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Examining public support for capital punishment of sex offenders*

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Keywords: sex crime, public opinion, capital punishment

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Biographical sketches

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Examining public support for capital punishment of sex offenders

Abstract

In the 1990s, states enacted a plethora of new “get tough” laws targeting sex crime. These included extending the death penalty—a punishment typically reserved for murderers—to convicted sex offenders. Little attention, however, has been given to explaining why these tougher responses emerged and, in particular, to whether the public supported extending the use of the death penalty to sex offenders. The goal of this paper was to examine whether public perceptions about executing sex offenders accorded with the punitive shift in policy and, more broadly, to contribute to scholarship on the death penalty. To this end, this paper examined data from a 1991 national public opinion poll, conducted just prior to the punitive shift in sex crime policies. The study found that views about executing sex offenders depended heavily on whether the victim was a child, that support for executing sex offenders was substantially lower than for executing murderers, and that few social and demographic divides differentially predicted support for executing sex offenders versus murders. Implications of the study are discussed.

Keywords: sex crime, public opinion, capital punishment

[In] the eyes of ordinary Americans, the very worst child rapists—predators who seek out and inflict serious physical and emotional injury on defenseless young children—are the epitome of moral depravity . . . It is the judgment of the Louisiana lawmakers and those in an increasing number of other states that these harms justify the death penalty.

— U.S. Supreme Court Justice Samuel Alito, *Kennedy v. Louisiana* (2008)

Introduction

Scholars have characterized the late 20th century in the United States as an era of “get tough” justice (Garland, 2001). The characterization is especially apt when examining sex crime legislation. In the early 1990s, the federal government and states enacted an unprecedented number of new laws and policies targeting sex offenders. These included registries, residency restriction laws, and civil commitment and castration statutes. Perhaps most strikingly, however, some states revised their death penalty statutes to include convicted sex offenders (La Fond, 2005; Winick, 1998). For example, in 1995, Louisiana became the first state to enact a sex crime law that permitted the execution of child rapists. This change, which other states soon adopted (Bell, 2008; Hobson, 2005), is striking because traditionally the death penalty was reserved primarily for murder (Bedau, 1997).

The precise reason for the pronounced increase in efforts to target sex crime and sex offenders remains a mystery. Many of the new policies emerged after the creation, in the 1980s, of “get tough” crime legislation, and they all occurred on the heels of a period in which reported sexual offending, including sex crimes against children, was consistently on the decline (Finkelhor and Jones, 2004; Levenson and D’Amora, 2007; Velázquez, 2008). One likely contributor to the tougher sex crime policies, however, was the considerable publicity and attention given to several especially violent sex crimes against children (Mears, Mancini, Gertz, and Bratton, 2008). For example, Petrunik (2002, p. 494) has argued that the policies resulted from “community outrage over the brutal sexual assault and murder or serious injury of a child

victim by a sexual predator.” Scholars have claimed that “the emotionally charged nature of the problem of sexual victimization combined with . . . extreme pressure from . . . the public to ‘do something’” (Edwards and Hensley, 2001, p. 648). According to this view, the public in the 1990s expected a rapid and aggressive response to sex crime (Wright, 2008).

From a policy perspective, the 1990s represents “the decade of the predatory sex offender” (Nash, 1999, p. 45; see also Prentky and Burgess, 2000; Quinn, Forsyth, and Mullen-Quinn, 2004), with public opinion implicated as a critical factor held to have contributed to the enactment of laws aimed specifically at targeting offenders who commit sex crimes. Yet, little is known about the public’s views immediately preceding the emergence of “get tough” sex crime policies and, in particular, views about the most symbolic of society’s efforts to toughen its stance against sex offenders—expanding the scope of the death penalty to include convicted sex offenders. At the same time, almost no research has investigated public support for the death penalty for crimes other than murder (Cullen, Fisher, and Applegate, 2000; Radelet and Borg, 2000). Thus, little is known about whether the social and demographic factors linked to support for the death penalty for convicted murderers extend to support for its use with convicted sex offenders, much less those who commit sex crimes against children. The latter gap is especially relevant because the bulk of sex crime laws have been motivated by cases involving child victimization.

The goal of this study is to contribute both to efforts to understand the tough-on-sex-crime movement in the 1990s and to identify how support for the death penalty may vary depending on the type of crime involved. To this end, the paper draws on little-used data from a 1991 *Minneapolis Star Tribune* national survey to investigate four questions. First, before the emergence of tough-on-crime sex laws, how did levels of public support for the death penalty vary for murder versus sex crimes? Second, do factors that predict support for capital punishment for murderers also predict support for its use with sex offenders? Third, how do views about sex crime and offenders, as well as prior experiences with sexual victimization, affect support for the death penalty? As argued in the paper, variation in support for executing

sex offenders would logically seem to be explained in part by views of and experiences with such offenders. Fourth, do the factors that predict death penalty support vary when the victims of sex crimes are children rather than adults? The salience of this question derives from the fact that the bulk of sex crime legislation has targeted offenders who commit crimes against children. After presenting the hypotheses concerning each question, the data are described and the findings are presented. The study's implications for research and policy then are discussed.

Background

Death penalty research

A large body of research on the death penalty exists, much of which focuses on developing estimates of the extent to which the public supports capital punishment. Gallup polls have regularly included questions about such punishment and reveal that the percent of the American public supporting capital punishment has waxed and waned over the past 70 years, hitting a low of 42 percent in 1966 and a high of 80 percent in 1994. In the past decade, the level of support has hovered at approximately 65 percent (Saad, 2008).

Although many studies have examined the prevalence of support for the death penalty, far greater attention has focused on social and demographic divides in such support. Most studies find a race effect, with Whites, relative to other racial and ethnic groups, reporting greater levels of support for capital punishment of homicide offenders (Messner, Baumer, and Rosenfeld, 2006; Unnever and Cullen, 2007). Males, too, typically report greater levels of support for such punishment as compared with females (Applegate, Cullen, and Fisher, 2002). Lower educational attainment also has been found to be associated with greater support for the death penalty (Fox, Radelet, and Bonsteel, 1991). Age has sometimes, though not usually, been found to have a positive effect on death penalty support (Moon, Wright, Cullen, and Pealer, 2000; Rossi and Berk, 1997). Because retribution and deterrence feature as prominent themes in some religious

doctrines, scholars have explored whether religious affiliation affects views about the death penalty and found that conservative or fundamentalist Protestant membership is associated with greater support for this “ultimate” sanction (Britt, 1998; Grasmick, Davenport, Chamlin, and Bursik, 1992). Conservative political ideology, too, has been found to be associated with increased support for capital punishment (Roberts and Hough, 2005).

Research on victimization has produced mixed evidence. Some studies find that prior victimization increases support for the death penalty, whereas others find no such effect (see, generally, Unnever, Cullen, and Fisher, 2007). In addition, a number of studies have focused on public views and beliefs about the criminal justice system and how these may influence support for the death penalty. This work has consistently found that negative perceptions about the criminal justice system’s effectiveness—such as the belief that violent crime is increasing and that criminals reoffend at high rates—are associated with greater support for capital punishment (Roberts and Stalans, 1997; Sprott, 1998; Tyler and Weber, 1982; Unnever and Cullen, 2007).

Sex crime and the death penalty

Most public opinion studies of capital punishment have asked about support for the death penalty of convicted murderers. That makes sense given that most death penalty sentences have been reserved for this type of offender. Yet, it ignores a crucial fact: the death penalty historically has been applied to other offenses, including treason, perjury resulting in death, and aircraft high-jacking (Snell, 2005). It also ignores the fact that, beginning in the 1990s, many states—including Georgia, North Dakota, Oklahoma, South Carolina, and Texas—adopted, or considered enacting, statutes that permit the execution of child rapists (D’Avella, 2006). This legal development is notable because over a decade earlier, in *Coker v. Georgia* (1977), the U.S. Supreme Court invalidated laws permitting the death penalty in cases where adult females were raped. To address this constraint, the statutes these states enacted or contemplated targeted offenders convicted of sex crimes against children (see, e.g., Palmer, 1998).

Although policymakers in the 1990s presumed that the public supported the extension of the death penalty to sex crimes (Sample and Kadleck, 2008), no studies have investigated whether that presumption was warranted. Two polls conducted well after the initial surge in punitive sex crime laws, however, bear mention. The first, a *Time/CNN* national poll conducted in 1997, examined public support for the death penalty for different types of offenders. It showed that support varied based on offender type: 74 percent supported the death penalty for convicted murderers, 47 percent for convicted rapists, and 65 percent for those convicted of sexually molesting a child. The second, a Quinnipiac University poll conducted in 2008, found that 63 percent of the public supported the death penalty for convicted murderers and 55 percent supported it for convicted child rapists.

These poll results are notable because they establish that support for the death penalty may vary by type of offense. They are notable as well because they underscore the salience of sex crimes to the public and, as the *Time/CNN* estimates show, the importance of distinguishing between cases involving children versus those involving adults. Viewed together, the poll results show that the public expresses considerably more support for capital punishment when children rather than adults are the victims of a sex crime, a difference that may stem from children being viewed as more vulnerable and as more deserving of special protections (Mears et al., 2008). Indeed, as one review of state legislation observed, the new types of sex offender laws served in no small part “to highlight the special focus placed on those who offend against children” (Levesque, 2000, p. 332). Neither poll, however, speaks directly to the public’s views prior to the initial and then sudden rise in sex crime legislation, including laws providing for capital punishment of sex offenders. Moreover, both occurred after Megan’s Law (1996), federal legislation that expanded sex offender registries and established community notification procedures in all fifty states.

In short, a critical question remains unaddressed: how did the public view the use of the death penalty for sex offenders before the widespread enactment of sex offender laws at the state level during the 1990s and before the federal government promoted a focus on sex crime?

Several related questions remain unaddressed as well that hold the potential for informing scholarship on and policy debates about the death penalty in general and its use against those who commit sex crimes in particular. What social and demographic divides in support for capital punishment of sex offenders exist, for example, and how do they vary, if at all, from those related to support for capital punishment of murderers? Do views about sex crime and offenders or experiences with sexual victimization influence support for applying the death penalty to sex offenders? Not least, given the centrality of children to sex crime legislation, do predictors of such support for the death penalty with sex offenders vary when children rather than adults are the victims?

The present study

To investigate these questions, this study drew on a national telephone poll (N=1,101) conducted in August of 1991 by the *Minneapolis Star Tribune*. The data, housed in the Roper Center for Public Opinion Research (“Crime and Sex Offenders”), were uniquely suited for this study because they include responses to questions that were used to gauge public opinion about crime and sex offenders. In addition, the survey asked about the death penalty and its use not only with murderers but also with offenders who commit sex crimes.

The poll was designed to assess public opinion about a broad set of policies as part of its longstanding efforts to inform debates about them.¹ The central strength of the data, for the purposes here, lies in the fact that they provide information about public views just prior to the surge in “get tough” sex crime laws nationally. Thus, they allow for investigation of whether views about punishing sex offenders align with the tenor of the subsequent “get tough” policies. They also allow for exploration of how views of and experiences with sexual victimization may influence support for executing sex offenders. They should not, however, and as discussed in the conclusion, be viewed as reflecting current public opinion about use of the death penalty.

The focus here is not only to identify the extent to which, in the early 1990s, the public

supported application of the death penalty to sex offenders. It is also to explore whether social and demographic cleavages in such support exist and whether they parallel those that exist in support for capital punishment of murderers. The paper explores two other avenues of inquiry as well. One examines how views about sex crime and offenders and experiences with sexual victimization may influence support for executing sex offenders. The other examines how factors that predict support for the death penalty may vary when sex crimes involve children.

Given the focus of the study and the limited research on how the public views the use of the death penalty for sex offenders, the paper draws on a broad research literature to anticipate potential divides in public opinion. The death penalty literature, for example, provides a relatively strong foothold for developing hypotheses about the effects of age, gender, race, education, religion, political ideology, and victimization. It also provides some foundation for anticipating how views about sex crime and offenders, as well as previous sexual victimization, may influence views about the death penalty for sex offenders. Accordingly, in describing the measures used in this study, the paper also discusses this literature to identify hypothesized relationships between these measures and support for the death penalty for different offenses. Table 1 presents the descriptive statistics for each measure.

Insert table 1 here

Dependent variables

Little *a priori* basis exists for anticipating how levels of support for the death penalty will vary by offense. However, it can be anticipated that support should be greatest for murder, given that this crime is typically viewed as the most serious and treated as such under most sentencing regimes. The question, then, is how the support will vary, if at all, when sex offenders are the focus. Since children have historically been viewed by the American public as deserving special protection (Jenkins, 2001; Mears et al., 2008; Streib, 2008), it can be anticipated that support for the death penalty will be greater when the victims of sex crimes are children rather than adults.

The measures used for the three outcomes in this study are described below.

Support for capital punishment of convicted murderers. This measure derives from a question used in many prior studies: “Do you favor or oppose the death penalty for people convicted of murder?” The coding for this variable was “1=favor” and “0=oppose.”

Support for capital punishment of convicted sex offenders (rape of an adult). Respondents were asked, “Do you favor or oppose the death penalty for people convicted of rape of an adult?” Responses were coded the same as for murder (“1=favor” and “0=oppose”).

Support for capital punishment of convicted sex offenders (sexual abuse of a child). For this item, respondents were asked, “Do you favor or oppose the death penalty for people convicted of sexual abuse of a child?” Responses were coded the same as for the two other dependent variables (“1=favor” and “0=oppose”).

Social and demographic factors

Prior work has suggested that strong social and demographic variation in public views about the death penalty exists. Here, the focus of the paper is on factors that consistently have been associated with support of executing murderers or that have featured prominently in the extant literature. The discussion elaborates on the earlier review and, at the same time, integrates the literature on public views toward punishment of sex offenders.

Age. Research on age and support for capital punishment is mixed. As mentioned, some studies find that older respondents are more likely to endorse the death penalty; however, many studies find no such effect (e.g., Moon et al., 2000; Rossi and Berk, 1997). To date, studies have not systematically explored the effects of age on views about sex offenders (Brannon, Levenson, Fortney, and Baker, 2007). Given the findings to date, it seems reasonable to anticipate that age will exert little to no effect on views about the death penalty. Following the lead of prior studies (e.g., Durham, Elrod, and Kinkade, 1996; Sims and Johnston, 2004), age was coded using categories: “1=18-29,” “2=30-39,” “3=40-49,” “4=50-59,” and “5=60 and older.”

Gender. Research consistently indicates that women are less supportive of the death penalty than men (Applegate et al., 2002; Sandys and McGarrell, 1995; Skovron, Scott, and Cullen, 1989). On this basis, it can be anticipated that women will be less likely than men to support capital punishment of sex offenders, especially since women tend to be less punitive than men in general (Wood and Viki, 2004). Some evidence, however, suggests that they are more punitive than men when it comes to support of community notification laws (Levenson et al., 2007) and in cases involving rape (Wood and Viki, 2004). In addition, prior work suggests that women are more nurturing, concerned about children, and predisposed to an “ethic of care” (Steffensmeier and Allan, 1996, p. 476). These considerations imply that women may be more likely than men to support capital punishment of sex offenders and that this difference may be more pronounced if children are the victims. In the analyses, gender was coded “1=male” and “0=female.”

Race. Race has been identified as “one of the strongest known correlates of attitudes toward the death penalty and other punitive forms of social control” (Messner et al., 2006, p. 566). Not surprisingly, then, Whites consistently express greater support for the death penalty (Unnever and Cullen, 2007). Based on this work, and in the absence of studies that link race to punishment of sex offenders, it can be expected that Whites will be more likely to endorse support for capital punishment, regardless of whether the offense is murder or a sex crime. The poll asked the following question: “Which of the following do you consider yourself to be: White, Native American, Black, or Asian?” Eighty-one percent of the sample reported being White, less than 1 percent indicated they were Native American, almost 12 percent reported they were Black, and less than 4 percent were Asian. Since few respondents reported being Native American or Asian, and to have a measure that corresponds to those used in prior work (e.g., Borg, 1998; Moon, Sundt et al., 2000), race was coded as “1=White” and “0=non-White.”

Education. Studies have found that individuals with more education are less supportive of capital punishment and less punitive in general toward offenders as compared to individuals with less education (Britt, 1998; Fox et al., 1991; Grasmick and McGill, 1994; Payne, Gainey, Triplett, and Danner, 2004). Given the consistency of these findings and the lack of research to

anticipate that they would differ if the focus were on sex crime, the hypothesis here is that education will be positively associated with support for the death penalty for all three types of offenders (murderers, rapists, child sex abusers). Education in this study was measured in years, based on responses to this question: “How many years of schooling have you completed?”

Fundamentalist Protestant. Several studies have found that fundamentalist Protestants are more likely to support the use of capital punishment (e.g., Britt, 1998; Grasmick et al., 1992; see, generally, Unnever and Cullen, 2006). However, there exists little *a priori* foundation for anticipating a difference when the focus is on sex offenders. The study thus hypothesizes that fundamentalist Protestants will be more likely to support capital punishment regardless of the type of offense. The measure of fundamentalist Protestant came from two questions. Similar to measures used in prior studies (Unnever, Benson, and Cullen, 2008, p. 176), respondents were asked, “Is your religious preference Protestant, Catholic, Jewish, something else, or would you say you have no religious preference?” Then, they were asked, “Would you say you are ‘born-again’ or had a ‘born-again’ experience?” If respondents reported being a Protestant and having a ‘born-again’ experience, they were classified as fundamentalist Protestant.

Political conservative. Most studies find that politically conservative respondents are more likely to favor capital punishment (Applegate, Cullen, Fisher, and Ven, 2000; Borg, 1998; Unnever and Cullen, 2005). It thus can be anticipated that a similar effect will emerge here. In the poll, respondents were asked, “When it comes to politics, do you consider yourself a liberal, a moderate, or a conservative?” In keeping with previous studies (e.g., Chiricos, Welch, and Gertz, 2004), respondents were coded as political conservatives if they chose “conservative.”

Victimization (excluding sexual victimization). The effects of victimization on death penalty views are unclear. Some research has found that victimization increases support for capital punishment (Durham et al., 1996), whereas other studies have reported no effect (e.g., Cullen, Clark, Cullen, and Mathers, 1985; Langworthy and Whitehead, 1986; Taylor, Scheppele, and Stinchcombe, 1979). It thus is unclear whether prior victimization influences support for the death penalty for sex offenders. To examine whether it does and to isolate the potential effects

of sexual victimization (discussed below), this study included a measure of non-sexual victimization in the analyses. Respondents were asked, “Have you yourself ever been the victim of a crime such as burglary or non-sexual assault?” This measure was coded as “1=yes” if respondents reported victimization and otherwise as “0=no.”

Views about sex crime and sex offenders

As previously mentioned, prior studies have found that views and beliefs about the criminal justice system influence levels of support for the death penalty. Extending such work, this paper focuses on variables that tap into views specifically about sex crime and offenders on the premise that such views may influence support for executing sex offenders.

Sex crime increased. Studies have shown that the public believes that “punishment provides an effective means for controlling deviant and criminal behavior” (Finckenauer, 1988, p. 86). In addition, research suggests that when the public perceives increases in violent or serious crime, their support of punitive laws increases (Roberts and Hough, 2005). It thus can be anticipated that those who believe that sex crime has increased will endorse greater support for executing sex offenders. To gauge perceptions about sex crime trends, respondents were asked, “In your state, would you say the number of sexual assaults in the past five years has increased, remained about the same, or decreased?” Because so few respondents reported a decrease (1.7 percent), this variable was dummy coded (“1=increased” and “0=remained the same or decreased”).

Fear of sexual assault. Most studies find a positive association between fear of crime and punitiveness (Chiricos et al., 2004), and several find that this association holds for fear and support of the death penalty (Finckenauer, 1988; Keil and Vito, 1991). Therefore, the paper expects that fear of sexual victimization will influence support for applying the death penalty to sex offenders. In the poll, respondents were asked, “How worried would you say you personally are about being sexually assaulted? Would you say you are very worried, somewhat worried, or not worried at all?” Consistent with prior studies, this measure was coded as “1=very worried or

somewhat worried” and “0=not worried at all.”

Sex offenders highly likely to reoffend. A number of studies have found that those who believe that certain offenders are at increased risk of recidivism endorse higher levels of support for capital punishment (e.g., Roberts, 1996; Tyler, 1997). This tendency, according to Roberts (1996, p. 493), reflects a public willingness to “punish recidivist offenders for defiance of authority.” That finding holds special relevance for sex crimes because research indicates that the public consistently overestimates the likelihood of sex offender recidivism (Levenson et al., 2007; Quinn et al., 2004). For example, a recent study found that the public “overwhelmingly endorsed the belief that the vast majority of offenders will be rearrested for new sex crimes” (Fortney, Levenson, Brannon, and Baker, 2007, p. 15). It is not clear if Americans shared this sentiment in 1991, prior to the rise in punitive sex crime policies. It can be expected, however, that individuals who hold such a belief will be more likely to support use of the death penalty for sex crimes. It also can be expected that this belief may be stronger for sex crimes involving children. Why? Individuals who believe that sex offenders inevitably recidivate may assume that the victims will be children and so support more strongly capital punishment of such offenders. To examine these possibilities, the following question was used in the analyses: “Do you agree or disagree that most sex offenders continue to repeat their crimes no matter what the punishment?” Because of skew in the responses, the measure was coded “1=agree strongly or agree” and “0=disagree strongly or disagree.”

Courts not preventing sex crime. The belief that courts fail to deter offenders from crime or to mete out sufficiently punitive sanctions is widespread (Roberts and Hough, 2005) and may contribute to public support for tougher sanctions (Cullen et al., 2000; Roberts and Stalans, 1997; Steiner, Bowers, and Sarat, 1999). For example, Fox et al. (1991, pp. 512-513) has observed that “the public’s insistence on the death penalty may reflect its distrust in how murderers are handled by the criminal justice system.” Following this line of reasoning, it can be hypothesized that respondents who view the court system as ineffective in punishing sex offenders will be more likely to support capital punishment of sex offenders. The poll included the following

question that taps broadly into this view: “Do you agree or disagree: the state court system does not do enough to prevent sexual assault?” Responses to this question were, as for the previous measure, coded as “1=strongly agree or agree” and “0=strongly disagree or disagree.”

Previous sexual victimization

The poll data included several questions about the experiences respondents had with sexual victimization. Here, again, based on prior research, it can be anticipated that such experiences may influence whether individuals support capital punishment of sex offenders.

Victimized sexually as an adult or as a child. There are two competing hypotheses that may explain the effect of sexual victimization on support for capital punishment of sex offenders. The effect may be positive—for example, victims of sex crime may feel angry about and hold hostile views toward these types of offenders. Alternatively, the effect may be negative—given the highly intimate nature of sex crime, victims may be less likely to endorse punitive punishment for sex offenders. This argument derives from prior research on sex crimes. First, the majority of sex offenses are committed by offenders previously known to victims (Greenfeld, 1997; Terry, 2005). Second, some accounts suggest that a significant proportion of sex crime victims “wanted the person they trusted or loved to get help, not for the offender to spend a mandated lengthy or life sentence behind bars” (Velázquez, 2008, p. 8). This work thus suggests that sex crime victims will be hesitant to support the death penalty for sex offenders. In contrast, other work suggests that child sex victims may be more “fearful and angry, and less tolerant of sex offenders” (Levenson et al., 2007, p. 152). If so, they may be more, not less, likely to support executing such offenders. To test these possibilities, this paper examined responses to two questions: (1) “As an adult have you yourself ever been sexually assaulted?”; and (2) “Looking back on your own childhood, would you say you yourself were ever sexually abused?” The coding for both measures was “1=yes” and “0=no.”

Know a victim of sex crime. Few studies have examined vicarious victimization and support

for the death penalty. Borg (1998), however, found that vicarious homicide victimization—that is, “losing a personal acquaintance, friend, or family member to homicide”—significantly decreased support for the sanction (p. 561). Once, again, competing hypotheses exist. On the one hand, respondents who know victims of sex crimes may become sensitized to the damaging effects of such victimization and so hold hostile views toward the offenders. On the other hand, it may also sensitize them to the fact that many times the offender and victim may be related or know one another and that the victim may not want the offender executed. As a result, they may be ambivalent about supporting the death penalty. In this study, vicarious sexual victimization was measured by asking, “Do you have a relative or a close friend who has been sexually abused as a child or raped as an adult?” The variable was coded as “1=yes” and “0=no.”

Analytic plan

The analyses are presented in four steps. First, descriptive statistics are presented that allow for comparison of the extent of support for applying the death penalty to offenders convicted of murder, rape of an adult, or sexual abuse of a child, respectively. Second, logistic regression analyses are presented to examine whether support for capital punishment of murderers is predicted by social and demographic variables used in prior work. These results then are contrasted with those from two similar sets of analyses, one where the outcome was support for the death penalty in cases involving rape of an adult and another where it was support for the death penalty in cases involving sexual abuse of a child. Third, regression analyses are presented to examine whether views about sex crime and offenders, as well as experiences with sexual victimization, influence support for capital punishment of sex offenders. Fourth, the results of these different analyses are contrasted to determine whether predictors of support for the death penalty vary when the sexual offense involves children rather than adults.

Findings

Study findings first address the question of whether the level of public support for capital punishment varied by offense. Inspection of table 1 shows that, in 1991, four out of five Americans supported the death penalty for convicted murderers. Support for the death penalty was markedly lower for convicted sex offenders—27 percent of Americans favored this punishment for offenders who raped an adult and 51 percent favored it for offenders who sexually abused a child. It appears, then, that prior to the rise in punitive sex crime policies just over half of the American public supported expanding the death penalty to include those who sexually victimize children. At the same time, the results suggest—when considered in light of later polls (e.g., *Time/CNN*, 1997; Quinnipiac University, 2008)—that support for the death penalty indeed varies by offense.

Next, analyses explore the question of whether factors that predict support for the use of capital punishment for murderers also predicted support for the death penalty of sex offenders. Inspection of table 2 shows that five social and demographic variables exhibit statistically significant associations with support for capital punishment of convicted murderers. The results largely parallel those from prior work—analyses find that gender, race, education, religion, and political ideology influence views about capital punishment (Applegate et al., 2000; Applegate et al., 2002; Britt, 2002; Messner et al., 2006). In particular, men, Whites, those with lower educational levels, fundamentalist Protestants, and political conservatives were all significantly more likely to support the death penalty for convicted murderers. Age and victimization have not been consistently linked to such support, which accords with the findings here.

Insert table 2 here

If these results are contrasted with those from the corresponding models in tables 2 and 3, it is clear that a quite different situation exists when the focus is on sex crimes rather than murder. Model 1 in table 3 presents the same social and demographic variables as were examined in table

2. The focus is, however, on support for the death penalty in cases that involve rape of an adult. The only statistically significant variable was education—as with cases involving murder, individuals with more years of education are less likely to support the death penalty. By contrast, there was no statistically significant effect of gender, race, fundamentalist Protestant, or political conservative. The same general pattern holds when the focus is on support for the death penalty in cases involving sexual abuse of a child (table 4, model 1). Put differently, while significant social and demographic divides exist in support of capital punishment for murder, no such divides exist in support of such punishment for sex crimes.

Insert table 3 here

Insert table 4 here

Shifting attention now solely to sex crimes (tables 3 and 4), analyses turn to the question of whether views about sex offenders and crime or experiences with sex crime victimization influence support for the death penalty. The discussion here begins first with table 3, which examines support for the death penalty in cases involving rape of an adult, and focuses on model 2. Of the four different measures of views about sex crime and sex offenders, two surfaced as statistically significant. Specifically, individuals who believed that sex offenders “repeat their crimes no matter what the punishment” and who believed that the “court system does not do enough to prevent sexual assault” were more likely to support the death penalty. In this model, too, gender emerged as statistically significant, indicating that males were more likely than females to support the death penalty in cases of rape. Education remained statistically significant, consistent with model 1.

Turning to model 3, one can see that views about sex offender recidivism and court system effectiveness continue to exert a statistically significant effect. In addition, however, it is evident that direct sexual victimization appears to have no influence on views about the death penalty. By contrast, vicarious victimization—knowing someone who has been the victim of a sex

crime—was associated with decreased support for the death penalty.

The results in table 4, which examines support for the death penalty in cases involving sexual abuse of a child, largely correspond with those in table 3. Yet, as can be seen in models 2 and 3, gender is not significant. More notably, the effect of views about sex offender recidivism was larger than in the corresponding models from the previous table. For example, in model 3 in table 4, the odds ratio was 4.57; by contrast, in table 3, the odds ratio was 3.25. The larger effect suggests some warrant for the view that the public holds a more protective stance toward children in cases involving sex crimes. Finally, vicarious victimization had a similar effect, regardless of whether the focus was on adults or children—that is, knowing a victim of sexual crime reduced support for the death penalty in cases involving sex crimes of adults or children.

In short, and with respect to the third research question, the results in tables 3 and 4 highlight that views about sex offenders and court system effectiveness, as well as vicarious victimization, influence support for capital punishment of sex offenders. Views about the amount of sex crime or fear of such crime, however, appear to have no effect. Similarly, direct experiences with victimization appear not to factor into respondents' support for the death penalty.

The results also speak to our fourth question, which asked whether factors that predict support for capital punishment vary depending on whether the victims were adults or children. As comparison of the two tables reveals, considerable overlap exists in each instance, both in the factors that do not predict support and in the factors that do. Even so, some measures—in particular, the view that sex offenders inevitably reoffend—appear to exert a stronger effect in cases involving sex crimes against children.

Conclusion and implications

In the early 1990s, beginning well after the initial wave of get-tough criminal justice policies in the mid-1980s and after a decade-long decline in reported sexual crime, new and largely punitive approaches to addressing sexual crime emerged. Expansion of the death penalty to

include sex offenders constitutes the most dramatic illustration of this trend. Several widely publicized cases involving the victimization of young children appears to have played a role in this change. More generally, the change likely resulted—according to policymakers and many scholarly accounts—from public pressure (Jenkins, 1998; Sample and Kadleck, 2008; Vess, 2009). No studies to date, however, have empirically examined that claim.

The goal of this study was to help fill this research void and, at the same time, contribute to efforts to identify and understand variation in support for the death penalty. To this end, data from a national poll conducted in 1991 were used to investigate four questions that focused on the death penalty: (1) How did public support for the death penalty vary for murder versus rape of an adult and sexual abuse of a child? (2) Do the social and demographic divides that predict support for the death penalty for murderers also predict support for the death penalty with sexual offenders? (3) Are views about sex crime and offenders or experiences with sexual victimization associated with support for capital punishment? And (4) do the factors that predict support for executing offenders vary when the focus is on sexual crimes against children rather than adults?

First, the study found that, in 1991, 27 percent of Americans supported capital punishment in cases where an adult was raped, 51 percent supported it in cases of child sexual abuse, and 79 percent supported it in cases of murder. This pattern largely comports with what one would expect—murder constitutes an unequivocally serious and violent offense and so garnered the most support. Sexual crimes are also serious, but they can encompass a wide range of specific offenses that may result in less agreement about the severity of such crime and how to respond to it. Even so, when the focus is on children—a population that the American public typically feels merits special protections (Mears et al., 2008)—the agreement is greater than when the focus is on adults. Thus, it appears that the sex crime policies that surfaced aligned with public views about child sex victimization. Just as notably, however, it appears that these policies did not necessarily accord with public views about adult sex victimization.

It bears emphasizing that the relative priority given to children may be constant over time. For example, and as discussed earlier, a similar pattern—where greater support exists for

executing those who commit sex crimes against children as opposed to those who commit sex crimes against adults—is suggested by two public opinion polls conducted well after sex crime laws began to proliferate. A 1997 *Times/CNN* poll found that Americans were substantially more likely to support the death penalty for sex crimes against children (65 percent) than for sex crimes against adults (47 percent). A 2008 Quinnipiac University poll did not ask questions about sex crimes against adults. Yet, the poll results indicated that the level of support for executing those who rape children (55 percent) was almost comparable to the level of support for executing murderers (63 percent). Collectively, the poll results thus provide suggestive evidence that the American public places a relatively greater priority on executing those who commit sex crimes against children.

Second, similar to what has been found in prior work, this study found that men, Whites, fundamentalist Protestants, and political conservatives were more likely to support the death penalty in cases of murder. Education was negatively associated with such support, and age and victimization were not significantly associated with it. By contrast, and focusing solely on these measures, the only statistically significant social and demographic divide to emerge in analyses of public support for the death penalty in cases of sex crime was education—individuals with more education were less likely to favor capital punishment of rapists or child sexual abusers.

Third, the findings indicate that individuals' views about sex crime trends and fear of sexual assault, as well as their experiences with sexual victimization, exerted no effect on support for the death penalty. Yet, those who believed that sex offenders invariably recidivate and that the court system does too little to address sex crime were more likely to support capital punishment of sex offenders. Vicarious experiences with sexual victimization—that is, knowing someone who was victimized—was associated with decreased support for executing such offenders.

Fourth, the results suggest warrant for separating questions about sex crimes involving adults from those involving children. The extent of support for the death penalty clearly varied, for example, depending on whether an adult or child was the victim. In addition, although the factors that contributed to increased support of executing sex offenders were largely the same

whether adults or children were the victims, at least one factor—believing that sex offenders will continue to offend—appeared to exert a stronger effect when the focus was on children.

These findings have several implications for research. Traditionally, the death penalty has been applied almost exclusively to cases involving murder, but it can also be allowed for other crimes. Until 2008, it was invoked for some sexual crimes as well. Although the 2008 *Kennedy v. Louisiana* decision, in a narrow margin (5-4), invalidated current child rape statutes, lawmakers across the U.S. have vowed to revise their statutes to avoid constitutional challenges in the future. For example, Louisiana Governor Bobby Jindal called the *Kennedy* ruling “a clear abuse of judicial authority” and promised to “evaluate ways to amend our statute to maintain death as a penalty for this horrific crime” (Office of the Louisiana Governor, 2008, p. 1).

Against this backdrop, it appears that child rape laws may continue to be at the forefront of public policy discourse in the coming years. Both to understand how public opinion about such laws may shift over time and to inform policy discussions, it will be important to develop a consistent set of measures that are collected annually about public views concerning sex crimes, a range of policies for addressing them, and the factors that might affect these views.

One important avenue of inquiry that warrants investigation is the extent to which trends in public support for executing different types of offenders diverge. Evidence of a divergence would suggest that public support for the death penalty is substantially more nuanced than previously believed. The evidence from this study and others suggests that, from 1991 to 2008, public support for executing convicted murderers declined from 79 to 63 percent (Saad, 2008). Public support for executing offenders convicted of rape, however, may have increased for that period. Consistent measures over time do not exist. Even so, it is evident that from 1991 to 1997, public support for executing rapists increased from 27 to 47 percent. That trend clearly ran counter to the decline in support for executing murderers. In addition, when contrasting the 1991 poll to the 2008 Quinnipiac University poll, it appears that public support for executing those who engage in child sex abuse or child rape increased. The question, however, remains: has public support for executing sex offenders declined in the same way as it has for executing

homicide offenders? Without a consistent set of measures, it will remain difficult to know. That situation is especially problematic for a topic, such as sex crime victimization, that may engender more rapid changes in policy than might other types of crime. For that reason, future studies ideally will employ a consistent set of offenses (e.g., murder of adults, murder of children, rape of adults, rape of children, sexual assault of adults, sexual abuse of children).

In addition, research should systematically compare public views, and the factors that influence these views, about a range of crimes and policies. As this study's results underscore, it would be a mistake to generalize the results of public opinion studies of the death penalty, which typically focus only on murder, to all crimes. One direction for future research thus is to examine systematically the extent of support for applying the death penalty to each of a range of specific crimes. Another is to examine support for a range of policies. When polls focus only on one type of policy, they risk creating the appearance that the public is purely, or primarily, retributive or rehabilitative (Cullen et al., 2000). Public opinion typically is more nuanced.

A related avenue of inquiry that merits investigation is to examine why particular divides exist. For example, the results from this study suggest that the public views sexual crimes against children in a different way than they do sexual crimes against adults. Future research ideally would investigate why such differences exist and integrate it with work on variation in how the public views the culpability and vulnerability of different offender and victim groups (see, e.g., Grasmick and McGill, 1994; Paquette Boots, Heide, and Cochran, 2004; Unnever and Cullen, 2006). Any such effort ideally will include reference to explanatory variables that may be specific to certain crimes. In the present study, for example, the analyses showed that distorted views about sex offender recidivism accounted for some of the variation in public support for executing sex offenders. Future studies ideally would include similar measures specific to the particular crimes examined.

Finally, the findings from this study suggest several implications for policy. Capital punishment has been a "significant part of the American response to crime since the early colonial period" (Durham et al., 1996, p. 705). It is clear that public support existed in the early

1990s for the death penalty in cases involving sexual abuse of children. From that perspective, the policies appear to be broadly in sync with public views. Yet, the policies do not align well, if views about executing those who sexually victimize adults is any indication. As this study showed, support for applying the death penalty to such individuals was markedly lower than when the crime involved children or murder.

Thus, the question remains open as to whether the panoply of sex crime policies that exist today and that are almost universally punitive in orientation reflect public sentiment. To be clear, the poll data on which the analyses here rested reflected public opinion in 1991. Whether the support is substantially greater or lesser for a range of policies and for punishing particular types of sex offenders remains unknown (see, however, Mears et al., 2008). That issue is of particular concern given that sex crimes can include a wide range of acts (e.g., masturbation, digital penetration, intercourse, child pornography, exposure).

The very focus on public views and how well they coincide with public policy raises a broader issue that is highly relevant to policy debates—how much public support, if any, is required for a given policy to be viewed as legitimate? In a democracy, public views are central to criminal justice policy debates, and policymakers certainly allude to such views when they make decisions (Roberts and Stalans, 1997; Burstein, 2003). Many “get-tough” policy initiatives (e.g., capital punishment, “three-strike” laws), as Roberts and his colleagues (2003) have observed, emerged out of “a desire by policymakers to respond to public opinion without having undertaken an adequate examination of the true nature of public views” (p. 3). If, then, policymakers—including Supreme Court justices—are to defend specific sex crime policies by claiming that the public “demands” certain policies or, as Justice Alito claimed in the *Kennedy* decision, that dramatic increases in sex crimes exist (see, generally, D’Avella, 2006; Simon, 1998), it would seem that empirical evidence of their claims should be provided.

If continuous support sustained by a majority or two-thirds majority continuous over time is the marker of a legitimate public policy, then current policies clearly are not legitimate. Current public opinion polls suggest Americans’ support for executing convicted murderers has

consistently declined in the last two decades. A different matter involves capital punishment for convicted sex offenders. Here, public support for executing these types of offenders appears to have increased. Even so, in recent years support may have consistently and substantially declined as reports about the unintended consequences of sex offender reforms (e.g., offender homelessness, stigma) have emerged. Once, again, research that provided consistent measures of public views over time would help identify the direction and magnitude of specific trends. Even, then, the challenge would remain of determining the levels of public support that establish a given policy as “legitimate.” Poll data cannot resolve that question, but they can illuminate whether claims about public views are accurate.

Poll data can serve another purpose—they can help identify whether support for particular policies derives from incorrect assumptions about particular groups. For example, what if large swaths of the American public support the death penalty for any of a range of sex crimes and do so out of an incorrect belief that sex crime is ever-increasing and that offenders inevitably reoffend (Levenson, 2007)? Or what if their views might change appreciably if they knew or believed that significant collateral consequences of certain sex crime policies might arise (Tewksbury, 2005)? In these cases, policymakers face a difficult situation. They can capitulate to these views or they can support efforts to educate the public about the true or known facts about sex crimes. Although such efforts might not necessarily affect opinions about punishment (see Bohm, Clark, and Aveni, 1990), they would provide a potential check against policies that may not resonate with the public or that lack a credible, evidence-based foundation.

Notes

¹ According to one of the researchers involved in the poll, the survey was one of a series of research projects undertaken by the *Star Tribune* in 1991 that was prompted by concern at the time that sex offenders were not receiving effective treatment in prison (Rob Daves, personal communication, April 30, 2010). The poll data remain, to our knowledge, unexamined; however, a few summary descriptive statistics from the Poll were cited in several scholarly articles (Campbell, 1995, p. 519; Kircher, 1992, p. 163) and in news accounts (e.g., Eggen, 1991, p. 12A).

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Table 1. Descriptive Statistics

	Mean	S.D.
<hr/>		
<u>Dependent variables—support capital punishment for. . .</u>		
Murder (1=favor capital punishment, 0=oppose)	0.79	0.41
Rape of an adult (1=favor capital punishment, 0=oppose)	0.27	0.44
Sexual abuse of a child (1=favor capital punishment, 0=oppose)	0.51	0.50
 <u>Independent variables</u>		
<i>Social and demographic variables</i>		
Age (1=18-29, 2=30-39, . . . , 5=60+)	2.77	1.42
Gender (1=male, 0=female)	0.50	0.50
Race (1=White, 0=non-White)	0.81	0.39
Education (in years)	13.70	2.97
Fundamentalist Protestant (1=yes, 0=no)	0.25	0.43
Political conservative (1=yes, 0=no)	0.37	0.48
Victimized (excluding sexual victimization) (1=yes, 0=no)	0.32	0.47
 <i>Views about sex crime and sex offenders</i>		
Sex crime increased (1= increased, 0=same or decreased)	0.78	0.41
Fear of sexual assault (1=worried, 0=not worried)	0.41	0.49
Sex offenders highly likely to reoffend (1=agree, 0=disagree)	0.93	0.26
Courts not preventing sex crime (1=agree, 0=disagree)	0.84	0.37
 <i>Previous sexual victimization</i>		
Victimized sexually as an adult (1=yes, 0=no)	0.05	0.21
Victimized sexually as a child (1=yes, 0=no)	0.08	0.27
Know a victim of sex crime (1=yes, 0=no)	0.33	0.47

**Table 2. Logistic Regression of Public Support for Capital Punishment
(Offense = Murder)**

	b	Odds Ratio
Intercept	1.03 (0.55)	2.80*
Age	0.09 (0.07)	1.10
Gender	0.06 (0.19)	1.82**
Race	1.60 (0.21)	4.97***
Education	-0.11 (0.04)	0.89***
Fundamentalist Protestant	0.58 (0.24)	1.79*
Political conservative	0.48 (0.20)	1.61*
Victimization (non-sexual)	-0.12 (0.20)	0.89
Nagelkerke R2		0.17

* $p \leq .05$ ** $p \leq .01$ *** $p \leq .001$

Note: Unstandardized coefficients (with standard errors in parentheses) and odds ratios are presented.

**Table 3. Logistic Regression of Public Support for Capital Punishment
(Offense = Rape of an Adult)**

	Model 1		Model 2		Model 3	
	b	Odds Ratio	b	Odds Ratio	b	Odds Ratio
Intercept	1.10 (0.51)	3.00*	-1.58 (0.79)	0.21*	-1.43 (0.81)	0.24
<i>Social and demographic variables</i>						
Age	-0.10 (0.06)	0.91	-0.08 (0.07)	0.93	-0.09 (0.07)	0.91
Gender	0.25 (0.16)	1.29	0.58 (0.23)	1.78*	0.47 (0.24)	1.60
Race	-0.02 (0.21)	0.98	-0.29 (0.25)	1.33	0.33 (0.25)	1.39
Education	-0.15 (0.03)	0.87***	-0.10 (0.04)	0.91**	-0.10 (0.04)	0.90**
Fundamentalist Protestant	-0.02 (0.19)	0.98	-0.13 (0.21)	0.99	0.03 (0.21)	1.03
Political conservative	0.25 (0.17)	1.28	0.16 (0.18)	1.18	0.16 (0.19)	1.17
Victimization (non-sexual)	-0.06 (0.17)	0.94	-0.13 (0.20)	0.88	-0.05 (0.20)	0.95
<i>Views about sex crime and sex offenders</i>						
Sex crime increased			-0.24 (0.22)	0.79	-0.20 (0.23)	0.82
Fear of sexual assault			0.32 (0.24)	1.37	0.30 (0.24)	1.34
Sex offenders highly likely to reoffend			1.10 (0.44)	2.99*	1.18 (0.45)	3.25**
Courts not preventing sex crime			0.73 (0.29)	2.08*	0.66 (0.30)	1.94**
<i>Previous sexual victimization</i>						
Victimized sexually as an adult					-0.94 (0.62)	0.39
Victimized sexually as a child					0.43 (0.31)	1.53
Know a victim of sex crime					-0.41 (0.21)	0.67*
Nagelkerke R2	0.05		0.07		0.09	

* $p \leq .05$ ** $p \leq .01$ *** $p \leq .001$

Note: Unstandardized coefficients (with standard errors in parentheses) and odds ratios are presented.

**Table 4. Logistic Regression of Public Support for Capital Punishment
(Offense = Sexual Abuse of a Child)**

	Model 1		Model 2		Model 3	
	b	Odds Ratio	b	Odds Ratio	b	Odds Ratio
Intercept	3.20 (0.48)	24.4***	0.94 (0.65)	2.57	1.09 (0.67)	2.97
<i>Social and demographic variables</i>						
Age	0.02 (0.05)	1.00	0.02 (0.06)	1.02	0.02 (0.06)	1.02
Gender	0.01 (0.15)	1.00	0.24 (0.21)	1.27	0.20 (0.21)	1.22
Race	-0.12 (0.19)	0.89	-0.20 (0.21)	0.82	-0.30 (0.22)	0.74
Education	-0.23 (0.03)	0.79***	-0.20 (0.03)	0.82***	-0.20 (0.03)	0.82***
Fundamentalist Protestant	-0.15 (0.17)	0.86	-0.13 (0.19)	0.88	0.09 (0.19)	0.91
Political conservative	0.22 (0.15)	1.24	0.11 (0.17)	1.11	0.07 (0.17)	1.07
Victimization (non-sexual)	0.17 (0.15)	1.19	0.07 (0.18)	1.08	0.13 (0.18)	1.15
<i>Views about sex crime and sex offenders</i>						
Sex crime increased			0.17 (0.21)	1.18	0.10 (0.21)	1.10
Fear of sexual assault			-0.19 (0.21)	0.98	0.02 (0.22)	1.02
Sex offenders highly likely to reoffend			1.41 (0.34)	4.11***	1.52 (0.34)	4.57***
Courts not preventing sex crime			0.62 (0.23)	1.87**	0.58 (0.23)	1.78*
<i>Previous sexual victimization</i>						
Victimized sexually as an adult					-0.02 (0.40)	1.00
Victimized sexually as a child					0.16 (0.29)	1.18
Know a victim of sex crime					-0.35 (0.18)	0.70*
Nagelkerke R2	0.11		0.13		0.14	

* $p \leq .05$ ** $p \leq .01$ *** $p \leq .001$

Note: Unstandardized coefficients (with standard errors in parentheses) and odds ratios are presented.