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TESTING THE MARSHALL HYPOTHESIS:  
A SURVEY AMONG JUSTICE AND SAFETY COLLEGE STUDENTS

BY

KIMBERLY ALICE BARRETT

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Chair, Advisory Committee

  
Member, Advisory Committee

  
Member, Advisory Committee

  
Dean, Graduate School

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TESTING THE MARSHALL HYPOTHESIS:  
A SURVEY AMONG JUSTICE AND SAFETY COLLEGE STUDENTS

BY

KIMBERLY ALICE BARRETT

Submitted to the Faculty of the Graduate School of  
Eastern Kentucky University  
in partial fulfillment of the requirements for the degree of

MASTER OF SCIENCE

2019

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## **DEDICATION**

This thesis is dedicated to my loving husband, Christopher, and my beautiful baby girl, Kinzley. They are my best friends on this earth and have always been the best support team anyone could ask for. Thank you my loves.

I'd also like to dedicate this thesis to my late father and mother, Robert and Alice Flanery. They made me the woman I am today and without their guidance I would have never thought it possible to achieve what I have in life. I love you. I'll be seeing you.

## **ACKNOWLEDGEMENTS**

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## **ABSTRACT**

In his concurrence with the Supreme Court ruling in *Furman v. Georgia* (1972), Justice Thurgood Marshall postulated that levels of support for capital punishment are associated with the amount of knowledge about the death penalty process. He suggested that exposure to information about capital punishment produces sentiments in opposition to capital punishment except in instances for which support is based on retributive beliefs. These notions have become known as the Marshall Hypothesis and have been empirically tested among a variety of populations. The research presented in this thesis adds to that body of literature by testing these ideas among a sample of students in the College of Justice and Safety at Eastern Kentucky University. Results from a self-administered survey provide support for two of the three hypotheses originally posited by Justice Marshall. Implications of these findings are discussed and suggestions for future research are provided.



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## INTRODUCTION

According to the Death Penalty Information Center (2019a), Americans' support for the death penalty is at its lowest since 1972. Nonetheless there are still more individuals in favor (55%) of capital punishment than opposed (41%). Why do the majority of Americans' still support such a relic of archaic times in 2019? Supreme Court Justice Thurgood Marshall expressed his thoughts on this question in his 1972 concurring opinion for the *Furman v. Georgia* case, in which he surmised that the problem lies in the fact that the American public was largely unaware about the death penalty in the United States. It has been 47 years since Justice Marshall gave us what is known today as the Marshall Hypothesis, which can be broken down into three separate hypotheses that can be tested using empirical social science research methods. The three hypotheses are (*Furman v. Georgia*, 1972):

- 1) Support for capital punishment is associated with the lack of knowledge about it.
- 2) Exposure to information about capital punishment produces sentiments in opposition to capital punishment.
- 3) Exposure to information about capital punishment will have little or no impact on those who support it for retributive reasons distinguished from instrumental reasons.

Opponents of capital punishment may wonder how, it possible that members of modern society, with information streaming around them at all times, are not informed enough to recognize concerns associated with the capital punishment process. In the United States, government is set up in a way public opinion matters a great deal, which values populism, so it would be very difficult to put into motion the necessary means to

abolish the death penalty without first gauging the level of support and understanding the reasons behind it (Bohm, 2003).

The purpose of this thesis is to put the Marshall Hypothesis to test and to explore the underlying issues surrounding support for the death penalty by surveying Justice and Safety college students at Eastern Kentucky University (EKU). This research will contribute to the literature because all three of Marshall's hypotheses are tested, which is not common among existing studies.

### **THE MILESTONE CASE: *FURMAN V. GEORGIA***

The landmark case from which the Marshall Hypothesis stems is *Furman v. Georgia*. This case began in January of 1972 and was decided in June of the same year. The petitioner in this case, Furman, had been convicted of murder and sentenced to death after. He was burglarizing a private home when a family member happened to discover him. Furman attempted to flee and during the process; according to him, he tripped and fell. He claimed that the fall caused the gun he was carrying to fire, which subsequently killed a resident of the home. The question posed in his Supreme Court case, the lead case decided together with *Jackson v. Georgia* and *Branch v. Texas* (death penalty cases that did not involve murder) was, "Does the imposition and carrying out of the death penalty in (these cases) constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments?" (*Furman v. Georgia*, 1972, p.239) The Court ruled in a five to four majority that yes, "...the imposition of the death penalty in these cases constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments" (pp. 239-240). Abnormally, each Justice decided to publish a separate opinion resulting in more than 200 pages of their thoughts and opinions surrounding the case(s) and the ultimate

ruling. Justice Brennan and Justice Marshall believed the death penalty to be unconstitutional in all instances while the other opinions focused on the arbitrary nature of the imposition of death sentences, including a racial bias against black defendants. This major decision by the Court forced the states and the national legislature to reconsider the specific statutes for capital offenses to assure that the death penalty would not be administered in a capricious or discriminatory manner. This ruling imposed a short-lived moratorium on the death penalty, which required state and federal officials to refine their criminal statutes in order to ensure that capital punishment would therefore not be considered arbitrary nor discriminatory. Later to be essentially overturned by *Greg v. Georgia* in 1976, when the Supreme Court ruled, “The imposition of the death penalty for the crime of murder has a long history of acceptance both in the United States and in England [.] At the time the Eighth Amendment was ratified, capital punishment was a common sanction in every State...” (*Gregg v. Georgia*, 1976, p. 176).

### **THE MARSHALL HYPOTHESIS**

Justice Thurgood Marshall reasoned in his 1972 *Furman* concurrence that the American public was largely unaware about the death penalty in the United States. In his concurring opinion, Marshall wrote, “The question with which we must deal is not whether a substantial proportion of American citizens would today, if polled, opine that capital punishment is barbarously cruel, but whether they would find it to be so in the light of all information presently available” (*Furman v. Georgia*, 1972, p. 362). To clarify his explanation, Marshall further commented, “This is not to suggest that with respect to this test of unconstitutionality people are required to act rationally; they are not. With respect

to this judgment, a violation of the Eighth Amendment is totally dependent on the predictable, subjective, emotional reactions of informed citizens” (p. 362).

The first element of the Marshall Hypothesis infers that support for capital punishment is associated with a lack of knowledge about the death penalty. That specific hypothesis was taken from the following portion of Marshall’s opinion (*Furman v. Georgia*, 1972, p. 364):

...that the death penalty is no more effective a deterrent than life imprisonment, that convicted murderers are rarely executed but usually sentenced to a term in prison; that convicted murderers usually are model prisoners, and that they almost always become law abiding citizens upon their release from prison; that the costs of executing a capital offender exceed the costs of imprisoning him for life; that while in prison, a convict under sentence of death performs none of the useful functions that life prisoners perform; that no attempt is made in the sentencing process to ferret out likely recidivists for execution; and that the death penalty may actually stimulate criminal activity.

The second specific hypothesis suggests that opposition to the death penalty will increase with exposure to information about it. This element came from Marshall’s belief that, “...this information would surely convince average citizens that the death penalty was unwise” (*Furman v. Georgia*, 1972, p. 364). In the third portion of his hypothesis, Marshall recognized that even if Americans knew the information, which he had pointed out with his previous two hypotheses, that they still may not consider the death penalty morally reprehensible or opposite to primarily due to retributive reasons. It has been established that retributivists are less likely to respond to knowledge-based claims on matters such as the death penalty (Shafer-Landau, 1996). In his opinion, Marshall wrote, “Retaliation, vengeance, and retribution have been roundly condemned as intolerable aspirations for a government in a free society” (*Furman v. Georgia*, 1972, p. 343). He went on to say, “The history of the Eighth Amendment supports only the conclusion that

retribution for its own sake is improper” (*Furman v. Georgia*, 1972, p. 345) and that “no one has ever seriously advanced retribution as a legitimate goal of our society” (*Furman v. Georgia*, 1972, p. 363). Marshall’s view of retribution, which he equated with purposeless vengeance, was so negative that he maintained (p. 363-364):

I cannot believe that at this stage in our history, the American people would ever knowingly support purposeless vengeance. Thus, I believe that the great mass of citizens would conclude on the basis of the material already considered that the death penalty is immoral and therefore unconstitutional.

Justice Marshall’s opinion has reached a wide audience, and the originality of his thoughts and the resulting general hypothesis has captured the attention of many social scientists. These investigators tend to agree that, while testing Marshall’s ideas is important, there is some uncertainty concerning what specifically Marshall meant by “knowledge” and, therefore, how this concept should be measured so that his hypotheses may be tested empirically. While no scale is flawless, a variety of items and composite measures have now been used to quantify knowledge and opinions about the death penalty, and there have been several tests of the different elements of Justice Marshall’s hypotheses. Results of these studies, as well as a brief discussion of the history of the death penalty and some theoretical outlooks about capital punishment in this country will be discussed in the next chapter.

## LITERATURE REVIEW

The purpose of this literature review is to present a summary of what is known about levels of support and opposition for the death penalty in America, as well as the validity of the Marshall Hypothesis regarding capital punishment in the United States. American support for the death penalty is a complicated matter to say the very least. However, according to the Death Penalty Information Center (2019a), Americans' support for the death penalty is at its lowest since 1972; nonetheless, there are still more in favor (55%) than opposed (41%). Why is this? Is Justice Marshall's belief that "American citizens know almost nothing about capital punishment" (*Furman v. Georgia*, 1972, p. 362) still correct? Information and results presented in this thesis will help to answer that question. The following sections in this literature review will summarize a brief history of capital punishment, analyze David Garland's thoughts on the *Furman* case, investigate the ideologies associated with support or opposition to the death penalty, and consider past studies that have tested the Marshall Hypothesis.

### HISTORY OF CAPITAL PUNISHMENT

To understand the concept of public support or opposition, I feel that we must first consider the history of the death penalty. Garland (2010) does a great job of explaining the historical modes of capital punishment in *Peculiar Institution*, including the breakdown of the following: The Early-Modern Mode, The Modern Mode, and The Late-Modern Mode. These eras are different from what we recognize in the United States due to the limited period of American history. In the United States there is the "early period" which consists of 1608 to 1929, the "premodern era" which consists of 1930 to 1967, and last the "modern era" which began in late 1976 and early 1977 through present day (Paternoster, 1991).



The early-modern mode covers the years of 1400 to 1700 and, during this time, the use of capital punishment was in the form of state building to assert and preserve authority by its leaders. The death penalty was carried out as a public spectacle of awe and terror. The sovereign ruling elites were the only individuals able to legally enforce capital punishment, and acting as the one great power, they were able to push religious narratives that were used to prescribe this form of punishment in order to prove a moral duty of performing none other than God's work. During this period, it is important to note that there was a lot of class stratification and demonization of criminals creating the "them" and "us" concept, which lead to the fear in citizens of ever questioning the leader's decisions and thus creating minimal debate over the use of capital punishment.

During the modern mode, which ran from 1700 until the mid-1900s, history shows some major shifts in capital punishment including the reasoning behind the use as well as changes in the methods to which executions were carried out. The formation of nation state stability diminished the need for and legitimacy of the death penalty so it is here where the shift took place from performing a public spectacle to increasing state bureaucratization which included the increased role of criminal justice actors in capital punishment in replacement of traditional monarchies. This shift also decreased the moral justification based on religiosity. Reasoning, however, found a new home in the form of scientifically upholding the social contract by promoting justice and safety through a crime control rationale. In moving away from the public spectacle, the executions were relocated from public squares to the front gates of prisons before eventually being moved to be hidden behind prison walls much in a fashion as they are today. The range of crimes that capital punishment could be handed out in response to was dramatically narrowed during this

period, but the use of the dangerous other explanation still was prevalently used against the condemned to clear the conscious of the enforcing actors involved. These reforms mentioned were being initiated by enlightened monarchs at the time and the forces that drove the restructuring and abolitions being driven by democratization and populism.

Finally, the late-modern mode, or what is labelled late modernity is described as starting in 1960 and onward to present day. During this time, capital punishment began to be perceived as an increasingly old-fashioned and unnecessary remnant, a relic of archaic times so to speak. Liberalism and democratization had come to a maturity and social welfare was known as the key driving force. The snowball effects with abolition began hitting several nations across the board with the end of World War II. The legal parameters of capital punishment increased, and reforms began piling up transforming into what is now recognized as super due process. It was around the late 1970s before the use of the death penalty really started to decline in the United States. The key differences in the United States as opposed to the other civilized Western nations is that the United States has an incomplete process of delocalization, in that power is held at too many levels with the possibility of local, state, and federal overreaches. Still as seen today, it has become harder to legitimize the use of capital punishment even in the United States where close to half the states have already abolished its use. The death penalty is supposed to be reserved as an ultimate penalty for ultimate crimes but even then, it still does not seem to justify the use when the extreme capitalistic nature of pharmaceutical companies is at the point of refusing to sell the lethal injection cocktails.

## DAVID GARLANDS' TAKE ON THE AMERICAN CLASSIC

As David Garland (2010) discussed in *Peculiar Institution* in Chapter Eight in depth, he views *Furman v. Georgia* as an “American Classic” as it is a perfect example of how legislation should lead and not follow. *Furman* was the catalyst in the way that led to an endless negotiation of compromise, which is how Garland defines legalism. It was a monumental study in ambivalence and focused on procedure over substance as well as individual narrowly defined cases as opposed to general policy. Public opinion, the leading force of populism, was a major leading factor, and like in all matters in the United States legal system, has developed into an immense consumption of lives and economic resources. Garland views the *Furman* majority ruling as proof that the death penalty is unconstitutional on the grounds of its use being “lawless, pointless, uncivilized, and inhumane” (p.227). In comparison to other nations in the Western world, Garland contends that *Furman* was the American equivalent to the elite-led abolition processes taking place. The reform effort was supported by America’s national elites, argued by civil rights litigants, and mandated by liberal elite Supreme Court justices.

Research consistent with Garland’s (2010) ideas has shown that public opinion is influential in the retention of the death penalty in at least four ways. First, it could influence legislators to support death penalty statutes. It can encourage some prosecutors to seek the death penalty in cases they might normally consider a plea-bargain. In addition, it may discourage some state officials from commuting death sentences. And finally, it might be indirectly used by justices of the United States Supreme Court and state supreme courts as a measure of “evolving standards of decency” regarding what constitutes “cruel and unusual punishment” in state constitutions and under the Eighth Amendment of the United

States Constitution (Bedau, 1987; Bohm, 1991; *Furman v. Georgia*, 1972; Ellsworth & Ross, 1983).

Garland (2010) pointed out that the influence of the *Furman* ruling was intense and far-reaching. A total of 587 condemned men and two women were released from death row and given the sentence of life in prison with the possibility of parole, creating a possible new future for them. The decision invalidated all of the nation's death penalty statutes and nullified the existing capital law of 36 states and the District of Columbia. What had been hoped to be the decision to create change in a major step forward in the criminal justice system in reality only resulted in a series of reforms that were focused on the breaches of legality thus creating super due process because death is different. One has to consider, had *Furman* not been ruled the way it was, the populist backlash may not have happened and capital punishment could have, pun intended, died on the vine.

It should be noted, however, that Garland (2010) failed to recognize the idea that *Furman* is what ushered in an era that has produced nothing but endless frustration and a colossal amount of financial burdens for victims' relatives as well as all parties involved in the legal process and execution of a death sentence and finally for the offenders who have been sentenced to death with the uncertainty of their fate. It is as though that receiving the death penalty often times is actually receiving life in prison with the 'chance' of death.

Garland (2010) presented what is referred to as the *Furman* backlash in the ninth chapter, which covers the immense amount of criticism that came about almost immediately from politicians, mainly republican, and other criminal justice actors (i.e., police officers and prosecutors). The argument was made that *Furman* caused a great injustice for victims and posed problems for public safety. This was the first time in

American history that the death penalty had become a highly politicized issue. Within the first two years following the *Furman* decision, 35 states had revised and reenacted their death penalty statutes and by the end of 1974 a total of 231 new death sentences has been handed down.

Garland (2010) goes into three frames that form the politics of this reaction including law and order, states' rights, and traditional cultural values. Liberalism is often held accountable for the violence and disorder in America in the 1960s. The banning effect that *Furman* had on capital punishment can be viewed as a further extension of liberalism in what would be considered an extreme form. The law and order frame is critical to President Lyndon Johnson's "War on Crime" that came about in 1965. This frame was an essential tool to laying the path for *Gregg v. Georgia* (1976) that would essentially overturn the *Furman v. Georgia* (1972) Supreme Court ruling. The frame of states' rights, driven by populism, comes in as a rebuttal against the overreach of the federal government in a counteraction against the idea of big government and a centralized power. Finally, Garland's third frame of traditional cultural values is a bit more multifaceted. This is where the Republican Party's "Southern Strategy" comes into effect which affirms what is known as traditional values in a fundamentalist culture in light of religious principles. It may be argued that this strategy was the way for government politicians of the South to reestablish and pose defiance after the civil rights movement in the 1960s and in return take the largely Democratic population of the South, whom felt betrayal at the highest level, and use that to convert the South from a sea of blue to a flowing bright red.

With the reinstatement of capital punishment in *Gregg v. Georgia* (1976), it is not difficult to see just how much of a populist symbol the death penalty is. The use of fear and

resentment of political and cultural change has been attributed as a major factor in even successfully aiding President Richard Nixon to be elected as the 37th President of the United States. The maintenance of this order is vital because as Garland (2010) also states, if the levels were to overreach and push boundaries on one another it would push more legalism into the system which in return fails to accomplish anything except the possibility of local and state lawsuits in response of the counter majoritarian decisions. The structure of American government, which is decentralized, sets it apart from the European governments and the way decisions such as abolishment are carried out. For instance, while American citizens typically often get to express their opinions and vote on laws and legal policies, European governments are more capable of imposing policies even when it is against popular opinion. It seems, however, that the levels and branches of government have become so divided they are easily conquered individually through vulnerability from opportunistic politicians and their constituents. This type of politics of popular democracy is why President Bill Clinton focused largely on public opinion polls and focus groups before imperative decisions were made (Kiouisis, 2003).

### **PAST STUDIES PUTTING THE MARSHALL HYPOTHESIS TO THE TEST**

A review of the literature produced 29 published studies that tested one or more of the separate hypotheses derived from Justice Marshall's concurring opinion (Bohm, 1989, 1990; Bohm, Clark, & Aveni, 1990, 1991; Bohm & Vogel, 1991, 1994, 2004; Bohm, Vogel, & Maisto, 1993; Boots, Mallicoat, & Wareham, 2018; Clarke, Lambert, & Whitt, 2001; Cochran & Chamlin, 2005; Cochran, Sanders, & Chamlin, 2006; Cox, 2013; Diaz & Garza, 2015; Ellsworth & Ross, 1983; Falco & Freiburger, 2011; Kennedy-Kollar & Mandery, 2010; Lambert, Camp, Clarke, & Jiang, 2011; LaChappelle, 2014; Lambert &

Clarke, 2001; Lee, Bohm, & Pazzani, 2014; Lord, Ross, & Lepper, 1979; Mallicoat & Brown, 2008; Michel & Cochran, 2011; Sandys, 1995; Sarat & Vidmar, 1976; Vidmar & Dittenhoffer, 1981; Vollum, Mallicoat, & Buffington-Vollum, 2009; Wright, Bohm, & Jamieson, 1995). Most frequently, the subjects of these studies have been undergraduate college students, and surveys were designed based largely off the work of Bohm and his colleges (Bohm, 1989, 1990; Bohm et al, 1990, 1991; Bohm & Vogel, 1991, 1994, 2004; Bohm et al., 1993). As recognized by Cochran and Chamlin (2005), the methodology commonly consisted of three elements including: (1) a pretest measure of attitudes toward capital punishment, (2) exposure to knowledge about capital punishment, and (3) a post-test measure of death penalty attitudes. It is noteworthy that the studies mentioned above vary in both the quantity and quality of the exposure to capital punishment information the subjects obtained. Despite the comparisons in methodology, these studies have a tendency to find somewhat mixed though fairly reliable support for the three Marshall hypotheses (Cochran & Chamlin, 2005).

In regard to the first portion of Justice Marshall's hypothesis, the literature strongly suggests that the average American citizen is both uninformed about the death penalty and unaware of whether it achieves its desired outcomes or not (Bohm, 1987, 1989, 1998; Bohm et al., 1990, 1991; Bohm, Vogel, & Maisto, 1993; Ellsworth & Ross 1983; Firment & Geiselman, 1997; Lambert & Clarke, 2001; Sarat & Vidmar, 1976; Vidmar & Dittenhoffer, 1981; Wright et al., 1995).

Sarat and Vidmar (1976) performed the earliest attempt to verify the second portion of Marshall's hypothesis, and it was followed by a much smaller Canadian study by Vidmar and Dittenhoffer (1981). Neither of first two studies listed above focused on the issue of

innocence nor how it may affect support for the death penalty. Although Bohm et al. (1991) and Sandys (1995) included the matter of innocence as part of the death penalty course, they did not test the effect of innocence alone on support for the death penalty.

Ellsworth and Gross (1994) described the third portion of Marshall's hypothesis by stating, "As support for the death penalty has increased, so has the willingness to endorse retribution as a motive" (p. 29). There has been a hardening of hearts in the American society toward perceptions of crime during the past 30 years and an increase in social acceptance of retribution for criminal acts (Bowers, 1984; Durham, Elrod, & Kinkade, 1996). However, retribution requires that the individual in question is in fact guilty, not innocent, in order to be punished (Lempert, 1983). Under the retributive theory, it is not permissible to sentence an innocent person to death, predominantly in light of the fact that the death penalty is irrevocable once the actual execution has been carried out (Gross, 1996). Unfortunately, there is increasing evidence that a substantial number of innocent individuals have been sentenced to death (Radelet, Bedau, & Putman, 1992; Radelet, Lofquist, & Bedau, 1996; Weinstock & Schwartz, 1998).

Table 1 is a summary of previous studies testing the Marshall Hypothesis. As discussed many of these studies involved a pre- and post-test design, using a death penalty class as the stimulus. But, as shown in the table, many studies did not test all three hypotheses. The majority of the findings do show support for the Marshall Hypothesis. When limited support is found, the overall results still tend to support hypotheses but there was not always support among the subgroups or individual items on the scale. In some cases (e.g., Kennedy-Kollar & Mandery, 2010), there was no statistical change in levels of



support after subjects had been presented with information about capital punishment, but there were, for some reason, decreases in levels of opposition for the death penalty.

**Table 1: Support of the Marshall Hypotheses from Previous Studies\***

Author(s) & Date Published	Sample Size	Key Findings		
		M. Hyp. 1	M. Hyp. 2	M. Hyp. 3
Sarat & Vidmar (1976)	181	Support	Support	Support
Lord et al. (1979)	48	---	---	---
Vidmar & Dittenhoffer (1981)	39	Support	Support	---
Ellsworth & Ross (1983)	500	Support	---	---
Bohm (1989)	50	---	Support	---
Bohm (1990)	109	---	Support	---
Bohm et al. (1990)	71	---	No	---
Bohm et al. (1991)	272	Support	Limited	Support
Bohm & Vogel (1991)	105	---	Support	Support
Bohm et al. (1993)	106	---	Support	---
Bohm & Vogel (1994)	222	---	Support	---
Sandys (1995)	23	---	Support	---
Wright et al. (1995)	106	Support	No	---
Clarke et al. (2001)	730	---	Limited	---
Lambert & Clarke (2001)	730	---	Limited	---
Bohm & Vogel (2004)	69	---	Support	---
Cochran & Chamlin (2005)	70	Support	Support	No
Cochran et al. (2006)	365	Support	Support	---
Mallicoat & Brown (2008)	340	---	Support	---
Vollum et al. (2009)	927	---	Limited	Support
Kennedy-Kollar & Mandery (2010)	187	---	No	---
Falco & Freiburger (2011)	20	---	No	---
Michel & Cochran (2011)	365	Support	Support	Support

**Table 1 (continued)**

Author(s) & Date Published	Sample Size	Key Findings		
		M. Hyp. 1	M. Hyp. 2	M. Hyp. 3
Lambert et al. (2011)	730	---	Support	---
Cox (2013)	362	Support	No	---
LaChappelle (2014)	216	---	Support	---
Lee et al. (2014)	338	Support	Support	No
Diaz & Garza (2015)	481	---	Limited	---
Boots et al. (2018)	203	---	No	---

\*This table is a modification and expansion of the a table presented by Cochran (2017)

## **IDEOLOGIES ASSOCIATED WITH OPINIONS ABOUT THE DEATH PENALTY**

In general, there are not any universal explanations for public support or opposition concerning the use of the death penalty. Research confirms the assumption that death penalty perceptions and attitudes are often grounded in an emotional response rather than based on any evidentiary support (Bohm, 1989, 2011; Ellsworth & Ross, 1983; Firment & Geiselman, 1997; Lambert, Pasupuleti, & Allen, 2005; Roberts, 1984; Tyler & Weber, 1982; Vandiver, Giacompassi, & Gathje, 2002; Vollum, Longmire, & Buffington-Vollum, 2004). Studies have established that individuals who support the death penalty can commonly be categorized into the three primary philosophies including deterrence, retribution, and incapacitation (Bohm, 1992, 2011; Lambert, Camp, Clarke, & Jiang, 2011; Lambert, Clarke, & Lambert, 2004). Deterrence refers to the method of hoping the punishment of one criminal will persuade the offender themselves and other citizens who witness the punishment to conform to the rules of law. There is a vast amount empirical evidence that demonstrates the death penalty has little or no deterrent effect on violent crime, even when adding murder to the equation (Archer, Gartner, & Beittel, 1983; Bailey,

1974, 1977, 1978a, 1978b, 1979a, 1979b, 1979c, 1980, 1983, 1990, 1991; Bailey & Peterson, 1989; Decker & Kohfeld, 1984, 1986, 1987, 1988, 1990; Lempert, 1983; Paternoster, 1991; Radelet & Akers, 1996; Waldo, 1981; Steiker & Steiker, 2017; Waldo & Myers, 2019). In the 1970s, during the get tough on crime era, deterrence was a common reason provided for supporting the death penalty. Subsequently, the idea of retribution and closure has become more socially acceptable (Fox, Radelet, & Bonsteel, 1991; Kort-Butler & Ray, 2019). Retribution refers to a type of revenge which is actually one of the oldest forms of punishment going back to an “eye for an eye” or a “life for a life” ideology and the perception of achieving ultimate justice (Bohm, 1992; Lambert et al., 2004; Lambert, Hogan, Moore, Jenkins, Jiang, & Clarke, 2008). And finally, incapacitation as a philosophy suggests that individuals who have been convicted of a crime as heinous as murder in capital cases should be executed to prevent them from killing again therefore protecting future hypothetical victims (Lambert et al., 2004; Marquart & Sorenson, 1989). Also, incorrectly embedded in the notion of incapacitation is the assumption that sentencing an offender to life imprisonment is more expensive than executing carrying out an execution (Robinson, 2009).

On the opposite end of the spectrum, there are four different philosophies identified for being given by individuals who oppose the death penalty which are comprised of the mercy or ethic of care, unfair administration, brutalization of society, and the possibility of innocence such as in the case of wrongful convictions (Hood, 2001; Lambert et al., 2004; Unnever & Cullen, 2005). Mercy, or ethic of care, refers to the idea that showing compassion to offenders is the most important factor as opposed to revenge (Hood, 2001). Furthermore, mercy can also be linked to the belief that the death penalty is a demonstration

of cruelty being carried out (Vandiver et al., 2002). Unfair administration goes back to what statistics obviously prove, if a defendant is a person of color then they are disproportionately affected by the death penalty, both in race of the offender and race of the victim in capital cases (Baumgartner, De Beof, & Boydston, 2008; DPIC, 2019b). And, finally, to look at the ideology of innocence is to understand that the justice system is not perfect and can make mistakes like in the case of wrongful convictions. For example, organizations such as the Innocence Project have been able to overturn sentences based on DNA testing, new evidence, or the discovery of a false witness testimony (Whitt, Clarke, & Lambert, 2002; Unnever & Cullen, 2005). According to the Innocence Project's website (2019), since 1989, when the first DNA exoneration took place, there have been 365 exonerations to date.

## **METHODOLOGY**

As discussed in the previous chapter, a review of the literature produced 29 published studies that tested at least some elements of the Marshall Hypothesis. The main purpose of this research is to test all three of Marshall's hypotheses using data from a cross-sectional survey of students in the College of Justice and Safety at ECU students based on a self-administered survey in an attempt to answer the following research questions:

1. Do the students of the College of Justice and Safety at ECU generally support or oppose the death penalty?
2. Do the students of the College of Justice and Safety at ECU lack knowledge about the death penalty and its effects?
3. Do the students of the College of Justice and Safety at ECU that are knowledgeable about the death penalty generally oppose it?
4. Is knowledge about capital punishment associated with levels of support for the death penalty among the students of the College of Justice and Safety at ECU regardless of levels of belief in retribution as a basis for support for the death penalty?

## **STUDY PARTICIPANTS**

All students 18 years of age or older who were enrolled in at least one traditional or online undergraduate or graduate course offered by the College of Justice and Safety during the Spring 2019 term were eligible to participate in this cross-sectional survey. After receiving project approval from the Institutional Review Board at ECU, eligible participants were sent an invitation to participate in the anonymous web-based survey via their ECU student email addresses. The invitation contained standard informed consent

information, as well as a hotlink that routed them directly to the online survey if they chose to participate (see Appendix A). Upon clicking the survey link, participants were asked to verify that they were over the age of 18. If anyone would have indicated they were not at least 18 years of age, they would have been routed away from the survey to a page containing a statement of eligibility for participation. When potential participants verified they were at least 18 years old, they were taken to the survey.

Email invitations were sent to 2321 students via SurveyMonkey collector emails, and two survey reminders were sent at one week intervals after the initial invitation. There were 211 usable responses when the survey closed. The response rate of just under 10 percent is not uncommon for web surveys, and research has established that results can be dependable with complete and quality responses (Van Mol, 2017). As shown in Table 2, there was a relatively even split between male (49.3%) and female (50.7%) respondents. The vast majority (90.0%) of respondents were white, and their ages ranged from 18 to 66, with an average of 28.58. More than half of respondents were between 18 and 23. The moderate category was chosen most (41.6%) and very liberal was chosen least (3.8%). The majority of students identified themselves as somewhat religious (52.6%). There was a close to even split between Campus 1 (traditional on-ground) students (57.6%) and Campus 2 (exclusively online classes) students (42.4%). Most respondents were declared as Criminal Justice (28.4%) majors working on their bachelor's degree. Generally, the respondents reported not being afraid of becoming a victim of a violent crime (55.5%). When asked about their immediate family members (i.e. mother, father, siblings) supporting the death penalty, the vast majority of students selected yes that they did

(79.7%). Finally, most respondents indicated that a close friend or family member or they had never been a victim of a violent crime (60.5%).

**Table 2: Participant Demographics and Personal Experiences**

	n	Valid %
<b>Gender:</b>		
Female	107	50.7
Male	104	49.3
<b>Race:</b>		
White	189	90
Other	21	10
<b>Age:</b>		
18-23	112	53.3
24-66	98	46.7
<b>Political Views:</b>		
Very Liberal	8	3.8
Liberal	38	18.2
Moderate	87	41.6
Conservative	62	29.7
Very Conservative	14	6.7
<b>Religious Views:</b>		
Very Religious	35	16.7
Somewhat Religious	110	52.6
Not Religious	64	30.6
<b>Campus:</b>		
Campus 1 (Traditional On-Ground Classes)	121	57.6
Campus 2 (Exclusively Online Courses)	89	42.4
<b>Degree Type:</b>		
Corrections & Juvenile Justice Studies (BS)	1	0.5
Criminal Justice (BS)	60	28.4
Criminology & Criminal Justice (MS)	15	7.1
Police Studies (BS)	2	0.9
Social Justice Studies (BS)	2	0.9

**Table 2 (continued)**

	n	Valid%
Justice, Policy & Leadership (MS)	8	3.8
Emergency Medical Care (AS)	5	2.4
Emergency Medical Care (BS)	12	5.7
Fire, Arson & Explosion Investigation (BS)	11	5.2
Fire Protection Administration (BS)	3	1.4
Fire Protection & Safety Engineering Technology (BS)	11	5.2
Homeland Security (BS)	21	10
Occupational Safety (BS)	22	10.4
Safety, Security & Emergency Management (MS)	26	12.3
Other Graduate Major	2	0.9
Double Major	10	4.7
<b>SJS Major:</b>		
Yes	96	45.5
No	115	54.5
<b>How afraid are you of becoming a victim of a violent crime?</b>		
Very Afraid	14	6.6
Somewhat Afraid	80	37.9
Not Afraid	117	55.5
<b>Do most of your immediate family members (i.e. mother, father, siblings) support the death penalty?</b>		
Yes	110	79.7
No	28	20.3
<b>Have you or a close friend/family member ever been a victim of a violent crime?</b>		
Yes	83	39.5
No	127	60.5

**MEASURES**

Other items in the survey were modeled after those used by Bohm et al. (1991) in their test of the Marshall Hypothesis and were grouped into three sections. The first section of the survey contained four items intended to gauge participants' support or opposition



for the death penalty. Respondents were asked to respond using a seven-point Likert scale (strongly disagree, disagree, slightly disagree, neutral, slightly agree, agree, strongly agree) see Appendix B, Table B1 for initial aggregate responses for these items. The original response scale for these items was then modified by removing the neutral responses and recoding responses from the other six options into the two categories of support or oppose. These four items were then combined ( $\alpha = .770$ ) to create a composite measure to represent overall opinions about the death penalty. A summary of responses to each of these items, as well as those described below, are presented in the next chapter.

The second section of the survey, also modeled after those used by Bohm et al. (1991), contained fourteen items intended to gauge participants' knowledge of the death penalty. Respondents were asked to respond using true or false for the statements given See Appendix B, Table B2 for initial aggregate responses for these items. A summary of responses of each of these items, are presented in the next chapter.

The third section of the survey, also modeled after those used by Bohm et al. (1991), contained eight items intended to gauge participants' retributive nature in regard to the death penalty. Respondents were asked to respond using a seven-point Likert scale (strongly disagree, disagree, slightly disagree, neutral, slightly agree, agree, strongly agree) see Appendix B, Table B3 for initial aggregate responses for these items. A summary of responses of each of these items, are presented in the next chapter.

## RESULTS

This chapter contains the results of the analyses from data collected from across-sectional survey of the general population of College of Justice and Safety. Findings are presented under each applicable research question. The next chapter includes a discussion of this research, its limitations, and suggestions for future research in this area.

### ***Research Question No. 1: Do the students of the College of Justice and Safety at EKU generally support or oppose the death penalty?***

Table 3 contains results for items measuring support for the death penalty in general. While the majority of respondents supported the death penalty for some defendants convicted of first-degree murder (77.5%) and indicated that, as a juror, they could convict a defendant that would automatically be sentenced to death if convicted (60.4%), fewer than half of survey participants said they could pull the lever that would result in death (47.3%) or supported the death penalty for all persons convicted of first-degree murder (43.1%). Descriptive statistics for the composite measure created from these four items suggest that, overall, about half the respondents support (51.5%) the death penalty while the other half (48.5%) oppose it.

**Table 3: Items Measuring Support for the Death Penalty**

	n	Valid %
<b>I support the death penalty for ALL persons convicted of first-degree murder.</b>		
Opposed	132	56.9
Support	100	43.1
<b>I support the death penalty for SOME people convicted of first-degree murder.</b>		
Opposed	54	22.5
Support	186	77.5

**Table 3 (continued)**

	n	Valid%
<b>If I served on a jury in a trial where the defendant, if found guilty, would automatically be sentenced to death, I could convict that defendant.</b>		
Opposed	82	39.6
Support	125	60.4
<b>If asked to do it, I could pull the lever that would result in the death of an individual convicted of first-degree murder.</b>		
Opposed	118	52.7
Support	106	47.3
<b>Total Support/Opposed Scale: Determined Support by if participant agreed with three or four of the items, and determined Opposed if participant disagreed with at least two items. (<math>\alpha = .770</math>)</b>		
Opposed	82	48.5
Support	87	51.5

A z-test for differences in proportions was also conducted to compare results among the items. The support scale which indicates that the level of support for the statement “I support the death penalty for ALL persons convicted of first-degree murder.” was significantly less than the statements “I support the death penalty for SOME people convicted of first-degree murder” ( $p = .000$ ) and “If I served on a jury in a trial where the defendant, if found guilty, would automatically be sentenced to death, I could convict that defendant.” ( $p = .007$ ).

Results for the first research question show that approximately half of the participants supported the death penalty when looking at the overall scale (51.5%). When considering the second item “I support the death penalty for SOME people convicted of first-degree murder.” a vast majority of participants supported the death penalty (77.5%). Finally, when looking at the first item “I support the death penalty for ALL persons

convicted of first-degree murder.” even less than half participants supported the death penalty (43.1%). Interestingly, students majoring within the School of Justice Studies (e.g., Criminal Justice, Police Studies, Corrections and Juvenile Justice, Social Justice) were significantly ( $\chi^2 = 15.554, p = .000$ ) more likely to oppose (66.7%) the death penalty as compared to students with majors from other departments and colleges (34.2%).

***Research Question No. 2: Do the students of the College of Justice and Safety at EKU lack knowledge about the death penalty and its effects?***

This research question was modeled after the first hypothesis used by Bohm et al. (1991) to explore part of Justice Marshall’s first hypotheses regarding support for capital punishment being associated with the lack of knowledge about it. Results for the 14 individual death penalty knowledge items are available in Appendix B, Table B2. Total scores for the knowledge of the death penalty portion of the survey ranged from five to 14, with an average of 10.60 out of 14, which equates to a C in college level courses (75.71%). Only 11.8 percent of respondents received a “failing” score by answering 8 or fewer items correctly. Two knowledge items had a higher percentage of being answered incorrectly. The first was, “The majority of Americans currently favor the death penalty.” which is a true statement although 42.3 percent of respondents thought it should be false. The second was, “On average, the death penalty costs the tax payer less than life imprisonment.” which is a false statement although 38.6 percent of respondents thought it should be true.

When examining the knowledge items we found that the results of the study provide us with the information that a significance was found when comparing the scores of School of Justice Studies majors ( $\bar{x} = 11.19$ ) to non-majors ( $\bar{x} = 10.15$ ), the School of Justice Studies majors scoring higher ( $t = -4.64, p = .000$ ) (Table 4).

**Table 4: Knowledge Comparison between SJS Majors v. Non-Majors**

	n	Mean	Standard Deviation
SJS Majors	94	11.19	1.505
Non-Majors	111	10.15	1.780

Results from a one-way ANOVA indicated that there were significant ( $F = 2.665$ ,  $p = .034$ ) differences in mean levels of knowledge based on political views. Post hoc analysis revealed the only categorical difference was between participants that identified as moderates ( $\bar{x} = 10.89$ ) and participants that identified as conservatives ( $\bar{x} = 10.03$ ) with moderates having slightly higher knowledge than conservatives. None of the other analyses using individual characteristics showed a significant difference between the categories or experiences relating to the sample and their level of knowledge (Table 5).

**Table 5: Knowledge Comparison between Political Views**

	n	Mean	Standard Deviation
Very Liberal	8	11.25	0.886
Liberal	38	10.82	1.768
Moderate	85	10.89	1.746
Conservative	59	10.03	1.761
Very Conservative	13	10.69	1.437
Total Sample	203	10.63	1.742

***Research Question No. 3: Do the students of the College of Justice and Safety at ECU that are knowledgeable about the death penalty generally oppose it?***

This research question was modeled after Justice Marshall's second hypothesis regarding whether exposure to information about capital punishment produces sentiments in opposition to capital punishment. For this hypothesis, the data regarding support (see Table B1) was used to garner if in fact opposition increased as knowledge increased (see Appendix B, Table B2).

Table 6 contains results for items measuring knowledge versus support comparison. Data show that those who were opposed had significantly higher scores on the knowledge scale for two of the individual items as well as the total support/opposed scale. Regarding the total support/opposed scale, respondents who were opposed to the death penalty scored an average of 11.1 out of 14 and those who supported the death penalty scored an average of 10.4 out of 14.

**Table 6: Knowledge versus Support Comparison**

	n	Mean	Standard Deviation	t	Sig.
<b>I support the death penalty for ALL persons convicted of first-degree murder.</b>					
Opposed	114	11.04	1.615	3.733	.000
Support	83	10.13	1.793		
<b>I support the death penalty for SOME people convicted of first-degree murder.</b>					
Opposed	48	10.9	1.7	1.143	.255
Support	155	10.5	1.7		
<b>If I served on a jury in a trial where the defendant, if found guilty, would automatically be sentenced to death, I could convict that defendant.</b>					
Opposed	67	11	1.6	2.286	.023
Support	108	10.4	1.6		
<b>If asked to do it, I could pull the lever that would result in the death of an individual convicted of first-degree murder.</b>					
Opposed	95	10.9	1.7	1.397	.164
Support	87	10.5	1.6		
<b>Total Support/Opposed Scale: Determined Support by if participant agreed with three or four of the items, and determined Opposed if participant disagreed with at least two items. (alpha = .770)</b>					
Opposed	70	11.1	1.6	2.749	.007
Support	77	10.4	1.6		

While the scores associated with knowledge were higher for each item, there was only a significant difference for “I support the death penalty for ALL persons convicted of

first-degree murder.” and “If I served on a jury in a trial where the defendant, if found guilty, would automatically be sentenced to death, I could convict that defendant.” as well as the overall scale “Total Support/Opposed Scale: Determined Support by if participant agreed with three or four of the items, and determined Opposed if participant disagreed with at least two items.”

The analysis ran on the data collected from the survey response does provide support for the second portion of Justice Marshall’s hypothesis.

***Research Question No. 4: Do the students of the College of Justice and Safety at EKU that are knowledgeable about the death penalty change their position of support or opposition in regard to the degree of retribution?***

This research question was modeled after Justice Marshall’s third hypothesis regarding exposure to information about capital punishment will have little or no impact on those who support it for retributive reasons. To examine the effect that retribution has on each attitudinal variable, a multivariate binary logistic regression was ran for each of the support items as well as the overall attitude towards the death penalty scale. Results from these individual items were combined to form an additive index ranging from 8 to 56 ( $\alpha = .796$ ). Once removing the “neutral” responses (leaving 74 valid responses) the mean ended up being approximately 28.07.

### **Binary Logistic Regression**

Binary logistic regression was conducted to examine how individual characteristics/experiences, death penalty knowledge, and retributive sentiments can be used to predict whether respondents would support or oppose the death penalty. To determine total support versus opposition of the death penalty, if a participant at least slightly agreed with three or four of the items in the death penalty support scale, they were

considered in support (1), and if a participant at least slightly disagreed with at least two items they were considered in opposition (0) (see Appendix B, Table B1). Two initial models were constructed based on the two elements—death penalty knowledge and retributive sentiments—mentioned in Marshall’s third hypothesis. The first of these models regressed the dichotomous support variable on only one predictor, which was knowledge about the death penalty. The model was significant ( $\chi^2 = 7.488$ ,  $p = .006$ ), explained 6.6 percent of the variance in support for the death penalty, and, as expected, participants were significantly less likely to be classified as supporters as knowledge increased ( $\text{Exp}(B) = .749$ ,  $\text{wald} = 6.944$ ,  $p = .008$ ). For the second model, belief in retribution was added as a predictor. This model was also significant ( $\chi^2 = 59.547$ ,  $p = .000$ ), and explained 44.4 percent of the variation in support for capital punishment. Additionally, as belief in retribution increased, individuals were significantly more likely to be in support of the death penalty ( $\text{Exp}(B) = 1.118$ ,  $\text{wald} = 32.356$ ,  $p = .000$ ). Further, as Marshall hypothesized, knowledge was no longer a significant predictor ( $\text{wald} = 2.353$ ,  $p = .125$ ) of support once the retribution scale was added. When considering only these two items, Justice Marshall was correct based on results from this sample. However, it is possible that other factors based on individual characteristics and experiences may serve as significant predictor variables along with knowledge and retributive sentiments. Consequently, three more models were created (see Table 7), each of which explained more variation in death penalty support than the previous two models.



**Table 7: Total Support Scale/Composite, Binary Logistic Regression**

	Individual Characteristics/ Experiences			Individual Characteristics/ Experiences with Death Penalty Knowledge			Individual Characteristics/ Experiences with Death Penalty Knowledge and Retribution		
	Wald	Sig.	Exp(B)	Wald	Sig.	Exp(B)	Wald	Sig.	Exp(B)
Gender	6.357	.012	4.807	7.336	.007	7.254	6.194	.013	8.545
Race	1.912	.167	3.33	2.59	.108	4.735	1.077	.299	3.271
Fear of Violent Crime	0.411	.814	---	0.09	.956	---	0.005	.998	---
Family Support of Death Penalty	1.762	.184	2.919	2.27	.132	3.83	2.277	.131	5.203
Age	0.426	.514	0.968	0.816	.366	0.953	1.388	.239	0.929
Political Views	2.369	.668	---	2.006	.735	---	1.344	.854	---
Friend/Family Member Has been Victim	0.557	.455	0.639	0.854	.355	0.549	0.643	.423	0.555
Religion	0.662	.718	---	0.556	.757	---	0.973	.615	---
Online v. On Ground	2.943	.086	0.153	3.08	.079	0.121	1.623	.203	0.173
Degree Type	0.745	.689	---	0.207	.902	---	0.015	.992	---
SJS Major (Yes or No)	0.933	.334	0.536	0.152	.697	0.759	1.685	.194	0.328
Knowledge Scale	---	---	---	6.935	.008	0.583	5.458	.019	0.589
Retribution Scale	---	---	---	---	---	---	10.282	0.001	1.17
Model Information	$(\chi^2 = 44.762,$ $p = .000)$			$(\chi^2 = 50.621,$ $p = .000)$			$(\chi^2 = 63.801,$ $p = .000)$		
Nagelkerke R Square	.493			.555			.657		

The first model contained only variables based on individual characteristics and experiences. The overall model was significant ( $\chi^2 = 44.762, p = .000$ ) and explained about 50 percent of the variation. Factors such as political views, fear of crime, age, and most other individual characteristics/experiences were not significant. Gender was the only individual characteristic that was significant ( $p = .012$ ) in the model. Consistent with previous studies, males were almost five times more likely than females to support death penalty.

The death penalty knowledge scale was added for the second model. This model was also significant ( $\chi^2 = 50.621, p = .000$ ) and explained about 55.5 percent of the variance. Again, no individual characteristics/experiences aside from gender were significant. As in the first model, males were significantly more likely than females to support the death penalty. Knowledge of the death penalty was also significant ( $p = .008$ ); respondents were less likely to support the death penalty as scores on the knowledge scale increased.

The retributive scale was added for the third model. This model was also significant ( $\chi^2 = 63.801, p = .000$ ) and explained 65.7 percent of the variance, the most of the three models. Gender and knowledge were still significant in the same direction and the scale measuring retribution was significant ( $p = .001$ ) as well. As expected, higher scores on the retributive scale were associated with support of the death penalty. The final model shows that when controlling for all individual characteristics/experiences, both knowledge and retribution are significant correlates of support/opposition.

## DISCUSSION

Research for this thesis tested four research questions regarding the death penalty and Justice Thurgood Marshall's hypotheses in his *Furman* (1972) decision. While many studies have tested these hypotheses using a pretest/posttest method, data for this research came from a cross-sectional online survey that took a single snapshot glance into the opinions, characteristics, and death penalty knowledge of College of Justice and Safety students at ECU. This research also contributes to the literature because all three of Marshall's hypotheses were tested, which is not common among existing studies. Perhaps most importantly, the research presented in this thesis considers individual characteristics and experiences, in addition to factors mentioned by Marshall, as predictors of support for death penalty.

With regard to the first research question "*Do the students of the College of Justice and Safety at ECU generally support or oppose the death penalty?*" the study provided us with the results that over half (51.5%) of students surveyed do in fact support the death penalty. This result is comparable to the National average according to the Death Penalty Information Center (2019a), with more individuals in favor (55%) of capital punishment than opposed (41%). Some studies have found greater support for the death penalty among criminal justice majors (Farnworth, Longmire, & West, 1998; Lambert et al., 2008) while other studies have reported no significant difference between criminal justice majors and non-criminal justice majors (Robbers, 2004; Schadt & DeLisi, 2007). When breaking down findings for support between the majors and non-majors within the School, results show that majors are significantly more likely to oppose the death penalty (majors: 66.7%,

nonmajors: 34.2%) and nonmajors were more likely to support the death penalty (nonmajors: 65.8%, majors: 33.3%).

The second research question, “*Do the students of the College of Justice and Safety at EKU lack knowledge about the death penalty and its effects?*” measures the first portion of Justice Marshall’s hypothesis. Total scores for the knowledge of the death penalty portion of the survey ranged from five to 14, with an average of 10.60 out of 14, which equates to a C grade on a standard grading scale (75.71%). When comparing death penalty knowledge, results show School of Justice Studies majors had significantly higher average scores on the overall knowledge scale. In Bohm et al. (1991)’s study, it is noteworthy to mention that School of Justice Studies majors scored an average of 79.9 percent with nonmajors scoring an average of 72.5 percent compared to Bohm et al. (1991) scoring an average 79 percent after the course had been completed (54% on the pretest). When comparing the results to a more recent study, conducted by Lee et al. (2014), they were drastically higher than the scores averaged on both their experimental group who had taken the course (58.8%) as well as the comparison group who had not completed the course (38.5%). Results of this study indicate that, on average, these participants were relatively knowledge about the death penalty. Therefore, there was not support Justice Marshall’s first hypothesis among this sample of students.

The third research question, “*Do the students of the College of Justice and Safety at EKU that are knowledgeable about the death penalty generally oppose it?*” measures the second portion of Justice Marshall’s hypothesis. By looking at the overall scale (as shown in Table 6) students who opposed the death penalty did score higher on the knowledge portion of the survey (79.3%) than those who supported the death penalty

(74.3%). The results of my study provided direct support for the second portion of Justice Marshall's hypothesis.

The fourth research question, "*Do the students of the College of Justice and Safety at ECU that are knowledgeable about the death penalty change their position of support or opposition in regard to the degree of retribution?*" measures the second portion of Justice Marshall's hypothesis. When considering only knowledge and retribution, the results do provide support for this portion of the hypothesis. However, there is not support for this hypothesis when controlling for individual characteristics and experiences. When controlling for factors such as gender and race, knowledge is still a significant predictor of support for the death penalty. When adding in controls for levels of belief in retribution, knowledge is still a significant predictor of support for the death penalty.

In general, results of this study provide some support for two of the three hypotheses defined by Justice Marshall. The first portion of Justice Marshall's hypothesis states the public lacks knowledge regarding the death penalty. Findings presented here indicate that, on average, these participants were relatively knowledgeable about the death penalty. The second portion of Justice Marshall's hypothesis states that individuals who are knowledgeable about the death penalty generally oppose it. Consistent with many other studies testing this hypothesis (Bohm, 1989; 1990; Bohm & Vogel, 1991; 1994; 2004; Bohm et al., 1993; Cochran & Chamlin, 2005; Cochran et al., 2006; LaChappelle, 2014; Lambert et al., 2011; Lee et al., 2014; Mallicoat & Brown, 2008; Michel & Cochran, 2011; Sandys, 1995; Sarat & Vidmar, 1976; Vidmar & Dittenhoffer, 1981), results of this study provide direct support for the statement. The third portion of Justice Marshall's hypothesis states that individuals who are knowledgeable about the death penalty change their position

of support or opposition in regard to the degree of retribution. Several studies have produced support for this postulation (Bohm & Vogel, 1991; Bohm et al., 1991; Michel & Cochran, 2011; Sarat & Vidmar, 1976; Vollum et al., 2009), but findings from this sample yielded mixed support for this idea in that the hypothesis was supported only when examining those two factors; however, it did not hold true when controlling for individual characteristics and experiences.

As with any research project, there are limitations that should be discussed. The target population for this study was students enrolled in courses offered by the College of Justice and Safety at ECU; findings do not represent the population of all ECU students or the American public, which was the subject of Justice Marshall's discussion. It would be interesting to replicate this study among all ECU students to see, for example, if and how levels of knowledge and opinions about the death penalty differ between physics majors and students majoring within the School of Justice Studies. Also, the survey did not include items measuring whether participants had ever taken a death penalty class or been enrolled in a course in which a specific section was dedicated to discussing the death penalty. This information could be an important mediating variable for levels of knowledge about the death penalty.

Many different measures and research designs (e.g., the pre/post-test design around a death penalty course) have been used to gauge opinions and knowledge about the death penalty. While the measures used this study were based on those used in prior research and had good statistical reliability with this sample, it is almost impossible to create perfect indicators of true attitudes and opinions.

Another limitation would be that the response rate came in just under 10 percent. While is not uncommon for web surveys, and research has established that results can be dependable with complete and quality responses (Van Mol, 2017), it is still limiting to the external validity and generalization of results. And last it is important to know that with study being a cross-sectional design we aren't to conclude that knowledge causes opposition.

It is important to continue researching all of Justice Marshall's ideas, especially among college students, some of whom will become lawmakers and, all of whom, if they are American citizens, have or will have the opportunity to vote on laws and policy. Populism often appeals to ordinary people who may be uninformed when it comes to the facts. Knowledge about an issue can only lead to more informed decisions, and given the many controversies that surround capital punishment in the United States, it is important to continue to use empirical data to educate citizens about issues so that they may make cognizant decisions as they cast their ballots.

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## **APPENDICES**

## **APPENDIX A: SURVEY INSTRUMENT**

You are being invited to take part in a research study on "Testing the Marshall Hypothesis: A Survey Among Justice and Safety College Students." This survey will help us learn about the current status of knowledge and opinion in regard to the death penalty. This is a recreation of a survey that has been tested several times before and the data collected will be analyzed and used as part of my Master's thesis. This study is being conducted by Kimberly Barrett at Eastern Kentucky University.

If you decide to participate in the study, you will be asked to complete a survey. Your participation is expected to take no more than 5 to 10 minutes.

This study is anonymous. You will not be asked to provide your name or other identifying information as part of the study. No one, not even members of the research team, will know that the information you give came from you. Your information will be combined with information from other people taking part in the study. When we write up the results of the study, we will write about this combined information.

We will make every effort to safeguard your data, but as with anything online, we cannot guarantee the security of data obtained via the Internet. Third-party applications used in this study may have terms of service and privacy policies outside the control of Eastern Kentucky University.

If you decide to take part in the study, it should be because you really want to volunteer. You will not lose any benefits or rights you would normally have if you choose not to volunteer. You can stop at any time during the study and still keep the benefits and rights you had before volunteering.

This study has been reviewed and approved for exemption by the Institutional Review Board at Eastern Kentucky University as research protocol number 2274. If you have any questions about the study, please contact Kimberly Barrett at [kimberly\\_barrett1@mymail.eku.edu](mailto:kimberly_barrett1@mymail.eku.edu). If you have questions about your rights as a research volunteer, please contact the Division of Sponsored Programs at Eastern Kentucky University by calling 859-622-3636.

By completing the activity that begins once clicking the provided link, you agree that you (1) are at least 18 years of age; (2) have read and understand the information above; and (3) voluntarily agree to participate in this study.

1. For the following items, please select an option on the seven-point scale that reflects the extent to which you agree or disagree with each statement:

	Strongly Disagree	Disagree	Slightly Disagree	Neutral	Slightly Agree	Agree	Strongly Agree
I support the death penalty for <b>ALL</b> persons convicted of first-degree murder.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I support the death penalty for <b>SOME</b> people convicted of first-degree murder.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
If I served on a jury in a trial where the defendant, if found guilty, would automatically be sentenced to death, I could convict that defendant.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
If asked to do it, I could pull the lever that would result in the death of an individual convicted of first-degree murder.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2. The death penalty has been abolished by a majority of Western European Nations.

True  False

3. Over the years, states that had the death penalty have shown lower murder rates than neighboring states that did not have the death penalty.

True  False

4. Studies have not found that abolishing the death penalty has any significant effect on the murder rate in a state.

True  False

5. Studies have shown that murder rates usually drop in the weeks following a well-publicized execution.

True  False

6. The average prison term served by someone sentenced to life imprisonment is less than 10 years.

True  False

7. Poor people who commit murder are more likely to be sentenced to death than rich people.

True  False

8. After the Supreme Court struck down the death penalty in 1972, the murder rate in the U.S. showed a sharp upturn.

True  False

9. On average, the death penalty costs the taxpayer less than life imprisonment.

True  False

10. Currently, there are over one thousand people awaiting execution in the United States.

True  False

11. The punishment of death has typically been imposed in only a small fraction of the cases where it is an authorized punishment.

True  False

12. The majority of Americans currently favor the death penalty.

True  False

13. Even when convicted of similar crimes, men have been more likely to be executed than women.

True  False

14. Currently, the leadership of organized religion in the United States (whether Catholic, Jewish, or Protestant) has abandoned its traditional support of (or silence on) the death penalty and instead favors its complete abolition.

True  False

15. The majority of executions in the United States take place in the South.

True  False

16. For the following items, please select an option on the seven-point scale that reflects the extent to which you agree or disagree with each statement:

	Strongly Disagree	Disagree	Slightly Disagree	Neutral	Slightly Agree	Agree	Strongly Agree
If a murderer is not executed for the crime, the friends or family of the victim are likely to take it upon themselves to seek revenge.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The very worst of the Nazi war criminals should have been executed for their "crimes against humanity."	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Those who take a life should forfeit their own in return.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Killing is all right if the right people do it and think they have a good reason for doing it.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Members of society have a right to get revenge when a very serious crime like murder has been committed.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sometimes I have felt a sense of personal outrage when a convicted murderer was sentenced to a penalty less than death.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are some murderers whose death would give me a sense of personal satisfaction.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
An execution would make me sad, regardless of the crime the individual committed.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



17. What is your gender?

Male  Female

18. How afraid are you of becoming a victim of a violent crime?

Very Afraid  Somewhat Afraid  Not Afraid

19. What is your race?

Black  White  Other

20. Do most of your immediate family members (i.e. mother, father, siblings) support the death penalty?

Yes  No  Don't Know

21. How old are you?

22. What are your political views?

Very Liberal  Conservative  
 Liberal  Very Conservative  
 Moderate

23. Have you or a close friend/family member ever been the victim of a violent crime?

Yes  No

24. Do you consider yourself to be?

Very Religious  Somewhat Religious  Not Religious

25. Please indicate what campus you belong to:

Campus 1 (Traditional On-Ground Classes)  Campus 2 (Exclusively Online Courses)

26. What is your major?

- |   |  |
|---|--|
| <input type="radio"/> Corrections & Juvenile Justice Studies (BS) | <input type="radio"/> Fire, Arson & Explosion Investigation (BS)           |
| <input type="radio"/> Criminal Justice (BS)                       | <input type="radio"/> Fire Protection Administration (BS)                  |
| <input type="radio"/> Criminology & Criminal Justice (MS)         | <input type="radio"/> Fire Protection & Safety Engineering Technology (BS) |
| <input type="radio"/> Police Studies (AA)                         | <input type="radio"/> Homeland Security (BS)                               |
| <input type="radio"/> Police Studies (BS)                         | <input type="radio"/> Occupational Safety (BS)                             |
| <input type="radio"/> Social Justice Studies (BS)                 | <input type="radio"/> Safety, Security & Emergency Management (MS)         |
| <input type="radio"/> Justice, Policy & Leadership (MS)           | <input type="radio"/> Other Undergraduate Major                            |
| <input type="radio"/> Emergency Medical Care (AS)                 | <input type="radio"/> Other Graduate Major                                 |
| <input type="radio"/> Emergency Medical Care (BS)                 | <input type="radio"/> Double Major   |

27. What are your majors?

Major 1:

Major 2:

**APPENDIX B: DESCRIPTIVE TABLES FOR ADDITIONAL ITEMS**

**Table B1: Support Items**

	n	Valid %
<b>I support the death penalty for ALL persons convicted of first-degree murder.</b>		
Strongly Disagree	51	19.8
Disagree	47	18.2
Slightly Disagree	34	13.2
Neutral	26	10.1
Slightly Agree	43	16.7
Agree	33	12.8
Strongly Agree	24	9.3
<b>I support the death penalty for SOME people convicted of first-degree murder.</b>		
Strongly Disagree	26	10.1
Disagree	17	6.6
Slightly Disagree	11	4.3
Neutral	18	7
Slightly Agree	47	18.2
Agree	82	31.8
Strongly Agree	57	22.1
<b>If I served on a jury in a trial where the defendant, if found guilty, would automatically be sentenced to death, I could convict that defendant.</b>		
Strongly Disagree	37	14.5
Disagree	22	8.6
Slightly Disagree	21	8.2
Neutral	51	19.9
Slightly Agree	29	11.3
Agree	58	22.7
Strongly Agree	38	14.8
<b>If asked to do it, I could pull the lever that would result in the death of an individual convicted of first-degree murder.</b>		
Strongly Disagree	71	27.7
Disagree	30	11.7
Slightly Disagree	15	5.9
Neutral	34	13.3
Slightly Agree	35	13.7
Agree	36	14.1
Strongly Agree	35	13.7

**Table B2: Knowledge Items**

	n	Valid %
<b>The death penalty has been abolished by a majority of Western European Nations. (T)</b>		
True	191	88
False	26	12
<b>Over the years, states that had the death penalty have shown lower murder rates than neighboring states that did not have the death penalty. (F)</b>		
True	41	18.9
False	176	81.1
<b>Studies have not found that abolishing the death penalty has any significant effect on the murder rate in a state. (T)</b>		
True	139	64.7
False	76	35.3
<b>Studies have shown that murder rates usually drop in the weeks following a well-publicized execution. (F)</b>		
True	66	30.8
False	148	69.2
<b>The average prison term served by someone sentenced to life imprisonment is less than 10 years. (F)</b>		
True	48	22.2
False	168	77.8
<b>Poor people who commit murder are more likely to be sentenced to death than rich people. (T)</b>		
True	192	89.3
False	23	10.7
<b>After the Supreme Court struck down the death penalty in 1972, the murder rate in the U.S. showed a sharp upturn. (F)</b>		
True	75	35.2
False	138	64.8
<b>On average, the death penalty costs the taxpayer less than life imprisonment. (F)</b>		
True	83	38.6
False	132	61.4

**Currently, there are over one thousand people awaiting execution in the United States. (T)**

True	176	82.2
False	38	17.8

**The punishment of death has typically been imposed in only a small fraction of the cases where it is an authorized punishment. (T)**

True	189	87.5
False	27	12.5

**The majority of Americans currently favor the death penalty. (T)**

True	91	42.3
False	124	57.7

**Even when convicted of similar crimes, men have been more likely to be executed than women. (T)**

True	210	97.2
False	6	2.8

**Currently, the leadership of organized religion in the United States (whether Catholic, Jewish, or Protestant) has abandoned its traditional support of (or silence on) the death penalty and instead favors its complete abolition. (T)**

True	151	69.9
False	65	30.1

**The majority of executions in the United States take place in the South. (T)**

True	187	86.2
False	30	13.8

**Table B3: Retribution Items**

	n	Valid %
<b>If a murderer is not executed for the crime, the friends or family of the victim are likely to take it upon themselves to seek revenge.</b>		
Strongly Disagree	20	9.4
Disagree	80	37.6
Slightly Disagree	18	8.5
Neutral	32	15
Slightly Agree	37	17.4
Agree	21	9.9
Strongly Agree	5	2.3
<b>The very worst of the Nazi war criminals should have been executed for their "crimes against humanity."</b>		
Strongly Disagree	9	4.2
Disagree	16	7.5
Slightly Disagree	12	5.6
Neutral	13	6.1
Slightly Agree	31	14.6
Agree	52	24.4
Strongly Agree	80	37.6
<b>Those who take a life should forfeit their own in return.</b>		
Strongly Disagree	23	10.9
Disagree	41	19.4
Slightly Disagree	36	17.1
Neutral	43	20.4
Slightly Agree	36	17.1
Agree	20	9.5
Strongly Agree	12	5.7
<b>Killing is all right if the right people do it and think they have a good reason for doing it.</b>		
Strongly Disagree	58	27.2
Disagree	54	25.4
Slightly Disagree	27	12.7
Neutral	33	15.5
Slightly Agree	22	10.3
Agree	13	6.1
Strongly Agree	6	2.8



**Members of society have a right to get revenge when a very serious crime like murder has been committed.**

Strongly Disagree	57	26.8
Disagree	67	31.5
Slightly Disagree	18	8.5
Neutral	30	14.1
Slightly Agree	23	10.8
Agree	12	5.6
Strongly Agree	6	2.8

**Sometimes I have felt a sense of personal outrage when a convicted murderer was sentenced to a penalty less than death.**

Strongly Disagree	33	15.5
Disagree	48	22.5
Slightly Disagree	13	6.1
Neutral	35	16.4
Slightly Agree	37	17.4
Agree	36	16.9
Strongly Agree	11	5.2

**There are some murderers whose death would give me a sense of personal satisfaction.**

Strongly Disagree	32	15
Disagree	45	21.1
Slightly Disagree	11	5.2
Neutral	43	20.2
Slightly Agree	27	12.7
Agree	35	16.4
Strongly Agree	20	9.4

**An execution would make me sad, regardless of the crime the individual committed.**

Strongly Disagree	18	8.5
Disagree	53	24.9
Slightly Disagree	24	11.3
Neutral	42	19.7
Slightly Agree	36	16.9
Agree	32	15
Strongly Agree	8	3.8