
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

Brooke Butler, Ph.D.* and Gary Moran, Ph.D.†

The purpose of this study was to investigate the impact of death qualification, belief in a just world (BJW), legal authoritarianism (RLAQ), and locus of control (LOC) on venirepersons' evaluations of aggravating and mitigating circumstances in capital trials. 212 venirepersons from the 12th Judicial Circuit in Bradenton, FL, completed a booklet that contained the following: one question that measured their attitudes toward the death penalty; one question that categorized their death-qualification status; the BJW, LOC, and RLAQ scales; a summary of the guilt and penalty phases of a capital case; a 26-item measure that required participants to evaluate aggravators, nonstatutory mitigators, and statutory mitigators on a 6-point Likert scale; sentence preference; and standard demographic questions. Results indicated that death-qualified venirepersons were more likely to demonstrate higher endorsements of aggravating factors and lower endorsements of both nonstatutory and statutory mitigating factors. Death-qualified participants were also more likely to have a high belief in a just world, espouse legal authoritarian beliefs, and exhibit an internal locus of control. Findings also suggested that venirepersons with a low belief in a just world and an external locus of control demonstrated higher

*Correspondence to: Brooke Butler, University of South Florida, Sarasota Department of Psychology, 8350 North Tamiami Trail Sarasota, FL 34243, U.S.A. E-mail: bbutler@banshee.sar.usf.edu

†Florida International University.

We would like to thank Molly Brownell, Violetta Jung, Rhia Krell, Rachel Uneberg, and Casey Williams for their assistance with data collection.

endorsements of statutory mitigators. Participants with legal authoritarian beliefs revealed higher endorsements of aggravators and lower endorsements of nonstatutory mitigators. Legal implications and applications are discussed. Copyright © 2007 John Wiley & Sons, Ltd.

INTRODUCTION

Death qualification is a part of voir dire that is unique to capital trials. During death qualification, prospective jurors are questioned regarding their beliefs about capital punishment. This process serves to eliminate jurors whose attitudes toward the death penalty would render them unable to be fair and impartial in deciding the fate of a defendant. In order to sit on a capital jury, a person must be willing to consider all legal penalties as appropriate forms of punishment. Jurors who “pass” the aforementioned standard are deemed “death qualified” and are eligible for capital jury service; jurors who “fail” the aforementioned standard are deemed “excludable” and are barred from hearing a death penalty case.

The current standard for death qualification is the *Witt* standard. In *Wainwright v. Witt* (1985), the court ruled that if a potential juror feels so strongly about the death penalty that [his/her] belief would “prevent or substantially impair the performance of his duties as a juror, it is grounds for dismissal for cause” (p. 852).

Although the court sought to enhance the fairness and impartiality of capital juries by utilizing the *Witt* standard, the data indicate that this modification did not have the intended effect. In fact, research has suggested that the adoption of the *Witt* standard has had significant consequences. For example, Dillehay and Sandys (1996) found that 28% of participants who met the *Witt* standard would, contrary to law, automatically impose the death penalty. In fact, 36% of all venirepersons exhibited attitudes toward the death penalty that were so vehement that it prevented them from being impartial in a capital case.

Death qualification status is more frequent in certain demographic and attitudinal subgroups than others (Dillehay & Sandys, 1996; Fitzgerald & Ellsworth, 1984; Moran & Comfort, 1982, 1986). In fact, jurors who pass the *Witt* standard tend to be demographically distinguishable: They are more likely to be male, Caucasian, financially secure, politically conservative, and Catholic or Protestant (Butler & Moran, 2002; Hans, 1986). Death-qualified jurors are more likely to trust prosecutors and view prosecution witnesses as more believable, credible, and helpful. They are more likely to consider inadmissible evidence even if a judge has instructed them to ignore it and infer guilt from a defendant’s failure to take the witness stand (Hans, 1986). Death-qualified jurors are more hostile to psychological defenses and are more receptive to pretrial publicity (Butler, 2006; Butler, in press; Butler & Wasserman, 2006; Cutler, Moran, & Narby, 1992). Finally, death-qualified jurors are more likely to believe in the infallibility of the criminal justice process and less likely to agree that even the worst criminals should be considered for mercy (Butler & Moran, 2002; Butler & Wasserman, 2006; Cowan, Thompson, & Ellsworth, 1984; Fitzgerald & Ellsworth, 1984; Haney, 1984a; Haney, Hurtado, & Vega, 1994; Hans, 1986; Moran & Comfort, 1986; Robinson, 1993; Thompson, Cowan, Ellsworth, & Harrington, 1984).

Death qualification also appears to have several biasing process effects. For example, Haney (1984b) argues that the experience of death qualification itself affects jurors' perceptions of both the guilt and penalty phases of a death penalty case. Capital voir dire is the only voir dire that requires the penalty to be discussed before it is relevant. Thus, the focus of jurors' attention is drawn away from the presumption of innocence and onto post-conviction events. The time and energy spent by the court presents an implication of guilt and suggests to jurors that the penalty is pertinent, if not inevitable (Haney et al., 1994). Death qualification also forces jurors to imagine themselves in the penalty-phase proceeding. Previous research has found that simply assuming an event will occur increases the subjective estimate that it will (Tversky & Kahneman, 1974). In addition, during death qualification, jurors are questioned repeatedly about their views on the death penalty. This can have two negative effects. First, jurors can become desensitized to the imposition of the death penalty due to repeated exposure to this potentially emotional issue. Second, jurors are forced to publicly commit to a particular viewpoint. Earlier findings have suggested that public affirmation of an opinion can actually cause that opinion to strengthen (Festinger, 1957). Finally, jurors who do not endorse the death penalty encounter implied legal disapproval by being "excluded" because they are "unfit for capital jury service."

In *Grigsby v. Mabry* (1985), the Eighth Circuit concluded, based on the aforementioned social scientific evidence, that death qualification produces unrepresentative juries. Consequently, the court ruled that death qualification violated the Sixth Amendments, thus jeopardizing capital defendants' right to due process, and affirmed the grant of habeas relief.

In 1986, the issue of death qualification fell before the Supreme Court. The APA submitted an amicus curiae brief to the court summarizing the body of research on death qualification. In this brief, the APA posited that the data demonstrate that death-qualified juries are more pro-prosecution, pro-conviction, and less representative than juries that are not death qualified and that death qualification should be abolished (Bersoff, 1987).

The court reviewed the research and criticized the studies presented by the APA as having "serious flaws in the evidence upon which the courts below had concluded that 'death qualification' produces 'conviction-prone' juries" (*Lockhart v. McCree*, 1986, p. 1764). In essence, the court ignored the weight of the data and the implications of convergent validity, declared the data submitted by the APA inadequate and legally irrelevant, and ruled that the process of death qualification was, indeed, constitutional.

In spite of the fact that *Lockhart* appeared to summarily slam the door on the issue of death qualification, the court has been receptive to hearing other issues relating to the constitutionality of the death penalty. In 2002, the court prohibited the execution of defendants deemed to be mentally retarded (*Atkins v. Virginia*, 2002). In *Roper v. Simmons* (2005), the Supreme Court effectively abolished the death penalty for defendants who are under the age of 18 at the time of the offense. Advances in DNA testing have exonerated numerous death row inmates. In 2003, former Governor George Ryan cited psycholegal research as one of the bases for his decision to issue blanket commutations for all inmates on Illinois' death row. As of this writing, the issue of lethal injection constituting cruel and unusual punishment is being argued before the court and, as a result, executions have been halted in

California, Maryland, and Missouri. In essence, the court has begun to reconsider the issues surrounding the death penalty, and in the 20 years since *Lockhart* the death qualification data have only grown more conclusive. Consequently, the issue of death qualification may no longer be a foregone conclusion.

Capital trials are bifurcated by nature; they consist of a guilt phase and a penalty phase. If a conviction occurs in a capital case, the jury then determines the penalty by weighing the mitigating circumstances (i.e. arguments for life) against the aggravating circumstances (i.e. arguments for death). If the aggravators outweigh the mitigators, the jury is to recommend the death sentence; if the mitigators outweigh the aggravators, then the jury is to recommend life in prison without the possibility of parole (i.e. LWOP).

The Supreme Court has ruled in *Lockett v. Ohio* (1978) that aggravating circumstances are limited by statute; mitigating circumstances are not. The vast majority of states that retain capital punishment employ this version of guided discretion. Although each state is unique, the circumstances that may be considered during trial tend to overlap.

In Florida, there are 14 *specific* aggravating circumstances; the judge has the final opinion on which, if any, of the 14 the jury may consider. In contrast, there are eight *examples* of mitigating circumstances. Although the judge also has the final word on which, if any, will be considered, mitigating circumstances are merely suggestions. In fact, the jury may consider any aspect of the case in mitigation.

Previous research has found that jurors who are excluded from capital jury service because of their beliefs about the death penalty are more receptive to mitigating than aggravating circumstances (Butler & Moran, 2002; Luginbuhl & Middendorf, 1988; Robinson, 1993; Haney et al., 1994). However, the impact of other individual difference variables on jurors' evaluations of aggravating and mitigating circumstances in capital trials has yet to be empirically examined.

One such personality variable is jurors' belief in a just world. Lerner's (1980) just world theory suggests that some people want to believe that the world is a fair place and that people generally get what they deserve. When an unjust event occurs, there are two ways in which people with a high belief in a just world can restore this aforementioned belief: (1) attribute blame to the victim or (2) alleviate the victim's suffering. Previous research has found that the belief in a just world is correlated with juror decisions in criminal and civil trials (Foley & Pigott, 2000; Furnam, 2003; Hafer, 2000; Martin & Cohn, 2004; Moran & Comfort, 1982; Weir & Wrightsman, 1990). However, the relationship between belief in a just world and verdicts does not appear to be particularly clear-cut. All prior research has correlated the belief in a just world to verdicts in either non-capital criminal trials or civil trials. Consequently, it is important to extend the relationship between the belief in a just world and juror decision-making processes to capital cases as well.

Another individual difference variable central to juror decision-making is that of legal authoritarianism (Boehm, 1968; Kravitz, Cutler, & Brock, 1993; Narby; Cutler, & Moran, 1993). Authoritarianism is characterized by submission to authorities and derogation of subordinates, conformity to society's conventions and rules, ostracism of people who challenge society's conventions and rules, and a view of the world in terms of "black" or "white" as opposed to shades of grey (Adorno, Frenkel-Brunswick, Levinson, & Sanford, 1950). Legal authoritarianism, on the other hand, is a variant of authoritarianism that focuses on legal attitudes.

Specifically, legal authoritarians are more likely to feel that the rights of the government outweigh the rights of the individual with respect to legal issues. Legal authoritarianism has been found to predict verdicts in both capital and non-capital criminal cases (Butler, *in press*; Martin & Cohn, 2004; Narby et al., 1993). Specifically, legal authoritarians are significantly more likely than their civil libertarian counterparts to be conviction prone (Narby et al., 1993). Legal authoritarians are also more likely to recommend the death sentence in capital cases (Butler, *in press*). However, the role of legal authoritarianism in jurors' evaluations of aggravating and mitigating circumstances in capital trials has yet to be empirically examined.

A final salient personality variable in juror decision-making is that of locus of control. Locus of control is a concept that is characterized by participants' belief that the events in their lives are due to things that they control (i.e. an internal locus of control) or things that are outside of their control (i.e. an external locus of control) (Nowicki & Duke, 1983). Although locus of control has found to predict various decision-making processes, its role in capital trials remains unknown (Nowicki & Duke, 1983).

The purpose of the current study is to correlate death qualification, belief in a just world, legal authoritarianism, and locus of control with venirepersons' evaluations of aggravating and mitigating circumstances in capital trials. Based on the findings of similar studies, it is hypothesized that death-qualified venirepersons, when compared with excludables, will be more likely to exhibit a high belief in a just world, espouse legal authoritarian beliefs, have an internal locus of control, and lend greater weight to aggravating factors. It is also hypothesized that participants who exhibit a high belief in a just world, have an internal locus of control, and espouse legal authoritarian beliefs will be more receptive to aggravating factors.

METHOD

Participants

Participants consisted of 212 venirepersons who had been called for jury duty (via a random selection of driver's licenses and voter's registrations) at the 12th Judicial Circuit in Bradenton, FL. Fifty-one percent of participants were women; 49% were men. The median age was 52; the median income was \$65,000.

The ethnic origin of the sample was as follows: 5% were African-American; 1% was Asian; 87% were Caucasian; 4% were Hispanic; and 3% were of an ethnic origin other than what was specified on the questionnaire. Although a disproportionately large percentage of the sample was Caucasian, participants were comprised of veritable venirepersons. Therefore, the venirepersons in this sample are, by definition, representative of this venue.

One percent of respondents had no high school education; 3% had some high school; 20% had completed high school; 32% had some college or junior college; 30% had a college degree; and 15% had a post-graduate or professional degree. Twenty-seven percent of the jurors had served on a jury before.

Stimulus Case

First, venirepersons read the summary of testimony presented during the guilt phase of a capital trial involving the robbery and murder of a convenience store clerk. The scenario was constructed with the assistance of an attorney experienced in capital cases and has been successfully used in two prior studies (Butler & Moran, 2002; Butler, *in press-a*).

In the scenario, three eyewitnesses saw a man enter the convenience store and demand money from the cashier. When the cashier turned around to open the register, the perpetrator shouted at him to “hurry up.” The cashier fumbled with the register, and the perpetrator shot him once, killing him instantly. The perpetrator then took the money out of the register (amounting to \$300) and fled. A short time later, the police found a man who matched the description of the murderer walking near the convenience store. The man, Andrew Jones, did not have an alibi for his whereabouts at the time of the crime. They searched him and found \$300. The police arrested Mr. Jones and took him to the police station. In a subsequent lineup, the three eyewitnesses positively identified Mr. Jones as the person they had seen murder the convenience store clerk. His fingerprints were also found at the scene of the crime.

Second, venirepersons then read the summary of arguments and testimony presented during the penalty phase of the aforementioned capital trial. The prosecution presented the following aggravating circumstances and urged participants to vote in favor of the death penalty: the murder occurred during the commission of another felony; the defendant has a prior history of violence; the crime was committed while Mr. Jones was on probation; the crime was committed in order to avoid identification and arrest; the victim was murdered for \$300; and the crime was committed in a cold, calculated, and premeditated manner.

The defense attorney presented the following mitigating circumstances and urged venirepersons to sentence the defendant to life in prison without the possibility of parole: Andrew Jones was physically abused as a child; Andrew Jones had served in the military; he has a history of alcoholism and using illegal drugs; he was under the influence of extreme mental or emotional disturbance; and Mr. Jones was taking two types of antidepressant when the murder occurred.

In an actual trial, the judge determines which aggravating and mitigating circumstances the jury will be allowed to consider. Consequently, it would have been impossible (as well as unrealistic) to include all possible aggravating and mitigating circumstances. Therefore, we randomly selected six aggravators and five mitigators. In addition, we felt that an accurate scenario would simulate capital jurors' experiences more accurately, and, hence, make the results more generalizable.

Attitudes Toward the Death Penalty

First, participants were asked to circle the statement that they agreed with most: (1) The death penalty is never an appropriate punishment for the crime of first-degree murder; (2) I am opposed to the death penalty, but would consider it under certain circumstances for the crime of first-degree murder; (3) I favor the death penalty, but would not consider it under certain circumstances for the crime of first-degree

murder; and (4) the death penalty is the only appropriate punishment for the crime of first-degree murder.

Death Qualification Status

Venirepersons were then asked to indicate whether they felt so strongly about the death penalty (either for or against it) that their views would prevent or substantially impair the performance of their duties as a juror in a capital case. Participants who answered “No” to the aforementioned question were classified as death qualified; those who answered “Yes” were classified as excludable.

Belief in a Just World

The Belief in Just World Scale (BJW) of Rubin and Peplau (1975) was used to measure participants’ belief in a just world. This scale is comprised of 20 items measured on a Likert scale ranging from 0 = “Strongly Disagree” to 5 = “Strongly Agree.” Previous research has found that the BJW scale has acceptable levels of validity and reliability with respect to measuring belief in a just world (Furnam, 2003).

Locus of Control

The Nowicki–Strickland Locus of Control scale (LOC) (Nowicki & Duke, 1983) was used to measure participants’ locus of control. This scale is comprised of 40 items measured on a dichotomous scale with 1 = “Yes” and 2 = “No.” Previous research has found that the LOC scale has acceptable levels of validity and reliability with respect to measuring locus of control (Nowicki & Duke, 1983).

Revised Legal Attitudes Questionnaire

The Revised Legal Attitudes Questionnaire (RLAQ) of Kravitz, Cutler, and Brock (1993) was used to measure participants’ level of legal authoritarianism. This measure is comprised of 23 items measured on a six-point Likert scale ranging from 1 = “Strongly Disagree” to 6 = “Strongly Agree.” Previous research has found that the RLAQ has acceptable levels of validity and reliability with respect to measuring legal authoritarianism (Kravitz et al., 1993).

Dependent Measure

Florida Statute 921.141(5) specifies 14 aggravating factors and Florida Statute 921.141(6) suggests eight mitigating factors that a jury can consider when deciding to sentence a defendant to either death or life in prison without the possibility of parole. Aggravators are limited by statute; mitigators are not. Aggravators are legal

justifications for the imposition of the death penalty; mitigators are legal justifications for a life sentence. If the jury finds that aggravating circumstances do exist, they then determine whether mitigating circumstances exist that outweigh the aggravating circumstances.

Twenty-six items were constructed: 14 represented aggravating factors; five represented nonstatutory mitigating factors; and seven represented statutory mitigating factors. Some factors were relevant to the case; others were not. Venirepersons were asked to read each item and indicate their opinion on a six-point Likert scale, ranging from strong disagreement to strong agreement.

Although participants were told that they could consider anything in mitigation, they were not specifically instructed on the law (i.e. burden of proof; presumption of innocence; bifurcation; decision rules for finding the presence of aggravators; mitigators). We felt that instructions on the aforementioned issues were unnecessary, as our focus is not upon verdict or group decision-making processes. Rather, we were primarily interested in individual venirepersons' perceptions of aggravating and mitigating circumstances. In addition, the aforementioned measure and accompanying instructions have been successfully used in prior research (Butler & Moran, 2002).

Procedure

Permission to collect data at the courthouse was obtained from the Director of the Jury Pool, Marlene Moran, under the assumption she had the opportunity to review the proposal before the research was undertaken. After the proposal was approved, the experimenter collected data in 20 sessions during January–June of 2005. Volunteers were solicited from an area designated for prospective venirepersons who were waiting to be called randomly and assigned to particular cases.

Prior to their participation, venirepersons read an informed consent form, which described the nature of the study, ensured that their participation was completely voluntary and anonymous, and reiterated that they would not receive compensation for their participation. Venirepersons were also given a contact number in case they were interested in the final results of the study once the data were collected and analyzed.

Participants were then asked to complete a booklet of measures. Venirepersons were first asked to complete one question that measured their attitudes toward the death penalty and another question that categorized their death qualification status. Venirepersons were then asked to complete the BJW, LOC, and RLAQ scales. Next, participants read a summary of the guilt and penalty phases of a capital case. Venirepersons were then asked to evaluate a list of aggravating and mitigating circumstances, select a sentence (either death or life in prison without the possibility of parole), and answer standard demographic questions.

RESULTS

Eight percent of venirepersons felt the death penalty is never an appropriate punishment for the crime of first-degree murder; 27% opposed the death penalty,

but would consider it under certain circumstances; 41% favored the death penalty, but would not consider it under certain circumstances; and 23% said the death penalty is the only appropriate punishment for the crime of first-degree murder. Twenty-five percent of participants felt so strongly about the death penalty that they said their views would prevent or substantially impair the performance of their duties as a juror in a capital case. Consequently, these venirepersons were classified as *Witt* excludables.

The distribution of sentence showed no evidence of ceiling or floor effects. Forty-four percent of venirepersons recommended the death penalty; 56% suggested a sentence of life in prison without the possibility of parole.

Attitudes toward the death penalty were significantly related to evaluations of aggravators ($F(3, 208) = 54.03, p < 0.001$), nonstatutory mitigators ($F(3, 208) = 29.94, p < 0.001$), and statutory mitigators ($F(3, 208) = 3.10, p = 0.03$). Specifically, increasing levels of support for the death penalty were related to higher endorsements of aggravating factors and lower endorsements of both nonstatutory and statutory mitigating factors. Attitudes toward the death penalty were also significantly related to sentence ($\chi^2(3) = 55.10, p < 0.001$). Univariate tests demonstrated that increasing levels of support for the death penalty were related to the increased likelihood of sentencing the defendant to death.

Attitudes toward the death penalty were significantly related to belief in a just world ($F(3, 208) = 4.66, p = 0.004$) and legal authoritarianism ($F(3, 208) = 7.31, p < 0.001$). Univariate tests demonstrated that participants who supported the death penalty were more likely to have a high belief in a just world and be legal authoritarians.

Attitudes toward the death penalty were also significantly related to gender ($\chi^2(3) = 15.01, p = 0.002$), ethnic background ($\chi^2(12) = 28.71, p = 0.004$), educational level ($\chi^2(15) = 25.43, p = 0.04$), political views ($\chi^2(9) = 42.88, p = 0.003$), whether participants had served on a criminal or civil jury before ($\chi^2(3) = 9.08, p = 0.03$), and type of prior jury service ($\chi^2(9) = 31.80, p < 0.001$). Univariate tests demonstrated that men, Caucasians, participants with lower levels of education, participants with conservative political beliefs, and participants with no prior jury service were more likely to favor the death penalty.

Death qualification was significantly related to evaluations of aggravators ($F(1, 210) = 13.35, p < 0.001$), nonstatutory mitigators ($F(1, 210) = 13.52, p < 0.001$), and statutory mitigators ($F(1, 210) = 19.69, p < 0.001$). Specifically, death-qualified participants exhibited higher endorsements of aggravating factors and lower endorsements of both nonstatutory and statutory mitigating factors. Death qualification was also significantly related to sentence ($\chi^2(3) = 8.74, p = 0.003$). Death-qualified venirepersons were more likely to sentence the defendant to death.

Death qualification was significantly related to belief in a just world ($F(1, 210) = 14.81, p < 0.001$), legal authoritarianism ($F(1, 210) = 3.87, p = 0.05$), and locus of control ($F(1, 210) = 6.79, p = 0.01$). Specifically, death-qualified participants were more likely to have a high belief in a just world, espouse legal authoritarian beliefs, and exhibit an internal locus of control.

Death qualification was significantly related to age ($\chi^2(5) = 10.94, p = 0.05$), occupation ($\chi^2(11) = 29.56, p < 0.001$), political views ($\chi^2(3) = 7.58, p = 0.05$), and type of prior jury service ($\chi^2(3) = 28.01, p < 0.001$). Specifically, death-qualified participants were more likely to be between the ages of 45 and 54, hold a

professional/technical occupation, espouse conservative political beliefs, and have had prior criminal jury service.

Belief in a just world was significantly related to evaluations of statutory mitigators ($F(1, 210) = 6.23, p = 0.01$). Specifically, lower beliefs in a just world were related to higher endorsements of statutory mitigators.

Locus of control was significantly related to evaluations of statutory mitigators ($F(1, 210) = 4.75, p = 0.03$). Specifically, participants with an external locus of control were more receptive to statutory mitigators.

Legal authoritarianism was significantly related to evaluations of both aggravators ($F(1, 210) = 24.49, p < 0.001$) and nonstatutory mitigators ($F(1, 210) = 45.10, p < 0.001$). Specifically, legal authoritarians exhibited higher endorsements of aggravators and lower endorsements of nonstatutory mitigators. Legal authoritarianism was also significantly related to sentence ($F(1, 210) = 17.84, p < 0.001$). Specifically, legal authoritarians were more likely to sentence the defendant to death than their civil libertarian counterparts.

DISCUSSION

This study clearly demonstrates the impact that death qualification status, belief in a just world, legal authoritarianism, and locus of control have on venirepersons' evaluations of aggravating and mitigating circumstances in capital trials. As hypothesized, death-qualified participants were more likely to exhibit a high belief in a just world, espouse legal authoritarian beliefs, have an internal locus of control, and endorse aggravating factors. Venirepersons with a high belief in a just world and an external locus of control were more likely to endorse statutory mitigating circumstances. Participants who espouse legal authoritarian beliefs were more likely to be receptive to aggravating factors and less receptive to nonstatutory mitigating factors. Finally, death-qualified venirepersons and participants who espouse legal authoritarian beliefs were more likely to recommend the death sentence.

The results of this study may have broad legal implications. The present findings replicate an earlier body of research that concluded that the process of death qualification results in the seating of differentially partial jurors (Luginbuhl, 1992; Diamond, 1993; Wiener, Prichard, & Weston, 1995; Lynch & Haney, 2000; Butler & Moran, 2002; Butler & Wasserman, 2006). In addition, the current study extends previous findings by demonstrating that simply selecting a jury for a capital case systematically excludes certain personality types while systematically including others. Consequently, capital defendants appear to be at a significant disadvantage: They are having their fate determined by a homogenous, unrepresentative subgroup of the population that is prone to accepting arguments for death and rejecting arguments for life. Perhaps, more importantly, these attitudes translated into behavior: Death-qualified venirepersons and legal authoritarian participants were significantly more likely to recommend the death sentence than were their excludable and civil libertarian counterparts.

Almost 20 years ago, the United States Supreme Court found the death qualification process to be constitutional (*Lockhart v. McCree*, 1986). However, psycholegal research continues to suggest otherwise. Given the court's historical

ambivalence with respect to the death penalty, the issue of death qualification may find its way onto the steps of the Supreme Court yet again. It is only after the process of death qualification is declared unconstitutional that we will be able to move toward truly protecting capital defendants' Sixth Amendment rights (*Grigsby v. Mabry*, 1985).

REFERENCES

- Adorno, T., Frenkel-Brunswick, E., Levinson, D., & Sanford, N. (1950). *The authoritarian personality*. New York: Harper and Row.
- Atkins v. Virginia, 536 US 304 (2002).
- Bersoff, D. N. (1987). In the Supreme Court of the United States: Lockhart v. McCree. *American Psychologist*, 42, 59–68.
- Boehm, V. R. (1968). Mr. Prejudice, Ms. Sympathy, and the authoritarian personality: An application of psychological measuring techniques to the problem of jury bias. *Wisconsin Law Review* 734–750.
- Butler, B. (inpress-a). The role of death qualification in capital trials involving juvenile defendants. *Journal of Applied Social Psychology*.
- Butler, B. (inpress-b). The role of death qualification in jurors' susceptibility to pretrial publicity. *Journal of Applied Social Psychology*.
- Butler, B., Moran, G. (2002). The role of death qualification in venirepersons' perceptions of aggravating and mitigating circumstances in capital trials. *Law and Human Behavior*, 26, 175–184.
- Butler, B., & Wasserman, A. W. (2006). The role of death qualification in venirepersons' attitudes toward the insanity defense. *Journal of Applied Social Psychology*, 36(7), 1743–1756.
- 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.
- Cutler, B. L., Moran, G., & Narby, D. J. (1992). Jury selection in insanity defense cases. *Journal of Research in Personality*, 26, 165–182.
- Diamond, S. S. (1993). Instructing on death: Psychologist, juries, and judges. *American Psychologist*, 48, 423–434.
- Dillehay, R. C., & Sandys, M. R. (1996). Life under *Wainwright v. Witt*: Juror dispositions and death qualification. *Law and Human Behavior*, 20, 147–165.
- Festinger, L. (1957). *A theory of cognitive dissonance*. Stanford, CA: Stanford University Press.
- Fitzgerald, R., & Ellsworth, P. C. (1984). Due process vs. crime control: Death qualification and jury attitudes. *Law and Human Behavior*, 8, 31–51.
- Foley, L. A., & Pigott, M. A. (2000). Belief in a just world and jury decisions in a civil rape trial. *Journal of Applied Social Psychology*, 30, 935–951.
- Furnam, A. (2003). Belief in a just world: Research progress over the past decade. *Personality and Individual Differences*, 24, 795–817.
- Grigsby v. Mabry*, 758 F.2d 226 (1985).
- Hafer, C. (2000). Do innocent victims threaten a belief in a just world? Evidence from a modified Stroop task. *Journal of Personality and Social Psychology*, 79, 165–173.
- Haney, C. (1984a). On the selection of capital juries: The biasing effects of the death qualification process. *Law and Human Behavior*, 8, 121–132.
- Haney, C. (1984b). Examining death qualification: Further analysis of the process effect. *Law and Human Behavior*, 8, 133–151.
- Haney, C., Hurtado, A., & Vega, L. (1994). “Modern” death qualification: New data on its biasing effects. *Law and Human Behavior*, 18, 619–633.
- Hans, V. P. (1986). Death by jury, In K. C. Haas & J. A. Incardi (Eds.), *Challenging capital punishment: Legal and social science approaches*. Beverly Hills: Sage.
- Kravitz, D. A., Cutler, B. L., & Brock, P. (1993). Reliability and validity of the original and revised Legal Attitudes Questionnaire. *Law and Human Behavior*, 17, 661–677.
- Lerner, M. J. (1980). *The belief in a just world: A fundamental delusion*. New York, NY: Plenum.
- Lockett v. Ohio*, 438 U.S. 586 (1978).
- Lockhart v. McCree*, 476 U.S. 162 (1986).
- Luginbuhl, J. (1992). Comprehension of judges' instructions in the penalty phase of a capital trial: Focus on mitigating circumstances. *Law and Human Behavior*, 16, 203–218.
- Luginbuhl, J., & Middendorf, K. (1988). Death penalty beliefs and jurors' responses to aggravating and mitigating circumstances in capital trials. *Law and Human Behavior*, 12, 263–281.
- Lynch, M., & Haney, C. (2000). Discrimination and instructional comprehension: Guided discretion, racial bias, and the death penalty. *Law and Human Behavior*, 24, 337–358.

- Martin, T. A., & Cohn, E. S. (2004). Attitudes toward the criminal legal system: Scale development and predictors. *Psychology, Crime, and Law*, *10*, 367–391.
- Moran, G., & Comfort, J. C. (1982). Scientific juror selection: Sex as a moderator of demographic and personality predictors of impaneled felony juror behavior. *Journal of Personality and Social Psychology*, *43*, 1052–1063.
- Moran, G., & Comfort, J. C. (1986). Neither “tentative” nor “fragmentary:” Verdict preference of impaneled felony jurors as a function of attitude toward capital punishment. *Journal of Applied Psychology*, *71*, 146–155.
- Narby, D. J., Cutler, B. L., & Moran, G. (1993). A meta-analysis of the association between authoritarianism and jurors’ perceptions of defendant culpability. *Journal of Applied Psychology*, *78*, 34–42.
- Nowicki, S., & Duke, M. P. (1983). The Nowicki–Strickland life span locus of control scales: Construct validation. In H. M. Lefcourt (Ed.), *Research with the locus of control construct* (p. 33). New York: Academic.
- Robinson, R. J. (1993). What does “unwilling to impose the death penalty mean anyway? Another look at excludable jurors. *Law and Human Behavior*, *17*, 471–477.
- Roper v. Simmons, 112 S.W. 3rd 397 (Supreme Ct. of Missouri, 2005).
- Rubin, Z., & Peplau, A. (1975). Who believes in a just world? *Journal of Social Issues*, *31*, 65–89.
- 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.
- Tversky, A., & Kahneman, D. (1974). Judgment under uncertainty: Heuristics and biases. *Science*, *185*, 1124–1131.
- Wainwright v. Witt, 469 U. S. 412 (1985).
- Weir, J. A., & Wrightsman, L. S. (1990). The determinants of mock verdicts in rape cases. *Journal of Applied Social Psychology*, *20*, 901–919.
- Wiener, R. L., Prichard, C. C., & Weston, M. (1995). Comprehensibility of approved jury instructions in capital murder cases. *Journal of Applied Psychology*, *80*, 455–467.