

influential in any particular case or whether a different verdict would have been reached by a jury with a different composition. Nonetheless, jury racial composition appears to be more than a constitutional consideration; it is a variable with the potential for performance effects related to intragroup dynamics, deliberation content, and final verdict.

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See also Chicago Jury Project; Death Penalty; Jury Deliberation; Jury Nullification; Racial Bias and the Death Penalty; Scientific Jury Selection; Voir Dire

Further Readings

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RACIAL BIAS AND THE DEATH PENALTY

The issue of racial bias in death sentencing has long been a significant concern in the system of capital punishment. Many studies across the United States have found the race of the defendant (combined with the race of the victim) to be a salient predictor of juror decision making in capital cases, with Black defendants convicted of killing White victims to be most likely to receive the death sentence. Racial bias in capital trials appears to be correlated with the following:

(a) the ethnic background of the district attorney pursuing the death penalty; (b) the racial breakdown of the jurors in capital cases; (c) jurors' failure to understand jury instructions in death penalty trials; and (d) jurors' attitudes toward the death penalty and their death qualification status. Research also suggests that whether Blacks' physical appearance resembles racial stereotypes may be a factor in jury decisions.

In the United States, 38 states use capital punishment as the ultimate penalty for defendants convicted of crimes such as first-degree murder, capital sexual battery, and treason. The United States is the only country in the Western world to employ the death penalty and, along with China, Iran, and Saudi Arabia, is responsible for 94% of the world's executions.

Clearly, capital punishment is an extraordinarily controversial issue. The debate about the death penalty appears to be several fold, involving issues such as its lack of financial feasibility, its questionable deterrent value, the execution of innocent persons, diminishing public support for capital punishment, increasing public support for the alternative penalty of life without the possibility of parole, and lethal injection constituting "cruel and unusual punishment." One of the most salient controversies surrounding capital punishment is the fact that it appears to be arbitrarily and capriciously applied, with the majority of capital defendants and death row inmates being men of an ethnic minority charged with/convicted of killing a member of the ethnic majority.

Legal Background

The issue of racial bias was addressed by the U.S. Supreme Court 20 years ago in *McCleskey v. Kemp* (1987), in which the Court was forced to take a realistic look at the issue of social injustice in the application of the death penalty. In a brief submitted to the Court, social scientists concluded that prosecutors were 70% more likely to seek the death penalty against a Black person accused of killing a White person than in cases with any other racial composition.

In addition, the study found that when Black defendants were convicted of killing a White victim, they were 22 times as likely to receive the death penalty as Blacks convicted of killing Blacks and 7 times more likely to receive the death penalty than Whites convicted of killing Blacks.

In spite of the conclusions brought forth by the data, the Court said that the overall pattern of discrimination

did not mean that racial issues actually entered into sentencing decisions in Georgia. The Court also argued that the study's reliance on statistical probabilities was an inherent weakness in the data (as opposed to its greatest strength). The Court insisted that researchers must provide "exceptionally clear proof" that racism is a factor in jury decision making in capital cases. Because research has indicated that people with the most prejudices are often the least likely to admit them, this standard has proven to be difficult, if not impossible, to meet.

Statistical Analysis of Racial Bias

Although recent findings have suggested that racial bias appears to permeate the system of capital punishment, the issue is more complex than previously imagined. For example, roughly half the death row inmates in the United States are Black, Hispanic, or Asian. Although only 34% of defendants who have been executed have been Black, 80% of murder victims in capital cases in which the defendant was subsequently executed were White (while only 50% of murder victims are White). As of January 2007, 213 Black death-row inmates were executed for killing a White victim, whereas only 15 White defendants were executed for killing a Black victim.

In addition, research has found that in 96% of the states that have conducted systematic reviews of the correlation between race and the death penalty, there was a pattern of race-of-defendant or race-of-victim discrimination, or both. A recent study in North Carolina suggested that people who killed White victims were 3.5 times more likely to receive the death penalty. Another study found that capital defendants in California were 3 times more likely to receive the death penalty if their victims were White than if they were Black and 4 times more likely to receive the death penalty than if their victims were Hispanic. Another report released in New Jersey by the state Supreme Court found that the state is more likely to pursue capital charges against defendants who kill White victims. Indiana, Maryland, and Virginia have conducted similar studies and concluded that the race of both the defendant and the victim is a controlling factor in most capital cases.

Causes of Racial Bias

One possible cause of the aforementioned bias is the race of the person who decides to pursue capital

charges at the outset. For example, in most states, the vast majority (by some counts, 98%) of chief district attorneys are White, whereas only 1% are Black.

Another probable explanation of the bias is that jurors make decisions based on their race and that of the defendant rather than on the evidence in the case. For example, a recent study found that White jurors were more likely to sentence Black defendants to death.

Failure to understand jury instructions may also lead to death penalty decisions in which race appears to be a factor. For example, research conducted by Mona Lynch and Craig Haney suggested that when instructional comprehension was poor, Black defendants were even more likely to receive the death penalty.

Certain juror characteristics also appear to affect racial bias in the system of capital punishment. For example, a study by Brooke Butler found that both attitudes toward the death penalty and death qualification status (i.e., jurors' eligibility to hear a capital case based on their attitudes toward the death penalty and whether they would be able to disregard personal convictions that the capital punishment is wrong and consider the death penalty as an option) correlate with various forms of prejudice. Specifically, as support for the death penalty increased, venirepersons (i.e., jurors who are eligible to hear a capital case) were more likely to believe that discrimination against Blacks is no longer a problem in the United States; that Blacks have more influence in school desegregation plans than they ought to have; that Blacks are getting too demanding in their push for equal rights; that Blacks have gotten more economically than they deserve; and that, over the past few years, the government and news media have shown more respect toward Blacks than they deserve.

The same study also revealed that death qualification status was significantly related to jurors' beliefs that racism remains a problem in the United States today. Specifically, death-qualified venirepersons were more likely to believe that discrimination against Blacks is no longer a problem in the United States.

It also appears that simply looking "more Black" affects the way jurors make sentencing decisions in capital cases. For example, recent findings suggest that in cases involving White victims, the more stereotypically "Black" a defendant is perceived to be, the more likely that person is to be sentenced to death.

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See also Death Penalty; Death Qualification of Juries; Race, Impact on Juries; U.S. Supreme Court

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RAPE TRAUMA SYNDROME

Rape trauma syndrome (RTS) is a topic about which experts testify in legal cases. It is most often used by prosecutors in sexual assault cases to counter a defendant's claim that the sexual contact in question was consensual. The specific nature of the testimony varies from case to case but often includes a description of the common effects of rape and an opinion that a particular complainant's behavior is consistent with—or not inconsistent with—having been raped. Judicial decisions regarding the admissibility of RTS testimony have varied because of differences in the specific nature of the testimony given as well as changes over time and across jurisdictions in rules regarding the admissibility of expert testimony. Nonetheless, expert testimony on RTS generally is admissible, particularly when it is offered to educate the jury (versus to prove that a rape occurred).

Definition of Rape Trauma Syndrome

The term *rape trauma syndrome* was first coined by Burgess and Holmstrom in 1974 to describe a two-stage model of reactions to rape among adult rape victims. Their model was a description of symptoms observed in a sample of 92 adult female rape victims seen in a hospital emergency room. Based on interviews with these women, Burgess and Holmstrom described an acute phase of the recovery process, which was characterized by a great deal of disorganization in the victim's lifestyle. Physical (e.g., muscle tension) and emotional (e.g., fear, self-blame) symptoms were common during this phase. The second (reorganization) phase began 2 to 3 weeks after the rape. Victims often moved during this phase, and trauma symptoms (e.g., nightmares, fears) were still common. Although the term RTS continues to be used in legal decisions and commentary, subsequent research has conceptualized rape trauma in terms of specific diagnoses and symptoms rather than stages of recovery.

RTS is sometimes referred to as a specific type of posttraumatic stress disorder (PTSD) in expert testimony, case law, and legal commentary. Indeed, rape is an example of a traumatic event that can lead to PTSD as defined in the *Diagnostic and Statistical Manual (DSM)* of the American Psychiatric Association. The *DSM* outlines very specific criteria that must be met for individuals to be diagnosed with PTSD: (a) They must have experienced a traumatic event that involved actual or threatened death, serious injury, or threat to physical integrity and react to that event with intense fear, helplessness, or horror; (b) they must report a specified number of symptoms involving reexperiencing the event, avoidance, and heightened arousal; and (c) the symptoms must last for at least 1 month and cause clinically significant distress or impairment in functioning. Studies suggest that the vast majority of rape victims meet the criteria for PTSD immediately postrape and that approximately 50% continue to meet the criteria at 1 year postrape. Current PTSD prevalence rates among victims raped several years previously range from 12% to 17%. Several studies have found that rape victims report more symptoms of PTSD than nonvictims and victims of other types of traumas.

Although case law tends to focus on PTSD, several other symptoms are also common following a sexual assault, including fear, anxiety, depression, health