J., & Kerr, N. L. (1988). Asymmetric influence in mock jury deliberation: Jurors' bias for leniency. *Journal of Personality and Social Psychology, 54*(1), 21–33. doi:10.1037/0022-3514.54.1.21

MacDonald, G. J. (2015, January 25). *Boston bombing jury excludes some Catholics*. USA Today. Retrieved from http://www.usatoday.com/story/news/nation/2015/01/25/boston-bombing-jury-selection-excludes-observant-catholics/22121061/

Mauro, R. (1992). Tipping the scales toward death: The biasing effects of death qualification. In P. Suedfeld & P. Tetlock (Eds.), *Psychology and social policy* (pp. 243–254). New York, NY: Hemisphere Press.

McGarrell, E. F., & Sandys, M. (1996). The misperception of public opinion toward capital punishment: Examining the spuriousness explanation of death penalty support. *American Behavioral Scientist, 39*(4), 500–513. doi:10.1177/0002764296039004012

Milgram, S. (1963). Behavioral study of obedience. *Journal of Abnormal and Social Psychology, 67*, 371–378.

Miller, M. K., & Hayward, R. D. (2008). Religious characteristics and the death penalty. *Law and Human Behavior, 32*, 113–123. doi:10.1007/s10979-007-9090-z

Miller, M. K., Maskaly, J., Green, M., & Peoples, C. D. (2011). The effects of deliberations and religious identity on mock jurors' verdicts. *Group Processes & Intergroup Relations, 14*(4), 517–532. doi:10.1177/1368430210377458

Miller, M. K., Wood, S. M., & Chomos, J. C. (2014). Relationships between support for the death penalty and cognitive processing: A comparison of students and community members. *Criminal Justice and Behavior, 41*, 732–750. doi:10.1177/0093854813509369

Morgan, K., & Mannheimer, M. J. Z. (2009). The impact of information overload on the capital jury's ability to assess aggravating and mitigating factors. *The William and Mary Bill of Rights Journal, 17*(4), 1089–1137.

Morgan v. Illinois, 504 U.S. 719 (1992).

Mowen, T. J., & Schroeder, R. D. (2011). Not in my name: An investigation of victims' family clemency movements and court appointed closure. *Western Criminology Review, 12*, 65–81.

Neises, M. L., & Dillehay, R. C. (1987). Death qualification and conviction proneness: Witt and Witherspoon compared. *Behavioral Sciences & the Law, 5*, 479–494.

O'Neil, K. M., Patry, M. W., & Penrod, S. D. (2004). Exploring the effects of attitudes toward the death penalty on capital sentencing verdicts. *Psychology, Public Policy, and Law, 10*, 443–470.

Palmer, L. J, Jr. (2014). *The death penalty in the United States: A complete guide to federal and state laws*. Jefferson, NC: McFarland & Company Inc.

Price, M. J. (2009). Performing discretion or performing discrimination: Race, ritual, and peremptory challenges in capital jury selection. *Michigan Journal of Race & Law, 15*(1), 57–107.

Rabin, M., & Schrag, J. L. (1999). First impressions matter: A model of confirmatory bias. *The Quarterly Journal of Economics, 114*, 37–82.

Reidy, T. J., Sorensen, J. R., & Cunningham, M. D. (2013). Probability of criminal acts of violence: A test of jury predictive accuracy: Capital jury predictive accuracy. *Behavioral Sciences & the Law, 31*, 286–305. doi:10.1002/bsl.2064

Ring v. Arizona, 536 U.S. 584 (2002).

Roper v. Simmons, 543 U.S. 551 (2005).

Sandys, M., & Trahan, A. (2008). Life qualification, automatic death penalty voter status, and juror decision making in capital cases. *Justice Systems Journal, 29*, 385–395.

Sarma, B. J. (2012). Challenges and opportunities in bringing the lessons of cultural competence to bear on capital jury selection. *The University of Memphis Law Review, 42*(4), 907–934.

Seltzer, R., Lopes, G. M., Dayan, M., & Cana, R. F. (1986). The effect of death qualification on the propensity of jurors to convict: The Maryland example. *Howard Law Journal, 29*, 571–608.

Shuy, R. (1995). How a judge's voir dire can teach a jury what to say. *Discourse & Society, 6*, 207–222. doi:10.1177/0957926595006002004

Siennick, S. E. (2012). Deterrence and the death penalty: A new look at the some recent findings. *Criminology & Public Policy, 11*, 535–537. doi:10.1111/j.1745-9133.2012.00833.x

Slovic, P., & Peters, E. (2006). Risk perception and affect. *Current Directions in Psychological Science, 15*, 322–325. doi:10.1111/j.1467-8721.2006.00461.x

Smith, R. J. (2012). The geography of the death penalty and its ramifications. *Boston University Law Review, 92*, 227–289.

Snell, T. L. (2014). *Capital Punishment, 2012—Statistical Tables*. U.S. Department of Justice, Bureau of Justice Statistics, Office of Justice Programs. Retrieved January 18, 2016 from http://www.bjs.gov/

Springer, V., & Lalasz, C. B. (2014). Death-qualified jurors and the assumption of innocence: A cognitive dissonance perspective on conviction-prone verdicts. *The Social Science Journal, 51* (2), 287–294. doi:10.1016/j.soscij.2013.08.010.

Stack, S. (2003). Authoritarianism and support for the death penalty: A multivariate analysis. *Sociological Focus, 36*, 333–352.

Stevenson, M. C., Bottoms, B. L., & Diamond, S. S. S. (2010). Jurors' discussions of a defendant's history of child abuse and alcohol abuse in capital sentencing deliberations. *Psychology, Public Policy, and Law, 16*(1), 1–38. doi:10.1037/a0018404

Sullivan, J. T. (2014). The demographic dilemma in death qualification of capital jurors. *Wake Forest Law Review, 49*(4), 1107–1172.

Summers, A., Hayward, R. D., & Miller, M. K. (2010). Death qualification as systematic exclusion of jurors with certain religious and other characteristics. *Journal of Applied Social Psychology, 40*, 3218–3234. doi:10.1111/j.1559-1816.2010.00698.x

Swafford, A. T. (2011). Qualified support: Death qualification, equal protection, and race. *American Journal of Criminal Law, 39*(1), 147.

Thompson, W. C. (1989). Death qualification after Wainwright v. Witt and Lockhart v. McCree. *Law and Human Behavior, 13*, 185–215.

Thompson, W. C., Cowan, C. L., Ellsworth, P. C., & Harrington, J. C. (1984). Death penalty attitudes and conviction proneness: The translation of attitudes into verdicts. *Law and Human Behavior, 8*, 95–113. doi:10.1007/BF01044353

Uttecht v. Brown, 551 U.S. 1 (2007).

Vidmar, N., & Hans, V. P. (2007). *American juries: The verdict*. Amherst, NY: Prometheus Books.

Wainwright v. Witt, 470 U.S. 1039 (1985).

Wegener, D. T., & Petty, R. E. (1998). The naïve scientist revisited: Naïve theories and social judgment. *Social Cognition, 16*, 1–7. doi:10.1521/soco.1998.16.1.1

Whisler, B. J. (1988). Sixth amendment: Death qualification of the jury: Process is permissible where defendant does not face death penalty. *The Journal of Criminal Law and Criminology*, *78*(4), 954–983.

Wiener, R. L., Krauss, D. A., & Lieberman, J. D. (2011). Mock jury research: Where do we go from here? *Behavioral Sciences & the Law, 29*(3), 467–479. doi:10.1002/bsl.989

Witherspoon v. Illinois, 391 U.S. 510 (1968).

Yelderman, L. A., & Miller, M. K. (2015, February). *Religious fundamentalism, religious priming, and mock juror verdicts involving the insanity defense*. Paper session presented at the American Psychology and Law Society annual conference in San Diego, CA.

Young, R. L. (1992). Religious orientation, race and support for the death penalty. *Journal for the Scientific Study of Religion, 31*, 76–88.

Young, R. L. (2000). Punishment at all costs: On religion, convicting the innocent, and supporting the death penalty. *William & Mary Bill of Rights Journal, 9*, 237–245.

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