

Exposure to Capital Voir Dire May Not Increase Convictions Despite Increasing Pretrial
Presumption of Guilt

Joseph A. Vitriol

John Jay College, City University of New York

Margaret Bull Kovera

John Jay College of Criminal Justice and the Graduate Center, City University of New York

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Author Note

Joseph A. Vitriol, John Jay College of Criminal Justice City University of New York;
Margaret Bull Kovera, Department of Psychology, John Jay College of Criminal Justice and the
Graduate Center, City University of New York.

Joseph A. Vitriol is now at Department of Psychology, Harvard University.

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The data are available at <https://osf.io/mw3rb/>

The experiment materials are available at <https://osf.io/mw3rb/>

Correspondence concerning this article should be addressed to Joseph Vitriol, Department of Psychology, Harvard University, Joseph A. Vitriol, Department of Psychology, Harvard University, 33 Kirkland St., Cambridge, MA 02138. Tel.: 215.771.4697. E-mail: joe_vitriol@fas.harvard.edu.

Abstract

During capital voir dire, prospective jurors are questioned about their views on capital punishment to determine their ability and willingness to impose the penalty as required by law. Two experiments replicated and extended Haney's (1984a) research on the effects of exposure to capital voir dire, which has been cited to support the proposition that jurors who are exposed to a capital voir dire are more prone to convict. In the first study, watching a capital voir dire increased participants' pretrial estimates of the likelihood of the defendant's guilt and conviction, replicating earlier findings. However, these pretrial effects did not survive the presentation of trial evidence, which had not been tested previously. Participants exposed to death qualification during capital voir dire were significantly *less* likely to convict than were those who were not exposed to death qualification. In a second study, exposure to capital voir dire influenced the type and amount of evidence that jurors reported that they would require for conviction, such that exposure to death qualification created an expectation for greater evidence of guilt than did exposure to a standard voir dire. To the extent that exposure to capital voir dire increases jurors' expectations for evidence of guilt, death qualified jurors may be more likely to acquit if their expectations are not met, despite increased pretrial bias against the defendant.

Keywords: capital trials, death qualification, jury selection, juries

Public Significance Statement:

Exposure to questioning of prospective jurors' death penalty attitudes during capital jury selection led to a pro-prosecution bias. However, this pre-trial effect translated into fewer convictions during the guilt-phase, in part, because jurors also came to expect more evidence than was presented during trial. These findings suggest that capital jury selection procedures can shape jurors' evidentiary expectations and influence their verdicts.

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Presumption of Guilt

Venirepersons may be excluded from serving as jurors if their personal biases prevent them from impartially viewing the evidence and applying the law. In capital trials, in which defendants are facing the possibility of a death sentence, the scope of voir dire is expanded to include inquiries into jurors' beliefs about punishment. For example, death qualification questioning requires venirepersons to describe their opinions regarding the death penalty in general, and affirm their ability to judge the guilt or innocence of the defendant with impartiality, despite knowledge of the prospect of capital punishment (Haney, 1984b). Thus, voir dire in capital cases, unlike many other types of cases, contains extensive discussion of the potential punishment for the defendant (Fitzgerald & Ellsworth, 1984; Haney, 1984b). In this death-qualification process, the court dismisses from duty those jurors whose death penalty attitudes would substantially impair their ability to reach a verdict based on the evidence and law (*Lockhart v. McCree*, 1986; *Wainwright v. Witt*, 1985; *Witherspoon v. Illinois*, 1968).

The process of systematically excluding a segment of the venire based on attitudes that would not preclude them from eligibility for non-capital felony trials has important consequences for both the composition and pretrial attitudes of the capital jury. Much empirical research, involving a broad range of experimental and non-experimental methodologies and sampling techniques, indicates that juries impaneled using death qualification procedures are composed of individuals with distinct personality characteristics, demographics, and attitudes that are related to a pro-prosecution bias (Butler & Moran, 2002, 2007; Fitzgerald & Ellsworth, 1984; Thompson, Cowan, Ellsworth, & Harrington, 1984). In addition, the death qualification process exposes jurors to a discussion about the penalty-phase of the trial, in which attorneys imply the

defendant's guilt and desensitize jurors to the prospect of the death sentence (Haney, 1984b). As a result, exposure to a capital voir dire increased jurors' pretrial belief in the defendant's guilt (Haney, 1984a).

Given the oft-replicated finding that people are motivated to evaluate new evidence in a way that confirms their beliefs (e.g., Kunda, 1990; Lord, Ross, & Lepper, 1979), many scholars interpreted this finding that exposure to capital voir dire influenced potential jurors to adopt pretrial attitudes that implied the defendant's guilt as support for the notion that capital voir dire would make jurors prone to convict defendants at trial. One can find conclusions that exposure to the death qualification process results in a more conviction prone jury in journal articles (e.g., Allen, Mabry, & McKellen, 1998; Butler & Moran, 2002; Goodman-Delahunty, Greene, & Hsiao, 1998; Haney, 1984a, Pettigrew & Unglesby, 2003; Schuller, Kazoleas, & Kawakami, 2009; Trahan & Stewart, 2011; Young, 2004), law review articles (e.g., Haney, 2006; Robbennolt, 2002; Vartkessian, 2012), and even an amicus brief submitted to the U.S. Supreme Court on behalf of the American Psychological Association (Bersoff & Ogden, 1987). Despite the prevalence of the opinion that exposure to capital voir dire causes jurors to become more conviction-prone, prior research has not examined whether the pretrial bias generated by capital voir dire survives the presentation of trial evidence to influence guilt-phase verdicts among individuals eligible to serve as jurors in a capital trial. The purpose of the present research is to replicate previous findings that exposure to capital voir dire causes increases in death-qualified jurors' pretrial perceptions of a capital defendant's guilt (Haney, 1984) and to examine whether effects of exposure to a death qualification procedure extend to capital jurors' judgments of a defendant's guilt.

Exposure to Capital Voir Dire Increases Venirepersons' Presumptions of Guilt

Across jurisdictions, capital voir dire repeatedly exposes venirepersons to the inclusion of jurors willing and able to punish the defendant with a legally sanctioned death sentence and the exclusion of jurors who are not (Haney, 1984b; Thompson, 1989). Consequently, the process of death qualification may promote two prejudicial inferences: the law supports a sentence of death and the trial is likely to reach the punishment-phase. Participating in a death qualifying voir dire can cause venirepersons to view the judge, prosecutor, and defense attorney as more supportive of the death penalty and more approving of jurors who favor capital punishment than if the venirepersons participated in a non-capital voir dire (Haney, 1984a). These shifts in beliefs may be due not only to the tone and substance of the questioning, but also may be due to venirepersons' uncertainty surrounding the inclusion/exclusion process.

Paradoxically, attempts by the judge or attorneys to clarify the legal justification for death qualification and capital juror responsibilities may only exacerbate venirepersons' perceptions that there is a climate of support for the death penalty or confuse venirepersons further as to why such significance has been assigned to punishment (Haney, 1984b). For example, informing venirepersons that capital trials are a bifurcated procedure may implicitly communicate an expected sequence of events or outcome; sentencing will follow conviction. Venirepersons' uncertainty about capital jury duty together with the context and ambiguity surrounding death qualification can increase jurors' pretrial belief that the defendant will be sentenced to death (Haney, 1984a). Of primary importance to the current investigation, exposure to death qualification during voir dire may also cause venirepersons to make inferences about the legal purposes of voir dire, which can influence their pretrial expectations and attitudes and may even influence judgments of the defendant's guilt (Haney, 1984b).

Capital voir dire requires venirepersons to make predictions about their future behavior without any knowledge of the evidence that will be presented in court (Haney, 1984b). To gain some understanding of how jurors might behave during the sentencing-phase of the trial, attorneys often ask venirepersons to imagine that the defendant has been found guilty, consider a multitude of circumstances in which the law would or would not require a verdict of death (e.g., aggravating and mitigating factors), and to publicly render an opinion about punishing the defendant. By discussing the punishment of the defendant, judges and attorneys imply the defendant's guilt.

Social psychological research indicates that the priming of a concept, whether through repeated exposure to a stimuli or conscious deliberation in the mind, increases its cognitive accessibility and can influence that individual's expectations for future events (Moskowitz, 2005). In this way, the process of imagining an event, analyzing reasons for performing a specific behavior, or contemplating an outcome can increase the subjective belief in the likelihood of its occurrence (Tversky & Kahneman, 1973; Wilson & LaFleur, 1995). Similarly, self-predictions about future behavior can increase the accessibility of reasons to engage in that behavior and expectations that it will actually occur (Wilson & LaFleur, 1995). For capital voir dire, continuous discussion of punishment focuses the attention of the venire on a range of reasons to sentence the defendant either to life in prison or death. As a result, exposure to death qualification during voir dire can increase venirepersons' pretrial belief that the defendant will be convicted (Haney, 1984a).

Death qualification, therefore, not only communicates to venirepersons that the law favors sentencing the defendant to death but also facilitates expectations that punishment is likely to occur and hence inferences that the defendant is guilty and likely to be convicted. Mere

exposure to the death qualification process may alone be sufficient to promote these expectations and inferences. The psychological processes involved in both observing and engaging in capital voir dire culminate in a pretrial prosecutorial bias or, more precisely, a presumption of guilt. Haney (1984a) first demonstrated that mere exposure to a death qualification procedure can increase venirepersons' pretrial belief in the defendant's guilt. However, this investigation did not establish that pretrial biases toward conviction translated into an increase in guilty verdicts after the jurors had heard trial evidence, despite claims to the contrary in the literature. And there is now reason to believe that they may not. Despite generating a pretrial presumption of guilt, exposure to voir dire questions about the punishment that a juvenile offender would receive if convicted because he was being tried as an adult did *not* influence jurors' post-trial judgments of the defendant's guilt (Greathouse, Sothmann, Levett, & Kovera, 2011).

The Effects of Juror Expectations on Trial Outcomes

Exposure to capital voir dire appears to shape the expectations that venirepersons have about the defendant. Specifically, capital voir dire increases venirepersons' expectations that a defendant is guilty. These expectations are likely to influence how jurors process trial evidence (McAuliff & Bornstein, 2012), yet it is unclear what form that influence would take. Cognitively accessible information guides subsequent perception of related stimuli and structures the interpretive frame through which this new information is organized, evaluated, and judged (Moskowitz, 2005). For example, individuals often mistake the most cognitively accessible information as that which is most relevant to social judgments and decisions (Tversky & Kahneman, 1973). Ambiguous situations involving the processing of complex information, such as capital trials, may trigger this availability heuristic during social judgments. Not surprisingly, then, a pretrial presumption of guilt may guide jurors' evaluation of trial evidence and affect

verdict choices. Capital jurors, operating under a belief that the defendant is guilty, may be more likely or motivated to resolve conflicting, incomplete and even disconfirming evidence in a confirmatory way (Hart et al., 2009; Kunda, 1990; Lord, Ross, & Lepper, 1979; Ross, Lepper, Hubbard, 1975; Snyder, Tanke, & Berscheid, 1977).

Pretrial beliefs and expectations may therefore influence jurors' evaluation of the strength of evidence and their determination of a defendant's guilt, particularly under conditions of decisional uncertainty and ambiguity. However, the effect of cognitive accessibility is not always unidirectional (Herr, 1986; Martin, 1986; Moskowitz, 2005; Moskowitz & Skurnik, 1999). Subsequent information is not always interpreted in line with accessible information or pre-existing beliefs; trial evidence is not necessarily assimilated with, or interpreted in a way that confirms, a pretrial presumption of guilt. Accessible information may become a standard-of-comparison for interpreting related stimuli (e.g., Herr, 1986) or may lead individuals to actively adjust or correct for its influence on their judgment (e.g., Martin, 1986). Under these conditions, cognitively accessible frameworks or beliefs may be contrasted with incoming information in a disconfirmatory manner.

In other words, exposure to a death qualifying voir dire may not necessarily translate into an increase in convictions. A presumption of guilt may not only involve a belief in the defendant's guilt but also an expectation that trial evidence will demonstrate that guilt. In fact, jurors enter the courtroom with expectations of what specific felony crimes entail and what evidence would be necessary and sufficient for conviction (Smith, 1991a, 1991b). The extent to which trial evidence corresponds with jurors' prototypical representations of a felony offense largely influences verdict choice (Smith, 1991a, 1991b). In that capital voir dire causes jurors to report that there is a higher likelihood that the judge and the attorneys believe that the defendant

is guilty, it may also increase jurors' expectations that the trial evidence will support a conviction. After all, why would the judge and attorneys believe the defendant is guilty if the evidence did not support that conclusion? Thus, instead of interpreting trial evidence in line with their belief in the defendant's guilt, capital jurors may compare their expectations for evidence consistent with guilt to the evidence that is provided. If trial evidence does not meet capital jurors' heightened expectations for evidence of guilt, jurors may conclude that the evidence does not warrant a guilty verdict. A contrast between expectations for evidence and its presentation in court may instead lead jurors to interpret evidence as insufficient for conviction.

Current Research

In *Lockhart v. McCree* (1986), the Supreme Court reviewed the available social science research concerned with the effects of death qualification on jury decision-making, including an amicus curiae brief submitted by the American Psychological Association summarizing the research (Bersoff & Ogden, 1987). Many of the studies reviewed by the Court focused on differences between eligible and excludable venirepersons on a range of attitudinal and personality variables, and their effects on juror deliberation and decision-making (e.g., Cowan, Thompson, & Ellsworth, 1984; Fitzgerald & Ellsworth, 1984; Thompson, et al., 1984). Similarly, other reviewed studies examined the relationship between death penalty attitudes and verdict preference among formerly impaneled felony jurors (e.g., Moran & Comfort, 1984). Together, the social science research presented in *Lockhart* strongly supported the proposition that death qualification produces capital juries composed of individuals who favor both conviction and the death penalty. However, the Court rejected this evidence by first dismissing each study based on a defect specific to each methodology, disregarding the concept of convergent validity (Ellsworth, 1991). The Court also concluded that even if such research was valid, it was

immaterial to the law (Thompson, 1989), holding that an impartial jury is one composed of a group of individuals who each met the standard for juror eligibility (i.e., death-qualified).

It might therefore seem that death qualification is a fixed point in capital jurisprudence. Yet, the legal issue central to *Lockhart* was not whether the actual process of impaneling death-qualified individuals interferes with eligible jurors' objective and lawful decision-making. Instead, the Court considered the impact of death qualification on capital jury composition, not eligible juror decision-making, only deliberating on whether the process was unconstitutional because it rendered the jury both unrepresentative of the community and predisposed in favor of a particular verdict. In fact, to date there is no published investigation of whether exposure to death qualification influences guilt-phase juror decision-making. Many questions remain unanswered: Do pretrial effects of exposure to death qualification survive the presentation of trial evidence to affect guilt-phase verdicts? Does exposure to death qualification affect jurors' interpretation of evidence, such that jurors who participate in a capital voir dire will be less sensitive to variations in evidence strength than will jurors who watch a standard voir dire? Alternatively, does exposure to the death qualification process increase jurors' evidentiary expectations, forming a standard of comparison that is contrasted against evidence presented during the guilt-phase of the trial? In two experiments, we studied the effects of exposure to capital voir dire simulations on the pre- and post-trial decisions of death-qualified participants to investigate these questions.

Study 1: Exposure to a Capital Voir Dire and Judgments of Defendant's Guilt

By generating a pretrial presumption of guilt, exposure to death qualification during capital voir dire may influence guilt-phase verdicts in one of two ways. Eligible jurors exposed to capital voir dire (CVD) may expect more evidence of guilt at trial and therefore be less likely

to convict the defendant than would eligible jurors exposed to a standard voir dire (SVD). In contrast, exposure to CVD may lead eligible jurors to interpret trial evidence in a manner consistent with their pretrial beliefs, which should make it more likely that they will convict the defendant than will eligible jurors exposed to SVD. If exposure to CVD makes capital jurors more conviction prone, then it is possible that this exposure will also make them less sensitive to variations in evidence strength (i.e., the strength of the evidence would not influence their trial decisions).

Study 1 employed a 2 X 3 factorial design. Two types of voir dire (capital vs. standard) were nested within each level of evidence strength (weak vs. moderate vs. strong). We predicted the following:

1. Exposure to a death qualification voir dire will increase pretrial judgments of the likelihood of the defendant's guilt and conviction, and perceptions that trial participants' support the death penalty and believe the defendant is guilty.
2. Jurors exposed to CVD will be more likely to convict the defendant than will jurors exposed to SVD.
3. Jurors exposed to CVD will be less sensitive to variations in evidence strength than will jurors exposed to SVD.

Method

Participants

Participants were 177 jury-eligible, death-qualified undergraduate students (65 men and 112 women, age 18-55, $M = 20.36$; 21.5% African-American, 49.2% Hispanic, 17.5 White; 4% Asian; 7.9% Other) who received credit in their psychology course for participation. The only special selection criterion for participation was capital juror eligibility (18 years of age or older,

US citizenship, and death-qualified). Participants were tested individually in non-interacting groups of 5-15, which were randomly assigned to each condition.

Stimulus Materials

Overview. All voir dire and trial videos were based on a transcript of a capital case. The case involved a murder committed during the course of a robbery. Specifically, eyewitnesses reported seeing a masked gunman exit a convenience store in which the crime occurred. One eyewitness testified that, after exiting the store, the perpetrator first brandished a weapon, removed the mask and then fled the area in a vehicle parked outside. Eyewitness evidence included an identification of the getaway vehicle and the identification of the gunmen in a lineup. Physical evidence included the mask worn by the gunmen, left at the scene of the crime. The arresting officer and experts in auto mechanics and DNA analysis also testified.

All videos were filmed in a realistic mock courtroom equipped with authentic legal furniture such as a witness box, bench, and appropriate tables and seating. Former lawyers were recruited for the role of prosecutor, defense attorney, and judge. Professional actors were cast for each witness. Fourteen working actors were selected as venirepersons in the voir dire tapes. All actors were paid for their time.

Voir dire videos. Participants viewed either a CVD or SVD video. The videos were identical except the CVD video included a 30-minute death qualification segment. The only scripted statements in the voir dire tapes were opening remarks by the Court and both attorneys, derived from a transcript of the Louisiana CVD procedure. The script was based entirely on statements given by the judge and both attorneys before questioning each panel of prospective jurors in the case. Prior to filming the voir dire, mock attorneys were provided with background

information on death qualification, a script of the CVD and trial videos, and a list of death-qualifying and general questions.

Venirepersons appeared in the video seated in three rows of five chairs. Mock venirepersons represented a diverse group composed of individuals of different backgrounds, age, gender, race, and varying support of the death penalty. Prior to the start of voir dire, these actors were told to attend to the judge's instructions, the attorneys opening statements, and to answer each question honestly and truthfully as though they were participating in a real voir dire. Thus, venirepersons responses to voir dire questioning were unscripted and unrehearsed. In all voir dire tapes, the judge briefly informed the venire on charges against the defendant, presumption of innocence, burden of proof, and the general purposes of voir dire (e.g., juror impartiality). Venirepersons in both conditions answered questions about their prior jury service, anticipated hardships they might experience if they served as a juror, occupational and marital status, familiarity with the parties in the case, prior victimization, any prior knowledge of the facts surrounding the case, and their abilities to be impartial jurors in the case.

The CVD tapes contained information about the CVD process that was not present in the SVD tapes. The judge's instructions at the start of CVD included mention of the bifurcated process and forewarning that some questions would focus on the death penalty. The prosecutor emphasized the legal definition and features of first-degree murder (e.g., specific intent to kill), and verdict options. The prosecutor also explicitly instructed the venire to assume the defendant has been convicted and "to think about, in your own minds, what your feelings are about the death penalty." The prosecutor then proceeded to enumerate each sentencing option (e.g. death or life in prison without parole) and all aggravating factors that could arise during the sentencing-phase. The prosecutor did *not* discuss any evidence that he would be presenting at

trial during either type of voir dire. The defense clarified the purposes of death qualification and discussed each mitigating factor that would be discussed during the sentencing-phase.

After delivering an opening statement, each attorney questioned the venire using the list of death qualification and general qualification questions that we provided, including questions that were intended to assess whether the venirepersons met the *Witt* requirements for serving in a capital case. Death-qualification questions mainly probed death penalty attitudes and venirepersons' willingness and ability to consider each relevant mitigating and aggravating factors in determining a sentence. Three mock venirepersons with disqualifying death penalty attitudes maintained those attitudes throughout the questioning. These venirepersons were dismissed by the Court for their inability to consider the death penalty despite rehabilitative efforts by the defense. One mock venireperson initially expressed an opinion that the death penalty should be the only acceptable sentence for a conviction in a capital case. However, the prosecutor succeeded in rehabilitating this venireperson and the venireperson was retained.

Trial videos. Participants watched one of three trial videos differentiated by the strength of evidence against the defendant (i.e., weak, moderate, strong). The same judge and attorneys were used as in the voir dire video. Each trial video was approximately one hour long. Judicial instructions on the law were identical for all trial videos. At the start of the trial, the judge detailed the alleged charges and the legal definition of first-degree murder, emphasized presumption of guilt and juror impartiality, and discussed relevant legal issues such as reasonable doubt and burden of proof. At the end of the trial, the judge reiterated much of the same information in greater detail, and focused particularly on the legal components necessary for conviction on each alleged charge and verdict option. The judge explicitly stated that the commission of first-degree murder is punishable by death or life in prison without benefit of

parole. However, there was no mention of the sentencing-phase throughout the trial, and the judge's statements were limited to the scope of the guilt-phase. All trial videos also included opening and closing statements from both attorneys, tailored to the evidence presented in each trial condition.

We manipulated the strength of the trial evidence by varying the credibility, confidence and implications of testimony from an eyewitness, arresting officer, DNA expert, and an auto mechanics expert. Central to this manipulation was the inclusion of physical evidence implicating the defendant at the crime scene (i.e., strong evidence condition) as well as testimony provided by an eyewitness. In all trial conditions, an eyewitness testified that he observed the perpetrator fleeing the scene of the crime and enter the passenger side window of a vehicle. The eyewitness also identified the defendant and the defendant's vehicle in a lineup procedure administered by the arresting officer. To manipulate evidence strength, we varied the viewing conditions (e.g., lighting, distance, distracted) under which the eyewitness observed the perpetrator, whether the identifications were made in a biased (i.e., show-up) or unbiased lineup, and the eyewitness expressed confidence in the accuracy of his identification and memory for events.

Specifically, in the weak trial condition, an eyewitness testified that he observed the perpetrator under poor viewing conditions. The eyewitness in this condition also testified that he identified both the defendant and the defendant's car in a biased lineup procedure (i.e., show-up), and was modestly confident in the accuracy of both identifications. In the moderate trial condition, the eyewitness also testified that he observed and identified the perpetrator. However, compared to the weak trial condition, the eyewitness in the moderate trial condition reported better viewing conditions and expressed more confidence in the identification of the defendant

and the defendant's vehicle in the biased lineup procedure. In the strong evidence condition, the eyewitness observed the perpetrator under optimal viewing conditions, and expressed confidence in the accuracy of their identification of the suspect in an unbiased police lineup. The arresting officer corroborated the lineup procedures and sequence of events described by the eyewitness in each trial condition.

Expert testimony from two witnesses also varied across trial condition. An auto mechanics expert either rebutted the eyewitness' account (i.e., weak and moderate evidence conditions) or his testimony was not included in evidence (i.e., strong evidence condition). When he did testify, the auto mechanic expert opined that, contrary to the eyewitness' report, the passenger side window to the defendant's vehicle was dysfunctional and permanently closed. The implications of this testimony are either that the defendant's vehicle is not the same as the vehicle used by the perpetrator, or, if the window on the perpetrator's vehicle was in fact closed, the eyewitness did not have clear view of the perpetrator and incorrectly recounted his observations of the event. Finally, testimony from a DNA expert detailed a positive (i.e., strong evidence condition) or negative (i.e., weak and moderate evidence condition) DNA match between the defendant and a mask obtained at the scene of the crime. Thus, physical evidence incriminating the defendant was presented only in the strong evidence condition.

Measures

Pre-voir dire questionnaire. Participants responded to questions that determined their eligibility to serve as a capital juror. Each question used to determine eligibility status required a "yes" or "no" response. The data from those who indicated that their death penalty attitudes (either for or against) were so strong that it would substantially impair their ability to perform the responsibilities of a capital juror and follow the law were not included in the study because they

failed to meet the qualifications for jury eligibility in a capital case (*Wainwright v. Witt*, 1985). Each respondent provided demographic information, including sex, age, and race.

Pretrial questionnaire. All participants completed a pretrial questionnaire that measured their attitudes about the trial and its participants, based on a similar measure first used by Haney (1984a) to measure the pretrial effects of exposure to a CVD. Participants estimated the likelihood that the defendant is guilty and would be convicted, and the attorneys' and judge's death penalty attitudes and belief in the defendant's guilt. Participants rated each item on a 100-point scale ranging from 0% (strongly disagree or strongly opposes death penalty) to 100% (strongly agree or strongly supports death penalty).

Post-trial questionnaire. Participants completed a post-trial questionnaire that included manipulation checks and items intended to assess participants' perceptions of the realism of the trial and voir dire videos on a 10-point scale (ranging from 1 = not realistic to 10 = very realistic). Participants also rendered a verdict (1 = guilty vs. 0 = not guilty).

The manipulation checks assessed whether participants were sensitive to the differences in voir dire types and evidence strength. Participants were first asked if the death penalty was discussed during voir dire (True/False) and, second, to indicate the reason why the court dismissed certain jurors (death penalty attitudes, media exposure, personal reasons, no juror dismissed). Participants were also asked to indicate the strength of evidence against the defendant (ranging from 1 = weak to 7 = strong).

Procedure

This study had a 2 (Voir Dire: Capital vs. Standard) X 3 (Strength of Evidence: Weak vs. Ambiguous vs. Strong) factorial design. At the start of the session, participants were instructed to imagine that they were recruited to potentially serve as jurors in a capital trial, and that they

would be asked to answer questions about the content of the videos, to evaluate evidence against the defendant, and to reach a verdict. Participants first viewed either the capital or standard voir dire video and then completed a pretrial questionnaire that assessed their beliefs about the defendant's guilt, likelihood of conviction and receiving the death penalty, and their perception of the attorneys' and judge's belief in the defendant's guilt and endorsement of the death penalty. Participants next watched one of three capital trial videos. Participants then rendered a verdict, rated the likelihood of the defendant's guilt, indicated their confidence in their verdict and were debriefed. Each session was approximately two hours long. The institutional review board at the City University of New York approved the research protocol.

Results

Manipulation Check

Voir dire. We tested whether the voir dire manipulation was successful by conducting logistic regression with the main effects and interaction of voir dire type and evidence strength. Using backward stepwise procedure, only the main effect of voir dire type was significant for the first manipulation check item. Participants exposed to a CVD (91%) were significantly more likely to indicate that the death penalty was discussed during voir dire than were participants exposed to a SVD (45%), $B = 2.78$, $S.E. = 0.82$, Wald's $\chi^2(1, N = 177) = 11.49$, $p = .001$, $OR = 16.07$, 95% CI [3.23, 80.08].

Responses to the multiple-choice question (i.e., "why were jurors dismissed by the court") were coded for consistency with the voir dire type and were then submitted to logistic regression with the main effects and all possible interactions of voir dire type and evidence strength included. For example, "jurors were dismissed because of their death penalty attitudes" was coded as consistent (1) with CVD, and all other responses were coded as inconsistent (0). In

contrast, “no jurors were dismissed by the court” was coded as consistent (1) with SVD, and all other responses were coded as inconsistent (0). As before, using backward stepwise procedure, only the main effects of voir dire type were significant for the second manipulation check item. CVD (98%), compared to SVD (8%), participants were significantly more likely to indicate that jurors were dismissed by the court because of their death penalty attitudes, $B = 6.18$, $S.E. = 0.82$, Wald’s $\chi^2(1, N = 177) = 57.31$, $p < .001$, $OR = 484.71$, 95% CI [484.71, 97.77]. Furthermore, SVD (89%) participants were significantly more likely to indicate that no jurors were dismissed by the court than CVD (1%) participants, $B = -6.61$, $S.E. = 1.07$, Wald’s $\chi^2(1, N = 177) = 38.48$, $p < .001$, $OR = 0.001$, 95% CI [.000, .001].

Trial evidence. The trial evidence manipulation was also successful. Ratings of the strength of evidence against the defendant were subjected to a 2 (Voir Dire) X 3 (Trial Evidence) ANOVA. The main effect of trial condition on perception of evidence strength was significant, $F(2,168) = 50.37$, $p < .001$, partial $\eta^2 = .38$. Follow-up comparisons using the Tukey HSD test revealed that participants rated the strong evidence ($M = 5.83$, $SD = 1.45$) as stronger than the moderate evidence ($M = 3.75$, $SD = 1.84$; $q(3, 168) = 9.16$, $p < .001$, $d = 1.25$ (95% CI [0.96, 1.54])). Compared to the weak evidence condition ($M = 2.69$, $SD = 1.81$), they rated both the strong ($q(3, 168) = 13.82$, $p < .001$, $d = 1.91$, 95% CI [1.62, 2.21]) and the moderate ($q(3, 168) = 4.66$, $p = .004$, $d = 0.57$, 95% CI [.24, .90]) evidence to be stronger than the weak evidence.

Pretrial Judgments

Pretrial judgments of trial participants’ beliefs about the defendant and capital punishment and likelihood estimates of the defendant’s guilt and conviction were subjected to a 2 (Voir Dire) X 3 (Trial Evidence) MANOVA. Main effects of voir dire type for each dependent variable included in these analyses are reported in Table 1.

The multivariate effect of voir dire type on pretrial judgments of legal actors' beliefs about the death penalty and defendant's guilt was significant, multivariate $F(9, 160) = 2.51, p = .01$, partial $\eta^2 = .13$. The univariate analyses revealed that participants who watched a CVD (compared to a SVD) rated a) the prosecutor to be significantly more likely to believe that the defendant was guilty of murder and favored the death penalty, b) the defense attorney as significantly more likely to believe that the defendant was guilty of attempted murder, and c) the judge as significantly more likely to favor the death penalty.

The multivariate effect of voir dire type on pretrial likelihood estimates of the defendant's guilt and conviction was also significant, multivariate $F(5, 166) = 2.58, p = .028$, partial $\eta^2 = .07$. The univariate results indicate that participants who watched a CVD (compared to SVD) were significantly more likely to believe the defendant was guilty of murder and attempted murder, and would be convicted of these charges during the trial.

Verdict

We tested whether our manipulations influenced verdict by conducting logistic regression with the main effects and interactions of voir dire type (CVD = 43%; SVD = 52%), and evidence strength (Weak = 6%; Moderate = 43%; Strong = 87%). Using backward stepwise procedure, only the main effects of evidence strength and voir dire type were significant. Participants were significantly more likely to convict the defendant in the moderate (vs. weak) evidence condition, $B = 2.64$, S.E. = .66, Wald's $\chi^2(1, N = 177) = 15.91, p < .001$, $OR = 13.99$, 95% CI [3.83, 51.17]). Similarly, participants were significantly more likely to convict the defendant in the strong (vs. moderate) evidence condition, $B = -2.30$, SE = .48, Wald's $\chi^2(1, N = 177) = 23.39, p < .001$, $OR = 0.10$, 95% CI [.04, .25]. Finally, participants were significantly *less* likely to render

a guilty verdict in the CVD condition, compared to participants in the SVD condition, $B = -.97$, $SE = .43$, Wald's $\chi^2(1, N = 177) = 5.11$, $p = .024$, $OR = 0.38$, 95% CI [0.17, 0.88]. Participants in the SVD (vs. CVD) conditions were more than twice as likely to convict the defendant across evidence conditions. There was no significant interaction between voir dire type and moderate (vs. weak) evidence condition ($B = -18.64$, $SE = 8204.36$, Wald's $\chi^2(1, N = 177) = 0.00$, $p > .99$, $OR = 0.00$, 95% CI [0.00, 0.00]). Similarly, we did not observe a significant interaction between voir dire type and moderate (vs. strong) evidence condition ($B = -1.54$, $SE = 1.22$, Wald's $\chi^2(1, N = 177) = 1.60$, $p = .21$, $OR = .21$, 95% CI [0.02, 2.34]).

Discussion

In Study 1, we replicated the finding that exposure to a CVD influenced capital juror decision-making during the guilt-phase of the trial. Using realistic CVD and trial simulations, we demonstrated that exposure to a CVD shaped pretrial expectations about the trial and defendant, resulting in expectations that the defendant was guilty. Specifically, we replicated prior research suggesting that exposure to a CVD facilitated a perception of death penalty support and increased capital jurors' pretrial estimates of the likelihood of the defendant's guilt and conviction (e.g., Haney, 1984a). In our extension of this research to examine whether these pretrial beliefs about defendant guilt translated into jurors who were more likely to vote guilty, as has been assumed by many (e.g., Bersoff & Ogden, 1987; Butler & Moran, 2002; Goodman-Delahunty et al., 1998; Haney 2006; Robbenolt, 2002), we in fact found the opposite. These pretrial effects about defendant guilt did not survive the presentation of trial evidence; participants who watched a CVD were *less* likely to convict across all trial conditions than were those exposed to a SVD.

Study 2: Exposure to a Capital Voir Dire and Evidentiary Requirements for Conviction

One explanation for the pattern of verdicts is that there may be a greater contrast between CVD (vs. SVD) participants' pre-trial expectations for evidence and what was actually presented during the trial. That is, by facilitating a presumption of guilt, exposure to a CVD may also heighten jurors' expectations for trial evidence and influence the interpretive frames through which jurors determined whether the evidence presented was sufficient for conviction (McAuliff & Bornstein, 2012). Prior work has demonstrated that a contrast between jurors' expectations for and the actual presentation of a child witness's verbal and nonverbal behavior can influence jurors' evaluation of the child's testimony (McAuliff & Kovera, 2012). It is possible that a similar dynamic may be influencing capital jurors' judgments of the defendant's guilt as a result of being exposed to a death qualification process. To test this explanation, Study 2 examined the effects of watching a CVD on the type and amount of inculpatory evidence jurors would require to convict the defendant of murder.

Participants

Participants were 104 jury-eligible, death-qualified undergraduate students (34 men, 68 women, and 2 who did not specify gender, age 18-55, $M = 19.45$; 24% African-American, 45.2% Hispanic, 13.5% White; 7.7% Asian; 8.7% Other) who received credit in their psychology course for participation. The only special selection criterion for participation was capital juror eligibility (18 years of age or older, US citizenship, and death-qualified). Participants were tested individually in non-interacting groups of 5-15, which were randomly assigned to condition.

Procedure

Study 2 contained a single independent variable (Voir Dire: Capital vs. Standard). Participants were first screened for death qualification status in the same way as for Study 1 and then randomly assigned to view either the capital or standard voir dire video simulation that was

used in Study 1. A trained experimenter delivered identical oral and written instructions as in Study 1 but informed participants that they would only watch a video simulation of a CVD and not the trial itself.

After viewing a voir dire tape, participants then listed all of the evidence they would need to hear before convicting the defendant of murder (a list we refer to as their evidence agenda). Two trained research assistants, blind to voir dire condition, read verbatim transcripts of participants' evidence agenda, and coded each phrase for content (i.e., type of evidence; physical, witness, alibi, motive, defendant, confession, other). Categories of evidence type were separated further by more specific kinds of evidence (e.g., physical evidence; DNA, fingerprints, murder weapon). Coders also tabulated the total amount of evidence listed by each participant. The institutional review board at the City University of New York approved the research protocol.

Results

The formula used for calculating concordance estimates was $C = 2(C_1, C_2) / (C_1 + C_2)$, where C = concordance, C_1, C_2 = number of identical categories assigned by both coders, and $C_1 + C_2$ = total number of categories assigned by both coders. Concordance between raters for the content of participants' evidence agendas was sufficient and ranged from .33 to 1.00 ($M = .85$).

The total amount of evidence was submitted to a two-way (Voir Dire Type) ANOVA. The effect of voir dire exposure on amount of evidence was significant, $F(1, 101) = 3.90, p = .05, d = .39, 95\% \text{ CI } [.00, .78]$. Specifically, CVD participants ($M = 7.89$) required more incriminating evidence to convict the defendant than did SVD participants ($M = 6.78$).

For type of evidence, we divided the total number of phrases in each superordinate category (e.g., physical) by the total number of codable phrases for participants' evidence

agenda. The proportions of participants' evidence requests devoted to each category of evidence type were submitted to ANOVAs. The results of these analyses are summarized in Table 2. CVD participants required significantly more evidence about the defendant's background and his motives for conviction than did SVD participants. However, SVD participants required significantly more physical evidence than did CVD participants.

Discussion

Study 2 revealed that exposure to a CVD led jurors to expect the presentation of more inculpatory evidence and to rely on qualitatively different kinds of evidence to reach a verdict. Specifically, participants exposed to a CVD required significantly more evidence about the defendant's motives and background and less physical evidence than did participants who viewed a SVD. It may be that, after watching the CVD, participants were convinced that the defendant had killed someone so were eager to hear evidence that explained to them the defendant's motive for doing so. In contrast, participants who watched the SVD, were focused on hearing evidence that the defendant had committed the crime so reported wanting to hear about physical evidence tying the defendant to the murder.

More important, the results support our explanation for why participants exposed to death qualification were less likely to render a guilty verdict in Study 1, despite evidence of a pretrial prosecutorial bias and presumption of guilt. Two related pre-trial effects linked to jurors' evidentiary expectations might have contributed to the pattern of verdicts observed in the earlier study. First, exposure to a CVD in which the penalty-phase of the trial is discussed may have increased jurors' threshold for conviction; these individuals both expected and required quantitatively more evidence of the defendant's guilt than did participants exposed to a SVD. Second, the discussion of issues relevant to the penalty-phase (i.e., mitigating factors) may have

also primed jurors to specific kinds of evidence that is not legally relevant to a determination of the defendant's guilt (e.g., defendant's background). Similarly, discussion of mitigating factors during voir dire may have lessened CVD participants' reliance upon other forms of evidence when reaching a verdict, at least, compared to SVD participants. It is therefore possible that in addition to expecting more inculpatory evidence at trial, CVD participants also required specific kinds of evidence never presented during the guilt-phase and were either less sensitive to or less impressed by additional types of evidence (i.e., physical evidence). In contrast, these effects cannot be attributed to the prosecutor mentioning evidence in the CVD that was not delivered at trial as the prosecutor did not mention any evidence during the CVD, instead asking questions about people's willingness to convict someone who could be put to death if convicted.

In sum, Study 2 supports the proposition that a contrast between jurors' expectations for trial evidence and its actual presentation in court may affect conviction rates among capital jurors; exposure to CVD may lead jurors to require more overall evidence and to expect specific forms of evidence that may not be presented in court until the penalty-phase of the trial. In this way, mere exposure to the death qualification process may decrease guilty verdicts among individuals who are eligible to serve as a juror in capital trials. However, the current study could not determine if this contrast effect was largely due to prolonged discussion of the punishment of the defendant (i.e., probing venirepersons' death penalty attitudes in general) or simply due to the mention of mitigating factors. Thus, one avenue for additional research to directly test our contrast effect hypothesis involves manipulating the content of the voir dire. For example, discussion of aggravating factors should increase jurors' expectations for trial evidence that demonstrates the defendant's guilt, and thus decrease guilty verdicts. Conversely, discussion of mitigating factors should decrease jurors' expectation for inculpatory trial evidence, and thus

increase guilty verdicts. Additional research that seeks to disentangle the independent effects of specific features of CVD, including death qualification questioning, judicial admonishments, and attorney statements, would improve our understanding of the ways in which exposure to death qualification may lead to these effects and how to reduce it. Indeed, studies like these may reveal that contrast effects between information mentioned in CVD and trial evidence may produce increases in conviction rates in some circumstances and reduce them in others.

To the extent that exposure to CVD influenced evidentiary expectations that guide culpability judgments during the guilt-phase, one would expect the presence of evidence consistent with those expectations to be more strongly influential for jurors' decision-making. In this way, prosecutors may seek to emphasize a defendant's motives during guilt-phase arguments in an effort to more directly align expectations with the evidence presented in trial. Similarly, the impact of exposure to CVD (vs. SVD) may be less influential for jurors' evaluations of the evidence presented in specific cases in which the defendant's background are more relevant (e.g., hate crimes) for determining guilt or in which attorneys dedicate more time discussing the defendants' backgrounds. Because the current research focused on a case in which the defendant's background was not relevant to nor discussed during the guilt-phase, we cannot directly evaluate this hypothesis. Future research should seek to more directly manipulate the relevance of pre-trial expectations induced by exposure to CVD for judgments of evidence presented during trial by, for example, varying the types of crimes being prosecuted.

General Discussion

The current investigation replicated previous research findings (Haney, 1984) that exposure to the death qualification process during CVD facilitates a presumption of guilt among eligible capital jurors. This pretrial effect influenced both the type and amount of evidence that

jurors would need to convict the defendant. As a result, exposure to the death qualification procedure impacted capital juror decision-making. Taken together, findings from two studies suggest that CVD can lead to a contrast between jurors' expectations for evidence and its actual presentation in court, which may translate to a decrease in the rate of conviction among death-qualified jurors when the strength of trial evidence is underwhelming.

These findings are contrary to the conclusions offered by many scholars who have rather persuasively argued that mere exposure to a death qualification procedure produces conviction prone jurors and juries. Yet prior research did not investigate the effect of exposure to the death-qualification process on death-qualified juror decision-making, never examining whether pretrial conviction-proneness translated into increased convictions or affected jurors' sensitivity to variations in the strength of trial evidence. Nevertheless, our results are consistent with research demonstrating that pretrial knowledge structures influence jurors' expectations for and evaluations of evidence and determinations of guilt (Kovera, 2002; Smith, 1991a, 1991b, 1993). Although CVD and SVD participants viewed the same trial evidence, CVD participants were less likely to find it sufficient for conviction.

We did not include as a comparison a group of Witt-excludable, non-death-qualified participants who would be eligible to serve in felony trials. Thus, it is unknown whether there are differences in pretrial attitudes, guilt-phase conviction rates, or evidentiary requirements between these individuals and death-qualified jurors as a function of being exposed to CVD (compared to SVD). It is possible that exposure to the death qualification procedure is not sufficient to overcome whatever compositional bias persists in the capital jury as a result of that procedure. Future researchers should manipulate exposure to death qualification among both Witt-eligible and Witt-excludable participants to evaluate this question. Such an approach would also help

determine the extent to which attitudes about capital punishment moderate the effect of exposure to CVD. For example, it is possible that individuals with attitudes more favorable to the death penalty would be more strongly impacted by the death qualification process. To the extent that this is true, one should expect the effects of exposure to death qualification to be attenuated among Witt-excludables. If so, the design used in these studies provides a more conservative test for the hypothesized effects of exposure to CVD, as our findings were observed among individuals selected on criteria that may render them less likely to be influenced by exposure to CVD.

The current research is not without limitations. Questionable ecological validity is a common criticism mounted against jury simulations (for a full review, see Bornstein, 1999). All video simulations in the current research were derived from an actual capital trial transcript, using professional actors and a mock courtroom. Participants in this study were jury-eligible, death-qualified undergraduates of diverse ethnicities and backgrounds but were, as a group, younger and better educated than most individuals likely to be selected as capital jurors. Research has not found consistent evidence for differences in decision-making between non-student and student participants (e.g., Bornstein et al., 2017). However, it is still possible that a different population would have been influenced differently by exposure to CVD, which could have affected trial outcomes.

For example, college students are more vulnerable to normative pressure than the general population (Sears, 1986) and may be particularly susceptible to the pretrial effects of exposure to death qualification procedures. Yet, college students are also better able to engage in cognitive tasks involving the evaluation of complex information, which could instead reduce the influence of pretrial bias on verdict choice (Diamond, 1997; Moskowitz, 1995; Sears, 1986). Also, the

demographic and personality variables that account for the major differences between student and non-student populations are generally unreliable predictors of verdict preference (Fulero & Penrod, 1990). The primary selection criterion used in this study and in capital trials (i.e., death penalty attitudes), however, is associated with a range of attitudes and beliefs about the criminal justice system that are directly related to juror decision-making (Allen et al., 1998; Cowan et al., 1984; Fitzgerald & Ellsworth, 1984; Thompson et al., 1984).

Furthermore, this investigation was primarily concerned with the effects of exposure to death qualification procedures on jurors' evaluation of evidence and verdict choice but not the accuracy of verdict outcomes per se. Participants did not engage in deliberations before rendering a verdict. Pre-deliberation verdict preference is resistant to opposing views discussed during deliberation (Bridgeman & Marlowe, 1979; Steblay, Bwirevic, Fulero, Jiminez-Lorente, 1999). It is still possible that deliberation would have improved jurors' ability to accurately recall evidence and comprehend judicial instructions on the law (Diamond, 1997; Ellsworth, 1989; Kerwin & Shaffer, 1994). However, the death qualification process restricts the range of viewpoints and trial-relevant attitudes among jurors (Fitzgerald & Ellsworth, 1984), which truncates the breadth and depth of deliberation (Cowan et al., 1984). Capital jury deliberation may therefore serve to reinforce pre-deliberation verdict preferences held by the majority of jurors. In that case, the current study will have underestimated the pretrial effects of exposure to CVD on trial outcomes.

The length of time between participant exposure to voir dire and the rendering of verdicts was also shorter than in most capital trials. Death qualification alone may last hours for each venire, and jurors may sit in judgment of evidence presented during the guilt-phase of the trial for days or even weeks. Capital jurors are nonetheless subject to only one death-qualification

process, which was faithfully simulated in the present work. Moreover, psychological research on the effects of pretrial media coverage suggests that jurors are still influenced by news reports occurring weeks before the start of the trial (Stebly et al., 1999). The temporal proximity of CVD and trial does not detract from the present findings, which instead demonstrate the usefulness of an experimental paradigm to investigate the effects of pretrial bias. Still, the extent to which pretrial bias influences jurors' decision making days or weeks following initial exposure remains untested.

Similarly, it remains unknown if or how the pre-trial effects of exposure to CVD will also influence sentencing-phase judgments. It is possible that if sentencing-phase arguments and evidence align with pre-trial expectations, exposure to death qualification will lead to more punitive sentencing recommendations. Future researchers could examine this hypothesis by evaluating the influence of CVD on both guilt- and sentencing-phase decision-making. However, because the current study only investigated juror decision-making for a single case, it is possible that the observed effects may be limited to the trial evidence and case facts included in the stimuli materials used in Study 1. Although our observations may accurately characterize the psychological consequences of exposure to death qualification and its implications for juror decision-making, future researchers should nonetheless seek to replicate these effects using different kinds of case facts, trial actors, and operationalizations of evidence strength.

Finally, the experimental paradigm used in Studies 1 and 2 is best understood as manipulating *exposure* to death qualification, similar to the approach used by other scholars (e.g., Haney 1984a). We did not require respondents to publicly affirm their willingness to vote for the death sentence, if the evidence and law required it. Instead, we administered a brief survey to evaluate eligibility, prior to exposure to the voir dire process. That the mere act of

observing and being a passive participant in the death qualification process was sufficient to produce the observed effects is impressive. One might reasonably expect that active participation and more psychologically meaningful (e.g., public questioning about death penalty beliefs) engagement in the process would produce an even *larger* effect than what was observed in the current research. Nevertheless, future research should seek to include more active involvement in the death qualification process to more directly simulate the CVD process.

Policy Implications and Future Research

The Supreme Court in *Lockhart* never considered whether the process of impaneling death-qualified individuals affects jury decision-making, only how it impacts capital jury composition. We presented evidence here that answers this question affirmatively. The underlying mechanisms responsible for this effect are of significant import to legal policy and social scientists alike. Social psychologists have proffered two alternative explanations for contrast effects that arise from cognitively accessible information (Moskowitz, 2005). Accessible information may become a standard-of-comparison for interpreting related stimuli (e.g., Herr, 1986); evidentiary expectations may be contrasted with evidence presented during trial. The second model is a more deliberative process than the first and posits that if individuals are cognizant of the influence of accessible information on their own social judgments, they may actively seek to adjust or correct for that bias (Martin, 1986). Meaning, if venirepersons believe that the process of death qualification biases their judgment, they may deliberately scrutinize evidence more or require additional evidence to convict the defendant.

It is important to note that the current study did not directly investigate either the standard-of-comparison or the correction model. The pattern of verdicts, however, is best explained by a contrast effect. It is therefore necessary to distinguish between the standard-of-

comparison and correction model to fully understand the contrast effect of exposure to death qualification on interpretation of trial evidence and juror decision-making. Both models are triggered by cognitively accessible information, but the dynamic between the prime and effect, or exposure to a CVD and interpretation of trial evidence, are markedly different for each model. For example, unlike a correction model, a standard-of-comparison model is an automatic process operating outside of conscious awareness. Thus, the trier of fact may benefit from judicial instructions that explicitly address evidentiary expectations if it can attenuate the apparent contrast with evidence presented during trial (Smith, 1993). Existing judicial instructions are already designed to inform jurors on the law and guide lawful decision-making. Unfortunately, jurors' comprehension and application of judicial instructions for verdict selection is rather poor (Diamond, 1993; Smith, 1991a, 1991b). These instructions, however, often fail to account for jurors' pre-existing knowledge structures (Diamond, 1993). Such instructions can be partially effective in limiting the influence of pretrial knowledge (Smith, 1993). The benefit of pretrial judicial admonishment on evidentiary expectations remains an empirical question worthy of future research.

If the contrast effect is instead due to capital venirepersons' perception of death qualification as inherently wrong or unjust, they may actively scrutinize trial evidence more to ensure their own judgment remains unaffected by that bias. In that case, policy remediation could be more systemic; both death qualification and the bifurcated trial could again be called into question.

Recent changes in CVD procedures are unlikely to safeguard against the process effects of death qualification. For example, some have argued that the exclusion of automatic death penalty (ADP) venirepersons is sufficient to offset the prosecutorial bias generated by death

qualification (e.g., *Morgan v. Illinois*, 1992). However, excluding ADPs is more likely to impact the composition of the jury; the core features of death qualification remain intact along with its effects on venirepersons' pretrial beliefs about the defendant's guilt. Furthermore, the exclusion of venirepersons who would always sentence the defendant to death is less frequent than for venirepersons who are opposed to the death penalty (Dillehay & Sandys, 1996). Some courts have also entertained sequestering individuals for death qualification. However, even if CVD is not conducted in front of the venire, sequestration only removes prolonged exposure to death qualification. Individuals still actively participate in death-qualifying questioning and are subject to all the effects associated with it (Haney, 1984b).

Future researchers should continue to investigate the underlying mechanisms responsible for the contrast effect demonstrated by the present work to further both legally and policy relevant research. We currently favor the standard-of-comparison model for two reasons. First, capital jurors are selected for their support of the death penalty. It is unlikely that these individuals are aware of the influence of exposure to death qualification on their decision-making, or would even regard it as a form of bias. The complexity of the information-processing task for both capital trial evidence and judicial instructions may impede the deliberation implied by the correction-model (e.g., Moskowitz & Skurnik, 1999). Second, we clearly demonstrated that CVD participants were more likely to expect a guilty defendant who was soon to be convicted. It therefore follows that evidence demonstrating guilt and justifying the anticipated conviction would be presented during trial. Across all levels of evidence strength, trial evidence more often failed to demonstrate guilt and justify conviction for CVD (vs. SVD) participants, even when the preponderance of evidence favored a guilty verdict. We have no data to support a correction-model. On the contrary, there were no significant differences between CVD and SVD

participants on several pretrial affect measures designed to probe how participants would feel about convicting the defendant.

The current research provides new information on capital juror decision-making; death qualification can influence jurors' pretrial beliefs about the defendant and other trial participants, which influences evidentiary expectations and requirements, and can affect guilt-phase verdicts. Yet many questions remain unexamined. Researchers should continue to examine the underlying mechanisms involved in determinations of guilt when citizens are also responsible for judging the merits of another's life.

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Table 1

Study 1: Univariate Effect of Voir Dire Type on Pre-trial Ratings

Measures	Means (S.E.)		Univariate effect of voir dire type			
	Capital	Standard	F(5, 170)	<i>p</i>	<i>d</i>	95% CI
Prosecutor believes the defendant is guilty of murder	76.85 (2.57)	68.41 (2.62)	5.28	<.05	0.35	0.05, 0.65
Prosecutor believes the defendant is guilty of attempted murder	70.96 (2.92)	62.40 (2.97)	4.24	<.05	0.31	0.02, 0.61
Prosecutor favors the death penalty	69.89 (2.20)	59.12 (2.25)	11.74	<.01	0.52	0.22, 0.82
Defense Attorney believes the defendant is guilty of murder	27.63 (2.46)	22.09 (2.51)	2.48	.12	0.24	-0.06, 0.54
Defense Attorney believes the defendant is guilty of attempted murder	29.40 (2.50)	21.27 (2.55)	5.20	<.05	0.35	0.05, 0.65
Defense Attorney favors the death penalty	35.28 (2.48)	31.92 (2.53)	.90	.34	0.15	-0.15, 0.44
Judge believes the defendant is guilty of murder	36.20 (2.71)	30.59 (2.76)	2.10	.15	0.22	-0.08, 0.52
Judge believes the defendant is guilty of attempted murder	36.59 (2.76)	31.42 (2.81)	1.72	.19	0.20	-0.10, 0.50
Judge favors the death penalty	54.97 (1.86)	48.41 (1.90)	6.09	<.05	0.38	0.08, 0.68

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Probability the defendant is guilty of murder	52.45 (1.79)	44.31 (1.83)	10.14	<.01	0.48	0.18, 0.77
Probability the defendant is guilty of attempted murder	53.82 (1.99)	44.48 (2.04)	10.75	<.01	0.50	0.19, 0.79
Probability the defendant will be convicted of murder	57.02 (1.95)	50.57 (2.00)	5.34	<.05	0.35	0.05, 0.65
Probability the defendant will be convicted of attempted murder	55.80 (2.15)	49.71 (2.20)	3.91	.05	0.30	0.00, 0.60
Probability the defendant will be convicted of something in the trial	66.44 (2.32)	59.38 (2.37)	4.55	<.05	0.32	0.02, 0.62

Table 2

Study 2: Univariate Effect of Voir Dire Type on Type of Evidence Needed for Conviction

Evidence Type	Means (S.E.)		Univariate effect of voir dire type			
	Capital	Standard	$F(1,101)$	p	d	95% CI
Physical	.34 (.03)	.44 (.03)	4.41	<.05	0.44	0.05, 0.83
Witness(es)	.11 (.01)	.13 (.01)	0.98	.33	0.20	-0.19, 0.50
Alibi	.10 (.01)	.09 (.01)	0.08	.78	0.11	-0.27, 0.50
Motive	.09 (.01)	.05 (.01)	4.98	<.05	0.44	0.05, 0.83
Defendant's Background	.18 (.02)	.10 (.02)	7.44	<.01	0.72	0.32, 1.12
Confession	.01 (.01)	.02 (.01)	0.29	.59	0.25	-0.14, 0.63
Other	.13 (.03)	.13 (.03)	0.04	.85	0.00	-0.38, 0.38