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Lisa Kort-Butler
University of Nebraska-Lincoln, lkortbutler2@unl.edu

Colleen M. Ray
University of Nebraska-Lincoln, colleen.ray18@gmail.com

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Public support for the death penalty in a red state: The distrustful, the angry, and the unsure

Lisa A. Kort-Butler and Colleen M. Ray

University of Nebraska–Lincoln, USA

Corresponding author — Lisa A Kort-Butler, Department of Sociology, University of Nebraska–Lincoln, Lincoln, NE 68588-0324, USA;

email Lkortbutler2@unl.edu

Abstract

Set against the backdrop of Nebraska's 2015 legislative repeal of the death penalty and the 2016 electoral reinstatement, we examined public support for capital punishment. Using two years of statewide survey data, we compared respondents who preferred the death penalty for murder, those who preferred other penalties, and those who were unsure, a respondent group often excluded from research. To understand what distinguishes among these groups, we examined media consumption, instrumental and expressive feelings about crime, and confidence and trust in the government regarding criminal justice. Results revealed that those who preferred the death penalty expressed more anger about crime and greater distrust, but perceived the death penalty as applied more fairly, relative to the other groups. The unsures, compared to those who preferred other penalties, were less trusting and viewed the death penalty as applied more fairly. The persistence of public support for capital punishment may best be understood for its symbolic, expressive qualities.

Keywords: capital punishment, death penalty, punitiveness

In 2015, Nebraska made national and international headlines, becoming the first consistently conservative "red" state in the US to abolish the death penalty when the legislature overrode the governor's veto on Nebraska Legislative Bill 268 (LB268) (BBC, 2015; Bearman, 2015a; Bosman, 2015). This action reflected a larger movement among conservative lawmakers who were

revisiting the tough-on-crime stance that dominated past decades (Pickett, 2016), as well as initiatives in other states to eliminate the death penalty (Seiver, 2015). Nevertheless, during the 2016 election cycle, following a campaign by pro-death penalty politicians and special interest groups, Nebraskans voted to keep capital punishment (Cohen, 2016). In spite of some politicians – and because of others – the reinstatement of capital punishment directly reflected popular will (Garland, 2010).

Why has declining public support, at least nationally (Gallup, n.d.), not readily translated to public action at the polls? Researchers have identified several factors that are related to death penalty support, including media consumption (Britto and Noga-Styron, 2014; Kleck and Jackson, 2017), instrumental and expressive concerns about crime (Wozniak, 2017), and attitudes about the government and fairness of the justice system (Peffley and Hurwitz, 2007; Unnever and Cullen, 2010). Conspicuously absent from much of the research, however, are those people who respond to death penalty opinion questions with “no opinion” or “unsure” (Unnever et al., 2005). Discovering their motivations may yield insights into why public opinion polls do not neatly align with political preferences. Indeed, Garland (2005: 360) theorized that political change toward full abolition will tend to occur when this “uncommitted, ambivalent group” can be mobilized.

Using Nebraska as a case study, our primary purpose was to distinguish among those who preferred the death penalty for murder, those who preferred other penalties (e.g., life sentences), and the “unsures,” examining a series of factors that have been theoretically and/or empirically linked to death penalty support. To begin, we review public support for the death penalty in national polls and discuss how the unsures are typically handled in death penalty research. Then, we outline the theoretical and empirical factors tied to punitiveness and support for the death penalty. To provide context we briefly describe Nebraska’s recent legislative history regarding capital punishment. In our analysis, we draw on two statewide surveys gathered during the death penalty legislative debate and ballot initiative. We examine how media consumption, instrumental and expressive concerns about crime, and attitudes about the government’s role in controlling crime and the application of the death penalty distinguished among the three groups. We conclude with a discussion of the unsures and the symbolic, expressive nature of death penalty support.

Public support for the death penalty

While states grapple with cost and equity issues, public opinion on capital punishment has slowly waned. National polls show a decline in public support for the death penalty since the peak years in the mid-1990s. At its 1994

peak, Gallup (n.d.) noted 80% of people were in favor of the death penalty, compared to 60% in 2016. Pew Research placed that recent figure even lower, with 49% of respondents favoring capital punishment and 42% opposing it (Oliphant, 2016). Support of life imprisonment for murder, in contrast, has increased, from 29% in 1993 to 45% in 2014 (Gallup, n.d.). There have been substantial declines in the belief that the death penalty is a deterrent, such that two-thirds of people do not think it deters serious crimes (Gallup, n.d.; Pew Research Center, 2015). There has also been a decline in the belief that the death penalty is fairly applied, from 61% in 2005 to 50% in 2016 (Gallup, n.d.), and nearly three-fourths of people think there is a risk of executing an innocent person (Pew Research Center, 2015). Reflecting the decline in support and the increase in doubts about the death penalty, several states have issued moratoria on capital punishment or discontinued the penalty altogether (Death Penalty Information Center, n.d.(b)). The overall declining support for capital punishment across the nation stands in contrast to what Nebraska voters ultimately decided in 2016 (Cohen, 2016).

The elusive unsures

A long-standing issue in death penalty research is how to best measure people's opinions, acknowledging that the way in which a support question is asked influences results (Unnever et al., 2005; Worthen et al., 2014; Wozniak, 2017).[1] In particular, scholars have recognized that when people are given the option of the death penalty alongside other alternatives like a life sentence, the proportion of respondents selecting the death penalty declines. Response options to survey items about support also vary in format. Survey items may be forced-choice, so that people who have no opinion or who are unsure may skip the question entirely rather than choose an option that does not represent their opinions. Other items may explicitly offer a response option such as "don't know" or "unsure" that allows these undecided respondents a valid choice. In either case, respondents who answer "no opinion," "don't know," or "unsure" to death penalty questions are often excluded from the conversation because they are coded into missing for analytic purposes (e.g., Unnever et al., 2005).[2] Because such answers are not random this approach may result in sample selection bias (Oravecz et al., 2014).

Those who do not express an opinion on surveys may not care about the topic, may be reticent to answer political questions, may have weakly-held attitudes, or may be truly unsure (Laurison, 2015; Luskin and Bullock, 2011; Oravecz et al., 2014). Gallup polls from 1995 to 2016 indicate a decline in those who answer "no opinion" to a question asking if respondents are in favor of the death penalty, from 10% to 3%. Likewise, reports from 2000 to 2014 illustrate that gains in the proportion of people supporting life imprisonment over the death penalty have been accompanied by declines in the

no opinion group. Such trends hint that this block may be more malleable or movable by contemporaneous political climate regarding capital punishment (Garland, 2005). For example, Unnever et al. (2005: 207) noted that a significant portion of poll respondents only weakly supported the death penalty and many had reservations about it. Weakly-held attitudes about the death penalty may be due to the availability of new information about problems with capital punishment, as well as conflicting core values regarding the sanctity of life, retribution, and fairness.

Understanding punitiveness and attitudes about the death penalty

Due to measurement limitations and theoretical inattention, little is known about who the unsures are and how they may differ from those respondents who have clearer opinions. Demographically, death penalty supporters, compared to nonsupporters, tend to be men, White, older, and politically conservative (Anderson et al., 2017; Pew Research Center, 2015). Research has explored several factors contribute to individual attitudes about the death penalty and punitive sentiment more generally; as noted, such research typically excludes the unsures.

First, research points to *media* framing of crime as the work of immoral yet rational actors and its connection with punitiveness (Dowler, 2003; Surette, 2003). The framing of the crime problem in the media (Altheide and Michalowski, 1999) and by politicians (Frost, 2010) typically reinforces the punitive status quo when it comes to punishment. According to Enns (2016), in the aggregate, reporting about crime and the tone of that reporting has generally influenced public punitiveness over time. Media consumption, across several genres, has been linked to support for more punitive attitudes (Kleck and Jackson, 2017; Rosenberger and Callanan, 2011) and support for the death penalty (Britto and Noga-Styron, 2014; Kleck and Jackson, 2017; Kort-Butler and Sittner, 2011). News viewing has also been linked with strongly held opinions favorable to the death penalty (Unnever et al., 2005).

The media are implicated in what many people see and know about crime, but media consumption itself is typically insufficient in explaining punitiveness. People's perceptions of crime may shape their attitudes about punishment. Thus, a second set of factors focuses on whether attitudes arise from instrumental versus expressive stances regarding crime and punishment (Wozniak, 2017). Personal concerns about crime, risk, and victimization may evoke an *instrumental* response, namely advocating for harsher punishments to curb or control crime. People often report that the crime rate is on the rise, even when official data show it is not (Gramlich, 2017; McCarthy, 2015). This belief may be tied to media saturation with crime (Goidel et al., 2006; Lowry et al., 2003), heightened political wrangling over crime issues

(Beckett, 1997), as well as personal experiences with crime (Weitzer and Kubrin, 2004) that may make the crime issue particularly salient (Frost, 2010).

If people believe crime is a problem or are worried about victimization, they may prefer more punitive forms of punishment in order to preserve public safety. When people believe the crime rate is problematic, they tend to be supportive of more absolute and punitive forms of punishment (Unnever and Cullen, 2010). Yet, research on the effect of instrumental concerns on punitiveness is mixed. Kleck and Jackson (2017) found that perceptions of the crime rate, perceived risk, and fear of crime were generally unrelated to death penalty support and punitive attitudes, whereas Costelloe et al. (2009) found that fear of crime and general concern about crime were related to greater punitiveness. Worry about or fear of crime has frequently been examined, although the connection between fear and death penalty support is also equivocal (e.g., Kort-Butler and Sittner, 2011; Wozniak, 2017).

Punitive sentiments may also be value *expressive* (Vollum and Buffington-Vollum, 2010), potentially outweighing instrumental concerns (Tyler and Weber, 1982). The idea—if not the practice—of the death penalty has moral and emotional appeal (Garland, 2010). Pew Research Center (2015) found that two-thirds of people felt the death penalty for murder is morally justified. Moreover, specifically among those who said they supported the death penalty, 90% felt it was morally justified. Advocating for harsher sentences or capital punishment expresses the moral outrage associated with crime and those who commit it, as well as the moral imperative for retribution and just deserts (Lynch, 2002; Unnever and Cullen, 2010).

Anger specifically about crime may be expressed through punitiveness. In fact, anger may be a more common reaction to crime than fear (Ditton et al., 1999). Anger may be centered in perceived threats to the moral order posed by crime, perceived inability to maintain public order, or broader insecurities resulting from social change (Ditton et al., 1999; Karstedt, 2002; Lyons and Scheingold, 2000). Moreover, in socio-political periods characterized by instability or insecurity, punitiveness may represent an appeal to "hostile solidarity," in which people can experience both an emotional release and a sense of belonging predicated on fiercely othering criminals (Carvalho and Chamberlen, 2018: 228). Anger about crime has been linked to support for punitive policies, controlling for fear (Goodall et al., 2013; Hartnagel and Templeton, 2012; Johnson, 2009).

A third set of factors is people's beliefs in the ability of the *government* to apply the death penalty fairly and to address crime reliably. Nearly three-fourths of people in a Pew poll saw some risk in an innocent person being executed, and half thought minorities were more likely to receive the death penalty (Pew Research Center, 2015). Indeed, the decline in support for the death penalty has been linked to the belief that it is applied unfairly, particularly along racial lines (Peffley and Hurwitz, 2007). Wozniak (2017) found

that people who thought justice system was fair and unbiased more strongly supported death penalty. Relatedly, Baumgartner et al. (2008) argued that increased coverage of potential errors in the capital punishment process and the possibility of wrongful executions— the "innocence frame"—contributed to the declining public support for the death penalty. Research suggests that people exposed to cases situated within the innocence frame are more likely to take those concerns into consideration when thinking about the death penalty (Dardis et al., 2008; Lambert et al., 2011).

Despite the effects of the innocence frame and the slow national decline in favorable attitudes, public support for the death penalty persists. One explanation for the American public's persistent punitiveness is the escalating crime-distrust model (Unnever and Cullen, 2010). According to this model, the public's belief that crime is pervasive and personally threatening exists in parallel to the belief that the government has failed in its efforts to manage and control crime. Further, the government, as represented by the courts, has failed to protect victims by coddling criminals. The ostensible solution, then, is to crack down on criminals through legislation mandating harsher punishments. Citing the cultural contradiction that a populace that distrusts it government nonetheless empowers it to execute people, Zimring (2003) argued that American culture required a reframing of capital punishment's purpose after the death penalty was reinstated in 1976. Capital punishment was fashioned as justice for the victims and closure for their families, couched in the vigilante tradition in which the community takes care of its own. This sense of vigilantism may nullify distrust, making execution palatable to the citizenry.

Research on trust in government and punitiveness is equivocal, due in part to the variety of ways in which trust has been operationalized. Studies focused specifically on courts have found no association between trust and death penalty support (Brown and Socia, 2017; Unnever and Cullen, 2010). Using a broader measure of distrust, Unnever et al. (2005) found no effect on death penalty support. Soss et al. (2003) also used a broader measure of government trust and found trust was associated with death penalty support among Whites. Similarly, Messner et al. (2006) found that Whites who distrusted government were more likely to support the death penalty, but African-Americans who distrusted government were less likely to support it. Other research suggests people who distrust the government, or find it lacking when it comes to punishment, are more punitive (Bader et al., 2010; Wonziak, 2017; Zimring et al., 2001).

The current study

Prior research offers insight into the factors associated with death penalty support. Missing from these analyses, however, is an explicit attempt to

uncover the how supporters differ from both opponents *and* people who are unsure of their position. Knowing more about the latter group may yield insight into the differences between the opinion polls and the voting booths. The overarching purpose of the study was to understand what factors distinguish among people who prefer the death penalty for murder, people who prefer other penalties (e.g., life sentences), and the unsures, addressing a specific gap in the literature. The recent political focus on capital punishment in Nebraska offers a unique opportunity to study public opinion in a context where those opinions could have real-world impact.

Nebraska is one of two states in the United States with a unicameral legislature; the legislature is officially nonpartisan, although Republicans hold the majority of seats. Currently, 11 inmates in Nebraska are under death sentences (Death Penalty Information Center, n.d.(a)). In 2015, Senator Ernie Chambers, a perennial opponent of capital punishment, introduced legislation to abolish the death penalty.[3] Several senators added their names as co-introducers of LB268, an effort that saw cooperation across the political spectrum. In part, Nebraska's attempt to abolish the death penalty echoed the political tone of "Right on Crime" conservative advocates for criminal justice reforms, who are motivated by the costs of bloated correctional systems (Green, 2015; Phelps, 2016; Travis, 2014). Arguments for Nebraska's repeal were fueled by fiscal concerns as well as by concerns with a broken system (Bearman, 2015b).

LB268 passed, Governor Ricketts vetoed the bill, and the legislature overrode the veto by a one-vote margin. Nebraska thus became the first "red" state in the modern era to abolish the death penalty. However, a privately-funded petition drive, which received money from the governor himself, led to a 2016 ballot initiative to reinstate capital punishment (Duggan, 2016; Young, 2015). In contrast to abolition movements in other nations, in this case political elites favoring reinstatement, including the governor and some state senators, successfully tapped into penal populism (Beale, 2014; Suh, 2015). Nebraskans voted 61% to 39% to keep the death penalty, although the urban centers of Omaha and Lincoln were more evenly divided (Hammel, 2016; Nebraska Secretary of State, 2016). In 2018, Nebraska carried out its first execution since 1997, which was also its first to use lethal injection (Duggan, Hammel, Nitcher, & Stoddard, 2018; The Marshall Project, 2018).

Nebraska's experience offers a case study of the nature of public support for the death penalty. Further, the timing of two state-wide surveys allowed us to capture a specific historical moment, in the wake of the 2015 legislative repeal, then leading to the 2016 election; to our knowledge, no other study on the sources of death penalty support has taken this approach. We compared those who preferred the death penalty to those who preferred other penalties and those who were unsure, testing factors that may distinguish among these three groups. We considered TV news consumption,

instrumental concerns (i.e., people's perceptions about the crime rate and their worry about crime), expressive concerns (i.e., anger about crime), and their attitudes about the government's role in controlling crime (i.e., fairness, confidence in the justice system, and trust).

Based on prior work, we posited that death penalty supporters would be more likely than supporters of other penalties to: consume TV news, believe the crime rate is increasing, worry more about crime, feel angrier about crime, think the death penalty is applied fairly, express confidence for the justice system, but express less trust in the government on crime. We considered our comparisons among death penalty supporters, alternative penalty supporters, and the unsures to be exploratory, although we anticipated the unsures would occupy more ambivalent positions on the independent variables. Our use of two years of data present an opportunity to discover factors that consistently (or not) distinguish among these groups, set against a unique historical backdrop.

Methods

Data

Data for this study came from two cross-sectional population-based omnibus surveys, the Nebraska Annual Social Indicator Survey (NASIS). The surveys were conducted by the Bureau of Sociological Research at the University of Nebraska – Lincoln. Data were collected each year through mail surveys sent to addresses obtained from the US Postal Services Delivery Sequence File. This method yields high coverage for household populations (English et al., 2012). Data use the "next birthday" method to maintain a probability sample (Dillman et al., 2014).

The 2015 NASIS was collected between 12 August and 20 October, and the response rate was 32.7% (AAPOR RR2). Data collection for the 2016 NASIS occurred between 1 September and 10 November, and yielded a response rate of 26.9% (AAPOR RR2).[4] Listwise deletion was used for both samples, and the final analytic samples were 837 for 2015 and 934 for 2016. Analyses employed the population weights provided for each survey.[5]

Measures

Dependent variable. Death penalty support was measured similarly to the Gallup item (Jones and Saad, 2014). The question asked "If you could choose between the following approaches, which do you think is the best penalty for murder?" The options were "death penalty," "life in prison without the

possibility of parole," "prison with the possibility of parole," and "unsure/do not want to answer." For analysis, both types of prison sentences, with and without the possibility of parole, were combined to form one group, other penalty preference.

Independent variables. The NASIS asked how many days in an average week respondents watched "local TV news." The *local news* variable was then coded so that higher numbers represent more frequent viewing. To measure *national news*, the surveys asked two questions about average weekly viewing of "national network TV news on ABC, CBS, or NBC" and "national cable TV news, like CNN, FOX, or MSNBC." These two questions were averaged together to create a single indicator of national news viewing, where higher numbers represent higher frequency of viewing.

Perceptions of changes in the *crime rate* in the United States were measured by asking respondents to indicate if they thought the rate of crime in the United States seemed to be decreasing, staying about the same, or increasing. A dichotomous variable was then created where responses that the crime rate seemed to be increasing were coded 1 and decreasing or staying about the same were coded 0.

Worry about crime was measured by asking respondents how often they personally worried about walking alone at night, having their residence being broken into, getting robbed, getting raped or sexually attacked, getting murdered, and a family member being a victim of a crime. The four response options ranged from "not all worried" to "very worried." Items were coded so that higher values indicate more worry, and a mean scale of worry was created from the available questions (a=0.87 in 2015; a=0.85 in 2016).

Anger about crime was measured with two questions about how angry people felt when they thought about "crime in this country" and "crime in your community." The four response options ranged from "not at all angry" to "very angry." The items were coded so that higher values indicated more anger (Johnson, 2009). The two anger items were highly correlated (r=.75 in 2015; r=.66 in 2016), so they were averaged to create a single variable for anger. The perceived *fairness of the death penalty* item asked people to denote how fair the justice system is in its use of the death penalty (Jones and Saad, 2014). The four response options ranged from "not at all fair" to "very fair." The variable was coded so that higher values indicate higher levels of perceived fairness.

Confidence in the criminal justice system was assessed with four items asking how confident respondents were that the criminal justice system could reduce crime and reduce drug use, and how confident they were the police could protect them from violent crimes like assault and from property crimes like theft (Jones and Saad, 2014). The four response categories

ranged from “not at all confident” to “very confident.” The items were coded so that higher values indicate more confidence, then a mean score was created from the available items (α =.82 in 2015; α=.79 in 2016).

Trust in government information about crime was measured by asking people to indicate how reliable they think the government is as a source of information about crime (Kort-Butler and Sittner, 2011). The four response options ranged from “not at all reliable” to “very reliable.” The variables were coded so that higher values indicate higher levels of trust in the government as a source of information about crime.

Control variables. A number of demographic variables were included as controls (Lambert et al., 2011; Oliphant, 2016; Vollum et al., 2004). *Urban* was measured by giving respondents the options “Town/city,” “Farm,” and “Open country.” The variable was dichotomized where those that indicated town/city were coded 1 and others were coded 0. Race was a dichotomous variable: respondents who indicated that they were *White* were coded 1 and all other racial groups were coded 0. *Male* respondents were coded 1 and female respondents were coded 0. Education was a dichotomous variable where a *bachelor’s degree* or higher degree was coded 1, and less than a bachelor’s degree was coded 0. Political *conservativism* was a five-point scale on which respondents rated themselves from very liberal (1) to very conservative (5). Religious affiliation was a dummy variable where *Catholic* was coded 1 and all other religious affiliations (or lack thereof) were coded 0.[6]

Finally, a control was also included for *victimization* experiences. In the 2016 NASIS, respondents were asked if they had been a victim of any crime in the 12 months. In the 2015 NASIS, however, the question asked “Have you, or has any person close to you, been a victim of a crime in the last 12 months?” On both surveys, the response options were yes (coded 1) or no (coded 0).

Analytic strategy

To begin our study, we examined how demographic characteristics and the substantive variables differed across the three groups of death penalty views. Then, we conducted a series of multinomial logistic regression models to determine what variables distinguished among the three groups. For each year, a model was tested in which death penalty supporters were the reference group, and the other penalty preference and unsure groups were the categories. A model was also tested in which other penalty preference was the reference group, and death penalty preference and unsure groups were the categories, allowing for a comparison between the other penalty preference and the unsures. Additional tests were performed to determine whether

there were significant differences in the coefficients across years, the seemingly unrelated estimation (SUEST) and linear combinations of parameters (LINCOM) commands in STATA.

Results

Table 1 shows the descriptive statistics for each year of data. The percentage of respondents who preferred the death penalty decreased five points between 2015 (55%) and 2016 (50%). This decline was accompanied by an increase in those that indicated that they preferred other penalties for murder, increasing from 35% in 2015 to 43% in 2016. Those who reported that they were unsure about the best penalty for murder were at 10% in 2015 and 7% in 2016.

Table 2 displays descriptive statistics for each of the three groups; *F*-statistics were used to test for differences. There were no significant differences across groups in either year for worry about crime, confidence in the criminal justice system, Catholic, and crime victim. Demographically in both years, death penalty supporters were least likely to live in an urban setting, more likely to be male, had the lowest prevalence of a bachelor's degree, and had the highest score on conservativism (Anderson et al., 2017).

Table 1. Weighted descriptive statistics.

	2015 (n=837)			*2016 (n=934)*		
Variable name	*Mean/ proportion*	*SE*	*Range*	*Mean/ proportion*	*SE*	*Range*
Death penalty preference	.552		0–1	.497		0–1
Other penalty preference	.347		0–1	.430		0–1
Unsures	.101		0–1	.073		0–1
Local news	4.094	.110	0–7	4.122	.113	0–7
National news	3.947	.089	1–8	4.095	.088	1–8
Increase in US crime rate	.595		0–1	.631		0–1
Worry about crime	2.228	.025	1–4	2.254	.027	1–4
Anger about crime	2.923	.039	1–4	2.993	.035	1–4
Death penalty fair	2.584	.046	1–4	2.468	.043	1–4
Confidence in justice system	1.945	.030	1–4	2.113	.030	1–4
Trust in gov't info	2.084	.032	1–4	2.111	.034	1–4
Urban	.589		0–1	.791		0–1
White	.892		0–1	.951		0–1
Male	.507		0–1	.499		0–1
Bachelor's degree	.518		0–1	.536		0–1
Conservatism	3.235	.039	1–5	3.322	.043	1–5
Catholic	.283		0–1	.283		0–1
Crime victim	.010		0–1	.103		0–1

Table 2. Weighted descriptive statistics by best punishment for murder preference.

	2015				*2016*			
	Death penalty preference	*Other penalty preference*	*Unsures*		*Death penalty preference*	*Other penalty preference*	*Unsures*	
%	*55*	*35*	*10*		*50*	*43*	*7*	
Variable	*Mean/ Proportion*	*Mean/ Proportion*	*Mean/ Proportion*	*F-statistic*	*Mean/ Proportion*	*Mean/ Proportion*	*Mean/ Proportion*	*F-statistic*
Local news	4.39	3.71	3.77	20.77***	3.95	4.18	4.94	3.24*
National news	4.20	3.68	3.44	0.87**	4.01	4.14	4.43	0.99
Increase in US crime rate	0.67	0.48	0.55	10.05***	0.74	0.50	0.61	16.87***
Worry about crime	2.25	2.18	2.24	0.77	2.26	2.25	2.19	0.23
Anger about crime	3.08	2.67	2.81	13.08***	3.17	2.81	2.84	13.84***
Death penalty fair	2.89	2.16	2.38	30.23***	2.87	2.00	2.53	55.52***
Confidence in justice system	1.92	1.98	1.96	0.51	2.10	2.13	2.11	0.21
Trust in gov't info	1.93	2.35	1.98	22.53***	1.95	2.30	2.11	13.53***
Urban	0.52	0.68	0.63	7.67***	0.74	0.84	0.81	4.04*
White	0.88	0.91	0.89	0.42	0.97	0.94	0.86	3.19*
Male	0.56	0.46	0.37	5.04**	0.56	0.44	0.47	3.96*
Bachelor's degree	0.42	0.69	0.47	20.77***	0.46	0.63	0.50	8.77***
Conservatism	3.42	3.01	3.01	13.68***	3.56	3.04	3.37	17.65***
Catholic	0.25	0.34	0.29	2.75	0.26	0.30	0.32	0.78
Crime victim	0.11	0.09	0.10	0.25	0.10	0.11	0.06	1.00

Examining viewership of local and national news indicates that in 2015 death penalty supporters had the highest viewership, but in 2016 they had the lowest viewership. In both 2015 and 2016, a large proportion of those who preferred the death penalty believed that the US crime rate was increasing. They also had the highest means for anger about crime and perceived fairness of the death penalty, but the lowest scores for trust in government information about crime.

Table 3 depicts the results from the multinomial regression models in which death penalty supporters serve as the reference category. The top of the table shows the comparison between death penalty preference and other penalty preference. In 2016 compared to death penalty supporters, other penalty supporters were less likely to think that the crime rate in the United States was increasing. In 2015 and 2016, other penalty supporters were less angry about crime and less likely to think that the death penalty is applied fairly. Other penalty supporters, compared to death penalty supporters, were also more likely to trust government information. Across both years other penalty supporters, compared to death penalty supporters, were less likely to be male, more likely to have a bachelor's degree, and were less conservative. Finally, in 2015 other penalty supporters were more likely to be Catholic than were death penalty supporters.

The bottom of Table 3 shows the results of the multinomial regression models comparing death penalty preference and those who were unsure about the best punishment for murder. In both years, compared to death penalty supporters, the unsures felt that the death penalty is applied less fairly. In 2016 the unsures were more likely to watch local news (a significantly stronger relationship that in 2015; $t = -2.05$, $p < .05$), but felt less angry about crime compared to those who preferred the death penalty. In 2015 the unsures were less likely to be male and were less conservative compared to death penalty supporters, and in 2016, the unsures were less likely to be White (a significantly stronger relationship that in 2016; $t = 2.60$, $p < .01$).

Table 4 shows the results from the multinomial regression models for those who preferred other penalties compared to those who were unsure about the best penalty for murder. There were two variables that distinguished between other penalty preference and the unsures. In 2015 and 2016, compared to other penalty supporters, the unsures believed that the death penalty is applied more fairly (a marginally stronger relationship that in 2016; $t = -1.92$, $p < .10$), but expressed less trust in the government. Additionally, in 2016, the unsures were more likely to watch local news. In 2015 the unsures were less likely to have a bachelor's degree or higher education; in 2016, they were less likely to be White, compared to those who preferred other penalties.

Table 3. Multinomial regression comparing other penalty preference and the unsure respondents to death penalty preference.

Variable name	*2015* *RRR*	*2016* *RRR*
Other penalty preference		
Local news	0.97	1.08
National news	0.93	1.02
Increase in US crime rate	0.69	0.54*
Worry about crime	0.97	1.08
Anger about crime	0.73**	0.69*
Death penalty fair	0.54***	0.43***
Confidence in justice system	0.85	0.98
Trust in gov't info	2.35***	1.64**
Urban	1.45	1.55
White	1.78	0.51
Male	0.61*	0.58*
Bachelor's degree	2.50***	1.49*
Conservatism	0.78*	0.75**
Catholic	2.31***	1.50
Crime victim	0.83	1.22
Unsure respondents		
Local news	1.03	1.29**
National news	0.86	0.95
Increase in US crime rate	0.76	0.70
Worry about crime	0.88	0.80
Anger about crime	0.77	0.59*
Death penalty fair	0.69**	0.76*
Confidence in justice system	1.10	0.95
Trust in gov't info	0.97	1.06
Urban	1.36	1.48
White	1.12	0.14**
Male	0.37**	0.57
Bachelor's degree	1.02	0.96
Conservatism	0.67*	0.88
Catholic	1.47	1.55
Crime victim	0.92	0.69
F	5.84***	5.53***

Death penalty preference is the reference group. Relative risk ratio reported.
* $p \le .05$; ** $p \le .01$; *** $p \le .001$

Taken together, the regression analyses revealed that the key variables distinguishing among the three groups were trust in government information about crime, perceived fairness of the death penalty, and anger about crime. Table 2 highlights the significant differences in these three variables

Table 4. Multinomial regression comparing the unsure respondents to other penalty preference.

Variable name	*2015* *RRR*	*2016* *RRR*
Unsure respondents		
Local news	1.06	1.20*
National news	0.92	0.93
Increase in US crime rate	1.07	1.30
Worry about crime	0.90	0.74
Anger about crime	1.11	0.86
Death penalty fair	1.28*	1.75***
Confidence in justice system	1.30	0.97
Trust in gov't info	0.41***	0.65*
Urban	0.95	0.96
White	0.63	0.27*
Male	0.60	0.99
Bachelor's degree	0.41**	0.64
Conservatism	0.86	1.18
Catholic	0.63	1.03
Crime victim	1.13	0.56
F	5.84***	5.53***

Other penalty preference is the reference group. Relative risk ratios reported.
Contrast with death penalty preference not shown.
* $p < .05$; ** $p < .01$; *** $p < .001$

across the groups. In both years, death penalty supporters were angriest about crime, thought the death penalty was fairly applied, and had the least trust in the government regarding crime; other penalty supporters were on the other end of the spectrum.

Those who were unsure about the best penalty for murder generally fell somewhere between the other two groups, but there was some variability by year. In both years, death penalty supporters reported the greatest level of perceived fairness, other penalty supporters the lowest level, with the unsures falling squarely in the middle. Although the unsures had low levels of trust similar to death penalty supporters in 2015, in 2016 the unsures were situated between the other two groups. In contrast, in 2015, the unsures mean levels for anger were centered between the other groups, but in 2016 the unsures had levels of anger similar to other penalty supporters. Also of note, given the regression results, is that the unsures reported watching more local (and national) news in 2016 compared to the other two groups. Few demographic characteristics robustly distinguished the unsures from the other groups in the regressions, suggesting that attitudinal factors play an important role.

Discussion

Our analysis indicated that trust in the government's information about crime, perceptions of death penalty fairness, and anger about crime distinguished among death penalty support groups. The only instrumental concern that distinguished between death penalty preference and other penalty preference appeared in 2016: leading into the election, death penalty supporters were more likely to believe the crime rate was increasing. Instead, death penalty attitudes were rooted in people's sentiments about the government and their feelings about crime.

The unsures, perhaps not surprisingly, tended to fall somewhere between the other groups. Compared to death penalty supporters, the unsures were less likely to believe the death penalty is fairly applied and were less angry about crime. However, when compared to supporters of other penalties, the unsures were more likely to view the death penalty as fairly applied yet express less trust in the government regarding crime information. Among the unsures, ambivalence about capital punishment may be rooted in uncertainty about both the fair application of the death penalty and the reliability of information the government provides about crime.

Presuming that the unsures have the most malleable position, we can only speculate how this positioning ultimately influenced the 2016 vote.[7] For example, it is perhaps telling that the unsures, compared to the other groups, were more engaged in local news in 2016, when the death penalty received a good deal of media coverage because of the impending vote. Nebraska's correctional system also experienced a string of high-profile problems leading into the 2016 election, including a riot that left two inmates dead, an escape of two inmates who had been convicted of violent crimes, assaults on staff, and the start of trials associated with the riot. Drawing on Dardis et al. (2008) and Wozniak (2017), we suggest that the unsures who are swayed to death penalty support may feel the government cannot be trusted on crime, prisons do not appear harsh enough, and the death penalty is "fair enough" to err on the side of the status quo.

The results also lend support to Zimring's (2003) theorizing about the role of distrust in holding punitive sentiments. Unnever and Cullen (2010) implied that instrumental concerns about crime function alongside distrust to drive punitiveness; our instrumental measures generally had little impact in the models (Tyler and Weber, 1982). Instead, we found anger about crime to be key (Hartnagel and Templeton, 2012). To the extent that anger about crime is rooted in insecurities about the state of society or the moral order, support for the death penalty is both value expressive and a matter of principle (Vollum et al., 2004: 528). In this way, anger mirrors the emotive nature of vigilantism described by Zimring. Indeed, Nebraska's history includes strains of vigilantism (Kammer, 2011) and lynching (Menard, 2010).

At the same time, trends toward abolition exist within contemporary political context (Garland, 2005). The 2015–2016 election cycle exposed anxieties that may have fermented a desire for hostile solidarity (Carvalho and Chamberlen, 2018). Although the theoretical questions cannot be fully answered by this study, the tenacity of the death penalty in some American states—even when their legislators move toward abolition—may best be understood for its symbolic and expressive qualities among the public (Beckett et al., 2016; Garland, 2010).

Limitations

A major limitation of this study was our inability to capture racial animus, which prior research has demonstrated to be a central predictor of punitive sentiments and death penalty support (Barkan and Cohn, 2005; Brown and Socia, 2017; Unnever and Cullen, 2010). Likewise, we did not capture feelings of economic uncertainty (Lehmann and Pickett, 2016). Both factors may be channeled through our broad measure of anger about crime (Elchardus et al., 2008; Wozniak, 2016a), or they may exert independent effects that would allow for a more well-rounded understanding of death penalty attitudes. Future analyses of within-state attitudes would benefit from including these measures.

Another limitation of this study was the slight inconsistencies in survey structure between the years. As these were omnibus surveys, question order, placement, and other formatting variations may also slightly influence responses. This may have contributed to some differences in the effects of variables within models across the years; however, the ability of the variables for fairness, trust, and anger to consistently distinguish among the groups suggests the relevance of these forces for understanding death penalty attitudes.

Among the particular measures, there is room for improvement. First, our measure of death penalty support echoes national polls, but it does limit respondents to a small range of options. Attitudinal or Likert scales sometimes embed “neutral” or “uncertain” within the scales themselves, so that unsure respondents are essentially captured between those who have clearer opinions (Britto and Noga-Styron, 2014; Vollum et al., 2004). Other scales designed to measure how important the topic is to the respondents, then assess “strength” of attitudes or the conditions under which respondents support the death penalty may allow for greater insight into factors associated with uncertainty (Britto and Noga-Styron, 2014; Worthen et al., 2014). Second, whether the death penalty is “unfair” is left to respondents’ interpretation, which could reflect concerns about racial biases and/ or executing the innocent (Peffley and Hurwitz, 2007). A more specific measure would better account for these explanations.

Third, trust as measured here does not allow us to distinguish between Unnever and Cullen's (2010) and Zimring's (2003) conceptualization of government distrust. Confidence in the system itself, which is generally how distrust has been interpreted, had little impact in our models, but people feeling the government was a reliable source of crime information did. The language in the latter item may confound "information" with the narrower concept of "official data," as well as confound government with the media who filter its information (Kort-Butler and Sittner, 2011). Future research is necessary to explore how confidence, reliability, and trustworthiness are intertwined. Finally, our measure of value expressiveness—anger about crime—is relatively narrow. Future research is needed in order to develop a fuller range of expressive measures, particularly research that explores the intersections of moral outrage, hostility, insecurity, distrust, and punitiveness.

Nebraska's experience may not be generalizable to other states, which have unique histories and relationships with capital punishment. Additional research within other states may yield commonalities as well as distinguishing characteristics (Doob and Webster, 2014). To reiterate, these were population samples, not samples of registered or likely voters. Trying to project how or why people voted (or otherwise engaged politically) a certain way would be imprudent. Rather than predicting outcomes, our study offers a more nuanced picture of public opinion about the death penalty, set against a particular historical backdrop.

Conclusions

Answering the call for paying more attention to respondents typically excluded from analyses, our study suggests that the "unsure" and "don't know" respondents are not empirical nuisances. The unsures may have theoretical importance, both in criminal justice research and public opinion research more broadly (Laurison, 2015; Oravecz et al., 2014; Unnever et al., 2005). Rather than relegating them to missing data, future research should consider the roles they may play in public opinion about criminal justice and other issues. The unsures may not be simply disengaged but instead struggling to form a firm opinion in an information-laden and seemingly unsettled socio-political landscape.

Some have been optimistic about penal reform (Green, 2013; National Research Council, 2014), even in red states (Thielo et al., 2015); others see a longer road ahead (Woznick 2016b). Gottschalk (2014) cautioned that economic insecurity of the kind exaggerated by the 2007 recession could reignite punitiveness, portending a renewed penal populism (Lehmann and Pickett, 2016). America's retributive strain seems to endure. In 2016, California and Nebraska retained their death penalties, while Oklahoma enshrined

theirs in the state's constitution despite a moratorium on its use (Cohen, 2016). Indeed, the rise of populism that marked the 2016 election cycle may be seen in the threads of government distrust among Nebraska's unsures, and in the anger and distrust that distinguished Nebraskans who preferred the death penalty for murder from those who preferred alternatives. Forward momentum on abolishing capital punishment in US states may be (temporarily) halted by a political context that embraces hostile solidarity (Carvalho and Chamberlen, 2018). While the death penalty in the United States may eventually fall into disuse (Baumgartner et al., 2008; Garland, 2005), capital punishment still symbolically embodies the expressive desire and moral imperative to take action against crime and perceived disorder.

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Notes

1. This may account for the discrepancy between Gallup and Pew trends. Gallup's survey item is: "Are you in favor of the death penalty for a person convicted of murder?" The response categories are yes/no. Pew's survey item is: "Do you strongly favor, favor, oppose or strongly oppose the death penalty for persons convicted of murder?" The response categories reflect the question. Both surveys have options for "don't know/refused."
2. While it is possible this group may be excluded because of small analytic numbers, such a justification is typically not forwarded by authors. Rather, "coded into missing" happens as a matter of routine (e.g., Unnever et al., 2005: 193) or as a matter of analytic framing (e.g., Messner et al., 2006).
3. Kelley (2015) provided a history of the death penalty in Nebraska in the run up to the 2015 effort to repeal.
4. The sampling error for both surveys was about 2% to 3%.
5. The samples were older (39% over 65 versus 18.4%) and comprised of more females (59.7% female versus 50.9%) than reflected in the Nebraska 2010 census estimates. Nebraska was approximately 89% White, similar to the samples. The three state regions (Omaha/Midland, Lincoln/Southeast, Central/West) were equally represented.
6. In 2016 the Nebraska Catholic Conference advocated against reinstating the death penalty (Nohr, 2016).
7. Data were from population-based surveys, not registered or likely voters. Laurison (2015) reported that respondents who indicate "don't know" are also unlikely to vote.

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The Authors

Lisa A. Kort-Butler, PhD, is an Associate Professor of Sociology at the University of Nebraska–Lincoln. Her research interests focus on media representations of crime and justice and their implications for public opinion. She also studies health and well-being among adolescents and young adults.

Colleen M. Ray is a doctoral candidate in Sociology at the University of Nebraska–Lincoln. Her research focuses on violence and victimization. She is interested in power dynamics and in what social situations an abuse of power is more likely to occur.