

Ambiguities in the Penalty Phase of Capital: Statutory Patterns and Suggestions for California

by Tracy Hughes and Shoshana Lazik

Abstract

Sentencing a defendant to death for a capital crime is perhaps the most significant decision a juror can make. States where jurors may impose the death penalty have constructed guidelines to assist the jury in the decision-making process. These guidelines, however, are often insufficient and even confusing. From the manner in which guidelines are presented to the jury to the wording of the instructions themselves, ambiguities in state capital statutes and jury instructions pervade the sentencing phase of a capital trial. This ambiguity contributes to random imposition of death sentences. The ambiguities in the California death penalty instructions are similar to those in other states' instructions. Most death penalty states use similar instructions and, consequently, ambiguities in instructions are often consistent from state to state.

This paper examines other states' statutes and instructions and compares them to the California framework. This comparison highlights areas of particular ambiguity and identifies alternatives to improve the California statute and instructions.

Reforming California's death penalty process may not completely eliminate the uncertainty jurors face during the sentencing phase of a capital trial. Reform may reduce the confusion inherent in the process, however, and thereby reduce the randomness with which the State of California sentences people to death.