

Legal Authoritarianism and Need for Cognition Questions as Predictors of Guilty and Death Penalty Biases

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Introduction

- Jury selection based on **demographics** is largely ineffective (e.g., Baldus et al., 2001). However, several **personality traits** can predict important juror attitudes and behaviors.
- According to Butler (2008, *TJE*), the following traits can be useful predictors of guilty bias (Herde, 2011, *TJE*), guilty verdicts (Butler, 2007), and death-qualification (Butler, 2008, *TJE*):
 - High **legal authoritarianism** (Skeem & Golding, 2001)
 - Low **need for cognition** (Bost, 2007; Ruva, 2016)
 - Belief in a **just world** (Butler & Moran, 2007)
 - Internal locus of control** (Butler & Moran, 2007)
- Unfortunately, judges are reluctant to allow the use of entire scales in jury surveys, let alone in voir dire, primarily due to a concern for efficiency.
- Individual questions may be allowed but “there are concerns about scale validity and decisions to be made about which questions to use and which to omit” (Chopra, commentary to Butler, 2008, *TJE*).
- We therefore studied the use of **individual items** and **groups of items** from standard scales of **legal authoritarianism** and **need for cognition** as stand-ins for the full measures.
- In the context of a local triple murder case, we examined item utility in predicting **guilty bias** (belief that the defendant is guilty) and **death penalty bias** (belief that the death penalty is the appropriate punishment should the defendant be found guilty).

Hypotheses

- Individual items from the Revised Legal Authoritarianism Questionnaire (RLAQ) and Need for Cognition Scale (NFC) would be predictive of Guilty Bias.
 - Combining items with the strongest correlations from the RLAQ would strengthen Guilty Bias prediction.
 - Combining items with the strongest correlations from the NFC would strengthen Guilty Bias prediction.
- Individual items from both scales would predict Death Penalty Bias.
 - Combining items with the strongest correlations from the RLAQ would strengthen Guilty Bias prediction.
 - Combining items with the strongest correlations from the NFC would strengthen Guilty Bias prediction.

Method

Participants

- 106 jury-eligible adults recruited in the Kentucky county where the murders took place.
- Tables set up at local businesses and parks.

Materials

- Qualtrics survey administered on laptops and iPads:
 - Revised Legal Attitudes Questionnaire** (Kravitz et al., 1993). Measures tendency to stress crime control vs. due process.
 - Need for Cognition Scale** (Petty et al., 1984). Measures inclination toward and enjoyment of effortful thinking.
 - Guilty bias.**
 - If you had to say you **lean one way or the other** right now about the guilt or innocence of _____, which way would you lean?
 - Then they rated strength of belief on 1-6 scale, from definitely innocent to definitely guilty.
 - Death penalty bias.**
 - If _____ is found guilty of these murders, he should get the death penalty.
 - Then strength of belief rating on 1-6 scale.

Results

- We ran correlations between individual items from the two scales and the two biases, RLAQ with Guilty Bias, RLAQ with Death Penalty Bias, NFC with Guilty Bias, NFC with Death Penalty Bias. We then tried combinations of the highest-correlating 2, 3, 4, and 5 scale items. Our goal was to ascertain how much stronger, if at all, specific combinations of items would be as predictors of bias than individual items were.
- Figures 1-5 show results for individual items and the best combination of items for each scale. The figures contain shorthand versions of the items. All correlations are graphed in the same direction for ease of strength comparisons. A negative sign indicates a reverse-scored item.

For all figures * indicates $p < .01$; ** indicates $p < .05$

For Figures 1 & 2, multicolored bars represent items that predicted both Guilty Bias and Death Penalty Bias.

Figure 1.

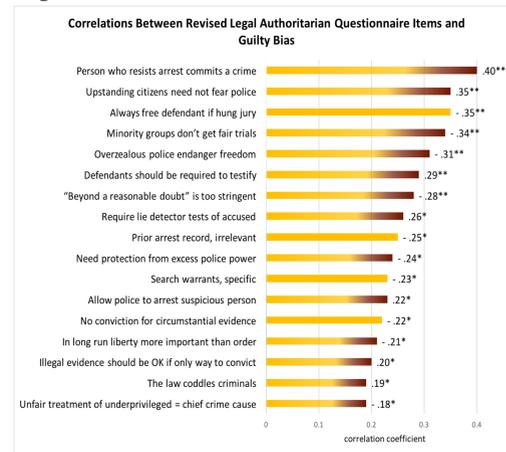


Figure 2.

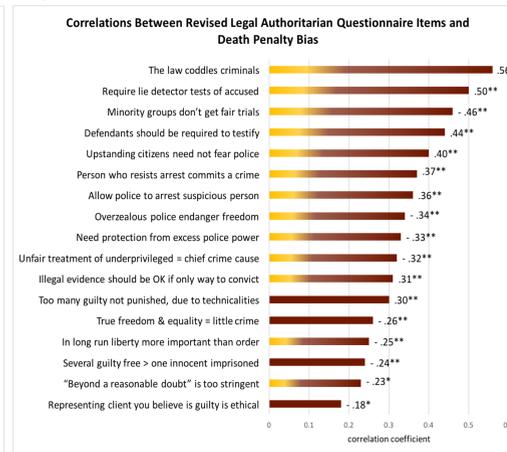


Figure 3.

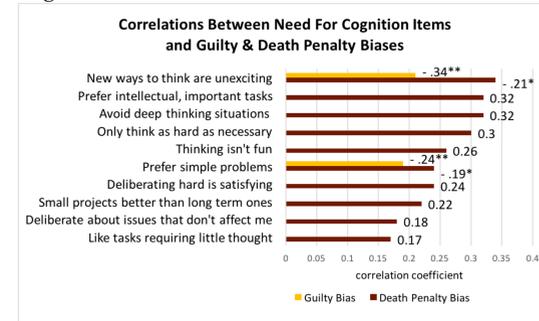


Figure 4.

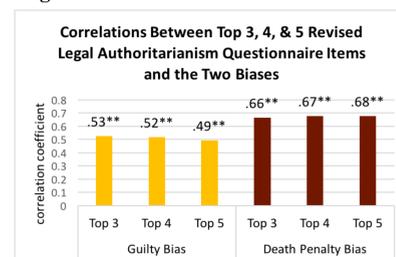
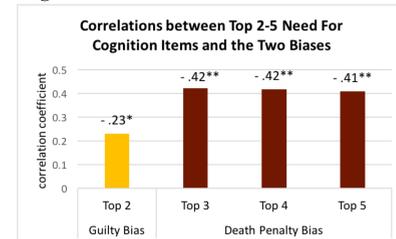


Figure 5.



Discussion

Summary

- Top RLAQ items correlated with Death Penalty Bias items in the .50 range. Combining the Top 5 raised the correlation to .68.
- Top RLAQ items correlated with Guilty Bias items in the .3-.4 range. Combining the Top 3 raised the correlation to .53.
- Top NFC items correlated with Death Penalty Bias items in the .3-.35 range. Combining the Top 3 raised the correlation to .42.
- Top NFC items correlated with Guilty Bias items in the .20 range. Combining the Top 2 raised the correlation just a little, to .23. (This finding matches a 1993 meta-analysis of 20 studies by Narby et al. They found a modest association between the RLAQ and guilty bias of $r = .19$.)

Interpretation

This study provides potentially useful information for the design of jury surveys and for crafting voir dire questions.

The sheer numbers of items from the two scales that correlated with Guilty Bias and Death Penalty Bias, and the strength of combinations of items in predicting the biases, gives an overall rosy picture concerning the use of items from these scales in jury selection. It seems that legal authoritarianism questions can be very good predictors of both biases, and that need for cognition is a good predictor of Death Penalty Bias and predicts Guilty Bias moderately well.

In fact, because 92% of our respondents answered “Guilty” to the lean innocent/guilty question, correlations between scale items and the Guilty Bias strength suffer from a restricted range problem, and may actually be weaker than they would otherwise have been. Only three people gave answers in the lower (innocence) half of the 1-6 Definitely Innocent to Definitely Guilty scale.

Of course the strength of these particular items and combinations of items may not generalize to other cases, so more research needs to be done. On the other hand, the fact that there was a lot of overlap between items in the prediction of both biases lends credence to the idea that certain items are just generally strong predictors of anti-defendant bias.

Suggestions for future research

Research need to be done on:

- Criminal cases, to see whether these same items and combinations of items tend to predict biases.
- Civil cases. Our guess is that some of the same items might be good predictors of bias against either the defendant or the plaintiff, depending on the case.
- Criminal and civil cases, to investigate individual items and combinations of items from the other two predictor variables discussed by Butler (2008), internal locus of control and belief in a just world.
- Finally, criminal cases, to investigate items and combinations of items as predictors of other biases, such as death-qualification.

Application of our findings

Despite the fact that this is the first study of the usefulness of these items, it might make sense for trial consultants or attorneys to employ our “best questions” in jury surveys or voir dire, along, of course, with their other diagnostic tools and their own good intuitions about juror bias.

In the ideal situation, a trial consultant would do a mini-study to discover the best items and combinations of items for their own particular case. That is, run a community survey (or a change of venue survey), and include questions from any of the four scales in order to determine which items are the best predictors of bias.

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