

# Public Sentiment on the Death Penalty: Do Race, Gender, Age & State of Mind Matter?

*Michael W. Markowitz & William E. Harver  
Widener University*

## Introduction

Few issues in criminal justice have generated as much controversy and debate as capital punishment. A long-practiced tradition in American justice, capital punishment came under public and legal scrutiny following the liberal decade of the 1960's. Once its practice was defined more clearly by the United States Supreme Court, the execution of capital offenders fit well with the neo-conservative shift in justice policy that characterized the 1980's and beyond. As we enter the 21<sup>st</sup> century, the execution of Timothy McVeigh and the continuing debate over the relevance of DNA testing for capital criminals have kept capital punishment at the forefront of justice discourse.

Researchers have observed that public opinion regarding capital punishment has been most often measured as a dichotomous variable, that is, in terms of supporters and opponents (Durham, Elrod and Kinkade 1996). This research centers on the issue of whether perceptions of the public are more complex than has been assumed traditionally. In particular, our research explores the impact of various demographic factors on support for the imposition of capital punishment in given situations. Moreover, we explore the effect of these factors on the public's willingness to support the appeals process for those convicted of capital crimes.

## Literature Review

The debate surrounding the death penalty is marked by deeply held differences (Maxwell and Rivera-Vazquez, 1998; Ellsworth and Gross, 1994). This is evidenced by the U.S. Supreme Court's decision in *Furman v. Georgia* (1972). While the Court did not rule capital punishment to be, per se, a violation of the Eighth Amendment, it did rule that the practice of execution in the United States constituted cruel and unusual punishment (*Furman v GA*, 408 US 238, 239 [1972]). The Furman ruling came in the wake of empirical evidence presented to the Court that confirmed what had long been suspected: that blacks, particularly in the South, were being executed at a significantly higher rate than whites for the same crimes. Without clear and guiding legislation to prevent the "arbitrary and capricious" administration of the death penalty, the Court ruled that capital punishment was an infringement on the Eighth and Fourteenth Amendments and suspended its practice (p. 241).

The Court did not, however, leave supporters of the death penalty without some form of legal recourse. Their instructions to state legislatures would permit the reintroduction of capital punishment if two important procedural safeguards were implemented (*Gregg v. GA*, 428 US 153, 155 [1976]). First, the Court called for the most severe crimes under any statutory framework to be legislatively designated as "capital" offenses, a move that would permit execution for those crimes only. Secondly, the Court mandated that the trial process for capital crimes take on a special significance, particularly with regard to the sentencing hearing. While the responsibility for imposing the sanction would still rest with the judge, the Court required that a jury consider the appropriateness of imposing the sanction of death (p. 167). Based upon a jury's unanimous recommendation that sufficient aggravating circumstances exist, judges would be permitted to impose capital punishment under the Court's plan (Inciardi 1999). Following the Furman ruling, states began drafting legislation according to the guidelines developed by the Court. Despite another challenge to the constitutionality of the death penalty in 1976 (i.e., *Gregg v. Georgia*), the Court upheld its earlier principles and capital punishment resumed in the United States with the execution

of Gary Gilmore in 1977 in Utah. Today, 38 states and the federal system have enacted legislation that permits the execution of capital offenders (Snell 2001:2).

A significant factor affecting the modern evolution of capital punishment has been the public's acceptance of the practice. Sarat and Vidmar (1976) have noted that the Furman ruling reflected a clear consideration of the willingness of both legislatures and the public to support criminal executions. Research on the public's opinion of capital punishment has reflected a history of ideological change (Shaw, Shapiro, Lock and Jacobs, 1998). According to Warr (1995), Americans expressed considerable support for executions from the 1930's until the early 1950's, when that support began to wane. By the mid 1960's, support for the death penalty was at its lowest point since polling began, a fact seen as a reflection of the liberal consensus of the era. Opposition to the death penalty in America began to diminish as the neo-conservative movement of the 1980's began to take hold. In the years since, polls show that a majority of those questioned express significant support for this form of punishment (Finckenauer, 1988).

Researchers speculate that the increase in favorable attitudes toward capital punishment can be traced to changes in rates of reported crime, higher levels of fear of crime, the politicalization of crime in the 1960's, and, as Sarat and Vidmar note, "a fading from public consciousness of the reality of executions." Yet, these authors suggest, "...in spite of its impressive magnitude, there is some indication that support for capital punishment is not as deep as it is broad" (1976:175).

This finding has been explored by researchers who have looked beyond the standard format for opinion polling in this area (viz., Jones, 1994). For example, Vito and Keil note "reliance upon standard questions that simply seek a favor/oppose response can overestimate support for and opposition to the death penalty" (1998:18). What is needed, they argue, are methodological approaches that capture the complexity and contextual nature of death penalty cases, i.e., questions that include characteristics of the offender, the victim, the event (including mitigating and aggravating circumstances), and other punishment options, such as a life sentence without the possibility of parole (Vito and Keil, 1998).

A similar conclusion was drawn by Applegate, Wright, Dunaway, Cullen and Wooldredge (1993), whose extensive review of research found that variation in the nature of the crime, the offender, and the victim results in different attitudes toward capital punishment. Thus, they note, "... a single question is a poor measure of support because it fails to capture the complexities that should be considered when evaluating death penalty attitudes" (p. 100). In addition, they recommend the inclusion of race as a research variable in light of the fact that studies of execution trends have revealed a consistent race effect on the imposition of the death penalty; that is, capital punishment is more likely when the victim is white and the defendant is black. (Applegate, et. al., 1993).

Among those who have employed more comprehensive methodologies in their research, Ellsworth and Ross (1983) found that willingness to use the death penalty for homicide varied in relation to the severity of the crime in question, finding strong support for the execution of mass-murderers, but weaker support for the execution of those who commit murder in the course of another crime [e.g., robbery](p. 131). Likewise, Williams, Longmire and Gulick (1988) observed a significantly higher level of public willingness to impose the death penalty when the questioning involved aggravating factors related to specific homicide situations, rather than more generic crime descriptions. This finding supported the work of Harris (1986), whose research showed that homicides involving children as victims, contract killings, and extremely violent murders produced the highest levels of support for the death penalty among members of the public (p. 446).

Vito and Keil (1998) surveyed Kentucky residents who were asked to respond to a series of questions designed to measure their views on the death penalty. They report that 69% of their sample supported the death penalty, but that this support fluctuated depending on certain characteristics of the offender. If the offender was mentally retarded, female or juvenile, support for the death penalty declined. If there were aggravating circumstances such as premeditation or multiple victims, the level of support increased. Finally, support for the death penalty for those convicted of murder was significantly reduced if the convicted person could be sentenced to life without the possibility of parole. Thus, they concluded: "Attitudes toward capital punishment are clearly influenced by the nature of the offense and the

characteristics of the offender. Such variations must be considered in the determination of public policy” (p. 31).

Finally, Durham, Elrod, and Kinkade (1996) used a series of 17 vignettes containing aggravating and mitigating circumstances that would be most likely presented to jurors to determine death penalty preferences among a sample of Florida residents. They, too, reported general support for the death penalty, but found variation in that support with respect to the context of the specific offense, differing characteristics of the offender and victim, specific murder situations, and the options of alternative punishments (such as life without possibility of parole).

The fact that recent research on capital punishment has begun to explore various attitudinal subtleties and their effects on support is encouraging. What studies in this area have lacked, however, is a methodological approach that measures the direct and interactive effects of relevant demographic factors on attitudes of support. Moreover, no significant research has been conducted on the opinion of the public with regard to the appeals process that precedes an execution. Anecdotal evidence suggests considerable opposition to extended appeals that are seen to preclude the more timely and socially effective execution of capital offenders. This study, therefore, employs a more comprehensive research framework that addresses each of these areas. In particular, we are studying the impact of the race, gender, age and mental state of the offender on public perceptions of both the death penalty and the appeals processes. In addition, we explore the impact of various demographic characteristics of the public as factors affecting their decision-making in this regard.

### Methodology

#### **Sample**

A sample of 254 citizens living and/or working in southeastern Pennsylvania comprised the research participants for this study. Among the participants, 63.8% (n=162) were male and 36.2% (n=92) were female. Whites comprised 90.2% (n=229) of the sample, while non-whites comprised 9.8% (n=25). The political views of participants were distributed as follows: liberals: 29.9% (n=76), moderates: 52.4% (n=133), conservatives: 13.8% (n=35). Finally, crime victims comprised 37% (n=94) of the sample, while 63% (n=158) indicated that they had never been victims of crime.

#### **Research Instrument**

The instrument used for this research consisted of 16 hypothetical crime scenarios for which participants were asked to indicate whether or not they would recommend the death penalty for the perpetrator involved. The general format for the scenarios was modeled after the design implemented by Durham, Elrod and Kinkade (1996) in their study of public attitudes toward capital punishment. In addition, participants were asked to indicate whether they would support a lengthy appeals process to certify the guilt of each of the offenders described. Responses to each question were recorded using a Likert format ranging from a low of “1” (strong support for capital punishment or a lengthy appeals process) to a high of “5” (strong lack of support for execution or appeals). Reliability analyses for the scales measuring support for the death penalty and the appeals process yielded alpha coefficients of .95 and .96, respectively.

### Results

As in previous studies, a significant majority of those questioned here expressed support for capital punishment (n=162 [63.8%]). Thirty-one participants (12.2%) expressed opposition, while 61 (24%) were unsure. To study these attitudes in more depth, we constructed a series of dependent variables that reflected composite measures of responses to scenarios involving each category of perpetrator. Thus, for the items measuring willingness to impose capital punishment, eight composite measures were constructed (i.e., adult, juvenile, male, female, white, non-white, sane and insane). Mean scores for each perpetrator category are displayed in Table 1, and show that participants were the most likely to recommend execution for sane perpetrators (mean=1.97), and the least likely to recommend death for the insane (mean=2.36). Adults were more likely to be sentenced to death than juveniles (1.99 and 2.34, respectively), men were somewhat more likely to receive death than women (2.14 and 2.19, respectively), and whites were slightly more likely to receive death than non-whites (2.16 and 2.17, respectively). The

differences observed between the various categories were shown to be statistically significant ( $F=132.33$ ;  $p<.001$ ).

The factor list was then evaluated in relation to a series of independent variables. When tested in interaction with the gender of the participant, the differences observed in the overall factor list remained statistically significant ( $F=117.09$ ;  $p<.001$ ). The patterns of willingness to impose the death penalty described above remained the same when the responses were broken down by gender, although women in the sample were uniformly less willing to impose capital punishment than men (see Table 2). Despite these observed patterns, gender was not shown to be a significant interactive factor explaining overall differences in the scores ( $F=.745$ ;  $p>.05$ ). Similar patterns were observed when the model was tested in interaction with the race of the participant, with non-whites displaying less willingness to impose capital punishment than whites (see Table 3). As with gender, the differences observed on the factor list retained their statistical significance when analyzed in relation to race of the subject ( $F=40.66$ ;  $p<.001$ ). However, the interaction between the list and race was not shown to be a significant factor explaining observed differences ( $F=1.69$ ;  $p>.05$ ).

The political views and victimization experiences of the research participants were also studied in terms of their impact on capital punishment decisions. Predictably, those who identified themselves as political conservatives were the most likely to recommend execution for all categories of offender in the same patterns observed above, followed by moderates and liberals (see Table 4). The overall differences between categories remained statistically significant when considered in relation to political views ( $F=38.85$ ;  $p<.001$ ). But, in contrast to previous findings in this study, the political views of participants did show a significant interactive effect with the categories in explaining observed differences ( $F=2.28$ ;  $p<.01$ ). When victimization experience was analyzed, the results unexpectedly revealed that crime victims were uniformly less likely to recommend the death penalty than non-victims (see Table 5). The differences observed on the factor list retained their statistical significance ( $F=10.48$ ;  $p<.001$ ), but the interaction between victimization and offender categories did not account for significant variance ( $F=.470$ ;  $p>.05$ ), thus leaving the political views of the participants as the only independent factor that did so when considering willingness to execute.

Analyzing the second item asked of each participant with regard to the offenders in question, i.e., willingness to recommend a thorough appeals process to certify guilt, results differed from those above in several key ways. First, mean scores for all offender categories were higher than those reported for the questions on the imposition of capital punishment itself, thus reflecting a lower level of commitment to extended appeals processes for capital criminals. Table 6 displays the means scores for each offender category and shows that respondents were the most willing to support appeals for offenders who were insane (mean=2.25), non-white (2.33), juvenile (2.34) and female (2.34). Offenders who were sane (2.47), adult (2.40), white (2.40) and male (2.39) were the least likely to receive recommendations for extended appeals. The observed differences were found to be statistically significant ( $F=22.76$ ;  $p<.001$ ).

Another area of difference had to do with the significance of gender as an explanatory factor. Whereas gender was insignificant in explaining mean differences regarding capital punishment decisions, for appeal recommendations it had the opposite effect. The overall model retained significance ( $F=17.10$ ;  $p<.001$ ) and the interaction between the model and gender was shown to be significant in explaining observed variance ( $F=3.29$ ;  $p<.01$ )[see Table 7]. While females were not uniformly more likely than males to recommend appeals, non-whites were significantly more likely than whites to recommend appeals in every offender category ( $F=7.16$ ;  $p<.001$ ), although race did not have a significant interactive effect on the overall model ( $F=.707$ ;  $p>.05$ )[see Table 8].

Political views, the most significant explanatory factor with regard to capital punishment decisions, affected appeal recommendations differently. In several categories, moderates were the least likely to recommend appeals (i.e., for adults, males, whites, the sane and the insane), while liberals were the most likely to recommend appeals in every category (see Table 9). Significant differences were observed based on political views ( $F=7.93$ ;  $p<.001$ ), but the variable was not responsible for a significant interactive effect ( $F=.789$ ;  $p>.05$ ). Likewise, victimization experience was not significant in explaining differences in

appeal recommendations (see Table 10), leaving gender as the most important factor affecting these decisions.

### **Discussion**

This research provides considerable insight into the factors affecting decisions related to the imposition of capital punishment. Overall, it shows that support for the death penalty is weakest when the perpetrator is mentally incompetent, under-age, non-white or female. Moreover, the gender and political views of the participants were shown to have the most significant impact on decisions to execute and recommendations for appeal. What is most striking about these data and findings, however, is the narrow range in which the scores fell. With regard to capital punishment decisions, mean scores ranged from 1.77 to 2.5 for the various categories of offender, thus reflecting a less than definite commitment to capital punishment on the part of participants. Equally uniform were the means scores for appeal recommendations (ranging from 2.14 to 2.5), suggesting less of a commitment to the appeals process, but one that varied little among categories of offender.

When these findings are considered in light of other studies on the death penalty, they provide significant additional insight into the complexity of public opinion on this issue. First, the fact that death penalty recommendations vary by the type of murderer involved corroborates the findings of Vito and Keil (1998), who found less support for the execution of murderers who were juvenile, female and mentally incompetent. Our research adds “non-white” to the list of variables that mitigate levels of support. Moreover, the fact that mean support levels ranged between strong and moderate (rather than the very strong support assumed to characterize public opinion) is consistent with the findings of Ellsworth and Ross (1983) and Williams et al. (1988) that “yes/no” questions with regard to death penalty support fail to capture much of the subtlety that characterizes such decisions.

Our research has also charted new terrain through our analysis of public support for appeals of death sentences. We found that the same demographic offender variables that mitigate support for executions actually enhance support for substantial appeals of the convictions of those involved. This was found to be the case for those offenders who were insane, juvenile, non-white and female. While additional research in this area is warranted, these conclusions have policy relevance for the on-going debate among legislators as to whether appeals for capital criminals should be limited. Once again, the complexity of public opinion on this issue suggests that blanket assumptions may ignore consideration of relevant, mitigating factors.

A final contribution of this research stems from our finding that specific demographic qualities shape public opinion regarding death penalty issues. When the question is whether or not to execute, the political views of the respondent were shown to have the strongest effect on his/her decision-making, with conservatives being the most likely to recommend execution. With regard to appeal recommendations, however, the gender of the participant was the deciding factor, with women having the greatest likelihood of supporting the appeals process. Research in this area should continue by exploring the relevance of these and other characteristics to determine more comprehensively the demographic profiles of those who do and do not support capital punishment.

For the future, several additional research recommendations can be made. First, samples used in future studies should be selected to reflect the broadest possible geographic representation. The narrow ranges of scores found in this research may have resulted from the fact that participants were selected from a relatively limited geographic area. Selection of respondents from various regions would help determine whether the limited variability we found is an accurate representation of general public opinion, or the result of the homogeneity of our sample. Secondly, future studies should include more diversity in the racial and ethnic backgrounds of the participants. Although race was not shown to be a significant factor explaining variance in this study, a broader representation of such demographics may produce different results in future research. Finally, the methodology employed here could be applied to study willingness to recommend execution over other sentencing alternatives (such as life imprisonment). Although the intent of this research was to present participants with no option other than execution, future studies, following the lead of Vito and Keil (1998), could investigate the effects of various participant characteristics on choices of sentencing alternatives, including, but not limited to, the sentence of death.

While these suggestions are intended to improve future research designs, they do not minimize the significance of what this research has revealed. The individual and social consequences associated with capital punishment compel criminologists to maintain an on-going scientific interest in those areas of law and public policy that shape this form of criminal justice practice. What we have learned here contributes to this objective. A continued emphasis in this direction will allow us to understand even more fully the complex interplay of factors that shape our attitudes toward this, the severest of American penalties.

**Table I – Type of Perpetrator in Scenarios**

PERP.	Mean	N
ADULT	1.99	254
JUVENILE	2.34	254
MALE	2.14	254
FEMALE	2.19	254
WHITE	2.16	254
NON-WHITE	2.17	254
SANE	1.97	254
INSANE	2.36	254

**Factor 1: F=132.33; p<.001**

**Table II – Type of Perpetrator in Scenarios/Gender of Subject**

PERP.	<u>Mean</u> males females	N
ADULT	1.91	162 - males
	2.15	92 – females
JUVENILE	2.27	162 – males
	2.46	92 – females
MALE	2.06	162 – males
	2.29	92 – females
FEMALE	2.12	162 – males
	2.32	92 – females
WHITE	2.08	162 – males
	2.30	92 – females
NON-WHITE	2.09	162 – males
	2.32	92 – females
SANE	1.88	162 – males
	2.13	92 – females
INSANE	2.29	162 – males
	2.48	92 – females

**Factor 1: F=117.09; p<.001**

**Factor 1/Gender: F=.745; p>.05**

**Table III – Type of Perpetrator in Scenarios/Race of Subject**

PERP.	Mean		N
	whites	non-whites	
ADULT	1.98		229/whites
	2.10		25/non-whites
JUVENILE	2.34		229/whites
	2.36		25/non-whites
MALE	2.13		229/whites
	2.25		25/non-whites
FEMALE	2.19		229/whites
	2.21		25/non-whites
WHITE	2.16		229/whites
	2.17		25/non-whites
NON-WHITE	2.16		229/whites
	2.30		25/non-whites
SANE	1.96		229/whites
	2.06		25/non-whites
INSANE	2.36		229/whites
	2.41		25/non-whites

**Factor 1: F=40.66; p<.001**

**Factor 1/Race: F=1.69; p>.05**

**Table IV – Type of Perpetrator/Political Views of Subject**

PERP.	<u>Mean</u> liberal moderate conservative	N
ADULT	2.11 1.96 1.80	76/liberal 133/moderate 35/conservative
JUVENILE	2.41 2.34 2.17	76/liberal 133/moderate 35/conservative
MALE	2.22 2.14 1.95	76/liberal 133/moderate 35/conservative
FEMALE	2.30 2.16 2.01	76/liberal 133/moderate 35/conservative
WHITE	2.25 2.14 1.99	76/liberal 133/moderate 35/conservative
NON-WHITE	2.27 2.16 1.98	76/liberal 133/moderate 35/conservative
SANE	2.09 1.93 1.77	76/liberal 133/moderate 35/conservative
INSANE	2.43 2.38 2.20	76/liberal 133/moderate 35/conservative

**Factor 1: F=38.85; p<.001**

**Factor 1/Political Views: F=2.28; p<.01**

**Table V – Type of Perpetrator/Victimization of Subject**

PERP.	<u>Mean</u> victims non-victims	N
ADULT	2.05 1.97	94/victims 158/non-victims
JUVENILE	2.42 2.30	94/victims 158/non-victims
MALE	2.19 2.12	94/victims 158/non-victims
FEMALE	2.27 2.15	94/victims 158/non-victims
WHITE	2.23 2.13	94/victims 158/non-victims
NON-WHITE	2.24 2.14	94/victims 158/non-victims
SANE	2.02 1.95	94/victims 158/non-victims
INSANE	2.45 2.32	94/victims 158/non-victims

**Factor 1: F=10.48; p<.001**

**Factor 1/Victimization: F=.470; p>.05**

**Table VI – Type of Perpetrator in Scenarios for Appeals**

PERP.	Mean	N
ADULT	2.40	254
JUVENILE	2.34	254
MALE	2.39	254
FEMALE	2.34	254
WHITE	2.40	254
NON-WHITE	2.33	254
SANE	2.47	254
INSANE	2.25	254

**Factor 1: F=22.76; p<.001**

**Table VII – Type of Perpetrator in Scenarios/Gender of Subject for Appeals**

PERP.	<u>Mean</u>	N
	males females	
ADULT	2.41	162 - males
	2.37	92 – females
JUVENILE	2.31	162 – males
	2.37	92 – females
MALE	2.39	162 – males
	2.39	92– females
FEMALE	2.33	162 – males
	2.35	92 – females
WHITE	2.39	162 – males
	2.40	92 – females
NON-WHITE	2.32	162 – males
	2.35	92 – females
SANE	2.50	162 – males
	2.43	92 – females
INSANE	2.22	162 – males
	2.32	92 – females

**Factor 1: F=17.10; p<.001**

**Factor 1/Gender: F=3.29; p<.01**

**Table VIII – Type of Perpetrator in Scenarios/  
Race of Subject for Appeals**

PERP.	<u>Mean</u>		N
	whites	non-whites	
ADULT	2.41		229/whites
	2.23		25/non-whites
JUVENILE	2.35		229/whites
	2.22		25/non-whites
MALE	2.41		229/whites
	2.21		25/non-whites
FEMALE	2.35		229/whites
	2.24		25/non-whites
WHITE	2.41		229/whites
	2.30		25/non-whites
NON-WHITE	2.35		229/whites
	2.15		25/non-whites
SANE	2.50		229/whites
	2.31		25/non-whites
INSANE	2.27		229/whites
	2.14		25/non-whites

**Factor 1: F=7.16; p<.001**  
**Factor 1/Race: F=.707; p>.05**

**Table IX – Type of Perpetrator/Political Views of Subject for Appeals**

PERP.	Mean	N
	liberal moderate conservative	
ADULT	2.32	76/liberal
	2.45	133/moderate
	2.42	35/conservative
JUVENILE	2.32	76/liberal
	2.35	133/moderate
	2.38	35/conservative
MALE	2.34	76/liberal
	2.43	133/moderate
	2.40	35/conservative
FEMALE	2.30	76/liberal
	2.37	133/moderate
	2.39	35/conservative
WHITE	2.39	76/liberal
	2.42	133/moderate
	2.40	35/conservative
NON-WHITE	2.25	76/liberal
	2.39	133/moderate
	2.39	35/conservative
SANE	2.41	76/liberal
	2.52	133/moderate
	2.53	35/conservative
INSANE	2.23	76/liberal
	2.28	133/moderate
	2.27	35/conservative

**Factor 1: F=7.93; p<.001**

**Factor 1/Political Views: F=.789; p>.05**

**Table X – Type of Perpetrator/Victimization of  
Subject for Appeals**

PERP.	<u>Mean</u> victims non-victims	N
ADULT	2.36 2.41	94/victims 158/non-victims
JUVENILE	2.28 2.36	94/victims 158/non-victims
MALE	2.37 2.40	94/victims 158/non-victims
FEMALE	2.27 2.37	94/victims 158/non-victims
WHITE	2.35 2.42	94/victims 158/non-victims
NON-WHITE	2.29 2.35	94/victims 158/non-victims
SANE	2.43 2.50	94/victims 158/non-victims
INSANE	2.21 2.27	94/victims 158/non-victims

**Factor 1: F=.685; p>.05**

**Factor 1/Victimization: F=.587; p>.05**

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