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Public Opinion and the Death Penalty: A Qualitative Approach

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Abstract

Strong public support for capital punishment is arguably the number one reason why the death penalty continues to be used as a form of correctional policy in the U.S. criminal justice system. Therefore, it is fundamental that the measure of death penalty opinion be heavily scrutinized. Utilizing a methodological approach not typically employed in this area, the current study conducted six focus groups to gain a better understanding of the complexity of these opinions. During the focus groups, participants were asked to state their general beliefs concerning the death penalty, respond to scenarios, and respond to research findings regarding the death penalty (i.e., costs, deterrence, wrongful convictions, race, etc.). The findings suggest that participants' views regarding the death penalty are more multifaceted than previously believed. This study further suggests that current methods used to measure public support of the death penalty fail to capture the complexity of sentiment on this issue.

Keywords

Death Penalty, Public Opinion, and Focus Groups

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Public Opinion and the Death Penalty: A Qualitative Approach

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Strong public support for capital punishment is arguably the number one reason why the death penalty continues to be used as a form of correctional policy in the U.S. criminal justice system. Therefore, it is fundamental that the measure of death penalty opinion be heavily scrutinized. Utilizing a methodological approach not typically employed in this area, the current study conducted six focus groups to gain a better understanding of the complexity of these opinions. During the focus groups, participants were asked to state their general beliefs concerning the death penalty, respond to scenarios, and respond to research findings regarding the death penalty (i.e., costs, deterrence, wrongful convictions, race, etc.). The findings suggest that participants' views regarding the death penalty are more multifaceted than previously believed. This study further suggests that current methods used to measure public support of the death penalty fail to capture the complexity of sentiment on this issue. Key Words: Death Penalty, Public Opinion, and Focus Groups

Over the past few decades American correctional policy has focused on a “get tough” approach toward crime and punishment. In order to cast themselves as “tough on crime,” both Democrats and Republicans have continuously supported measures to increase the punishment allocated to criminal offenders. The most punitive type of punishment in the United States is arguably the death penalty. Unlike other types of punishments (such as prison or jail), the death penalty is the only punishment with a mobilized opposition that continues to fight against its use.

Political leaders, criminal justice administrators, judges, and citizen groups throughout the United States look at public opinion on capital punishment to support its continued use. In fact, strong public support is arguably the number one reason the death penalty continues to be used as a form of correctional policy in our criminal justice system. Bohm (2003) argues that public support for the death penalty contributes to its continued use in at least five ways. First, strong public support can sway legislators to vote in favor of the death penalty and against any statutes seeking its repeal. Second, he argues that prosecutors may seek the death penalty for political rather than legal purposes. Third, it may influence judges to impose death sentences or uphold death sentences on appeal. Fourth, governors may be less likely to veto death penalty legislation or commute a death sentence due to fear of risking re-election. Lastly, and what Bohm argues is the most important, is that supreme court justices (both state and federal) examine support for the death penalty as a measure of “evolving standards of decency” to decide whether the death penalty violates the U.S. Constitution’s 8th Amendment “cruel and unusual punishment” clause.

Due to the fact that death penalty opinion influences so many facets of our political and court systems, it is extremely important that measurement of public support for this policy be accurate. It is the purpose of this study, therefore, to examine the factors that shape the public's opinions on the use of the death penalty. Furthermore, this research examines whether individuals' support or opposition for the death penalty varies with the introduction of different circumstances and information.

Literature Review

Although a large amount of research in this area has been conducted by academics, much of our knowledge of death penalty opinion has been a result of public opinion polls (e.g., Gallup polls). Beginning with studies in the 1930s, public opinion on capital punishment has been measured in a variety of ways. Until recently, however, the majority of death penalty opinions were measured by some form of the question: "Do you oppose or favor the death penalty for a person convicted of murder?" In addition, these studies only offered yes/no or oppose/favor responses and left out options such as don't know, not sure, or no opinion (Bohm, 2003). Current research, however, is taking steps to test different methodological approaches to measuring public opinion on this issue (Bohm; Jones, 1994; McGarrell & Sandys, 1996).

The Marshall Hypothesis

In the United States Supreme Court case *Furman v. Georgia* (1972) the Court ruled that the death penalty violated the U.S. Constitution's 8th Amendment "cruel and unusual punishment" clause. This decision was made at a time when support for the death penalty was at its lowest in history, thus the decline in public support was cited as a measure of "evolving standards of decency." Justice Marshall argued that if given information about the death penalty, "the great mass of citizens would conclude...that the death penalty is immoral and therefore unconstitutional." In other words the Supreme Court decided that informed public opinion was opposed to the death penalty and it should, therefore, be ruled unconstitutional.

After the *Furman* case, researchers began to test the "Marshall hypothesis" but encountered a number of methodological issues (Bohm, Clark, & Aveni, 1991; Bohm & Vogel, 1991, 1994; Cochran & Chamlin, 2005; Lord, Ross, & Lepper, 1979; Sarat & Vidmar, 1976; Vidmar & Dittenhoffer, 1981). Difficulty deciding what kind of knowledge is required, to what extent someone is "informed," and how the knowledge should be imparted to the subjects were all commonly faced problems (Bohm, 2003). It is likely that many of these issues contributed to the mixed findings they produced. Some found support for the hypothesis that information can decrease the public's support of the death penalty (Bohm et al.; Sarat & Vidmar; Vidmar & Dittenhoffer), while others found that the presentation of information did not decrease support and at times may have polarized opinions (Bohm, 1990; Lord et al.).

Regardless of limitations in testing the hypothesis and the mixed findings, the Marshall hypothesis was the first systematic change in the methodological approach to testing public opinion on the death penalty. Prior to this, researchers were simply asking whether someone supports or opposes the use of the death penalty, rather than examining the

extent of their support or the influence of demographic or attitudinal variables on their support or opposition to this form of punishment. The Marshall hypothesis placed the focus on examining how education changes individuals' death penalty attitudes and has greatly improved our understanding of the public's views towards capital punishment. Although the research examining the Marshall hypothesis did not specifically change policies, it did add to a richer understanding of views (specifically the role of education and information) towards this penal sanction.

How You Ask the Question

While opinion polls repeatedly show an increasing punitiveness among the public from the 1960s to the 1990s, McCorkle (1993) argues that methodological issues raise questions regarding the use of these polls in the development of public policy. If surveys only assess a portion of the public's thinking, an opinion poll may not be gauging the public's true beliefs. For example, a survey that asks a "yes" or "no" type question forces respondents to simplify their beliefs to be represented in this dichotomy. No consideration is given to various conditions that might change a person's opinion. This limitation might prevent those relying on the polling data from truly understanding the complexity of respondents' views towards the death penalty. Furthermore, methodological differences in death penalty studies can greatly influence the results. This indicates the need for further examination to determine which methodologies are better suited for this type of public opinion research.

Over the past 15 years there have been movements by researchers and pollsters to change the wording of questions and/or include alternative punishment options (Bohm, 2003; Jones, 1994; McGarrell & Sandys, 1996). The addition of "no opinion" response categories and alternative punishments such as life without the possibility of parole (LWOP) in opinion polls has provided for a greater understanding of public sentiment on this issue. Bohm suggests that additional death penalty opinion studies have not only adopted the aforementioned additions, but have also utilized questions addressing the administration of the death penalty, innocence, disparity, frequency, and deterrence.

This movement towards a better understanding of death penalty opinion is still in the beginning stages. Much of the new research tends to focus on one aspect of opinion (e.g., deterrence or administration) and thus continues to be limited in its scope and ability to fully understand the complexity of opinion. In addition, there is a lack of death penalty research capable of capturing a larger degree of variation in death penalty opinion. In an attempt to better understand death penalty opinion, the current study utilizes qualitative focus groups to assess a larger range of citizen views towards capital punishment.

Method

This research project used focus groups as its method of data collection. Focus groups can be one of the richest forms of data collection. Morgan (1998) provides three basic uses of focus groups for research within the social sciences. He argues that they can be used as a self-contained method of data collection, part of a multi-method process of other qualitative research, or as a supplementary method of data collection. This research study plans to use the data generated from the focus groups both as a self-contained method as well

as for the latter purpose (i.e., to supplement the existing quantitative research). First, the focus group data was analyzed to gain a better understanding of participants' views towards this penal sanction. Focus groups can be one of the richest forms of data collection and can provide the researchers with a more detailed understanding of participant views and opinions. Secondly, the data will be used to determine whether our current quantitative measures are sufficiently capturing the public's view of the death penalty. As mentioned before, the primary method of measuring death penalty support is to ask participants if they oppose or favor its use. However, if they state that "it depends" or "only for some offenders," then our current quantitative methods are limited in scope. If limitations in the current quantitative measures can be identified, the results can aid in the development of a more accurate method. Thus, it is not necessary for the sample or method to be generalized to the population as a whole at this point in the research process. Instead, one of the aims of this study is to explore the opinion of the death penalty given by the participants in order to gain a better understanding of their beliefs. This understanding can then be applied to further inform quantitative examinations of death penalty research. Although the current study will attempt to use the findings from the focus groups to improve upon future quantitative research, it is expected that not all components of a person's views towards the death penalty can be captured through quantitative analysis. Thus, it is necessary to continue researching this topic through both qualitative and quantitative methods.

Sample

Before the study began, the research team obtained all necessary Institutional Review Board (IRB) approvals for the protection of human subjects at Indiana University of Pennsylvania in 2006. Participants were recruited to voluntarily participate in this project through a series of advertisements in local newspapers in Indiana County, Pennsylvania. Advertisements were seeking "ADULTS, Over 18 years, interested in participating in a group discussion involving the criminal justice system" and instructed people to call the project office. Interested participants left a message for the project staff who then returned their call. During the initial phone call, the project staff member gave them a brief description of the study, informed them that their participation was voluntary, and explained that payment of \$20 would be provided for their participation. Those individuals who remained interested in participating were then scheduled for a focus group.

Over a period of four months (April through June 2006) six focus groups were conducted with a total of 20 participants. Participants were assigned to one of three all-college student or three all-community member groups, each of which ranged from two to five participants in each group. The sample reported a mean age of 30 years (range 19-65 years). All participants had graduated from high school and the vast majority of them had received at least some college education (90%). In general, participants were split rather evenly by sex, college student status, and political party identification. Additional demographic characteristics are presented in Table 1.

Table 1. *Demographic Characteristics*

Characteristic	N	%
Sex		
Male	8	40
Female	12	60
Ethnicity		
Black/African American	3	15
White/European American	17	85
College Student Status		
Student	11	55
Nonstudent	9	45
Employment		
Employed part-time	5	25
Employed full-time	5	25
Unemployed	2	10
Student/Homemaker	8	40
Religion		
Catholic	7	35
Protestant	7	35
None	2	10
Other	4	20
Political Party Identification		
Democrat/Liberal	8	40
Independent/Moderate	6	30
Republican/Conservative	6	30

Procedure

Semi-structured focus group sessions, ranging from one and a half to 2 hours in length, were co-facilitated by the authors. One facilitator was responsible for moderating and guiding participants through the semi-structured protocol. The second facilitator was responsible for note taking, audio technology, and to assist in generating discussion among participants. All sessions were audio-taped and later transcribed for analysis. At the beginning of each group participants were presented with writing materials, water, and snacks. Co-facilitators made many attempts to make participants feel comfortable and prepared to openly share their thoughts and opinions.

The semi-structured protocol consisted of four sections: (a) Positive and negative beliefs; (b) General death penalty opinions; (c) Punishment scenarios; and (d) Death penalty statements. In the first section of the group, participants were asked to brainstorm and write down any positive beliefs or opinions they held regarding the death penalty. Once they were finished writing, participants were asked to share their list with the group. This process was then repeated with reporting and sharing of participants' negative beliefs. This followed a similar method used by Bradizza, Collins, Vincent, and Falco (2006) when asking focus group participants to state their positive and then their negative expectations when

consuming malt liquor. The second section of the focus group consisted of participants discussing their general level of support for the death penalty in the United States (support or oppose) and its use for specific groups (e.g., juveniles, mentally ill, mentally insane).

In the third section of the focus group, participants were given four crime vignettes that were death penalty eligible in Pennsylvania (see Appendix) and were asked to identify and discuss what form of punishment they thought was the most appropriate for the offender. The crime vignettes were based on actual court cases in Pennsylvania in which the offender received the death penalty as his/her sentence. Participants were not told, however, that the cases were actual court cases and none of the respondents noted being familiar with the cases. The four cases were chosen to represent various victim and offender characteristics (i.e., sex, age, substance use, severity of offense, etc.) to determine if these factors influenced death penalty opinions. Specifically, cases were chosen that depicted a perpetrator who was female (case four), under the influence at the time of the crime (case one), suffered from drug addiction (case four), had a relationship with the victim (cases one and two), targeted more vulnerable victims (cases two and four) and committed the crime with an accomplice (case three). The four cases were also included to depicted different motives (i.e., crime of passion in the first case, greed in the second case, unknown motive in the third case, and drug addiction in the fourth case).

The last section of the focus group presented participants with eight statements (obtained from Mallicoat, 2005) about the death penalty (e.g., cost, deterrence, wrongful convictions; see Appendix). Participants were then asked to discuss their feelings about the statements and their receptivity to the information. Focus groups members were also asked to note whether they knew the information presented in the statement prior to the focus group or if the information was new to them. Overall, participants' prior knowledge of the information presented in the eight statements was limited and much of the information was newly presented to them.

Analysis and Results

Audio recordings of each of the six groups were transcribed. All the transcriptions were completed by the same person who also acted as a co-facilitator at each of the six focus group sessions. Additional notes taken by the other co-facilitator at each session were used to aid in the transcription phase (e.g., identifying speakers, hard to hear comments). Copies of the transcripts were then provided to a three-member research team. Two members of the research team were doctoral students in the Criminology department at the same University. These two members also served as the facilitators of the focus groups. The third member was an Assistant Professor at the same University. Although the third member of the research team was not included in the facilitation of the focus groups, he was included in the analysis process to assess consistency in the identification of themes. This was done in an effort to eliminate any potential bias that could occur from the other two researchers facilitating the focus groups.

Prior to the study, all of the members of the research team were aware of the research regarding the use of the death penalty in the United States (e.g., deterrence potential, costs of use, and frequency of use). Given the findings from previous research, all research team members felt the death penalty, as currently applied, is not an effective policy response to deter crime or reduce costs. The members also were concerned about the racial disparities in

the allocation of the death penalty. None of the members, however, had especially strong feelings regarding the moral implications of the death penalty.

Each member of the research team then conducted a content analysis of the transcriptions. This was done by examining all the transcripts and extracting common themes that occurred in at least two focus groups. All members of the research team followed a similar strategy that relied on the use of frequency counts to generate emerging themes. For example, when examining the negative statements towards the death penalty each researcher noted the frequency of related statements as well as coded each statement based on its interpreted theme. Statements such as “people are always wrongly executed,” “possibility of executing innocent people,” and “some individuals may have been innocent” were coded by one researcher as “innocence” while another researcher coded them as “wrongful convictions.” Although the researchers coded them under different titles it was obvious to the research team that they were essentially the same theme and thus merged them together under one category title (in this specific example they were all later coded as “innocence”).

The research team met throughout the analysis phase to discuss the identified themes to ensure consistency of coding. Comparisons of the themes each coder identified were 98% compatible across the three members. The themes that were not found by two or more members were reexamined by all members and were removed after all members agreed there was not sufficient mention of them in the transcripts to classify them as common themes. Although participants were separated into groups by student or community status, no consistent differences in opinions were found between groups; therefore, data was merged for all groups and thematic findings are representative of both student and community participants.

Positive and Negative Beliefs

Focus group participants provided both their positive and negative thoughts about capital punishment in the United States. Although some participants indicated they generally supported or opposed the death penalty, the majority still held both positive and negative beliefs about its use. This illustrated the complexity of the participants’ views on this issue and showed the diverse beliefs that account for individuals’ death penalty beliefs.

When asked to list the positive aspects of the death penalty, participants frequently referenced popularly held views regarding its use. For instance, often referenced was the ability of the death penalty to deter other criminals and its lower costs. This is illustrated in such statements as:

Uh, the public and the government doesn’t have to pay to keep people in jail, they definitely will not commit a crime again, closure for victim’s families, and it is more of a deterrent than a life sentence.

Other themes referenced included incapacitating dangerous offenders, offering increased public safety, giving closure to the families of the victim, to provide justice, to achieve revenge/retribution, and to reduce prison overcrowding.

When discussing the negative aspects of the death penalty, the most frequently referenced problem was the costly and long appeals process. It was clear that the participants

felt that this process was largely unnecessary and actually caused the death penalty to be less effective. One respondent stated:

Uh, death row inmates are granted too many appeals and why trial someone for the death penalty if Pennsylvania does not follow through with executions?

Other themes related to the negative aspects of the death penalty included wrongful convictions, bias in the system, sending a violent message, failure to deter crime, costs, hypocritical (government killings), more suffering for victim/offender families, and ignores social issues surrounding crime. It is important to note that costs were cited in both the positive and negative statements. For example, some participants believe that the death penalty is cheaper and will save the criminal justice system money. However, other participants cited cost as a negative component of the death penalty arguing that the death penalty costs the criminal justice system more than a sentence of life in prison. This was also seen with the argument of deterrence with some participants believing that the death penalty deters others from committing similar crimes while other participants argued that the death penalty fails to deter future crime.

General Death Penalty Opinions

During the second phase of the focus groups, participants were asked to discuss their general feelings of the death penalty in the United States. Specifically, they were asked “do you oppose or favor the use of the death penalty for people convicted of murder?” While the majority of the participants said they were mostly “for” the death penalty, many began with statements such as “it depends” or “I’m torn.” Common factors that swayed participants’ support of the death penalty were age of offender and victim, circumstances of the crime, and crime severity and type. Many of the participants who were in favor of the death penalty stated that they only supported it for crimes that were especially brutal or where there were multiple victims.

Focus group members were next asked to address their opinions of the death penalty for juvenile offenders, the mentally ill, and/or insane. In general, the participants were less likely to show support for the death penalty with these classes of offenders; however, many were still unwilling to provide a definite response (i.e., oppose or favor). While some participants were against the death penalty for juveniles under any circumstances, all participants in favor of the death penalty for juveniles believed it should be applied on a case-by-case basis. None were willing to provide an age at which a juvenile could automatically be eligible for the death penalty.

For cases in which the defendant is mentally ill, and/or insane, participants were more likely to offer a decisive opinion. Overall, participants were opposed to use of the death penalty for these groups, however, those in favor commonly expressed disbelief that mental illness actually exists. Participants made statements such as:

I think that varies because a lot of people can fake that so easily in trials. So I think that line is blurred today. You know what I mean?

Me personally, I don't think there's any such thing as mental illness. I think it is all just a game you play with yourself. I totally can't even fathom like people just being crazy like pleading they're crazy for being crazy. Like, I just don't understand it.

In general, participants found it difficult to simply address their opinions towards capital punishment in a strictly opposed or favored method, even when asked about specific groups. This was a particularly interesting finding due to the fact that traditional opinion polls on this issue use oppose/favor response categories.

Punishment Scenarios

The third phase of the focus group asked participants to read four crime scenarios and provide a sentence for each offender depicted in the scenario. Each of the four crime scenarios were based on actual death penalty cases that occurred in the state of Pennsylvania (see Appendix). Names of offenders and victims had been changed throughout the scenarios and participants remained unaware that the scenarios were based on actual cases where the offender received a death sentence.

The first major finding in this section was participants who tended to favor or oppose the death penalty had wavering opinions when provided with certain circumstances. A clear example of this is demonstrated with one avid supporter of the death penalty. He elected for the death penalty in every scenario until he was presented with a female offender (scenario four). For this scenario, his opinion wavered and he stated:

I was more hesitant to say the death penalty this time. I don't know if it's cause she's a woman. I know that doesn't make a difference. I mean it, I just, maybe...I'm looking more at her past. If she is acting out in prostitution and addiction, I just picture this beat up little girl, all the way and still...I don't know, that's how I see it. And I said life in prison with rehab or the death penalty and then I commented that I was hesitant to say the death penalty.

The process of using scenarios also allowed the researchers to assess the emotional triggers associated with support for the death penalty. As participants discussed each scenario they talked about the specific facts within each case that influenced their sentencing decisions. Three major themes appeared to have the greatest influence over the opinions of the participants. These themes were: motive of the offender, relationship of the victim to the offender, and perceived dangerousness of the offender/chance of rehabilitation.

In order for many participants to subscribe a sentence of death to an offender, they had to be able to identify the motive of the offender. For example, in scenario three, two men carjacked and kidnapped and eventually murdered a young woman. In response to this scenario many participants refused to give the death penalty because they could not understand why the offenders would kill the victim. Also, the fact that there were two offenders complicated the decision for participants as they had trouble assigning blame. Participants made such comments as:

I feel we didn't get the whole story here. I just think there is so much more going on for me to express an opinion of what kind of you know punishment could be given. I don't know, like what the motive was like why you stab. You don't just stab somebody just to stab somebody; you've got to have a reason. You know like, I...I just...I couldn't grasp what these guys were trying to accomplish.

Consistent with the earlier findings showing that many of death penalty supporters were for the use of the death penalty only when crimes were brutal or there were multiple victims, many participants saw it fit only to recommend the death penalty in scenarios when they viewed the crime as especially cruel (scenarios two and four) or there were multiple victims (scenarios three and four).

Many participants also showed leniency for offenders who were under the influence of substances. This was presented in the first scenario in which the offender was intoxicated and in the fourth scenario, which depicted the offender as a crack addict. Participants made statements to suggest that these defendants did not deserve the death penalty because they were not fully in control of their actions and had a greater chance at rehabilitation. This is illustrated in one participant's response to the first scenario:

At first when I read it I was uh the death penalty, he's guilty. And then I got to thinking that maybe the alcohol is what makes him angry and um, then I uh, said well if he is remorseful maybe time served, some significant time served with anger management and rehab and volunteer work...

Another common factor that was found to influence a participant's opinion on the appropriate use of the death penalty was the characteristics of the victim. Participants were more likely to apply the death penalty in cases where the victims were less powerful and could be viewed as incapable of protecting themselves. Participants were more emotionally charged when the defendant was a women in scenario one or was elderly in scenario four.

If you're a woman beater you're a woman beater. It doesn't matter how drunk you get. You know like one of the things I take pride in as being a man is respecting women, children, and elders. And like this guy clearly had no respect for anybody. To kill your girlfriend or wife over a, you know, a broken bottle of beer, you know, that's pretty foul...

Ugh, definitely the death penalty. She confessed, she's done it twice, she's a repeat offender, and she's victimizing the elderly. Easy targets!

When the victim was a child, the emotional reaction was especially strong. The second scenario depicted a father who was involved in the murder of his daughter. For this scenario, participants recommended the death penalty more consistently than they did for any of the other scenarios. The emotional charged sparked by this scenario were illustrated in participants' comments. Some such comments were:

I had death by a firing squad and let the mother of the child shoot him. Only because it is definitely premeditated, uh, and the fact that it's his own offspring.

Respondent 1: I don't think there is much to argue here. This guys is just...he's a cold hearted a-hole. I wrote it down. For killing his daughter like premeditated the whole thing. It said quote "she's probably dead anyway"...like what a....

Respondent 2: Asshole?

Respondent 1: Yeah, seriously. So, I would put him down. I think this is totally justified and I don't see how anybody would really disagree.

Sometimes the victim characteristics had the opposite effect on participants' opinions, and caused them to argue for leniency. Certain victim characteristics were identified that caused the participants to recommend a more lenient punishment. In the first scenario, alcohol use by the victim was cited as a reason not to give the death penalty to the offender. Participants made such comments as:

.... I put life without parole because of the mitigating circumstances that they both were intoxicated. And I don't think there was enough detail given about what the accused said that the woman did to deserve it.

I wouldn't put him to death because she was probably just as bad as him. They both were dirt balls and...

Death Penalty Statements

In order to test whether participants' views would be changed when presented with death penalty information, eight statements were read based on research findings regarding the effects of the death penalty (Mallicoat, 2005). The eight statements focused on issues such as deterrence, wrongful convictions, victim's families, costs, race, legal representation, international uses, and religion. It was apparent that participants' views of the death penalty were not swayed by the statements. When a statement was presented that contradicted a participant's opinion the most frequent reactions were to either reject the statement as false or to offer other information as a solution to the contradiction. For example, when presented with a statement that informed the participants that the death penalty was an ineffective general deterrent, participants commonly pointed out flaws with the system that could account for this finding (long appeals process, the lack of severity in the treatment of death row inmates, and the failure of the state to sentence more people to death). Some such comments were:

... it's a joke. I've even read of criminals who have committed murder and chosen, "I'll confess, I want the death penalty", you know, cause you get to have a TV, you get your own cell, and you get all these privileges that regular

prisoners don't get. And they know they're not going to be killed for a long time, so, what the heck?

Um, I think if it was used more often then it would but it is rarely used. Again, it is banned in so many states and if it wasn't then I think it would have a factor.

Participants had a similar reaction when presented with statistics for individuals sentenced to death who were wrongly convicted. While many participants had listed that innocent people could be executed as a negative outcome of the death penalty, participants were largely unconcerned about this when presented with the statement. The participants had overwhelming faith in DNA evidence to end this problem. One participant stated:

Ok, it happens very rarely. I mean we have 16, and I know that a life is worth more than a whole world, so...I just thought of that...but 16 in two decades, that's 16 in 20 years...technology has improved tremendously just in the last 15 years I think this would happen even a lot less now

When respondents could not offer solutions to the issues that contradicted their beliefs they often either expressed doubt that the validity of the statements or rejected the information as unimportant or simply an unavoidable flaw in the system. As illustrated in these participants' statements, rejection of the high costs of the death penalty was common and reactions to racial bias in the system were commonly explained as an undeniable part of the system:

I don't agree with this statement personally and I don't understand how we spend so much money on an execution because we are just killing them.

Well, I feel like this is one of the downfalls. Nothing is perfect. And...there's errors everywhere.

Discussion

Overall the results strongly suggest that public opinion of the death penalty is very complex. The findings also suggest strong support for McCorkle's (1993) argument that methodological limitations only allow a portion of the public's true beliefs regarding punishment to be assessed. While most participants easily identified whether they were a proponent or opponent of the death penalty when asked, it was clear that their true beliefs were not well represented by this simple response. Instead of death penalty opinions being consistent, individuals' opinions greatly varied based on offender and offense characteristics. Even those participants who stated that they were strongly in favor of the death penalty for "every offender who caused another individual's death" swayed on this belief under certain circumstances (e.g., when the perpetrator was a female, the defendant was intoxicated, or they believed the victim was partially responsible for his/her own death). Only one participant who stated she was totally against the death penalty remained consistent with that belief across all aspects of the focus group.

Extra-legal (e.g., gender of victim and offender) and emotional factors (e.g., victim was a child) also appeared to strongly influence focus group members' perceptions of the appropriateness of the death penalty. For example, individuals focused more on demographics of the victim and offender (e.g., age, gender, non-criminal behavior of the victim) than on legally relevant factors (e.g., multiple victims, act committed with other felonies) when deciding whether to sentence a defendant to death. This focus on extra-legal and emotional factors often led to participants applying stricter standards to the circumstances that warranted an offense as death penalty eligible than the standards deemed by many states' laws. Although each scenario was based on an actual death penalty case, several participants who supported the death penalty only supported it when the victim was a child or when there were multiple victims. Participants' reluctance to sentence offenders to death in the depicted scenarios may show that their standards are more stringent than legal standards.

The results of the study also showed that the members of the focus groups were largely misinformed regarding the consequences of the death penalty. This was illustrated in the commonly held views that were frequently cited when individuals were asked to identify the negative and positive aspects of the death penalty. Furthermore, the presentation of research findings regarding the death penalty did not influence individuals' opinions. When presented with information that contradicted the participants' views, many became hostile and rejected the information as false or offered an alternative explanation for the statement. These findings were similar to studies which suggest the presentation of death penalty information can polarize opinions (e.g., participants will accept the information that supports their currently held views and reject the information that challenges their views) (Bohm, 1990; Lord et al., 1979). It is also possible that this is partially due to the nature of the statements. Although the statements were derived from research on the effects of the death penalty, they are more supportive of an anti-death penalty opinion. It appeared that this made participants who were proponents of the death penalty feel defensive. During the facilitation of the focus groups, the co-facilitators became aware of this concern.

Limitations and Implications for Future Research

One of the major limitations of the current study is that the sample was obtained from only one mid-sized county in Pennsylvania. Sample participants were also only recruited from advertisements placed in two local papers. In addition, the size of the focus groups was generally small (two to five people). The small group sizes tended to occur due to participant "no-shows" and/or scheduling conflicts. Furthermore, the overall sample size was small ($n=20$), and although the authors attempted to sample to the point of saturation (i.e., significant repetition in participant comments), conducting additional groups may have provided supplementary information. In addition, the use of the death penalty statements posed some problems with participants in that it tended to polarize their opinions as well as become defensive if the statements contradicted their views. Future studies may want to consider adding more death penalty neutral statements or consider rephrasing some of the statements so as not to lead participants to believe the research-based findings in the statements are bias. Any attempts to replicate this study in the future would benefit from addressing these limitations.

Despite these limitations, this study provides important direction to future research on public opinion of the death penalty. The legality of the death penalty has been determined by the public's willingness to support its use. The Supreme Court has upheld the use of the death penalty, citing the measure of "evolving standards of decency" to decide whether the death penalty violates the U.S. Constitution's 8th Amendment "cruel and unusual punishment" clause. Therefore, it has been determined that there is a majority consensus among the public in favor of the death penalty. However, as illustrated in this study, opinions on the death penalty are complex and inconsistent. Previous measures have largely failed to capture the complexity and dynamics that change death penalty opinions. Instead, these measures appear to simply be capturing a superficial sentiment of public opinion. Without more substantial knowledge, it is unclear as to the "true" public opinion on the death penalty.

In order to truly assess the public's opinion on the use of the death penalty, a comprehensive measure must be developed that can more fully capture the complexity of individuals' views. By developing a scale to identify variations in opinions, researchers will be able to more precisely assess individuals' actual level of support for or against the death penalty. This will allow for a more comprehensive and reliable measure of the public's opinion of the death penalty, which can then be used to more effectively shape public policy. Although there may be those who favor the current and limited methodologies (e.g., politicians who prefer the oppose/favor dichotomy) it is important that researchers continue to gain a better understanding of the public's view on this topic. As mentioned in the introduction, public opinion on the death penalty strongly influences public policy in this area. Thus, it is essential that the research on this topic is heavily evaluated and that new methods are developed to aid in our understanding of public sentiment on this issue.

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Appendix

Death Penalty Scenarios

Scenario #1. A man and his girlfriend spent the day together during a late spring day at a county vacation/recreation area in Pennsylvania. They were seen by other vacationers spending most of the day relaxing by the lake. In the late afternoon the couple traveled by foot to a small tavern about two miles away. During the time in the tavern they both began to drink alcoholic beverages. After seeing the woman become intoxicated the bartender refused to provide her with any more alcoholic beverages, but continued to serve alcohol to the man (although witnesses saw the woman drink some of the man's drinks). After leaving the bar the man was seen kicking the woman on the ground. He was angry because she dropped and broke the bottles of beer the man had just purchased from the bar. The couple was seen walking into the woods to return to their vacation area. The bartender reported the commotion to the local police department due to fear that the couple would return to the bar and cause problems. When the police arrived, the bar patrons pointed them in the direction the couple was walking. The police found the man in the woods huddled over the woman. Blood was seen on both of them. The police then apprehended the man and found that the woman was dead. The cause of death was traumatic strangulation with significant conditions being facial and skull fractures, and numerous contusions, abrasions and lacerations. This man was convicted of first degree murder and rape.

Scenario #2. One March evening, after smelling and seeing smoke coming from a house nearby, a neighbor went to assist. At the time, a man, his girlfriend, and his two-year-old daughter were present. The neighbor noticed the man and the woman on a second story deck. The woman screamed for help while the man calmly stood by with his arms folded. The man asked about his dogs and later, when referring to his daughter, said, "The firemen will get her. She's probably dead anyway." His daughter died as a result of the fire. Testimony from the fire and police departments established the fire had been started using gasoline, clothing, straw, and candles, and the security system on the house had been disabled. The man's unwillingness to pay child support was established as motive and intent to the arson and murder of his daughter. A witness at trial stated that the man discussed his plans to commit the murder, including purchasing rope, hay, gas, and candles, and said he would kill his daughter to avoid paying child support. This man was convicted of first degree murder, arson endangering persons, and arson endangering property.

Scenario #3. Two men kidnapped a woman in her own car from a mall in Pennsylvania and took her to a deserted area where she was stabbed to death. The two men fled in the woman's car which was later discovered by the police in Arizona. The police arrested one man while he attempted to steal an elderly woman's purse, and then arrested the other man as he lay sleeping in the Pennsylvania woman's car. The two men were returned to Pennsylvania and were charged with murder, kidnapping, robbery, theft by unlawful taking and conspiracy.

Scenario #4. One June evening a 72 year old man propositioned a woman to have sex with him for money. The two went to the basement of the man's home and had sex. After that,

the woman grabbed a hammer and struck the man on the back of the head several times (ultimately killing him). She then stole some items from his home before leaving. Nine months later, another man propositioned the woman to have sex with him for money. Again, after engaging in sex, the woman grabbed a hammer and hit the man on the back of his head (ultimately killing him). She then stole some items from his home before leaving. The woman had used the stolen items from these homes to purchase crack cocaine. The police found the woman's pocketbook with identifying information left in the second man's home. She was found and arrested and confessed to both of the killings.

Death Penalty Statements¹

Statement 1. In spite of decades of studies, researchers have failed to find the death penalty to be a general deterrent (i.e., the death penalty has not been found to deter or stop other people from committing murder).

Statement 2. Over the past few years there have been a number of cases in which someone on death row was found to be innocent. Furthermore, conservative counts indicate that at least 16 innocent people have been executed over the last two decades. Findings of innocence have been based on, among other factors, DNA evidence and actual offender confession.

Statement 3. Contrary to popular perceptions, many families of murder victims do not want to see the offender executed. In fact, studies have revealed that victim's family members and other "survivors" often are not helped by the execution and even experience further victimization and traumatization from the associated criminal justice process.

Statement 4. Recent studies have found that the average cost per execution is between \$2.5 million and \$5 million. This is 2.5 to five times more expensive than the cost of keeping an offender in prison for their natural life (which, on average, costs \$1 million).

Statement 5. Numerous studies have found that race of both offender and victim plays a role in the administration of the death penalty. All relevant research shows that racial minorities are significantly more likely to receive the death penalty than white and/or wealthy individuals. Furthermore, offenders whose victims are racial minorities are substantially less likely to receive the death penalty than offenders whose victims are white.

Statement 6. Organizations such as the American Bar Association, countless observers and participants in capital trials, capital jurors, and scholarly research studies have all testified to the grossly incompetent legal representation offered to many capital defendants during their trials and sentencing. In addition to the often ill-prepared, ill-equipped, inexperienced or simply incompetent representation in many capital cases,

¹ These statements were taken from: Mallicoat, S. L. (2005, November). *Mutability of student support on the death penalty: A test of the Marshall hypothesis in California*. Presented at the American Society of Criminology Annual Meeting, Toronto, Canada.

numerous cases of mentally ill, drunken, and sleeping lawyers have been documented in recent years.

Statement 7. An overwhelming majority of countries in the world have abolished the death penalty either in law or practice and many Western civilized countries condemn its use by the United States. Meanwhile, the U.S. has been barred from joining international treaties or have been found guilty of violating international law due to the continued use of the death penalty for juvenile offenders (until recently) and foreign nationals. In addition, the United Nations commission on Human Rights has called for a moratorium on all executions.

Statement 8. While many supporters of capital punishment present religious scripture as justification for the death penalty, a number of religious denominations, including the Catholic Church, have condemned the current practice and have called for an end to executions. Additionally, many Christian organizations argue that the messages of redemption presented in the New Testament outweigh the messages of revenge illustrated in the Old Testament.

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