

EXPLORING THE EFFECTS OF ATTITUDES TOWARD THE DEATH PENALTY ON CAPITAL SENTENCING VERDICTS

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Attitudes toward the death penalty are multifaceted and strongly held, but little research outside of the death-qualification literature has focused on the role that such attitudes and beliefs play in jurors’ capital sentencing verdicts. A single item is insufficient to properly measure attitudes toward the death penalty; therefore, a new 15-item, 5-factor scale was constructed and validated. Use of this scale in 11 studies of capital jury decision making found a large effect of general support of the death penalty on sentencing verdicts as well as independent aggravating effects for the belief that the death penalty is a deterrent and the belief that a sentence of life without parole nonetheless allows parole. These effects generally were not completely mediated by, nor did attitudes moderate the effects of, aggravating and mitigating factors.

Through death qualification and voir dire, the legal system attempts to strike a balance between jurors’ attitudes toward the death penalty and a defendant’s right to an impartial jury. Courts embrace the fact that capital jurors’ attitudes toward the death penalty influence their decisions whether to sentence a defendant to death: “A jury that must choose between life imprisonment and capital punishment can do little more—and must do nothing less—than express the conscience of the community on the ultimate question of life or death” (*Witherspoon v. Illinois*, 1968, p. 519). However, the defendant’s right to an impartial jury requires that jurors also be able to follow the law and not reach a verdict based solely on their attitudes.

Courts currently balance these interests by allowing parties to exclude for cause only those jurors whose attitude toward the death penalty is so strong, either for or against, that it would “prevent or substantially impair the performance of [their] duties as a juror” (*Wainwright v. Witt*, 1985, p. 424). To ascertain whether jurors fail this test, defendants are entitled to an adequate voir dire that consists of more than general questions and that is sufficient to allow the defendant to uncover biases to which jurors do not readily admit (*Morgan v. Illinois*, 1992). Afterward, death-qualified capital jurors must (though the specifics vary by

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This research was conducted in part under an award from the National Science Foundation to Steven D. Penrod at the University of Nebraska—Lincoln (Award 9810039).

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jurisdiction) decide whether aggravating and mitigating factors exist, assign a weight to the found factors, and decide on a sentence.

The legal system currently assumes and accepts that jurors' attitudes will influence them throughout the decision-making process. However, little psychological research or legal commentary addresses the strength of this effect or exactly how attitudes affect sentencing verdicts. Also, is it just general support for or opposition to the death penalty that matters, or do more specific beliefs also influence verdicts? Answers to these empirical questions have policy implications, including whether the proper balance is struck between attitudes and impartiality and what constitutes adequate voir dire in capital cases.

Our research summarized below begins investigating these empirical questions. In this article, we first theorize how attitudes toward the death penalty might influence sentencing verdicts. Second, we examine previous research involving the measurement of attitudes toward the death penalty and find a need for a validated, multifactor scale to measure attitudes toward and the various beliefs about the death penalty. In the third section, we present a newly constructed and validated scale that measures five components of attitudes toward the death penalty. Fourth, we present data on the predictive use of the new, five-factor scale from a series of studies concerning capital jury decision making. Finally, we discuss policy implications and limitations.

Attitudes and Verdicts

Stating that attitudes influence sentencing verdicts prompts the question of how this occurs. Attitudes toward the death penalty may influence sentencing verdicts in at least three ways. First, attitudes may have a direct, unmediated effect on sentencing verdicts, such that the effect of attitudes is independent of the effect of the evidence in the case. Second, attitudes may be mediated by jurors' findings of aggravating and mitigating factors; that is, attitudes may affect how jurors interpret the evidence, which in turn influences verdicts. Third, attitudes may influence the weight that jurors assign to the found aggravating and mitigating factors; in other words, there may be interactions between attitudes and aggravating and mitigating factors.

Although not perfectly clear, court opinions imply that the relationship between attitudes and verdicts should not be a direct one if jurors are following the law. The Supreme Court in *Witherspoon v. Illinois* (1968) said, "a juror's general views about capital punishment play an inevitable role in any [capital sentencing] decision" (p. 519). However, subsequent decisions require that the capital sentencing decision be a "reasoned moral response" to the defendant, in which jurors' discretion is guided through findings and weighings of legislatively mandated aggravating and juror-determined mitigating factors. Thus, attitudes may influence jurors' perceptions of whether the evidence shows that aggravating and mitigating factors exist and may influence the weight that jurors assign to the factors that do exist. In weighing jurisdictions, the sentencing decision should then depend only on the balance between aggravating and mitigating factors. In nonweighing jurisdictions, in which jurors are not specifically told to weigh factors, jurors are still required to base their verdict on just the evidence presented.

This implies that attitudes should not have an effect independent of jurors' evaluation of the evidence.

Previous research generally suggests that at least a mediational relationship applies. Dealing with guilt-phase testimony, Thompson, Cowan, Ellsworth, and Harrington (1984) found that death-qualified jurors (who were arguably higher in support for the death penalty) considered prosecution witnesses more credible, events favorable to the prosecution more likely to have occurred, and the defendant more responsible for his or her actions (see also Ellsworth, 1993). Similarly, Poulson, Wuensch, Brown, and Braithwaite (1997) found that supporters of the death penalty, as measured by death-qualification status and a dichotomous rating of support, evaluated the prosecution's expert more favorably and considered the defendant as less mentally ill. Also, Goodman-Delahunty, Greene, and Hsiao (1998) found that supporters of the death penalty, as measured by a five-item scale, found the defendant's actions to be more intentional and premeditated and the defendant to be more responsible for his or her actions.

In the context of a sentencing hearing, Butler and Moran (2002) found that death-qualified jurors were more likely to endorse 14 aggravating factors and less likely to find 6 mitigating factors than *Wainwright v. Witt* (1985) excludables, who were mostly against the death penalty. Similarly, Luginbuhl and Middendorf (1988) found from their survey that, as compared with opponents, supporters more often agreed that the presence of legally defined aggravating factors made murders worse and murderers deserving of harsher punishments (i.e., was aggravating). Opponents agreed more often that the presence of legally defined mitigating factors made murderers deserving of less harsh punishments. Although none of the above studies formally tested for mediation, results do support the argument that attitudes influence interpretation of evidence. Still, a richer examination of the relationship between attitudes and verdicts was needed, and the present research begins that examination.

Measuring Attitudes Toward the Death Penalty

Stating that attitudes influence sentencing verdicts also raises the question of how to properly measure death penalty attitudes. Most research has focused on the effects of death-qualification status and has assumed that death-qualified jurors support the death penalty more than excludable jurors do. However, there are at least two problems with using only death-qualification status as an indicator of support. First, only a small percentage of the population is considered excludable; usually less than 10% state that their opposition to the death penalty would affect their ability to perform their duties (Haney, Hurtado, & Vega, 1994). Such a distribution makes excludables hard to find and can make statistical comparisons less powerful. Second, under *Morgan v. Illinois* (1992), excludables include both those who would never impose the death penalty and those who would always do so (though a very small percentage of the population falls in the latter category). The small percentage of excludables must therefore be broken into two even smaller groups.

Other published research has used a limited number of items—usually less than five and often just one—to measure support. The majority of the data about death penalty attitudes comes from public opinion polls, most of which ask only

one question, with only two or three response categories. Several authors have criticized the simplicity of a single or few questions, arguing that death penalty opinions are much more complex and need to be studied much more deeply (Bowers, Vandiver, & Dugan, 1994; Ellsworth & Ross, 1983; Harris, 1986; Williams, Longmire, & Gulick, 1988). For instance, people give a wide variety of reasons when asked why they support the death penalty, including that the death penalty has a deterrent effect, that it is cheaper than life imprisonment, that it prevents the criminal from returning to the streets, that it gives the criminal what he or she deserves, or that the murderer is paying back society for what he or she has done (e.g., see Bohm, 1987). Those who oppose the death penalty tend to cite humanitarian reasons, such as that the death penalty is cruel and immoral under all circumstances or that an innocent person may be killed.

Of course, if all supporters of the death penalty believed the same things (e.g., that the death penalty was moral, a deterrent, and less expensive) as did those who oppose the death penalty (e.g., that it was immoral, not a deterrent, and more expensive), and believe them to the same degree, then a single item could adequately capture attitudes toward the death penalty. Ellsworth and Ross (1983) stated that proponents of the death penalty agreed with, and opponents disagreed with, all items supportive of the death penalty in their survey and vice versa for arguments against the death penalty. They concluded that "the discovery that every reason is differentially endorsed [by proponents and opponents] is as useless as the discovery that none is" (Ellsworth & Ross, 1983, p. 150). However, they based this conclusion on only a comparison of the percentages of respondents who agreed or disagreed with their items. They did not explore whether all people who agreed with the deterrence items also agreed with the retribution items, for example.

In contrast, several authors have shown through factor analysis or cluster analysis that no single underlying dimension to attitudes toward the death penalty exists. Tyler and Weber (1982) found four different factors underlying attitudes: Retribution, Humanitarianism, Deterrence, and Pragmatism (or cost effectiveness). However, they only analyzed 16 items, which they had chosen to fit into the first three categories listed above. Harvey (1986) cluster-analyzed 36 items, and again found four factors: Baselessness (i.e., capital punishment cannot be justified by any reason), Justification (which included deterrence), Noncontingency (e.g., all murderers should be executed), and Retribution. If all people who agreed with the deterrence items also agreed with the retribution items, then these items would not fall into distinct factors or clusters. Because there are distinct factors, different people agree with reasons to support the death penalty to different degrees; stated differently, the stated reasons for support of the death penalty do not covary perfectly. Therefore, there may be valuable information in the specific beliefs that people have about the death penalty as well as in their general level of support.

However, of all the possible reasons to support or oppose the death penalty, which might be predictive of sentencing verdicts? Research is nonexistent on this question (before the present research). Common beliefs about the death penalty regard deterrence, retribution or revenge, moral reasoning, and practical reasons, such as cost, each of which theoretically could be related to sentencing verdicts. A juror who believes that the death penalty is a deterrent may impose death in the expectation that other potential murderers will be deterred. A juror who supports

retributive reasons for supporting the death penalty may be a vengeful person who will act out against the murderer. A juror who believes that a murderer morally deserves to be executed might carry out that belief by voting for death. A juror who believes that the death penalty is cheaper may want to save the state some money by sentencing the defendant to death. Finally, a juror who is concerned that life imprisonment carries with it the possibility of parole may sentence the defendant to death to ensure that he or she does not walk the streets again (see Bowers et al., 1994; Gross, 1998).

A related question is what scale or items should be used to measure beliefs about the death penalty. Few properly constructed and validated scales exist for measuring attitudes toward the death penalty. One measure of death penalty attitudes came from Louis Thurstone (Shaw & Wright, 1967), who developed a 24-item scale on which participants marked either *agree* or *disagree* for each item. Each item was assigned a value, and the scale score was median value for the items with which the participant agreed. The items were generally broad measures of opposition (e.g., "Capital punishment is absolutely never justified") and support ("Capital punishment is just and necessary"). However, this scale has only rarely been used in the literature regarding the death penalty (Howells, Flanagan, & Hagan, 1995; Juror, 1971). There have been two other efforts at scale construction since (Andrich, 1988; Balogh & Mueller, 1960), both of which used Thurstone's scaling technique but added items about deterrence and rehabilitation. Still, neither scale has been used in other published death penalty research. As such, another objective of the present research was to develop a new, multifactor, manageable scale for measuring attitudes toward and beliefs about the death penalty.

Research on Capital Jury Decision Making

Exploration of the relationship between attitudes and verdicts and the development of a new scale were part of a program of research into jury decision making in death penalty cases. Researchers, including Kevin M. O'Neil, Marc W. Patry, and Steven D. Penrod, conducted 11 studies. Table 1 lists the design, participants, crucial dependent variable, and manipulated variables of each study. These were all mock jury experiments investigating the effect on juror and jury decisions of a variety of variables, including the presence of evidence regarding aggravating or mitigating factors, the version of jury instruction used (different states or revised as compared with original versions), and elements within the instructions (e.g., whether the alternative to death included parole). The method was generally similar across studies. After reading a consent form, participants were given basic case facts, asked to assume guilt, and were given a summary of penalty-phase evidence and closing arguments. Participants read pattern jury instructions and rendered a verdict by choosing death or an alternative (except in one study that asked for a rating of deservingness of death and another that used Texas' special issues). Participants then completed the attitude scale and other measured variables. Several studies used a new method for collecting data—the World Wide Web. Nonstudents solicited to participate were reached either through direct e-mail solicitations, using e-mail addresses culled from publicly available online resources (Studies 3–6), or through links posted on Web sites that

Table 1
Description of Studies on Capital Jury Decision Making

Study	Design	Participants	DV	Manipulations
1	2 ⁵⁺⁷ WS FF	192 UG on paper	Life-death	12 aggravating & mitigating factors
2	4 × 4 BS	69 NS on paper, 131 NS on Web	Texas SIs	Mental illness & jury instructions
3	4 × 3 × 3 × 4 × 2 BS	133 NS on Web, 213 UG on Web	Life-death	Dangerousness & jury instructions
4	2 ⁷⁺⁵ BS FF	102 NS on Web, 277 UG on paper	Rating of deservingness	6 agg/mit factors & jury instructions
5	2 ⁶ BS	17 NS on paper, 259 NS on Web	Life-death	3 aggravating & 3 mitigating factors
6	3 × 2 × 2 BS	180 NS on Web, 51 UG on Web	Life-death	Dangerousness & jury instructions
7	2 ⁶ BS	269 UG on Web	Life-death	5 agg/mit factors & jury instructions
8	4 × 3 × 2 ⁴ BS	463 UG on Web	Life-death	Jury instructions & split of jury
9	5 × 3 × 3 × 2	567 UG on Web	Life-death	3 agg/mit factors & eligibility for parole
10	3 × 3 × 3 × 2 BS	77 UG on Web	Life-death	4 aggravating factors
11	2 ⁵	735 NS with video & deliberation	Life-death	3 agg/mit factors & jury instructions

Note. The single superscript numbers indicate a factorial design, and the 7+5 superscripts indicate a fractional factorial design. DV = dependent variable; WS = within-subject; FF = fractional factorial (see Stolle, Robbenolt, Patry, & Penrod, 2002); UG = undergraduates; BS = between-subject; NS = nonstudents; SIs = special issues; agg = aggravating; mit = mitigating.

collect links to Web-based experiments (e.g., <http://psych.hanover.edu/Research/exponnet.html>; Studies 4–6). Previous research supports the use of the Web to collect data (Krantz & Dalal, 2000; O’Neil & Penrod, 2001). URLs to mock-ups of some of these studies can be obtained by contacting Kevin M. O’Neil.

Scale Construction

Step 1: Developing Items

The first step was to select a wide variety of items that tapped aspects of support of or opposition to the death penalty. Items were gathered from a review of previous research (Andrich, 1988; Ellsworth & Ross, 1983; Firment & Geiselman, 1997; Fitzgerald & Ellsworth, 1984; Goodman-Delahunty et al., 1998; Haney et al., 1994; Harvey, 1986; Jurov, 1971; Seltzer & McCormick, 1987; Shaw & Wright, 1967; Thomas & Howard, 1977; Tyler & Weber, 1982; Vidmar, 1974), and some new items were developed. Items included broad measures of support or opposition, retributive feelings, beliefs about deterrence, and practical and moral reasons for support or opposition. There was a total of 59 items.

Step 2: Limiting Items

The second step consisted of reducing the initial pool of items to a manageable number of items that were good measures of relevant factors. This step consisted of two phases. The first phase reduced the pool of 59 items to one of 34 items. The set of 59 items was included in Study 1 (as listed in Tables 1 and 6; see the first study in Brank, Studebaker, Garven, Patry, & Penrod, 2002). One hundred ninety-two undergraduates completed the study and attitude items. Participants for this and all future studies rated their level of agreement with the items on a Likert-type scale ranging from 1 (*strongly disagree*) to 9 (*strongly agree*). Factor analyses were conducted using both principal-components analysis with Varimax rotation and principal-axis factoring with direct oblimin rotation. Analyses revealed 12 factors of interest. There was one large general factor that contained items that tapped both broad support (e.g., “I think the death penalty is necessary”) and broad opposition to the death penalty (“It is immoral for society to take a life regardless of the crime the individual has committed”). Another factor tapped beliefs about the deterrent effect of the death penalty, and two involved retributive attitudes—one measured personal vengeful attitudes (e.g., “There are some murderers whose death would give me a sense of personal satisfaction”), whereas the other regarded a broader sense of societal retribution (“Society has a right to get revenge when murder has been committed”). Although conceptually similar, two separate factors contained items about whether the death penalty should be mandatory for all murders and whether some murders and murderers are worse than others. Other multi-item factors were beliefs about whether murderers are always dangerous, whether murderers can be rehabilitated, and whether society has a moral obligation to punish murderers. Three single-item factors were whether the death penalty is arbitrary, whether there is discrimination against minorities, and whether a murderer is always to blame for his or her actions.

While data were being collected for the above study, another study was

conducted using 230 jury-eligible community residents from Nebraska and Texas (Study 2: Patry, O'Neil, & Penrod, 2004). Because of space and time concerns, all 59 items were not given to these participants. Instead, on the basis of a factor analysis of part ($n = 64$) of the data from the first study, the strongest univocal items that embraced the strongest factors were chosen from the full set, and a few new items were included to strengthen some other factors. There was a total of 24 items. Factor analyses were conducted using both principal-components analysis with Varimax rotation and principal-axis factoring with direct oblimin rotation and revealed seven interpretable factors. The strongest factors were again a broad measure of support, a deterrence factor, a single factor of broad revenge and retribution, and a factor of whether the death penalty should be imposed in every murder case. Other factors were collections of items about whether murderers can be rehabilitated, practical challenges to the capital sentencing process (e.g., release on parole and arbitrariness), and whether heinous murders could ever be excused.

On the basis of the data from Studies 1 and 2, it was clear that in addition to a general factor measuring general support for the death penalty, other factors underlying attitudes toward the death penalty included measures of beliefs about deterrence, personal vengeance and societal retribution, and whether the death penalty should be mandatory. Therefore, we selected items that had high univocal loadings on these factors. We decided to not include items that addressed characteristics of murderers specifically (e.g., are always dangerous or can be rehabilitated) and not the death penalty in general, except for those relevant to whether the death penalty should be mandatory. New items were developed to touch upon two practical reasons for support of or opposition to of the death penalty—whether the death penalty costs less and whether defendants sentenced to life without parole (LWOP) nonetheless get out on parole. The number of items was thus reduced to 34; in the second phase, we sought to further reduce the number of items.

The 34-item scale was given to participants over the course of three studies (Study 3: first study in O'Neil & Penrod, 2004a; Study 4: Claussen-Schulz, O'Neil, Penrod, & Bornstein, 2004; Study 5: second study in Brank, Studbaker, et al., 2002). Data for the three studies were combined for a total sample size of 1,001. Factor analyses were conducted using both principal-components analysis with Varimax rotation and principal-axis factoring with direct oblimin rotation, and they revealed six factors. The strongest factor was again a general factor of support or opposition (General Support in Table 2). In this analysis, items measuring both personal vengeance and societal retribution loaded on one combined factor (Retribution and Revenge). Items about whether the death penalty should be mandatory or whether some murders are worse than others also loaded together onto another factor (Mandatory Death). Other factors grouped beliefs about deterrence (Death Penalty Is a Deterrent), the relative cost of the death penalty (Death Penalty Is Cheaper), and parole-eligibility of capital defendants (LWOP Allows Parole). The items with the highest univocal loadings and the reliabilities for each factor are given in Table 2.

Although the four-item Mandatory Death factor had an acceptable reliability across these three studies, attempts to reduce the factor to three items revealed a problem in that there seemed to be two separate factors. Two items measured

Table 2
Attitude Scale Items By Factor And Alpha Internal Consistency Scores

Factor	Items	α
General Support	I think the death penalty is necessary. (.75)	.87
	It is immoral for society to take a life regardless of the crime the individual has committed.* (-.75)	
	No matter what crime a person has committed executing them is a cruel punishment.* (-.73)	
	The death penalty should be used more often than it is. (.66)	
Retribution and Revenge	The desire for revenge is a legitimate reason for favoring the death penalty. (.79)	.75
	Society has a right to get revenge when murder has been committed. (.72)	
	There are some murderers whose death would give me a sense of personal satisfaction. (.69)	
	The death penalty is the just way to compensate the victim's family for some murders. (.62)	
Death Penalty Is a Deterrent	The death penalty does not deter other murderers.* (-.86)	.85
	The death penalty makes criminals think twice before committing murder. (.74)	
	Executing a person for premeditated murder discourages others from committing that crime in the future. (.71)	
	Some murderers should serve harsher sentences than others. (.71)	
Mandatory Death	Not all murderers deserve to die. (.69)	.70
	Some murders seem worse to me than others. (.66)	
	Any person who commits murder, whatever the circumstances, should be executed.* (-.60)	
	It is more cost efficient to sentence a murderer to death rather than to life imprisonment. (.86)	
Death Penalty Is Cheaper	Executing a murderer is less expensive than keeping him in jail for the rest of his life. (.82)	.89
	Even when a murderer gets a sentence of life without parole, he usually gets out on parole. (.74)	
LWOP Allows Parole	There is no such thing as a sentence that truly means "life without parole." (.73)	.69

Note. Asterisks indicate items that were reverse coded. Numbers in parentheses indicate factor loadings of items.

attitudes about the applicability of the death penalty to murderers in particular, whereas the other two items dealt with murders or murderers more generally. This is supported by the fact that these two factors, with the same items, were separate in the analysis from Study 1 mentioned above. Also, analyzing the three studies separately, we found that the item loadings varied greatly across the studies. Because we were unsure about the consistency of this factor, we decided to drop it from the following studies. This left a five-factor, 15-item scale.

Using this scale, we investigated with further analyses whether there were differences in the items or scale structure between samples (undergraduate vs.

nonstudents) and methods of data collection (on paper or over the Web). It is somewhat surprising that the undergraduates, whether they participated on paper or over the Web, gave significantly higher prodeath penalty responses on 10 of the 15 items as compared with nonstudents. The nonstudent sample's responses showed more variance on 14 of the 15 items, as tested by Levene's test of homogeneity of variance. There were no differences in means or variances across method of data collection. A multiple-group confirmatory factor analysis reinforced that the higher variances were produced by higher variances of and covariances between the five factors among nonstudents. There were no differences between groups in the value of the factor loadings. Overall, this indicates that the scale can be used for both samples and for any method of data collection. However, it appears that soliciting nonstudent participants by direct e-mail solicitation and links on Web sites may have drawn a sample that is less supportive of the death penalty than is the national population.

Step 3: Confirming Items

This step consisted of collecting data so that a confirmatory factor analysis could be performed and the convergent and discriminant validity of the subscales could be tested. The 15-item scale was used in four studies (Study 6: second study in O'Neil & Penrod, 2004b; Study 7: Pierce, Patry & Penrod, 2002; Study 8: O'Neil & Penrod, 2004a; Study 9: Brank, Miller, Volanges, & Penrod, 2002), one pilot study (Study 10), and a survey (participants were 131 nonstudents and 189 undergraduates) that included personality and attitude measures with which the scale was expected to or not expected to correlate. Combining the data from the five studies and the survey yielded a total sample size of 1,953. All data from these studies were collected over the Web.

The confirmatory factor analysis was performed with LISREL 8.30 (Jöreskog & Sörbom, 1999) using maximum-likelihood estimation. In the initial analysis, each item was loaded on only one of the five factors, as was predicted by the previous factor analyses; no error terms were correlated; and all latent factors were correlated. The fit indices of chi-square, root-mean-square error of approximation (RMSEA), standardized root-mean-square residual (SRMR), comparative fit index (CFI) and nonnormed fit index (NNFI) were used to evaluate the fit of the model. The chi-square index measures the degree of lack of fit (as measured by the difference between the population and the fitted covariance matrices) multiplied by $(n - 1)$ and is tested for significance. The RMSEA is a standardized measure of the lack of fit between the reproduced and the population's covariance matrix per degree of freedom; a value of .05 indicates a close fit, but a value under .08 shows a reasonable fit. The SRMR is the square root of the average standardized residual from the reproduced matrix, and a value less than .05 indicates a close fit. The CFI compares the lack of fit of the tested model to the lack of fit of a baseline, null model, accounting for degrees of freedom of each model, and a value over .95 indicates a close fit. The NNFI is the ratio of the difference between the tested model and the baseline, null model to the difference between a perfectly fitting model and the null model that takes degrees of freedom for each model into account, and a value over .95 indicates a close fit.

The fit indices indicated a reasonable, but not a close, fit of the model to the

data, $\chi^2(80, N = 1,953) = 803.63, p < .001, RMSEA = .072, SRMR = .049, NNFI = .92, CFI = .94$. Examination of the modification indices and residuals indicated that a few changes had to be made to the model. First, loading the item “The desire for revenge is a legitimate reason for favoring the death penalty” onto the General Support factor would significantly improve fit. This makes conceptual sense because the item mentions and almost assumes support of the death penalty. Second, we specified two error covariances between items of the General Support factor that fell at opposite ends of the continuum of support for the death penalty—the items that ask whether the death penalty is always cruel and always immoral and the items that ask whether the death penalty is necessary and should be used more. An error covariance indicates that the items share variance in addition to the shared variance that is accounted for by the General Support factor. This may suggest that another latent factor is influencing these items. For the “Cruel” and “Immoral” items (as labeled in Table 3), the latent factor could be either a moral element or possibly a qualification that maybe sometimes the death penalty is not cruel or immoral. For the “Use more” and “Necessary” items, for which errors were negatively correlated, the latent factor may reflect a sense that the death penalty is a “necessary evil”—that it is necessary to have but problematic in its current application and thus should not be used more often. Alternatively, an error covariance may suggest that the distributions of the items are very similar, so that the items are measuring practically the same thing. This is a possibility for the first pair of items (“Cruel” and “Immoral”) but not for the second pair because their error covariance is negative, and the items are both prodeath penalty.

Table 3
Completely Standardized Loadings of Items on Factors

Item	General Support	Retribution and Revenge	DP Is a Deterrent	DP Is Cheaper	LWOP Allows Parole	R ²
Necessary	-.94					.89
Immoral	.66					.44
Cruel	.58					.33
Use more	-.90					.82
Desire	.34	.91				.53
Right revenge		.73				.54
Personal		.57				.33
Compensate		.45				.21
Not deterrent			-.71			.50
Think			.80			.64
Discourage			.85			.72
Cost efficient				.89		.66
Less expensive				.87		.70
Gets out					.81	.80
No LWOP					.84	.76

Error covariance between Immoral and Cruel = .23

Error covariance between Necessary and Use more = -.14

Note. Items appear in the same order as in Table 1 and are labeled for identification. All loadings are significant, $p < .001$. DP = death penalty; LWOP = life without parole.

Modifying the model as such produced a close-fitting model by most fit indices, $\chi^2(77, N = 1,953) = 465.87, p < .001, RMSEA = .051, SRMR = .036, NNFI = .96, CFI = .97$. The completely standardized loadings of each item on its respective factor are given in Table 3. Overall, this analysis supports the use of the five-factor, 15-item scale. Still, data collected from one additional study (Study 11: Patry & Penrod, 2002) were used to cross-validate the scale as modified. This final study showed 735 jury-eligible community residents a 1-hour videotape of a death penalty sentencing hearing and then had jurors deliberate for up to 40 min in six-person juries. Mock jurors completed the attitude scale (this time on a 7-point Likert scale) after deliberations. A confirmatory factor analysis revealed a slightly poorer, but still reasonable, fit of the model, $\chi^2(77, N = 1,953) = 254.67, p < .001, RMSEA = .058, SRMR = .044, NNFI = .90, CFI = .92$.

Convergent Validity

We also tested the convergent and discriminant validity of the new scale. According to prior research, there is a consistent core of personality variables that correlate with and predict death penalty attitudes. People who support the death penalty also score high on scales of authoritarianism (Boehm, 1968; Moran & Comfort, 1986; Stack, 2000; Vidmar, 1974; Vidmar & Dittenhoffer, 1981) and dogmatism (Rokeach & McLellan, 1969; Vidmar, 1974; Vidmar & Dittenhoffer, 1981; but see Thomas & Howard, 1977). Supporters of the death penalty are also more punitive (Rankin, 1979; Vidmar, 1974; Vidmar & Ellsworth, 1973) and have retributive motives for that support (Vidmar, 1974). Models that have attempted to show a relationship between fear of crime and death penalty support have produced mixed results (compare Keil & Vito, 1991; Seltzer & McCormick, 1987; Thomas & Foster, 1975 [yes] with Aguirre & Baker, 1993; Fattah, 1979; Stack, 2000; Taylor, Scheppele, & Stinchcombe, 1979; Vidmar, 1974 [no]).

There have also been studies that have found correlations between other attitudinal measures and support for the death penalty. For example, Thomas and Howard (1977) found that attitudes toward civil liberties and attitudes toward the utilitarian function of the legal system significantly predicted attitudes toward the death penalty. Also, Ellsworth and Ross (1983) showed that attitudes toward the death penalty were correlated with attitudes toward the due process issues, in that proponents of the death penalty were less supportive of due process protections (see also Fitzgerald & Ellsworth, 1984). Moran and Comfort (1986) found that female supporters of the death penalty also believe in a just world (Rubin & Peplau, 1975), but there was no significant relationship among men. Prior research has not, however, fully investigated correlations among specific beliefs about the death penalty and other personality or attitudinal variables.

A Web-based survey was designed to test the validity of the new death penalty scale and to examine the relationship between specific beliefs about the death penalty and other personality or attitudinal variables. Along with the 15-item scale, the survey included the 24-item Thurstone attitudes toward capital punishment scale (Shaw & Wright, 1967) and scales measuring authoritarianism (Altemeyer, 1981), dogmatism (Troidahl & Powell, 1965), vengefulness (Stuckless & Goranson, 1992), belief in a just world (Rubin & Peplau, 1975), social

desirability (Schuessler, Hittle, & Cardascia, 1978), fear of crime (Keil & Vito, 1991), and beliefs about due process (Ellsworth & Ross, 1983). We also chose items from two previous scales that measure attitudes toward crime and punishment (Ortet-Fabregat & Perez, 1992; Shaw & Wright, 1967). Because of space and time concerns, all participants received the death penalty scale but only four of the other eight scales. The due process and fear items were merged together to form one scale for presentation purposes. The order of the scales was randomized. Participants were 131 nonstudents and 189 undergraduates.

For this analysis, the items measuring beliefs in due process and attitudes toward crime and punishment were separately factor-analyzed, and each produced two factors. The due process items were broken into separate factors measuring opposition to due process protections by the police (e.g., "Police should be permitted to tap a phone conversation whenever they believe it may disclose criminal activities"; 3 items, $\alpha = .67$) and the courts (e.g., "In trying to protect the Constitutional rights of defendants, the courts have made it too difficult to convict people guilty of serious crimes"; 2 items, $\alpha = .56$). The items about crime fell into two factors measuring preference for strict punishments (e.g., "It is necessary to harden methods of punishment in order to prevent crime"; 4 items, $\alpha = .82$), which we considered a rough measure of punitiveness, and whether being in jail makes a prisoner more dangerous (e.g., "Brutal treatment of a criminal makes him more dangerous"; 3 items, $\alpha = .61$).

Factor scores were computed for the five factors by summing the items, with high scores indicating a theoretically prodeath penalty stance. The matrix of correlations among all the scales is given in Table 4. Our General Support factor correlates very highly ($r = .86$) with the Thurstone scale, indicating valid measurement of general death penalty attitudes. The factor also correlated positively, as expected, with authoritarianism ($r = .34$), dogmatism ($r = .20$), vengeance ($r = .40$), and punitive attitudes toward crime ($r = .42$). Support of the death penalty was also related to beliefs that courts protect defendants' due process rights too much ($r = .40$) and, to a lesser degree, to beliefs that the police need not abide by due process protections ($r = .20$). Social desirability was related to support of the death penalty, such that those higher in social desirability supported the death penalty more ($r = .23$). Support of the death penalty was not related to beliefs in a just world, fear of crime, or beliefs that prisons make prisoners more dangerous (all r s $.10$ or less). With the exception of there being no correlation between support and beliefs in a just world, this conforms to prior research, indicating that we were measuring abstract, general support of the death penalty in this factor.

The Retribution and Revenge factor also correlated highly with the Thurstone scale ($r = .53$), to about the same degree that the factor correlated with the General Support factor ($r = .56$). The factor also had strong correlations with the vengeance scale and punitiveness ($r = .43$), as expected, and with dogmatism ($r = .44$). The latter makes conceptual sense because the retribution items are propositions that cannot be proven. Those high in retributive and vengeful sentiments also were more authoritarian ($r = .18$) and were opposed to due process protections ($r = .32$). The factor did not correlate significantly with fear of crime, beliefs in a just world, or beliefs that prisons make prisoners more dangerous, and answers were not influenced by social desirability.

Table 4
Correlations Between Attitudes Toward the Death Penalty and Other Personality and Attitude Scales

Scale	General Support	Retribution and Revenge	DP Is a Deterrent	DP Is Cheaper	LWOP Allows Parole
General Support					
Retribution ($N = 320$)	.56***				
DP Is a Deterrent ($N = 320$)	.50***	.31***			
DP Is Cheaper ($N = 320$)	.40***	.26***	.26***		
Allows Parole ($N = 320$)	.24***	.17***	.24***	.25***	
Thurstone ($n = 155$)	.86***	.54***	.45***	.51***	.18*
Authoritarianism ($n = 154$)	.34***	.18*	.46***	.25**	.28***
Dogmatism ($n = 154$)	.20**	.44***	.15	.19*	.31***
Vengeance ($n = 153$)	.40***	.43***	.19*	.10	-.04
Just World ($n = 150$)	.09	.03	.23**	.08	-.04
Social Desire ($n = 141$)	.23**	-.03	.29***	.01	.09
Punitiveness ($n = 147$)	.42***	.46***	.34***	.16	.35***
Dangerous ($n = 147$)	-.10	-.05	-.32***	.10	-.01
Due-Police ($n = 144$)	.21*	.20*	.31***	.24**	.27**
Due-Courts ($n = 144$)	.40***	.32***	.36***	.33***	.22**
Fear of Crime ($n = 144$)	.10	.07	.17*	.02	.09

Note. Punitiveness and Dangerous are the two scales using items from Ortet-Fabregat and Perez (1992) and Shaw and Wright (1967), measuring preference for strict punishments and whether being in jail makes a prisoner more dangerous, respectively. Due-Police and Due-Courts are the two subscales from Ellsworth and Ross (1983), measuring opposition to due process protections by the police and the courts, respectively. DP = death penalty; LWOP = life without parole.

* $p < .05$. ** $p < .01$. *** $p < .001$.

The Death Penalty Is a Deterrent factor correlated significantly with all other scales except the dogmatism scale, suggesting that the belief that the death penalty is a deterrent—even more so than general death penalty support—is nested within a belief system that favors all or many aspects of the criminal justice system. It was the only factor to correlate with beliefs that prisons make prisoners more dangerous ($r = -.32$), with beliefs in a just world ($r = .23$), and with fear of crime ($r = .17$). Those who believed that the death penalty was a deterrent were less likely to believe that prisons make prisoners more dangerous, suggesting a common belief that the criminal justice system has a favorable influence on criminals' behavior. In addition, the fact that fear of crime was related only to beliefs about deterrence suggests that perceiving capital punishment as effective is different than supporting it (Thomas & Foster, 1975).

The Death Penalty Is Cheaper factor correlated very highly with support of the death penalty, as measured by both the Thurstone scale ($r = .51$) and the General Support factor ($r = .40$) and, to a lesser degree, it correlated with the authoritarianism ($r = .26$) and dogmatism ($r = .19$) scales. Beliefs that the death penalty is cheaper than life imprisonment were also related to resistance toward due process protections. The LWOP Allows Parole factor, which measured whether people believed that those sentenced to life without parole nonetheless get out on parole, correlated weakly with support of the death penalty, as

measured by the Thurstone scale ($r = .17$), and it correlated moderately with authoritarianism ($r = .28$), dogmatism ($r = .31$), and punitiveness ($r = .35$). Participants who were skeptical about the meaning of LWOP were also less protective of due process rights ($r_s = .27$ and $.22$).

Demographics

Demographic variables and their relationship to death penalty support have been extensively analyzed (Bohm, 1991; Fox, Radelet, & Bonsteel, 1991; Harris, 1986; Keil & Vito, 1991; Moran & Comfort, 1986; Vidmar, 1974; Whitehead & Blankenship, 2000; Zeisel & Gallup, 1989). Generally, the strongest effect is that Whites are much more likely to support the death penalty than are people of other ethnic groups (see also Young, 1992; Combs & Comer, 1982). Likewise, higher support for the death penalty is usually found among men, Republicans or those who rate themselves as conservatives, married persons, and those who have a higher income. Differences between levels of education are not always found (Moran & Comfort, 1986; Zeisel & Gallup, 1989), but some research has found that support is highest among those with only a high school diploma and lower among those either who have not graduated high school or who have graduated college (Fox et al., 1991; Vidmar, 1974). The conclusions about age are mixed, as some find death penalty support to increase with age (e.g., Fox et al., 1991), whereas others find it to decrease with age (e.g., Moran & Comfort, 1986). Religious affiliation does not seem to be a strong predictor of attitudes, but Young (1992) did find that those who attended more religious services were less likely to support the death penalty (but see Vidmar, 1974).

In contrast, the relationship between demographic variables and specific beliefs about the death penalty has not received much attention. Some public opinion polls have asked questions about beliefs of the death penalty as a deterrent and retributive motive and offer some conclusions about demographic differences. For instance, one poll (Time/CNN/Yankelovich Partners Poll, 1997) asked whether the desire for vengeance or retribution is a legitimate reason for having capital punishment and found that men, younger people, and people who had less formal education or a higher annual family income tended to give more affirmative responses. Another poll found that men, Whites (as compared with Blacks), and Republicans were more likely to believe that the death penalty was a deterrent (Time/CNN/Yankelovich Partners Poll, 1997).

To test for demographic differences in the five factors, we combined the data from all the studies when possible (not all studies asked the same demographic questions or used the same response set), and we conducted one-way analyses of variance. The demographic groups and their means on each of the five factors are presented in Table 5. Combining all the data ($N = 2,849$) showed that, on average, people supported the death penalty (a mean of 22.03 out of a possible 36, with a midpoint of 20), did not accept retributive or vengeful attitudes (15.84 out of 36), and believed that the death penalty was not a deterrent (13.95 out of 27), that the death penalty was cheaper than life imprisonment (10.69 out of 18), and that defendants sentenced to LWOP nonetheless are released on parole (9.88 out of 18).

Although there were very few Black participants in our studies ($n = 53$), we

Table 5
Means of Attitude Factor Scores by Demographic Category

Category	<i>N</i> or <i>n</i>	General Support	Retribution and Revenge	DP Is a Deterrent	DP Is Cheaper	LWOP Allows Parole
Mean	2,849	22.03	15.84	13.95	10.69	9.88
Sample						
Nonstudent	822	21.84	14.98	12.41	10.68	9.45
Student	2,027	22.10	16.19*	14.58*	10.69	10.05*
Gender						
Male	1,087	23.29	16.91	14.86	10.95	9.51
Female	1,436	21.15*	15.06*	13.44*	10.78	10.18*
Age (years)						
Under 21	869	21.39	16.30 _{b,c,d,e}	14.65 _{b,c,d,e}	10.79 _e	10.31 _{b,c,d,e}
21–30	491	21.97 _c	15.34 _{a,c}	13.16 _{a,e}	10.82 _e	9.68 _a
31–40	181	22.08	14.06 _{a,b}	12.67 _a	10.43	9.05 _a
41–50	156	22.39 _e	14.86 _a	12.29 _a	11.17 _e	9.07 _a
Over 50	127	19.99 _{b,d}	14.75 _a	11.42 _{a,b}	9.72 _{a,b,d}	8.87 _a
Marital status						
Single	932	21.93 _b	16.29 _b	14.00 _{b,c}	10.63	10.07 _b
Married	366	23.15 _a	14.82 _a	12.91 _a	10.66	9.15 _a
Divorced	69	22.46	16.57	12.32 _a	11.31	9.84
Ethnic background						
White	1,777	22.54 _b	15.95	13.92	10.90 _c	9.99 _b
Black	53	19.34 _a	14.85	12.26 _c	10.51	8.45 _{a,c}
Other	116	21.67	17.04	14.51 _b	12.11 _a	10.08 _b
Educational background						
No HS	12	20.50	16.67	13.17	9.50	8.92
Grad. HS	1,381	22.23 _d	16.18 _d	14.53 _d	10.87 _d	10.05 _d
Grad. Coll.	251	23.31 _d	15.42 _d	13.39 _d	10.74 _d	9.69 _d
Postcollege	310	19.13 _{b,c}	13.97 _{b,c}	10.84 _{b,c}	9.53 _{b,c}	8.57 _{b,c}
Political affiliation						
Republican	626	24.68 _{b,c}	16.66 _b	15.94 _{b,c}	11.12 _b	10.42 _{b,c}
Democrat	534	20.22 _{a,c}	14.93 _{a,c}	12.08 _{a,c}	10.43 _a	9.17 _{a,c}
Independent	536	22.44 _{a,b}	16.32 _b	13.49 _{a,b}	10.97	9.87 _{a,b}
Religious preference						
Catholic	474	21.37	16.05	14.13	10.61	9.75
Protestant	761	23.68*	16.13	14.55	10.95	10.10
How often attend religious services						
Never	78	20.17	15.99	11.24 _{b,c}	10.99	9.82
<1/Week	74	22.80	18.08	13.59 _a	12.19	11.16
1/Week and up	48	19.60	15.96	14.15 _a	10.44	10.83
Annual family income (\$)						
Under 20,000	293	21.91	15.35	13.37	10.89	9.70
20,000–60,000	577	22.67	15.61	13.52	11.10	10.10 _c
Over 60,000	660	22.52	15.99	13.95	10.87	9.61 _b

Note. For variables with three or more categories, the subscript indicates from which other categories the value is significantly different. For example, a subscript of *a* indicates that the value is significantly different from the value of the first category listed, a subscript of *b* indicates a significant difference from the second category listed, etc. For demographic variables with two categories, the asterisk indicates a significant difference ($p < .05$). DP = death penalty; LWOP = life without parole; HS = high school; Grad. = graduated.

did find that they supported the death penalty less than did Whites. Blacks were also less likely to believe that defendants sentenced to LWOP would be released. Contrary to the one public opinion poll, the difference regarding whether the death penalty is a deterrent was not significant, though this may be due to the low Black sample size.

As expected, men and Republicans showed greater support of the death penalty, not only in general support but also in retributive and vengeful attitudes and the beliefs that the death penalty is a deterrent and that defendants sentenced to LWOP get released on parole. Republicans were also more likely than were Democrats to believe that the death penalty is cheaper than life imprisonment. People who indicated that they were Independents consistently fell in between Republicans and Democrats.

Analyses also showed that support for the death penalty generally decreased with age, with scores for those over 50 years old significantly lower than those for at least one other age category. The differences between those under 21 years old and other groups on scores of retributive attitudes and beliefs about deterrence and parole can be explained because the majority of that group were also undergraduates, who scored higher on those three factors. Support for the death penalty was higher among married people as compared with singles, but singles had higher retributive attitudes and higher prodeath penalty beliefs about deterrence and parole, again possibly because most undergraduates are single. Also, scores on all five factors were lowest for people who indicated that they had some graduate training as compared with those who had only graduated high school or college.

Finally, Protestants were higher in support for the death penalty than were Catholics but only on the General Support factor. Religiousness, as measured by how often participants attended religious services, was related only to beliefs in the deterrent effect of the death penalty, in that those who attended services more often were more likely to believe that the death penalty is a deterrent. There was only one effect across levels of annual family income, in that those earning more than \$60,000 were less concerned about parole than those of middle-income families (\$20,000 to \$60,000).

Table 5 combines data from both undergraduate and nonstudent samples. Analyses also investigated whether the same attitudinal differences across demographic categories were seen in both samples and generally found that they were, with a few exceptions. First, Black students were significantly less likely to believe that the death penalty is a deterrent than were White students, but this difference was not significant among nonstudents. Second, the effects related to political party affiliation were much larger for nonstudents than they were for undergraduates on the factors of General Support, Retribution and Revenge, and Death Penalty Is a Deterrent. Third, among undergraduates only, those who attended religious services less than once a week scored higher in retributive attitudes than did those who never attended services or who went at least once a week.

Further, because demographic variables are not completely independent of one another, analyses also tested for which effects were independent of others. These analyses also investigated whether the differences in scores for retributive attitudes and beliefs about deterrence and parole according to age and marital status were independent of the differences between undergraduates and nonstu-

dents. Overall, most effects that were significant in one-way analyses were also significant in the multivariate omnibus analyses. However, the difference in sample type did account for the differences related to marital status (except for differences in general support) because there was no independent effect of marital status. An independent effect of age (the decrease in support over the age of 50) did appear for beliefs in deterrence and parole, indicating that differences remained after accounting for students' age. In addition, the differences in general support related to age and ethnicity were not significant when other demographic variables were controlled for.

Predictive Use of the Attitude Scale

As noted above, the scale was constructed and validated over the course of 11 different studies, each of which used some factors from the scale in their respective analyses. Table 6 presents the standardized path values for the final five factors if each was included in the study. All studies analyzed data as a path analysis using either the dichotomous life–death verdict or a continuous rating of the deservingness of the death penalty as the dependent variable. If the dependent variable was dichotomous, analyses were performed using structural equation modeling in LISREL 8.30 (Jöreskog & Sörbom, 1999), with sentencing verdict specified as an ordinal variable (which uses a polychoric correlation matrix for analysis). Dummy codes for these manipulations and the scale scores for each factor were included in the first level of the path analyses. Intermediate levels of the path analysis included comprehension scores or participants' ratings of the presence of aggravating and mitigating factors, if measured.

As seen in Table 6, the strongest finding across all studies was the very large effect of support for the death penalty, as measured by our four items, on sentencing verdicts—an average total effect of .39. The three smallest effects

Table 6
Path Values of Attitude Factors on Sentencing Verdicts From Prior Studies

Study	General Support	Retribution and Revenge	DP Is a Deterrent	DP Is Cheaper	LWOP Allows Parole
1	.30**	.05**	.08**	—	—
2	.35**	.06	.22**	—	-.02
3	.58**	.09*	.08	-.04	.01
4	.57**	.02	-.03	-.03	.09*
5	.18*	.00	.14*	.08	.14*
6	.53**	.03	.18**	—	.13*
7	.45**	.06	.09	.07	.08
8	.41**	-.05	.14*	-.08	.17*
9	.29**	.08*	.17**	-.03	.04
10	.53**	-.03	.13	-.09	.22*
11	.26**	.02	.02	.03	.08*

Note. The factor scores were summed so that high scores on each factor were indicative of theoretically prodeath penalty stances (e.g., belief that the death penalty is a deterrent). Dashes indicate that data were not obtained for that factor in that study. DP = death penalty; LWOP = life without parole.

* $p < .05$. ** $p < .01$.

come from two studies in which a large majority (over 80%) of participants voted for life imprisonment instead of death, resulting in less variance in the dependent variable and correspondingly lower path values, and from one study (Study 11) in which the effects of attitudes may have been mitigated by having jurors deliberate, the different method of trial simulation, or the specific case facts. For most studies, in which the distribution of verdicts was more even, the effect of support for the death penalty was substantial. Also, in each study the total effect of general support was larger than the effect of any manipulation or other attitude factor.

Second, both beliefs that the death penalty is a deterrent and that a murderer sentenced to LWOP nonetheless gets out on parole were significantly related to more death verdicts in a majority of the studies. The mean total effect for beliefs that the death penalty is a deterrent was .11, and the mean total effect for beliefs about parole was .09. Jurors may therefore be sending a message to future potential murderers in the hopes of reducing the murder rate. This finding also supports Thomas and Foster's (1975) model that perception of the effectiveness of capital punishment strongly predicts willingness to use capital punishment. Also, the findings concerning parole lend empirical support to hypotheses that jurors' perceptions of the likelihood of parole are strongly related to their verdicts (e.g., Bowers & Steiner, 1999). However, they did not appear in every study, suggesting that some variable in the case facts or instructions moderated these relationships.

Third, retributive attitudes were related to sentencing verdicts in only two studies (mean total effect = .03), and the belief that the death penalty is cheaper than life imprisonment was not related to verdicts in any study (mean total effect = .01). However, in each study both of these factors had high, usually significant zero-order correlations with sentencing verdicts or ratings of deserv- ingness of death, but the relationship was not independent of other attitudes.

Mediation

Analyses of six studies (Studies 2–7) examined whether the effect of attitudes toward the death penalty was related to and mediated by perceptions of and inferences from the case facts (i.e., aggravating and mitigating factors). Mediation was tested using LISREL 8.30, which automatically computes the indirect effect of exogenous variables and provides a significance test. We were also mindful of Baron and Kenny's (1986) approach, which finds mediation when there is a total effect of an exogenous variable, a direct effect of an endogenous variable, and a direct effect of the exogenous variable on the endogenous variable. A full discussion of every relationship is beyond the scope of this article. Instead, we focus on significant effects that were replicated across more than one study.

First, five of the six studies showed a significant relationship between General Support and mock jurors' ratings of the future dangerousness of the defendant. The mean total effect of general support of the death penalty on ratings of dangerousness was .29. However, the effect of support of the death penalty on perceptions of dangerousness was always less than the effect size between support and verdict. In all studies, except Study 6, ratings of future dangerousness were significantly related to sentencing verdicts (an average total effect of .17), indicating mediation under Baron and Kenny (1986). The other study (Study 2) did

not include dangerousness as a mediating variable; because Study 2 used Texas' sentencing scheme, future dangerousness was a dependent variable, and there was a significant effect of the General Support factor (total effect = .18).

Second, those high in support for the death penalty were also less likely to consider the defendant to be mentally ill (a variable sometimes phrased as more likely to be in control of his or her actions at the time of the murder). This effect was replicated in Studies 2 and 3, but not found in study 5 (a mean total effect of $-.16$). The defendant's mental illness was not at issue in Studies 4, 6, and 7. Again, the effect sizes between support and perception of mental illness or mental control were less than those between support and verdicts. In the three studies that included jurors' ratings of the defendant's mental illness or mental control, the variable was a significant mitigating factor (mean total effect of $-.15$).

In the LISREL analyses, these relationships between general support of the death penalty and dangerousness or mental illness partially mediated the total effect of the General Support factor in two of the six studies; other aggravating and mitigating factors unique to each study also partially mediated the effect. That is, there was a significant indirect effect of General Support in Studies 3 and 4. However, even after the aggravating and mitigating factors were added to the model, the direct effect of General Support remained very strong (.45 in Study 3; .39 in Study 4).

Only two other effects of attitudes on aggravating and mitigating factors were replicated across more than one study. First, in Studies 4 and 6 jurors' beliefs that LWOP allows parole influenced ratings of the defendant's dangerousness, in that those who believed that there was no such thing as LWOP gave higher ratings of the defendant's dangerousness. However, there was no such relationship in Studies 2, 3, 5, or 7. Second, in Studies 2 and 5, beliefs that the death penalty is a deterrent was related to ratings of the defendant's mental control (i.e., whether his or her ability control his or her actions was substantially impaired), in that those who believed that the death penalty is a deterrent were more likely to find that the defendant was able to control his or her actions. There was no such relationship in Study 3, and no similar mediator appeared in Studies 4, 6, or 7. These results again suggest the possibility that facts specific to these cases may explain why there is mediation in some instances and not in others. Other relationships among the attitude factors and aggravating and mitigating factors were either inconsistent between studies or only investigated in one study.

Further, only one effect of other attitudes was mediated in any of the studies. In Study 6, the effect of beliefs about parole was related to both perceptions of the defendant's dangerousness and a belief that if they jury finds an aggravating factor it is required to sentence the defendant to death (see *Weeks v. Angelone*, 2000), but only the latter variable was significantly related to sentencing verdicts. Thus, it was most likely this (erroneous) belief, and not perceptions of dangerousness, that mediated the effect of beliefs about parole.

Moderation

Some studies also tested whether the strength of the effect of aggravating and mitigating factors varied across levels of attitudes about the death penalty. It is possible that attitudes influence how jurors treat aggravating and mitigating

factors by moderating the weight that is given to each factor that is found to exist. For instance, jurors who support the death penalty may give aggravating factors more weight than do jurors who oppose the death penalty and vice versa with mitigating factors. Three studies manipulated the presence of evidence that was related to a variety of specific aggravating or mitigating factors and tested interactions between attitudes and those manipulations. Other studies focused more specifically on one or two aggravating or mitigating factors, including mental illness, future dangerousness, victim impact evidence, and the defendant's prior record. Some of the latter group of studies gathered ratings of the presence of various aggravating and mitigating factors, though they were not manipulated in the case facts.

Overall, very few interactions between attitudes and aggravating or mitigating factors were significant, and no pattern could be discerned from the results from the various studies. For example, Study 5 found an interaction between general support of the death penalty and the manipulation of evidence concerning the defendant's mental illness, in that mental illness was less mitigating for those who were higher in support of the death penalty. However, Studies 2 and 10 also manipulated whether the defendant was presented as mentally ill and did not find any interactions with attitudes. On the other hand, there were a few aggravating and mitigating factors that were manipulated or measured in several studies, none of which found any interactions with attitudes. These variables include the defendant's prior record (Studies 4, 5, 6, 7, and 10), the heinousness of the crime (Studies 3, 4, and 5), victim impact evidence (Studies 3 and 10), and the future dangerousness of the defendant (Studies 2, 3, 6, 7, and 9). This suggests that these variables are treated the same regardless of attitudes toward the death penalty.

Discussion and Future Directions

This article began by noting how jurors' attitudes toward the death penalty could influence their sentencing verdicts—by having a direct effect, by affecting their interpretation of aggravating and mitigating evidence, or by differentially sensitizing them to those factors—and stated that the effect should not be a direct one. However, the research summarized above shows that the primary effect of attitudes is direct—supporters of the death penalty, those who believe it is a deterrent, and those who believe that defendants sentenced to LWOP nonetheless get out on parole were more likely to sentence the defendant to death, irrespective of their findings of aggravating and mitigating factors. Even more important, in every study, the effect of general support of the death penalty was greater than the effect of any manipulation of evidence or rating of aggravating or mitigating factors. Attitudes affected findings of some aggravating and mitigating factors, usually common ones such as future dangerousness and mental illness but rarely affected the weight given to those factors.

Before discussing possible policy implications, we must note the methodological limitations of the studies. Ten of the 11 studies had brief, text stimulus materials (usually 3–4 single-spaced pages long) and did not have juries deliberate. Nine of the studies collected some data from participants over the Web, which introduces many possible situational confounds. Seven studies collected data from undergraduates. Research does suggest that simulation method, the use

of undergraduates, (Bornstein, 1999) or the use of the Web (Krantz & Dalal, 2000; O'Neil & Penrod, 2001) does not usually influence results. Also, when possible, the studies above compared results between method of data collection and sample type and found (out of a total of over 60 tests) only that undergraduates were less likely to impose death in Study 3 (but not in Studies 4 or 6), only one interaction involving sample type (in Study 6), and none involving method of data collection. Also, the lack of interactions between evidentiary manipulations and attitudes suggest that stronger evidence does not necessarily relate to a lesser effect of attitudes. In several studies jurors were sensitive to even the introduction of a paragraph of evidence (see Brank, Studebaker, et al., 2002), but nonetheless there was still a much larger effect of attitudes. Revisions of jury instructions, which arguably made them easier to understand and follow, also did not moderate the effect of attitudes in Studies 2 and 4. Of course, attitudes may be irrelevant in cases that clearly do or do not deserve the death penalty (e.g., serial murders), but the scenarios in the above studies were designed to be tough cases to decide. Nonetheless, with more ecologically valid stimulus materials and procedures, these conclusions may change; future research should be conducted with such materials and procedures. Further, the variable of interest, attitudes toward the death penalty, was a measured individual-difference variable and was not manipulated in any study. As such, any causal interpretation of the relationship is not possible. Future research should include manipulations of attitudes (e.g., priming, interfering).

If future research also finds large direct effects of attitudes toward the death penalty on sentencing verdicts and perhaps especially if those effects are, as in the experimental studies reported here, larger than the effects of variation in case evidence, such findings would suggest that capital jurors are not following the law in the manner conceived by legislatures and courts. The direct, unmediated effect of attitudes suggests that jurors have an opinion as to sentence before hearing any evidence, and any evidence they do hear only moves them from that initial point (an anchor and adjustment theory). In other words, jurors are not the passive decision makers that courts assume them to be, and they will be influenced by their preconceptions and existing attitudes (see Diamond, 1993). The large size of the attitudinal effects and the fact that the majority of people support the death penalty suggest that there is a substantial number of jurors who presume that death is appropriate and must be faced with an enormous amount of mitigating evidence before believing otherwise, just as are there a number of jurors who presume that death is not appropriate and must be faced with an enormous amount of aggravating evidence. If these jurors sit in cases that are not so lopsided, their decision may be dictated or dominated by their attitudes rather than by the aggravating and mitigating factors they are instructed to consider.

How might such problems be addressed? First, there may be attempts to reduce the size of the effect of attitudes. Although admonitions to follow the law and instructions on how to reach a verdict should already be present in jury instructions and during voir dire, they might be made stronger and repeated often. Voir dire can be expanded to allow lawyers to introduce jurors to the specifics of the decision-making process.

However, if the effect cannot be reduced, efforts can be made to eliminate jurors who, in nonlopsided cases, could never be convinced to reach a verdict

contrary to their attitudes. The *Wainwright v. Witt* (1985) death-qualification test currently excludes those jurors whose attitudes “prevent or substantially impair” them from following the law. If this standard is broadened, or even if courts consider those high in support of or opposition to the death penalty to be substantially impaired, then there would be fewer jurors whose decisions are in effect automatic in hard-to-decide cases. Similarly, voir dire might be used to identify jurors who demand extreme amounts of aggravating or mitigating factors before voting for death or life, respectively.

The result that attitudes are related to findings of aggravating and mitigating factors is not so troublesome. Other than to imply that attitudes can influence interpretations of evidence, courts have provided no guidance about what strength of relationship between attitudes and findings is acceptable. Future research, with more ecologically valid materials, might show that attitudes have very large effects on findings of aggravating and mitigating factors. If so, death qualification and voir dire should account for attitudes in this context also.

The lack of interactions between attitudes and evidence was unexpected. As did we, courts specifically instruct jurors to individually weigh found aggravating and mitigating factors and expect to see the “conscience of the community” in terms of how factors weigh in the death equation. Again, it is not clear how much attitudes should moderate the effects of evidence, but it is expected that, for example, jurors who oppose the death penalty will assign more weight to mitigating factors. Courts have stated that jurors’ attitudes should not make them “mitigation impaired,” unable to consider certain or any evidence as mitigating. Yet, similar to above, there may be jurors who require a large amount of compelling evidence before they will assign weight to certain mitigating factors. Courts have never said that any type of evidence must be given a certain weight, but for fairness they may want to exclude jurors who rarely weigh evidence in a certain direction. Further, instead of general attitudes, more specific beliefs about how certain evidence is related to a hypothetical defendant’s blameworthiness or deathworthiness may moderate the effects of evidence. Future research can develop a measure of such beliefs to be used in both research and voir dire.

Given that attitudes toward the death penalty do have an effect independent of aggravating and mitigating factors, lawyers may apply this in court and question prospective jurors about their attitudes toward and specific beliefs about the death penalty. This article identified two specific beliefs about the death penalty that were related to sentencing verdicts—whether the death penalty is a deterrent and whether defendants sentenced to LWOP get out on parole—but there certainly may be other relevant beliefs applicable to all or just certain cases. For example, several beliefs about murderers specifically, and not the death penalty in general, which were not included in the scale reported here, may be relevant. These include beliefs that could bear on aggravating factors (e.g., whether murderers are always dangerous) and mitigating factors (e.g., whether a murderer is always to blame for his or her actions). Also, beliefs about whether there is discrimination in the application of the death penalty most likely would be relevant in cases involving a minority victim or defendant. Future research may include these items or, preferably, develop a short scale to measure these beliefs.

In addition, results from the exploratory and confirmatory factor analyses described above suggest a few additional relevant factors. First, items should be

added to clear up what might be two separate factors regarding societal retribution as compared with personal revenge. These factors most likely deal with a sense of personal vengeance or satisfaction in seeing a murderer executed and, separately, a belief that society in general has a right to execute murderers to get "an eye for an eye." Philosophical works usually distinguish between these two factors (see Finckenauer, 1988; Hass, 1994; Nozick, 1981), and the general public may do so also. In addition, there could be a related but separate factor similar to what Bohm (1992) called "revenge-utilitarianism" (e.g., "If a murderer is not executed for the crime, the friends or family of the victim are likely to take it upon themselves to seek revenge"). The item about the "desire for revenge" that loaded on two factors most likely could be dropped from the scale if these factors clearly separated. Second, jurors' belief about whether the death penalty should be mandatory for all murderers can be added to the scale if this factor can be severed from the factor about whether some murderers are worse than others. Although those scoring at the extreme high end of this factor arguably should be excluded as not death qualified, the variance among those not at the extreme could be a good measure of punitiveness.

Furthermore, other attitudes or personality measures may be related to sentencing verdicts. The survey described above (see also Table 4) found that qualities such as authoritarianism, dogmatism, vengeance, punitiveness, and concern about due process issues were correlated with support of the death penalty, and items such as beliefs in a just world and fear of crime were correlated with the belief that the death penalty is a deterrent, but these variables might also predict sentencing verdicts or the treatment of aggravating and mitigating factors. For example, Seltzer and McCormick (1987) found that criminal justice attitudes and being "somewhat afraid of crime" were related to the number of mitigating factors accepted. Other attitudes or traits not included in the survey above, such as tolerance (Valliant & Oliver, 1997), religious fundamentalism and compassion (Applegate, Cullen, Fisher, & Vander Ven, 2000; Stack, 2000; Young, 1992), low faith in people (Curtis, 1991), ability to sympathize with crime victims or to respect human life (Neapolitan, 1983), and racial prejudice (Aguirre & Baker, 1993; Vidmar, 1974), which were correlated with death penalty attitudes in other research, might also predict verdicts or findings of aggravating and mitigating factors. Future research should investigate these relationships.

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