DOWNLOAD PDF EXPERIMENTAL RESEARCH ON JURY DECISION MAKING (R-3832)

Chapter 1 : Death Penalty Decisions: Instruction Comprehension, Attitudes, and Decision Mediators

Jury verdicts directly affect the lives of hundreds of thousands of people in the United States every year and serve a bellwether function in plea bargaining and settlement negotiations.

Angelone , about jury comprehension of death penalty instructions. Further, this research examined the use of evidence in capital punishment decision making by exploring underlying mediating factors upon which death penalty decisions may be based. Manipulated variables included the type of instructions and several variations of evidence. Study 1 was a paper and pencil study of undergraduate mock jurors. Manipulations included four different types of instructions, presence of a list of case-specific mitigators to accompany the instructions, and three variations in the case facts: Manipulations included jury instructions original or revised , presence of a list of case-specific mitigators, defendant history of emotional abuse, bad prior record, and heinousness of the crime. The sample of jury-eligible participants included individuals who identified themselves as students. Participants watched one of 32 stimulus videotapes based on a replication of a capital sentencing hearing. The present findings support previous research showing low comprehension of capital penalty instructions. Further, we found that higher instruction comprehension was associated with higher likelihood of issuing life sentence decisions. The importance of instruction comprehension is emphasized in a social cognitive model of jury decision making at the sentencing phase of capital cases. Death penalty trials have changed significantly since the Supreme Court ruling in Furman v. Georgia when capital punishment, as it was applied at that time, was held to be unconstitutional. Following Furman, numerous state legislatures sought to develop new statutes for capital cases. Based on precedent set in Gregg v. Georgia , all states that enforce the death penalty now have bifurcated capital trials where a separate sentencing hearing is held after a defendant is found guilty of a capital crime. Case law requires that capital juries be permitted to hear all relevant mitigating evidence and that they consider each mitigating factor during sentencing deliberations Lockett v. Angelone, made it abundantly clear that there are no constitutional requirements that jurors be given instructions about specific mitigating factors or general instructions defining the concept of mitigation. Given the potential cost to the defendant of errors in death penalty cases life , it is of critical importance that jurors fully comprehend instructions on how to find and use aggravating and mitigating factors during sentencing deliberations. However, a growing body of evidence suggests that jurors are not fully comprehending capital penalty instructions. Many states require that aggravating factors must be unanimously determined to exist beyond a reasonable doubt, while mitigating factors may be found to exist by fewer than all of the jurors and must be found to exist only by a preponderance of the evidence. Since most other aspects of the criminal trial in most capital cases, all other aspects must be unanimously agreed upon by the jury to exist beyond a reasonable doubt, it is not surprising that there is some confusion about these issues Luginbuhl, One goal of the present study was to explore the impact of capital sentencing instructions â€" and comprehension of these instructions â€" on the process and outcomes of capital sentencing decisions. One of the problems confronting juries is that there are generally few rules defining how mitigating and aggravating factors are to be considered. Haney and Lynch have found high levels of misunderstanding about the weighing process jurors are supposed to undertake at the capital penalty phase. The likelihood that jurors are misinterpreting capital penalty phase instructions is highlighted by these findings â€" though, thus far, the majority of Supreme Court judges are not persuaded that such misunderstandings are a significant problem Buchanan v. This is disturbing, considering the findings from a study conducted by Wiener and colleagues which suggest that juror misunderstanding of rules regarding the use of mitigating circumstances is related to higher certainty of imposing the death penalty. There is some empirical evidence that social scientists can successfully restructure capital sentencing instructions to make them more comprehensible. For example, Diamond and Levi rewrote capital sentencing instructions from Illinois and tested them on a sample of jury-eligible participants. Compared to participants who received the actual Illinois instructions, those who heard the revised instructions demonstrated much

better performance on comprehension measures. The six-member majority held there were no Eighth Amendment requirements that jurors be given instructions about specific mitigating factors or general instructions about the concept of mitigating factors. Justice Breyer joined in his dissent by Justices Stevens and Ginsburg undertook a detailed analysis of the instructions that were given to the jury. The dissenters were persuaded there was a reasonable likelihood that the jurors did not understand the appropriate roles that aggravating and mitigating factors were to have in their penalty decision. Breyer also rejected the majority view that the jury might be correctly informed by the arguments advanced by defense counsel. Breyer noted problems in phrases in the third paragraph of the instructions which explained the role of mitigating circumstances: Angelone, , p. Overview The conflicting views of the Buchanan majority and dissent clearly raise empirical questions. Would better understanding of these instructions lead to different sentencing outcomes? This research was designed, in part, to test these empirical questions. The stimulus materials were based on the Buchanan case. In addition, the present research was designed to replicate research on juror comprehension of capital penalty instructions and shed light on the process of capital penalty decision making. The growing body of research demonstrating the incomprehensibility of capital sentencing instructions has not fully explored the role of instructions in the decision process. Further, very little research has examined the relative importance of variations in penalty phase evidence on capital sentencing decisions. Research on sentencing in non-capital cases strongly suggests that prior criminal record â€" an evidentiary factor manipulated in the present research â€" is an important sentencing criterion e. Method Procedure Participants were undergraduates enrolled in introductory and upper-level psychology courses who were jury-eligible U. Citizens over the age of 18 we were unable to screen for prior felony convictions. This incentive was used to maximize attention to stimuli. Participants were then screened for death qualification by answering the following question: Their stimulus materials were replicated and randomly assigned to subsequent participants. This method of screening for death qualification was based on the current standard for death qualification in Wainwright v. Witt and was adapted from research by Dillehay and Sandys Although it is likely that more individuals would be excluded from capital juries following an actual voir dire, those eliminated solely because they are not death qualified would be subject to the same standard used in the present study. After reading brief instructions about the capital trial process, participants read a summary of case facts and penalty phase arguments by defense and prosecution attorneys ranging from 2,, words in length. The guilt phase case fact summary, words in length, included a description of how Doug Buchanan had brutally murdered his father, stepmother, and two stepbrothers. It described how Doug had planned the murder with his wife. He had changed his mind the day prior to the murders, but followed through the next day. Doug found his father outside when he arrived at the house. He then waited fifteen minutes until his two step-brothers returned from school and murdered them both, repeatedly stabbing the older brother in the head with a kitchen knife. After waiting until his stepmother returned home, he murdered her with the kitchen knife, inflicting multiple stab wounds to her chest and slashing her throat and neck. Participants then read instructions that they were to behave as though they were part of a jury that had already convicted Doug Buchanan of first-degree murder based on those facts. Next, they read a summary of penalty phase evidence and closing arguments by the prosecuting and defense attorneys. Penalty phase evidence included in abuse-present conditions, described below testimony from experts for both sides who agreed that Doug had been emotionally abused by his father and stepmother and was suffering from a variety of psychological problems. In conditions when prior criminal record was not present described below , the defense attorney argument also stated that Doug Buchanan had no prior criminal record. Next, they completed an instrument assessing sentence decisions death or life imprisonment , memory for case facts, instruction comprehension, and evaluations of case, defendant, and victim characteristics. Given the net sample of , the design afforded power above. For the instruction conditions there was a No Instructions condition plus three basic types of instructions. These instructions were either accompanied or not accompanied by a List of four case-specific mitigating factors specified in the Virginia statutes. In the No Instructions 1 condition the List of mitigators

was held constant as list-absent. The other three types of instructions were: However, if you believe, from any evidence presented of circumstances which do not justify or excuse the offense but which in fairness or mercy may extenuate or reduce the degree of moral culpability and punishment, that the death penalty is not justified, then you shall fix the punishment of the Defendant at life imprisonment. The Revised set of instructions 4 explicitly spelled out the decisions the jurors were to make and included a decision tree at the end of the instructions to guide participants through the process. Wording which arguably suggested that death was the default sentence was changed to reflect conditions that require a life sentence. The revised instructions included additional information regarding the Virginia statutory capital sentencing procedures â€" i. These rules regarding the relaxed standard of proof and non-unanimity for mitigating factors were not mentioned in the original Virginia instructions or the Breyer revision but are mandated under current constitutional interpretation see, e. Ohio, ; Mills v. The revised instructions were intended as a minimal departure from the Virginia instructions. Wherever possible, language from the Virginia pattern instructions was retained. Facts in mitigation may include, but shall not be limited to, the following: Levels of the three manipulated case variables were as follows. He was presented either as having no Bad Prior Record or as having been previously convicted of assault and battery. The word manipulation of Bad Prior Record was embedded in a three-sentence paragraph: Just after his seventeenth birthday, Doug Buchanan was tried and convicted for assault and battery of another seventeen-year-old. Because he was tried as an adult, he served four months in jail and was released on parole for three months. With the exception of the time he served in jail, Doug has been working in a continuous series of low-skill labor and retail jobs since he dropped out of high school. This manipulation was approximately words. Testimony from witnesses described how Doug had been tormented and mistreated by his father and stepmother. Doug would be confined to his yard and not allowed to participate in after-school activities, while his two stepbrothers were allowed freedom and encouraged to engage in extracurricular pastimes. Measures After making a sentence decision of death or life imprisonment, participants answered a series of eight multiple choice questions assessing memory for case facts. Participants also answered four multiple choice questions that measured Instruction Comprehension, see Table 1. A series of decision criteria measures included a seven-point rating of belief in the deterrent effect of the death penalty and forty-five seven-point ratings of case, defendant and victim characteristics derived from the case scenario, see Table 2. Table 1 Study 1: Comprehension of Capital Penalty Instructions Question 1: What penalty is appropriate when the jury unanimously finds aggravating circumstances beyond a reasonable doubt? What penalty is appropriate when the jury does not agree unanimously that aggravating circumstances exist? What penalty is appropriate when some members of the jury believe that mitigating circumstances merit a life sentence? What penalty is appropriate when the jury unanimously finds that mitigating circumstances merit a life sentence?

Chapter 2 : Experimental research on jury decision-making.

Title: Experimental Research on Jury Decision-Making Author: Robert MacCoun Subject: Jury verdicts directly affect the lives of hundreds of thousands of people in the United States every year and serve a bellwether function in plea bargaining and settlement negotiations.

Most research has focused on the jury, though some key studies have compared the decisions of judges and juries. The available archival studies, case-specific judicial surveys, and experimental research reveal substantial similarities and a few differences. A bench trial occurs if both sides waive the right to a jury. Although rates vary across jurisdictions, approximately one third of felony trials and one in four civil trials in the United States are bench trials. Outside the United States, a mixed tribunal consisting of both lay and professional members may determine the outcome of a trial. Some critics of the American jury suggest that the justice system would be improved by transferring more decision-making responsibility to professional judges. Thus, in evaluating the performance of the jury, the policy-relevant comparison is not some hypothetical ideal decision maker, whatever characteristics that model might have, but rather the professional, legally qualified judge. Yet most research on trial court decision makers has focused on the jury rather than on the judge, perhaps because the jury is both a cultural icon and a favorite whipping boy, because relying on conscripted amateurs rather than professionals to decide outcomes of important conflicts raises questions, and because laypersons are more accessible than judges as subjects for research on decision making. Judges and juries differ in several potentially important ways. Modern judges are legally trained professionals, while jurors are not. Although the modern jury may include members with legal training, most jurors are legal novices. Although some members of a jury may be more educated than the judge or have more expertise in a particular trial-related topic, the judge is typically more educated than the average juror. While the trial judge sits and deliberates alone, jury members have an opportunity to pool their experiences and opinions and to correct misunderstandings. Jurors, unlike judges, must reach a group decision. Finally, the judge is a repeat player, employed by the state to preside regularly over legal matters. In contrast, for the citizen selected to serve as a juror, jury service is an unusual event. The differences between the decisions of judges and juries may be due to one or a combination of these factors. Direct comparisons of judge and jury decision making are challenging to make, and whether the data are obtained in the field or the laboratory, the implications of the results are sometimes ambiguous. Nonetheless, they are necessary to draw policy conclusions about the decision-making behavior of these two parties. Although still rare, their number is increasing, providing some systematic evidence on two central questions. First, do judge and juries differ in the likelihood of their deciding on conviction or liability or in the level of sentence severity or damage amounts they choose? Second, do juries and judges consider different factors or weigh them differently in reaching their decisions? Researchers compare the decisions of judges and juries using three methods: All three methods have strengths and weaknesses. A picture of current knowledge about judge-jury similarities and differences emerges from a composite of these findings. Archival Research Archival studies capture the real decisions of judges and juries, but they must attempt to control statistically for differences between the cases tried by judges and those tried by juries. Because the tribunal that hears the case is determined by the choice of the litigant not to plead guilty or to settle as well as whether or not to waive the jury, the selection of cases is far from random and must be modeled for successful control. Most of the archival research comparing judge and jury ver-diets has been conducted on civil trials. Researchers have not found consistent differences in overall liability rates between juries and judges. They have shown, however, that differential win rates on liability in federal civil trials vary across categories of cases, with plaintiffs winning more often in bench trials than in jury trials in some major types of tort cases and less often in bench trials than in jury trials in others. Before concluding that these patterns indicate that the win rates on the decisions of the judge and the jury do not differ on average or differ systematically by case type, it is necessary to determine how much of the apparent similarity or

difference is attributable to selection effects. A key difficulty is that in attempting to control for selection differences, researchers do not have even an approximate measure of the strength of the evidence for liability and must rely on the limited case characteristics that have been recorded in the archives. The same modeling problem arises for comparisons of judge and jury verdicts on damages. Several archival studies report that damage awards from jurors tend to be higher than those from judges, although a substantial portion of the apparent difference disappears when controls for differences in the cases they decide are introduced. Other studies have found no overall differences. Similarly, some researchers using archival data to study punitive damages and the size of punitive damage awards have found more frequent and higher awards given by juries, while others have found no differences. Case-Based Judicial Surveys Nearly 50 years ago, to address the selection problems that plague archival comparisons of judge and jury verdicts, Harry Kalven and Hans Zeisel developed the innovative approach of a case-based judicial survey for their classic national study of the American jury. Nonetheless, the case-based judicial survey ensures that the judge and jury verdicts being compared come from equivalent cases because the judge in each case is providing a judicial verdict in precisely the same real trial that a jury decides. Primary explanations offered for the overall differences were differences in judgments about the credibility of witnesses and a different threshold of reasonable doubt. Studies outside the United States have shown similarly high levels of agreement between professionals and juries or lay judges in criminal cases. Simulations and Experiments A third approach comparing judge and jury decision making asks judges and laypersons to reach decisions based on simulated trial materials in the form of written materials or videotaped presentations. Comparability is ensured by having the judges and laypersons read or view precisely the same stimulus. In addition, by experimentally varying the stimulus within each group, researchers have tested how specific variations in the evidence e. The extent to which these simulated decisions reflect what the decision makers would do in a real trial is contingent on the extent to which the simulation captures the relevant factors that would affect trial judgments. The materials in these studies generally must be brief to obtain judicial participation. Trial elements such as jury instructions are often truncated or missing. Mock jurors frequently are not asked to deliberate, so that the judicial responses are compared with those of individuals rather than the group decisions of multiple jurors. Nonetheless, the few experiments comparing judges and laypersons reveal a striking overall similarity between their decisions. Experiments showed that exposure to inadmissible evidence influenced judges and laypersons similarly, and both groups were reluctant to impose liability based on mere statistical evidence. In several experiments involving personal injury cases, both profession-als and laypersons responding to the same cases used the severity of injury in determining pain and suffering awards, but in one study, laypersons were more variable in their awards. It is unclear how much, or whether, variability in decisions by lay decision makers would drop if their awards were determined by group verdicts rather than individual judgments. In determining criminal sentences in a series of cases, laypersons favored lower penalties than judges did, indicating that the same greater leniency was shown by juries in criminal conviction cases in case-based judicial surveys. In a few of the experiments directly comparing the judgments of judges and laypersons, the samples tested raise questions about the representativeness of the findings because the laypersons were students or the judges sampled came from a unique subgroup e. Much more research is needed to map experimentally the differences and similarities between the judgments of judges and juries before concluding that judges are better than juries at specific tasks e. Finally, in addition to the few studies that have exposed judges and laypersons to the same stimulus, in several experiments with judges, researchers conducted conceptual replications of the impact of heuristics e. With a few exceptions, these experiments have revealed that judges show a similar susceptibility to these cognitive illusions. Judge-jury agreement in criminal cases: Journal of Empirical Legal Studies, 2, Inside the judicial mind. Cornell Law Review, 86, Evaluating juries by comparison to judges: A benchmark for judging? Florida State University Law Review, 32,

Chapter 3 : "Experimental Research on Jury Decision-Making" by Robert J. MacCoun

Experimental Research on Jury Decision-Making ROBERT J. MACCOUN Because trial juries deliberate in secrecy, legal debates about jury functioning have relied heavily on anecdote.

Task 2 In a court of law, the jury is expected to be neutral and unbiased. This is simply due to the need for a fair trial. There are many factors that may affect the decision making of the jury, and inevitably result in a biased jury. Jurors are required to hear stories or narratives from both the prosecution and defence, and use all the information and evidence given as a foundation for deciding a guilty or not guilty verdict. It was once thought that jurors made decisions, usually decisions that are interpreted as important to due to the life determining nature, using careful, deliberate thinking. However, research has shown that instead of making decisions based on probabilities and likelihoods, jurors sometimes make judgements based on how the story or narrative is told. In short, jurors tend to base decisions of the verdict based upon how convincing the narrative given by each side is in telling the story of how a crime happened. The jury lies at the core of our judicial system, so factors affecting the decisions made and the processes by which these decisions are reached are of paramount importance in operating a fair system of judgement. Both of the above approaches have problems and limitations, mock juries can lack ecological validity as results cannot be generalised fully. The sample used is often students, so the results could be said to only apply to students, also the scenarios are brief and lack the complexities of real life; more importantly there are no real consequences for real person. However, mock juries do allow the investigation of certain variables such as appearance, age, race, accent and status. For example Brewer suggests that a juror who has an authoritarian personality type; narrow minded, strict or conservative views is more likely to find suspects guilty. Attractiveness of the defendant may also play a part in influencing the jury and their final decision. Furthermore Quigley et al study found that confidence crimes committed by suspects like tricksters, scammers and fraudsters then the level of attractiveness will not help them in their case. Not only does ethnicity, attractiveness, personality of juror influence the final decision but also the size of the jury and the degree of social influence which could come in the form of majority and minority influence. Groups affected by groupthink ignore alternatives and tend to take irrational actions that dehumanize other groups. A group is especially vulnerable to groupthink when its members are similar in background, when the group is insulated from outside opinions, and when there are no clear rules for decision making. Also they are not overly rigid and unreasonable in their opinions and arguments so their arguments are more persuasive. Employing the matched-guise technique; which means that the same person is used to speak with two different accents, this exchange was varied to produce two accent types, Birmingham and standard, two different ethnic back-rounds; black and white and two different types of crime; blue collar and white collar, this experiment was an independent-groups design. People can identify ethnic group in society by accent, however can be viewed as racist as assumptions are made by linguistic stereotypes. Not only do the characteristics of the jury, witnesses and suspect but also the issue of attribution theory. For example, is someone angry because they are moody or because something bad has happened. Heider strongly suggested that people are naive psychologists trying to make sense of the social world. There were two main ideas that he put forward that became influential. The first one is that when we explain the behaviour of others we look for constant internal attributions, such as personality traits. For example we attribute the behaviour of a person to their naivety, reliability or even jealousy. Secondly, when we try to explain our own behaviour we tend to make external attributions, such as situational or environment. Situational refers to external attributes like surroundings, role and level of authority whereas dispositional refers to internal attributes like personality, moral compass and views. Or another possible hypothesis could be whether acts of evil committed by one individual encourage others to follow suit either negatively or positively. Supported by the theory of direct perception and information pickup that had been published by the preeminent perceptual psychologist J. Gibson and his wife, the "Queen Bee" of developmental Humanities and Social Sciences Access to Higher

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Education Page 3 Linda Robinson psychology Eleanor Gibson, Neisser concluded that chose explanations that suit us then we stop analysing the cause. The attribution effect or fundamental attribution error tends to overestimate the effect of disposition or personality and underestimate the effect of the situation in explaining social behaviour. The fundamental attribution error is most visible when people explain the behaviour of others. It does not explain interpretations of their own behaviour; where situational factors are more easily recognized; therefore can be taken into consideration. There is no universally accepted explanation for the fundamental attribution error; however there is a possible hypothesis to the cause of attribution error. The belief that people get what they deserve and deserve what they get, which was first theorized by Melvin Lerner , the idea that people need to believe one will get what one deserves so strongly that they will rationalize an inexplicable injustice by naming things the victim might have done to deserve it; also known as the just-world effect. An example of this could be the reasoning some outsiders maybe unsympathetic towards people whose houses were destroyed by a tornado, blaming them for choosing to live in a disaster-prone area or for not building a stronger house. With reference to the jury decision making process, some jurors may unfortunately blame, slander or even vilify the victims of a tragedy or an accident, such as victims of rape and domestic abuse to reassure themselves of their in-susceptibility and imperviousness to such events. As we know from Zimbardo and Milgram , position of authority play a big role; in whatever context whether a witness, juror or suspect so the same applies when an individual has celebrity status. Most members of the public learn about recent criminal procedures and trials by means of the media, therefore the pre-trial publicity of certain cases may affect the final decision as public opinion, the majority opinion can sway the judge, jurors, witnesses and even defendants. A real life example of this is the trial of OJ Simpson; the Simpson trial demonstrated the polarization of racial attitudes on issues such as law enforcement that still exists in our country today. It may be for that, more than anything, that the trial will be remembered. But it had other effects. It created a greater awareness of domestic violence issues, provided lessons in how not to run a criminal trial, slowed the trend toward the use of cameras in courtrooms. The Simpson trial highlighted the effects that race, celebrity, police discrimination, expert witnesses and how evidence is collected and presented. D Characteristics of the Defendants, Hand-out.

Chapter 4 : Jury Decisions Versus Judgesâ€™ Decisions (Forensic Psychology) - iResearchNet

Because jury decision-making involves two different phases-cognitive processing during the trial and deliberation in the jury room-I review research on both the trial and deliberation phases of the.

Chapter 5 : Jury decision making | Linda Robinson - calendrierdelascience.com

Experimental Research on Jury Decision-Making ROBERT J. MACCOUN 1 1 Social psychologist in the Behavioral Sciences Department at The RAND Corporation, Santa Monica, CA

Chapter 6 : Experimental Research on Jury Decision-Making

The current study focussed on the decision-making processes of jurors. The study investigated how jurors make a decision, if they integrate information within their decision-making process and if.