A STUDY OF PRIMING IN CALIFORNIA NEWSPAPER COVERAGE OF THE DEATH PENALTY

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B.A., University of California, Davis 2002

THESIS

Submitted in partial satisfaction of the requirements for the degree of

MASTER OF ARTS

in

COMMUNICATION STUDIES

at

CALIFORNIA STATE UNIVERSITY, SACRAMENTO

FALL
2009
A STUDY OF PRIMING IN CALIFORNIA NEWSPAPER COVERAGE OF THE
DEATH PENALTY

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Abstract

of

A STUDY OF PRIMING IN CALIFORNIA NEWSPAPER COVERAGE OF THE DEATH PENALTY

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This study investigates California newspaper articles for evidence of priming about the death penalty and attempting to determine if there is evidence of priming within newspaper coverage of this specific issue. Rather than weighing the death penalty as an issue of importance verses another issue, this study looked at which side, if any of the death penalty debate receives the most favorable coverage in articles. Due to the large number of articles about the death penalty in recent years, and the diversity of ways that the subject matter is presented, it was necessary to restrict the population of articles to a more manageable size. As such, articles about California’s new death penalty protocols are studied from January 1, 2009 to September 30, 2009, and fifteen unique assertions about the death penalty protocols were discovered. Using a qualitative content analysis modeled after Kim and McCombs (2007), and an additional coding of the first quote found in each article for bias for or against the death penalty, this study found no evidence of priming.

_______________________, Committee Chair

Dr. Barbara O’Connor

_______________________

Date
DEDICATION

This thesis is dedicated to Anna, who embodies the words of George Linnaeus Banks, in “What I Live For.”

"I live for those who love me, for those who know me true; for the heaven that smiles above me and awaits my spirit too. For the cause that lacks assistance, for the wrong that needs resistance, for the future in the distance, and the good that I can do."
ACKNOWLEDGEMENTS

This section threatens to be the longest part of this thesis, as there are so many people who need to be recognized for their kind assistance. My ever-patient thesis advisor, Dr. Barbara O’Connor, provided me with motivation, guidance and support as I navigated my way through researching and writing this study. Her humor and unflappable attitude kept me sane and focused. Dr. Mark Williams and Dr. John Williams served as oracles for consultation on the subjects of literature reviews and content analysis. Their guidance and advice was much appreciated.

In completing this thesis, I leaned rather heavily on two fellow graduate students, Chris Maben and Lindsey Arasmith for editing, suggestions and moral support. Our regular thesis meet-ups at a local public house both contributed to the regional economy and made sure drafts were completed on time. They are scholars in their own right, and I am eternally grateful for their assistance and their friendship.

Professors, lecturers and staff in the Communication Studies Department have made this experience more manageable and enjoyable. Dr. Jaccie Irwin and Dr. David Zuckerman enlightened me about writing for scholarship and are first-rate instructors and mentors for graduate students. Sigrid Bathen taught me the ropes of writing for public relations at the beginning of my career, and set me on the path toward this Masters degree. I am grateful for her tutelage and for the example she set for me as an ethical, tough, and fair-minded public information officer. Carly Eggleston has also been an invaluable resource for navigating the tricky business of actually graduating.

Also, thank you to my family, both natural born and in-laws. You have endured my physical (and sometimes mental) absence for the past few years as I toiled toward completion. Thank you for your support, sacrifices on my behalf, and love.

Finally, thank you to my lovely wife, Anna, whose tenure as a “grad school widow” has finally ended. Your support, encouragement, and ability to keep my feet to the fire—coupled with your unwavering love for me—made it possible to always see the light at the end of the tunnel. I could not have accomplished this without you. I love you more than anything, and can’t wait to see what the future holds for us.
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Chapter 1

INTRODUCTION

Since California’s reinstatement of the death penalty in 1992, fourteen executions have been carried out in the state, with one inmate executed in Missouri for crimes committed in that state before he was sentenced to death in California. Newspaper coverage of the death penalty has been consistently extensive in California since that time. In December 2006, U.S. District Court Judge Jeremy Fogel implemented what amounts to a *de facto* (no executions have been carried out in California) moratorium on the implementation of the death penalty due to questions concerning various aspects of the execution protocol. These include the amount of physical space in which a condemned prisoner is executed, and the combination of chemicals injected intravenously into the condemned’s veins that are used to kill the person (Egelko, 2006).

In an attempt to answer Judge Fogel’s concerns, the State of California has developed new execution protocols that would allow it to continue executing those sentenced to death. The first version of these was released in 2007, but before they could be addressed by Fogel, a different judge ruled that the state could not switch execution protocols without a period of public comment (Walsh, 2009). After a year-long legal battle, the Administration of Governor Arnold Schwarzenegger accepted the ruling and released the protocols to the public. These new procedures were released by the California Department of Corrections and Rehabilitation on May 1, 2009, beginning a required sixty-day public comment (Office of Public and Employee Communications, 2009). At this point, it is unclear as to when executions will resume in California. There...
are a number of court issues still unresolved and likely future legal challenges before any inmate could be put to death (Walsh, 2009). While the debate about the death penalty rages on in California, the time is ripe to study the role that the media plays as the policy debate is carried out in the public domain.

As such, this thesis will examine California newspaper coverage of the new death penalty protocols for evidence of priming by undertaking a pilot study modeled after other attempts to study news content about political ideas.

Priming, as illustrated by Iyengar and Kinder (1987), is “the idea that media draw attention to some aspects of political life at the expense of others” (p. 114). Priming is an outgrowth of agenda setting theory, described by McCombs and Shaw (1972), who argue that:

In choosing and displaying news, editors, newsroom staff, and broadcasters play an important role in shaping political reality. Readers learn...how much importance to attach to [an] issue from the amount of information in a news story and its position,” so in effect, “the media may set the ‘agenda’ (172).

According to agenda setting theory, the media can play a major role in a society where the public plays a role in setting policy. Priming goes one step further than agenda setting in that media consumers do not simply learn how much importance to assign to an issue (for example, the death penalty is an important subject for newspapers to cover), they instead assign relative importance (for example, the death penalty is a more important subject for newspapers to cover than the impact of organic food on children’s health). Iyengar and Kinder documented that “…people who were shown network broadcasts edited to draw attention to a particular problem assigned greater importance to
that problem” (p. 114). This study will look even deeper using priming and attempt to determine if there is evidence of priming within newspaper coverage of one specific issue. So rather than weighing the death penalty as an issue of importance verses another issue, say, abortion, this study will look to see which side, if any of the death penalty debate receives the most favorable coverage in articles about the new death penalty protocols. If there is evidence of priming within this coverage, then the media could conceivably be exerting influence on the public’s perception about the new death penalty protocols, and by extension, the death penalty itself.

As such, the research question for this pilot study is:

Do newspaper stories about California’s new execution protocols show evidence of “priming,” the idea that media draw attention to some aspects of political life at the expense of others?

**Justification**

Building off of the earlier scholarship of Iyengar and Kinder (1987) and McCombs and Shaw (1972), Schefele and Tewksbury (2007) offer a definition of priming that effectively separates it from agenda setting, in that “by making some issues more salient in people’s mind (agenda setting), mass media can also shape the considerations that people take into account when making judgments about political candidates or issues (priming)” (p. 11). The role of newspapers to “prime” an audience to take into consideration support or opposition for the death penalty—is different than simply priming an audience to think about the death penalty more than or less than another issue.
Given the years of ongoing legal discussion about the death penalty in California, it is an issue heavily covered in the media. A study examining aspects of the mediated communication regarding this issue in California could lead to meaningful data on public perceptions, and how these perceptions can be shaped by information in newspaper stories. As Kim and McCombs (2007) have suggested, newspaper stories often set the agenda for television news stories, so examining whether newspaper articles—not editorials with clear and stated opinions—are intentionally or unintentionally priming their readers to support or oppose the death penalty could have implications for other media sources as well. An article that is priming readers to oppose the death penalty, for instance, may also be the subject on which a television story is aired, radio show is broadcast, or blog posting is created—thus exposing even more media consumers to this information.

Another reason for studying newspaper coverage of the death penalty is illustrated by Lipschultz and Hilt (1999), who observe that “there is extensive research on the death penalty, but very little research connecting it to the mass media” (p. 239). Perceptions about the death penalty and the mass media are rarely studied, so this thesis aims to fill that void in scholarship in this area.

Finally, the modern media age is daunting to the communication scholar. Newspaper subscription rates are down, but they still play a large role in setting the news agenda for other mediums. According to the Pew Research Center for the People and the Press (2008), internet readership of newspapers has increased even though general circulation has decreased. This indicates that while there is a decline, newspapers are still
relevant in today’s world. This study, should it yield meaningful results examining newspapers for priming about the death penalty, could be replicated using a subset of articles on a variety of contentious issues in California.

Artifact and Method Selection

In attempting to study whether there is evidence of priming in California newspaper coverage of the death penalty, a number of issues arise that make such an endeavor difficult at best. First and foremost is the sheer number of articles that refer to the death penalty. A preliminary search of the California Newsbank turned up more than 2000 articles, editorials, letters to the editor, and other mentions for 2009 alone in newspapers across California. Despite the large population size and relative ease of getting a random sampling of these articles, it was necessary to further limit the criteria for study as not all of these articles are covering the same aspects of the death penalty. While one article may refer to the death penalty in light of the trial of an accused murderer, another may be about construction of a new death chamber in California. Both are factual in nature and do not have explicit opinion, but they are about two separate aspects of the death penalty, and would use different types of language to speak about the issue. A random sampling of these articles may provide many different descriptions of different aspects of the death penalty, making an “apples to apples” type comparison examining priming unnecessarily convoluted because there are no consistent set of circumstances on which to base the analysis.

Further, editorials and letters to the editor usually have stated opinions—so there really is not much need to perform a content analysis to look for opinions about the death
penalty when they are clearly stated. Comparing a news story that is supposed to be an unbiased reporting of fact against an editorial with a stated opinion would likely skew the data toward priming for or against the death penalty, depending on the newspaper’s opinion on the subject. This pilot study seeks to ascertain whether priming exists in places that readers may not be expecting it—like articles concerning the death penalty—that might be persuasive without doing so openly.

The way around this limitation was to find something recent and topical that would allow for the study of all articles about a given aspect of the death penalty. This would allow for the variety of newspaper coverage to refer to a similar set of facts, and discrepancies among them would be more obvious. By excluding opinion pieces, letters to the editor, and editorials, it is easier to compare whether news articles are unintentionally priming readers to support or oppose the new death penalty protocols, and by extension, the death penalty.

The articles studied are taken from California newspapers, published between January 1, 2009 and September 30, 2009. These dates were selected because January 2009 was when the state announced that the new protocols would be published and available for public hearings. The end date is simply the date whereby the pilot study would have been unable to be completed to meet the end of semester deadlines. Terms searched in California Newsbank were “death penalty” combined with protocol and/or procedure, execution combined with protocol and/or procedure, and “capital punishment” combined with protocol and/or procedure. After eliminating letters to the editor, guest editorials/opinion editorials, and newspaper editorials, twelve unique articles were
available for analysis. Articles that appeared in more than one newspaper were counted only once. These articles come from the Associated Press, *The Argus* (Fremont, CA), the *Alameda Times-Star*, *The Daily Review* (Hayward), the *San Francisco Chronicle*, *The Sacramento Bee*, and the *Los Angeles Times*.

The methodology of this pilot study is a qualitative content analysis that is designed to sufficiently narrow an overly broad topic to studying priming in California newspaper coverage to a more narrowly defined set of articles dealing with the recent release of California’s new execution protocols. It borrows heavily from Kim and McCombs (2007), who employed a content analysis of one Texas newspaper about political candidates. Like Kim and McCombs, this pilot study examines the words used to describe the new protocols within each article, and will be coded in two steps. The first step will examine the descriptions of the protocols found in the article, and see if there are any categories about how they are depicted. These categories are modeled after similar categories used by Kim and McCombs. For instance, descriptions denoting the time passed since the protocols were ordered to be created (an example could be “long-awaited”) could be a category, as could descriptions indicating who or what entity created them (an example could be “government ordered”).

Once categorized, these descriptors are then coded a second time by looking for whether or not the words are actually value judgments about the protocols. For example, if the protocols are described simply as “long awaited,” one can infer that the newspaper was merely denoting that much time had passed before the protocols were released. If
however, the protocols are described as “urgently needed” than it is reasonable to infer that the newspaper has an opinion that at least tacitly supports the death penalty.

An additional step, not found in Kim and McCombs, is that the selected articles are further analyzed to see which interest group, (pro or anti death penalty) is given the first quote in the story. This is significant because numerous studies of newspaper readership both online, like Nielson (2006) and traditional, like Quinn, Stark and Edmonds (2007), indicate that the earlier information is presented, the more likely it is to be read by media consumers. These three sets of data are then analyzed to see if there is a pattern of priming about these protocols, and by extension, within newspaper coverage of the death penalty in California. Evidence of priming, as defined by Iyengar and Kinder (1987), in a single article is inferred if there are descriptors of the new execution protocols using language that does not neutrally describe them. Evidence of larger-scale priming could be inferred if newspapers consistently give the first quote more often to either supporters of the death penalty or death penalty opponents. Details about the patterns observed and the analysis of each article will be discussed in Chapter 3.

Other contrasts with Kim and McCombs are that this pilot study only mimics the first few steps of Kim and McCombs, as limited resources prohibit follow up examinations of reader perceptions about the death penalty protocols and a corresponding phone survey was not undertaken. Additionally, due to the ability to study an entire population, rather than a sample size, coders (other than the author) have not been used. As I would have trained the coders, nothing is really to be gained by more people
examining twelve articles. Further, the aforementioned limited resources would make hiring and training coders a difficult endeavor.

Chapter Delineation

This pilot study contains three additional chapters: a literature review, an in-depth explanation of the methodology and what steps were taken that make this study different from Kim and McCombs while staying true to the underlying theory and methodology, and the findings and an analysis of the information collected. The fourth and final chapter highlights the implications for future research, shortcomings found in this pilot study, and a concluding discussion of the results. All articles analyzed, and corresponding categorical information, have been included as appendices.
Chapter 2

A REVIEW OF THE LITERATURE

Literature reviewed for this pilot study attempts to illuminate the different branches of scholarship that influence the ideas found herein. First, a brief explanation of the biological processes that enable consumers to be primed by the media is presented. This is followed by a discussion of the evolution of agenda setting, beginning with Walter Lippman, to present day scholarship on priming. Additionally, the intersection of the death penalty as it relates to communication studies is discussed and how this pilot study fits within the field.

Biological Basis for Priming

Literature about priming in the communication studies field largely deals with how it affects the opinions of media consumers; however there is a body of scholarship that explains how the process works biologically. The biological processes that occur provide the basis for understanding why media can draw attention to certain bits of information at the expense of others. Brewer, et al. (2003) provides the most user-friendly definition, namely that certain areas of the brain (nodes) are stimulated when presented with data, and once stimulated, the brain is more likely to use that area of the brain in future decisions. Specifically, “When a node is activated in memory – or primed – it becomes more accessible and thus more likely to play a role in the formation of subsequent evaluations” (494). Price and Tewksbury (1997) offer a similar definition based on memory: once a node in the brain is primed, it is easier to access on future occasions. So, when mediated communication is “primed” to audience members, it
should reason that the subject of the priming is more likely to be considered during
decision making.

Other studies that devote attention to the topic include, Fiske and Taylor (1984); Higgins and King (1981); Wyer and Srull, (1986), Wyer and Srull (1989); Higgins et al., (1985); Higgins et al., (1977); and Srull and Wyer, (1980). As this study is not looking at the effects of priming, instead simply attempting to document whether it is occurring in newspaper articles about a given subject, it is important to determine that priming is a documented psychological phenomenon. For this study to be successful, it is not enough to trust that that media consumers exposed to information in a certain way will be more inclined to support it. With the biological basis of priming established, early theorists and methodologists of media effects, mid-to-late 20th century and present day identification of agenda setting and subsequent research, and priming as it is understood and utilized in the present can now be explored.

**Evolution: ‘Maps of the World’ to Master Symbols**

A history of priming must first begin with Walter Lippman (1922), a journalist, who first described the symbolic function of the media as creating a “pseudo-environment” (p. 14) that consumers of media respond to instead of their actual environment. For Lippman, this is a necessity for the formation of the public’s opinions about the world, as,

> The real environment is altogether too big, too complex, and too fleeting for direct acquaintance. We are not equipped to deal with so much subtlety, so much variety, so many permutations and combinations. And although we have to act in that environment, we have to reconstruct it on a simpler model before we can manage with it. To traverse the world men must have maps of the world (p. 16).
The role of the pseudo-environment created by journalists is to constrict this map as “the insertion between man and his environment” (p. 14) so that media consumers can better understand their world. Lippman’s analysis, while it does not fully articulate the idea of the media setting the agenda for media consumers, does lay the groundwork for future scholarship. In acknowledging that the media’s creation of the pseudo-environment is not necessarily impartial or complete in its reporting, Lippman makes it possible for later theorists, like McCombs and Shaw (1972), to articulate that media consumers are more inclined to think about that which the media indicates is important. McCombs (2004) essentially restates Lippman’s theories, writing that the media creates the “maps” people use to orient themselves with the world, “Whenever we find ourselves in a new situation, in a cognitive vacuum…there is an uncomfortable feeling until we…mentally map that setting” (53). In addition to Lippman, Lasswell’s early work, (1927,1934) picked up where Lippman left off in terms of describing the ability for media to selectively decide what information to feature. Studying propaganda, Laswell argued that elites use the media to create “master symbols” that over time will cause people to act in a certain way (Baran and Davis, 2006).

**Media Effects Contrarians: Lazarsfeld to Klapper**

Lazarsfeld, Berelson, and Gaudet (1944) reached a different conclusion, arguing that despite the intense amount of information presented to media consumers, there was little evidence that opinions were directly affected by media. Lazarsfeld, working with Katz (1955), later refined this idea into the “two-step flow” theory, whereby members of
the public can be interested by the media if “opinion leaders” are first affected as "these opinion leaders[exert] a disproportionately great influence on the vote intentions of their fellows" (p. 32). So, while media does have some influence on consumers, the effect is mediated through a third party. Klapper (1960), in a survey of the literature of media-effects literature, concurred, writing that while the media does play a role in shaping opinions, the impact “must not be exaggerated” (p. 9). Instead, any influence by the media on consumers is almost always mediated through other factors, like the opinion leaders of Lazarsfeld and Katz (1955) and other influences. This so-called “law of minimal consequences” (McCombs, 2004), was the backdrop for the research into the 1968 presidential election that gave rise to McCombs and Shaw’s agenda-setting theory.

Foundations of Agenda Setting

According to McCombs (2004) “those early social science investigations…did find considerable evidence that people acquired information from the mass media even if they did not change their opinions…there was a lingering suspicion among many social scientists that there were major media effects not yet explored or measured” (p. 4). Chief among those scholars who thought there might be some as-yet-defined media effects were McCombs and Shaw (1972), who looked at voters that had not yet picked a candidate to support in the 1968 Presidential election. Their conclusions illustrate the mass media’s role in shaping the debate about policy and political issues, specifically that, “Readers learn…how much importance to attach to [an] issue from the amount of information in a news story and its position,” so in effect, “the media may set the ‘agenda’ of the campaign (p. 172). These correlations described by McCombs and Shaw
were directly built on the foundations of several similar studies of voter behavior—
especially Berelson, et al. (1954), Trenaman and McQuail (1961), Cohen (1963) and
Lang and Lang (1966), who all concluded to some extent, that through media coverage,
“voters do learn” about political issues covered by newspapers (McCombs and Shaw,
1972 p 177), though they differ on exactly what this means.

For instance, Lang and Lang claim that “the mass media force attention to certain
issues…[and] are constantly presenting objects suggesting what individuals in the mass
should think about” (p. 468), while Cohen states that newspapers are “…stunningly
successful in telling [their] readers what to think about” (p. 13). Trenaman and McQuail
are not convinced that newspapers actually have much of an effect—and that while
readers may know what is being said—they do not “take it at face value” (p. 168). So,
while these prior studies hinted at what was to become known as agenda setting, it was
McCombs and Shaw who eventually showed a correlation between a voter’s political
knowledge and the issues discussed in the mass media. Specifically that “voters tend to
share the media’s composite definition of what is important…[and] strongly suggests an
agenda setting function of the mass media” (p. 184). In summation, there are many early
studies that laid the foundation for agenda setting and priming, but McCombs and Shaw
distill past research into a workable theory that is still in use today. Numerous studies
indicate a correlation between the media’s agenda and the public agenda (McCombs,
2004), many of which appear in Dearing and Rogers (1996). Additional studies
documenting this correlation include, Shaw and McCombs (1977); Weaver, Graber,
McCombs and Eyal (1981); Winter and Eyal (1981); Smith (1987); Eaton (1989);
Differentiating Agenda Setting and Priming

As agenda setting is still in use, it is important to distinguish between agenda setting and priming, the theory that provides the background for this study. As described above by Iyengar and Kinder (1987), priming is “the idea that media draw attention to some aspects of political life at the expense of others” (p. 114), and is often understood as an extension of agenda setting theory (Scheufele and Tewksbury, 2007), first outlined by McCombs and Shaw (1972). Scheufele and Tewksbury offer the following distinction: “by making some issues more salient in people’s mind (agenda setting), mass media can also shape the considerations that people take into account when making judgments about political candidates or issues (priming)” (p. 11). This focus is what differentiates priming from its parent, agenda setting. Some studies, like Sheafer (2007), use the term “agenda-setting,” when in fact they should probably use the term “priming” because it is now shaping the considerations that people are taking into account as they make decisions—not simply documenting the importance of an issue. Sheafer (2007) observes that agenda-setting research has changed, writing that “In the last few years, the focus of many agenda-setting analyses has shifted from first to second level, sometimes called attribute agenda setting. It is a clear shift from a focus on the media’s role in telling us ‘what to think about’ to their function of telling us ‘how to think about’ objects” (p. 11). Krosnick and Kinder (1990) offer an explanation of this that dovetails with the earlier “biological” review, arguing that people forgo exhaustive analysis of all possible
considerations in favor of relying on that information that “is most accessible in memory, information that comes to mind spontaneously and effortlessly when a judgment must be made” (499). Studies documenting these effects on media consumers include Iyengar, Peters, and Kinder (1982); the aforementioned Krosnick and Kinder (1990); Krosnick and Brannon (1993), Kinder and Sanders (1996); Cappella and Jamieson (1997); Kinder and Nelson (1998); and Krosnick, et al. (2006).

With these studies providing a theoretical framework, this pilot study will attempt to see if California newspapers make certain information about the death penalty more accessible than other information. Priming as it relates to newspaper coverage of the death penalty is a subject that has not been addressed at length. As will be discussed further below, Dixon, et al. (2006) has studied priming as it relates to perceptions about ethnicity and has some data relating to perceptions about the death penalty, but it is merely incidental. That said, there is still other scholarship that should be discussed before this study can proceed.

The Clash of Absolutes

Like the issue of abortion, the death penalty is essentially a clash of absolute ideas. From a policy perspective, there are a plethora of divergent views about how and if the death penalty should be applied. Someone who supports executions in some circumstances may not believe that a state or country could ever eliminate the flaws within the capital punishment system. Another person may find that there is too much concern for the appeals process, and may wish to reduce the amount of time between sentencing and execution. Others may feel that some crimes deserve the death penalty,
while certain crimes do not. These wide-ranging views on the death penalty are often overlooked by the political and media establishments in favor of what Tribe (1990) calls the clash of absolutes—because fundamentally there is no middle ground between supporting or opposing the idea that a human being can be executed for their crimes. Tribe’s focus is on abortion issues, and like the much of the death penalty debate, much of the focus on the issue eliminates nuance in favor of competing absolute ideas. While an exhaustive examination of this clash and abortion is not relevant to this study, it is worth noting Tribe’s observation about how the media affected policy change on this issue, and the implications for media portrayals of the death penalty.

Tribe details the aftermath of a court battle over abortion rights, *Webster v. Reproductive Health Services*, describing it mostly in terms of the tactical successes of the pro-choice movement in messaging about abortion. In 1989, a formerly routine bill that denied Medicaid funding to low-income women that had been passed before, was suddenly problematic politically for then-president George H. W. Bush. Tribe writes, “It was true that this heartless Medicaid measure had been routinely passed for years, but that was before *Webster*. *Webster* had put abortion under a media magnifying glass, and many previously unnoticed issues were taking on new importance” (p. 181). According to Tribe, it was not until the media started paying attention to pro-choice issues brought about by this court case that people started to assign greater importance to the topic. This would also seem to support the idea of media coverage shaping an issue in a media consumer’s mind—priming. Simply put, media coverage shapes political importance.
Similarly, media coverage of the new death penalty protocols could similarly cause the
cubic to assign importance to one side of the death penalty debate over another.

**The Intersection of Communication Studies and the Death Penalty**

The literature of the death penalty within the communication field is not
extensive, but there are several significant articles that should be acknowledged before
undertaking this sort of study. Additionally, there are sources that should be referenced
simply because there are so few articles on the subject.

Any study of the communication surrounding the death penalty is undoubtedly
indebted to Brummett (1979) who is the first to examine issues surrounding the death
penalty symbolically, writing “And so with any symbolic form that lures us, we would do
well to see what hidden motives and values we embrace unknowingly when we
participate in the dance.” Brummett references Burke (1945), and writes of “power” as a
symbolic form. Brummett asserts that a condemned inmate, in resisting efforts to spare
his life and become the first person executed in the United States in ten years, and has
“widespread appeal [because it] is a conflict between the powerful and the powerless, a
symbolic form of enduring value” (p. 4). Others to engage death penalty communication
symbolically are the aforementioned Lipschultz and Hilt (1999), who in addition to
noting the dearth of studies about communication and the death penalty, speculate about
the social construction of reality created when television news covered three popularly
supported executions in Nebraska, and hypothesize that: the popular support for the death
penalty leads to a lack of journalistic inquisition of elected officials, the social
construction of reality created by the media’s treatment of executions leads to increased
support for the death penalty, justice is portrayed through a constant set of symbols, and the content of the media’s coverage is subjective. While the connection with the research question of this thesis is not made by the authors—the media’s apparent subjectivity is an example of priming in media coverage of the death penalty.

Wood (2005) provides a metaphorical analysis, using the balanced scale of justice as metaphor, in evaluating the effectiveness of victim impact statements in capital murder trials. Wood concludes that using this metaphor, the experiences of the victim and the accused are “weighed” against each other. The author concludes that this symbol of “justice balanced” masks the real power in the equation: the state. The judicial process is seen as flawed and biased against defendants.

Trasciatti (2003) employs a frame analysis on Italian American newspaper coverage of the Sacco/Vanzetti executions in the 1930’s. This analysis of the Italian American press was intended to open dialogue on broader issues, in this case on framing strategies for an alternative medium that aims to challenge established relations of power and privilege.

**The Death Penalty and Priming**

This point in the discussion is where literature surrounding the death penalty starts to dovetail with priming. In a series of studies on similar topics (Dixon & Linz (2000a); Dixon & Linz (2000b); Dixon, et al. (2003); Dixon & Maddox (2005); Dixon, (2006); Dixon & Azocar (2007); and Dixon, (2008)), Dixon examines stereotypes about the criminality of African Americans by television viewers. One of these studies, Dixon and Maddox (2005) uses priming to illustrate that people with pre-existing stereotypes
about the criminality of African-Americans are more likely to support the death penalty, and finds “that heavy television news viewers were more likely than light viewers to feel emotional discomfort after being exposed to the dark–skinned Black perpetrator. Heavy news viewers also had favorable perceptions of the victim when the perpetrator was Black” (p. 1555). Dixon and Azocar’s (2007) research also found that heavy news viewers had “increased support for the death penalty and activated stereotypes of Black laziness” (p. 241). Through the study of broadcast and cable news, Dixon and his collaborators show the effects of priming about racial issues and the death penalty to viewers, and how it can activate pre-existing stereotypes and affect a viewer’s perception of an issue. While these studies do use priming to study media portrayals of an issue that is similar to this thesis, the fact that this pilot study aims to examine newspaper articles and not television news make it difficult to compare methodologies. In addition, the news programs used to test the claims of priming in these studies are specifically doctored to reflect a given, primed perspective, whereas this pilot study does not presume that priming will exist in the artifacts studied. Also, Dixon, et al.’s studies are focused more on ethnicity, and data collected about perceptions on the death penalty were incidental rather than deliberate.

Another significant article in terms of this pilot study is Hartnett and Larson’s (2006) whimsical treatise that outlines what they define as the “master tropes” used by both opponents and supporters of capital punishment. The authors argue that there are three basic “tropes” through which both sides make their case: 1. The Rhetorics of
Closure vs. Reconciliation, 2. The Rhetorics of Horrible Acts; and 3. The Rhetorics of Systemic Error. The authors describe these arguments as “tropes” because they are, more than just clusters of content-based claims… they forward sweeping norms about time, causality, and political process, and employ drastically different forms of argumentation….Because these categories therefore contain content, cultural norms, and argumentative strategies…as the idea-shaping rhetorical vehicles of thought (p. 273).

The authors claim that “Space precludes a discussion of the methods underlying our [sic] tropological approach,” (p. 285) and refer readers to research by Burke (1945), White (1989) and Jameson (1976). However, they fail to explain how they use the methods found in these works to identify master tropes and claim that Hartnett’s travels and activism against the death penalty “has given me [sic] a first-hand sense of how many of my neighbors argue about crime, violence, and the death penalty” because he has “spent the past seven years traveling around the nation giving lectures and poetry readings, participating on panels, and hosting community conversations about the prison industrial complex and the death penalty” (p. 264). If this article was simply an opinion piece, without illusions of wider scholarship, than these statements would not be problematic. However, it is published in a peer reviewed journal (Communication and Critical Cultural Studies) and the authors are making serious claims based on these observations, saying that “arguments about the death penalty fall into one of these categories” (p. 273). In light of the paucity of evidence provided by the authors to support the claims about death penalty argumentation, it is clear that these “tropes,” cannot be verified using a process resembling legitimate scholarship, and must not be taken seriously.
That said, this article is still important because it is the first to address in great
detail from a communication studies perspective about the arguments made by death
penalty opponents and proponents in support of their causes. As such, these arguments
are relevant because any finding from this pilot study that indicates a bias in newspaper
coverage of the death penalty for or against it would undoubtedly provide fuel for these
arguments.

The void in scholarship where the legitimate efforts by Dixon and his
collaborators to study priming in broadcast news and the article by Hartnett and Larson
leave off is where this pilot study fits in to the scholarship. Dixon, et al. did not look for
the possibility of priming in newspapers. As was discussed in Chapter 1, newspapers
often provide the basis for television news coverage. An indication of priming in
newspaper coverage of the death penalty has implications for Dixon’s work. This pilot
study could serve as a complement to Dixon, and furthers the field of communication
studies about priming by the media.

Additionally, the multi-step coding process provides a methodology for
identifying categories designed from legitimate scholarship (Kim &
McCombs, 2007). While this pilot study does not claim to identify every
possible “trope” of death penalty argumentation (and it is unclear as to whether this is
even possible), it does examine whether there are any patterns as to how newspapers
portray one aspect of communication as it relates to the death penalty. This is a far more
realistic and concrete goal that incrementally furthers the scholarship in the
communication studies field by observing whether there is evidence for the existence of
priming within newspaper coverage of a given issue. It can be replicated using many issues covered by newspapers to look for the possibility of priming about that issue.
Chapter 3

METHODOLOGY AND ANALYSIS OF THE DATA

As discussed in Chapter 1, the methodology of this pilot study borrowed heavily from Kim and McCombs (2007), with several important differences that are largely the result of limited resources available to conduct this particular pilot study. The following section details the methodology used by Kim and McCombs to conduct their study, and documents how it both influences and differs from this pilot study of priming in death penalty newspaper coverage.

In their work, Kim and McCombs attempt to answer three research questions stemming from their contention that “significant links between public opinion and the general affective tone of news coverage about a variety of both political and non-political objects in the news has involved the tone of news coverage” (p. 302). They put forth the following three hypotheses for their study of newspaper coverage of political candidates for Governor and U.S. Senator in the Austin American-Statesman:

“H1. The public's attribute agenda for a political candidate reflects the media's attribute agenda. These attribute agendas are defined in terms of two dimensions, the substantive attributes on the agenda and the affective tone of each substantive attribute.

“H2: The affective tone of the attributes in the public's mind for a candidate predicts opinions about the candidate.

“H3: The substantive and affective aspects of attributes emphasized in the media are significant elements in the public's attitudinal judgments.” (p. 302)
They test these hypotheses by “demonstrating that attributes emphasized in the news are more likely to predict attitudes toward the candidates for heavy newspaper readers than for light newspaper readers” (p. 302). Their methodology is three-fold. First, they employ a content analysis of all articles in the aforementioned newspaper for the six-week period leading up to the 2002 general election in Texas. The unit of analysis was an assertion made about any of the four candidates in the Senatorial and Gubernatorial election were recorded, and then placed into categories corresponding to:

- leadership,
- experience,
- competence,
- credibility,
- morality,
- caring about people,
- communication skills,
- pride in family/background, roots, and race/ethnicity,
- non-politician,
- style and personality, and
- "other" comments about the candidate's personal qualifications and character (p. 304).
After they were categorized, these assertions about candidates were further coded for “their tone, depending on the valence of the assertions {i.e., positive, negative, or neutral}” (p. 304).

In order to examine for evidence of priming in California newspaper coverage of the new death penalty protocols, a similar content analysis is performed here. As this study is examining the portrayals not of people, like Kim’s and McCombs’ candidates, but instead examining the portrayals of new rules governing executions, the unit of analysis will be descriptions of the new death penalty protocols offered by the newspaper. That discounts those descriptions offered by people unaffiliated with the newspaper—like testimony from the hearings on the new protocols offered by opponents or supporters. This is done for the same reason as excluding editorials and letters to the editor—readers expect proponents or supporters of the death penalty protocols to be biased—it is the descriptions of the protocols in the supposedly unbiased section of the article that will be evidence of priming.

These descriptions are coded to see whether there are any categories that fit with those of established literature, like Kim and McCombs, and to see how many unique descriptions of the protocols exist in these articles.

Once this is complete, the descriptions are evaluated for whether they make value judgments about the protocols based on whether the articles have a positive, negative, or neutral tone. While this step was sufficient for Kim and McCombs in examining the assertions made by newspapers about candidates, this pilot study is concerned with observing instances of priming. To that end, an additional coding is undertaken to see
whether the first person given a comment or cited by the newspaper in the article is a supporter or an opponent of the death penalty. As mentioned in Chapter 1, there is a declining rate of readership as the article continues, so the first quote has the best chance of being read by newspaper consumers. While this may seem at odds with declining to study editorials and letters-to-the editor, a newspaper consciously chooses which quote or comment from someone of interest to feature in the most prominent position. This information, taken together with the analysis of the descriptions of California’s new protocols, could indicate priming in California newspaper coverage of those protocols, and by extension, the death penalty.

As Kim and McCombs were not simply concerned with looking for whether language indicating the possibility of priming might be found to exist in newspaper articles, they utilized a telephone survey to examine reader perceptions. Specifically they examined whether heavy readers of the *Austin-American Statesman* had opinions that were similar to the assertions found in the newspaper articles for the period of study. Their findings found a correlation between the assertions and opinions, that “the study reported here links the affective tone of specific attributes to opinions about political candidates. And it is one of the first, perhaps even the first, to investigate the attribute priming process in terms of both the substantive and affective dimensions of attributes” (p. 310). So, as the methodology is similar to Kim and McCombs, a follow up telephone survey conducted after this pilot study could show similar results. It is also necessary to first determine what kind of descriptions about the death penalty are being provided by supposedly unbiased newspaper coverage—if all the language is found to be strictly
neutral, there would be no reason to continue with a follow up survey. As Kim and McCombs have said, if there are no “substantive and affective aspects of attributes emphasized in the media,” (p. 302) then the “most salient attribute categories fails to support the hypotheses, there is little reason to pursue analysis of less salient categories” (p. 303). As this is a pilot study in search of evidence of priming, this is a necessary first step that must be taken before any further research on reader or public perceptions could be undertaken.

Given these caveats, this study provides a guide for conducting a thorough content analysis of newspaper articles about California’s new death penalty protocols for evidence of priming, as defined by Iyengar and Kinder (1987) that the “media draw attention to some aspects of political life at the expense of others” (p. 114).

Coding

As the number of articles coded is relatively small, the results of the coding of the articles are presented here. The full articles are included with this pilot study as Appendices A,B,C,D,E,F,G,H,I,J,K and L.
Analysis

Article 1.

Death Sentences, Executions Wane

Los Angeles Times (also appeared in the San Jose Mercury News)
January 1, 2009
Author: Carol J. Williams

Descriptions of new protocols:

- state’s lethal injection procedures

First person cited with a comment or quote:

Richard Dieter, a Catholic University law professor and director of the anti-capital punishment group Death Penalty Information Center. Opposed to the death penalty.

Article 2.

State Decides to Seek Public Input on Execution Plan

Alameda Times-Star
January 7, 2009
Author: Howard Mintz

This article also appeared in the Alameda Times Star, the Argus, The Hayward Daily Review, the Oakland Tribune, the San Mateo Valley Times, and the Tri-Valley Hearald

Descriptions of new protocols:

- execution plan
- new execution procedures
- new procedures

First person cited with a comment or quote:

California Deputy Attorney General Michael Quinn, who is working to implement the new procedures on behalf of the state. In support of the death penalty.
**Article 3.**

*Executions in Holding Pattern*

*San Francisco Chronicle*
February 22, 2009
Author: Bob Egelko

*Descriptions of new protocols:*

- proposed new procedures for executing convicts
- execution procedures
- proposed new procedures
- California’s changes
- a set of procedures that included altering chemical dosages, improving staff selection and training, and installing a new death chamber
- new procedures
- final regulations

*First person cited with a comment or quote:*

Seth Unger, a spokesman for the state Department of Corrections and Rehabilitation. A supporter of the death penalty.

**Article 4.**

*AG Brown Says He'll Follow Death Penalty Law*

*The Associated Press,* appeared in the *Redding Record Searchlight*
March 11, 2009
Author: Don Thompson

*Descriptions of new protocols:*

- new regulations

*First person cited with a comment or quote:*

California Attorney General Jerry Brown. This is difficult to code, because while an opponent of the death penalty in his earlier career—the quote itself describes that the Attorney General will uphold the law and support the death penalty. This quote seems to be supportive of the death penalty and is coded as such.
Article 5.


The Sacramento Bee
May 2, 2009
Author: Denny Walsh

Descriptions of new protocols:

- new execution rules
- a step toward ending the moratorium
- new lethal injection protocol
- revised execution protocol
- 42-page document
- revamped execution procedures
- execution procedures
- The new protocol

First person cited with a comment or quote:

Attorney for death row inmate Michael Morales, David Senior. A death penalty opponent.
Article 6.

_Prison Officials Develop Method of Lethal Injection—Revised Procedure to be Reviewed_

_The San Jose Mercury News_
May 5, 2009
Author: Howard Mintz

_Descriptions of new protocols:_

- method of lethal injection
- revised procedure
- new lethal injection procedure
- 42-page proposal
- new guidelines
- new procedures
- procedures
- new procedures
- newly released procedures

_First person cited with a comment or quote:_


Article 7.

_Court Denies Rehearing for Killer En Banc: But 11 Judges Favor Giving Him a New Hearing._

_The Press-Enterprise_
Tuesday, May 12, 2009
Author: Richard K. Deatley

_Descriptions of new protocols:_

- Lethal injection protocol

_First person cited with a comment or quote:_

- Deputy Attorney General Holly D. Wilkens, a supporter of the death penalty.
Article 8.

Public Rips Execution Procedures at Hearing

Los Angeles Times
June 30, 2009
Author: Carol J. Williams

Descriptions of new protocols:

- Execution procedures
- Proposed new lethal injection procedures
- Execution methods
- Protocols

First person cited with a comment or quote:

Seth Unger, spokesman for the Department of Corrections and Rehabilitation. A supporter of the death penalty.

Article 9.

State's Budget Woes Fuel New Anti-Death Penalty Effort

Los Angeles Times
June 29, 2009
Author: Carol J. Williams

Description of the new protocols:

- lethal injection procedures
- revised lethal injection routine

First person cited with a comment or quote:

Article 10.

Quick Take: Capital Punishment - Execution Rules Review Period is Nearly Up - 
Public Comment Ends Tuesday on Proposed Lethal Injection Procedures, New 
Death chamber at San Quentin

The Sacramento Bee, 
June 29, 2009 
Author: Sam Stanton

Description of the new protocols:

- the new policies 
- 42 pages in length 
- lethal injection process 
- the regulations 
- execution protocols 
- revised procedures 

No person was cited with a comment or quote.
Article 11.

Death Penalty Foes Jam Public Hearing - Technical Review Turns Personal

The Sacramento Bee
July 1, 2009
Author: Sam Stanton

Descriptions of the new protocols:

- notice of proposed regulations
- technical aspects of how lethal injection is administered to condemned inmates
- new lethal injections guidelines drafted by the California Department of Corrections and Rehabilitation,
- part of an effort to fend off legal challenges that have kept the death penalty on hold in California since 2006.
- 42 pages of procedures for administering three drugs to kill a condemned inmate, bolstered the amount of training execution teams receive and built a new death chamber at San Quentin
- New lethal injection process
- Death penalty procedures
- New lethal injection procedures
- Revised lethal injection protocol

First person cited with a comment or quote:

Bill Babbitt, brother of Manuel Babbitt, executed in 1999. Opposed to the death penalty.

Article 12.

Death Penalty Use Differs by County—Analysis: GOP Registration Among Determining Factors

The Sacramento Bee (Also appeared in the Modesto Bee on July 5, 2009)
July 3, 2009
Author: Phillip Resse

Descriptions of the new protocols:

- new protocols for lethal injection

First person cited with a comment or quote:
UCLA law professor Stuart Banner. Unclear (from the article) as to whether he is pro or anti- death penalty.

Discussion

After coding, the new protocols are found to be described 55 times, and fall into four distinct categories. These categories, while necessarily different from those employed by McCombs and Shaw who were looking at assertions made about political candidates, do serve to highlight the distinctions among the various descriptions. This is keeping with the spirit of the categories of McCombs and Shaw, which served to determine what kinds of assertions were made about the political candidates. Similarly, these four categories are:

1. Descriptions of the function or scope of the protocols
2. Descriptions indicating change from earlier process
3. Descriptions indicating that the procedures are put forth by the State of California.
4. No description at all

There were two descriptions that were categorized more than once, because they fit into two separate categories, fitting into both Descriptions indicating that they are put forth by the State of California and Descriptions indicating change from an earlier process. An analysis reveals that these 55 descriptions can be collapsed into fifteen descriptions that are unique. A unique description may have several variations, but this arises only because the words “protocols” and “procedures” are used interchangeably throughout the twelve articles or an extra word was added that did not change the overall description.
An example of this is that “new procedure” and “new execution procedure” are considered to be the same essential description, and not unique from each other.

Unique descriptions found in these articles are:

1. “A set of procedures that included altering chemical dosages, improving staff selection and training, and installing a new death chamber”

2. “42-page document”

3. “A step toward ending the moratorium”

4. “42 pages of procedures for administering three drugs to kill a condemned inmate, bolstered the amount of training execution teams receive and built a new death chamber at San Quentin”

5. “Part of an effort to fend off legal challenges that have kept the death penalty on hold in California since 2006”

6. “Technical aspects of how lethal injection is administered to condemned inmates”

7. “New procedures”

8. “Revised procedures”

9. “Revamped execution procedures”

10. “Newly released procedures”

11. “New lethal injections guidelines drafted by the California Department of Corrections and Rehabilitation”

12. “California’s changes”

13. “Final regulations”

14. “Procedures” (same as execution procedures or lethal injection procedure)
15. “Method of lethal injection”

By far the most common description found in the twelve articles analyzed is simply those stating that the protocols are “new” or “newly proposed” (20 instances). Coincidentally, this description falls into the largest category, *Descriptions indicating change from an earlier process*. The most diverse category was the first, *Descriptions of the function or scope of the protocols*, with six of the eight descriptions being unique. This category also is the broadest, with several multi-part descriptions that may have components that might fit into several different categories. It functions to illustrate more in-depth, specific details ascribed to the protocols by the newspapers. The next category, *Descriptions indicating that the procedures are put forth by the State of California* has nothing unique to itself, as both entries here are also found in *Descriptions indicating change from an earlier process*. The final category, *No description at all* does not really contain descriptions, rather it contains several different names for the procedures, like execution process, lethal injection process, or procedures. There is no additional language involved that would place these into other categories.

*Tone.*

A discussion of the tone of each of the fifteen unique assertions found in the twelve articles that comprise this pilot study is provided here.

The first unique description, “A set of procedures that included altering chemical dosages, improving staff selection and training, and installing a new death chamber” is specific to only one article *Executions in holding pattern*, from the *San Francisco Chronicle* on February 22, 2009. This is the longest of the descriptions coded here, so it
is easier to examine the tone by breaking it into four parts: 1) a set of procedures, 2) that included altering chemical doses, 3) improving staff selection and training, 4) and installing a new death chamber. Beginning with “a set of procedures,” it is impossible to find any positive or negative tone in this statement. The word procedures are simply illustrative of what the document is—new procedures for the state to follow in order to execute a condemned inmate. “Altering chemical doses” is similarly neutral, as there is no value judgment involved in noting the change from earlier procedures. The third part is more complicated to code, as at face value “improving staff selection and training” might indicate a positive regard for the protocols—as the word improving could be construed to mean “making better.” That said, this is also coded here as neutral, because the entire effort by the state in releasing these protocols is geared toward crafting a process that meets constitutional guidelines as interpreted by Judge Fogel. So the newspaper’s indication that the state is attempting to “improve” staff training seems to be simply noting what the state is attempting to do. In this context, the word “improve” could also be construed as “changed to comply with Judge Fogel’s orders” and does not indicate a positive regard for the process. The final part of this description, “installing a new death chamber” contains no words that might indicate value, and is coded as neutral.

The next description, “42-page document” is found across several articles in this pilot study, and simply denotes the length of the procedures. There are no value judgments here, and the tone is coded as neutral.

“A step toward ending the moratorium” is found in only one article, Capital Punishment in California - New execution rules posted – Protocol is step toward ending
moratorium in *The Sacramento Bee* on May 2, 2009. This description was in the headline of the article, along with the body of the article, and indicates that the state is releasing these new protocols because Judge Fogel’s ruling has essentially created a moratorium on the death penalty in California. This statement does not contain language that shows positive or negative regard for the protocols. People on opposite sides of the debate about the death penalty may well interpret this statement in a completely different light—ascribing meaning based on their preferences. “Ending the moratorium” would likely be interpreted as positive for someone in support of the death penalty, and negative for someone opposed. This statement is coded as neutral.

The next description, “42 pages of procedures for administering three drugs to kill a condemned inmate, bolstered the amount of training execution teams receive and built a new death chamber at San Quentin” was found in only one article studied, *Death penalty foes jam public hearing - Technical review turns personal* in *The Sacramento Bee* on July 1, 2009. This follows exactly the same format as the first description coded here, and is broken down in a similar fashion. “Bolstered” is examined the same way as “improved” in that description, and this too is coded as neutral.

“Part of an effort to fend off legal challenges that have kept the death penalty on hold in California since 2006” is also found in the same *Sacramento Bee* article referenced in the preceding paragraph. This statement contains no language that assigns any positive or negative regard for the protocols—it simply reflects the state’s attempt to reinstate the death penalty by releasing these protocols to the public. This statement is coded as neutral.
“Technical aspects of how lethal injection is administered to condemned inmates” is also found in the same article referenced in the preceding two paragraphs. It contains no value judgments that indicate a positive or negative regard for the protocols. This statement is coded as neutral.

“New lethal injections guidelines drafted by the California Department of Corrections and Rehabilitation,” is also found in the July 1, 2009 *Sacramento Bee* article referenced above. It denotes that the procedures are recent and created by the state of California. There is nothing here to indicate any value judgment, positive or negative, and as such is coded as neutral.

The remaining descriptions: “new procedures,” “revised procedures,” “revamped execution procedures,” “newly released procedures,” “California’s changes,” “final regulations,” “procedures” (same as execution procedures or lethal injection procedure), “method of lethal injection” are each found across several articles in the pilot study and contain no language that indicates value judgments in support or opposition to the new protocols. The tone for all of these is coded as neutral.

First quotes.

As can be seen from the coding above, five of the articles in this pilot study feature first quotes given to people in support of the death penalty. Additionally, five of the articles feature quotes or attributions given to people in opposition to the death penalty. One article contains no quote or attribution, and the final article contains a quote that does not indicate, by context or explicitly, whether the person supports or opposes the death penalty.
There is one caveat here, as the *Associated Press* article from March 11, *AG Brown says he'll follow death penalty law* is about how the normally anti-capital punishment views of California Attorney General Jerry Brown might affect his ability to enforce the law as Governor. The quote is Attorney General Brown saying that he will uphold the law (support the death penalty) if he is elected Governor. So, this is coded as a quote from a person supporting the death penalty, despite a past record of opposition.
Chapter 4

CONCLUSIONS

Results

There are several good working definitions of priming addressed earlier in this study, including Iyengar and Kinder (1987): “the idea that media draw attention to some aspects of political life at the expense of others” (p. 114); Sheafer’s (2007) observation that “the focus of many agenda-setting analyses has shifted from first to second level, sometimes called attribute agenda setting. It is a clear shift from a focus on the media’s role in telling us ‘what to think about’ to their function of telling us ‘how to think about’ objects” (p. 11); or Krosnick and Kinder (1990) stating that people forgo exhaustive analysis of all possible considerations in favor of relying on that information that “is most accessible in memory, information that comes to mind spontaneously and effortlessly when a judgment must be made” (499). Using these definitions and the preceding analysis, there is no evidence found in these twelve articles for priming to support or oppose the new death penalty protocols, and by extension, the death penalty itself, based on the rubrics of this pilot study.

Without exception, all descriptions of the state’s new death penalty protocols found in these articles that were not attributed to outside sources were found to contain language that was neutral in tone. There was no support or opposition implied for the protocols whatsoever in any of the language used to describe these protocols. This coupled with the equal number of first quotes and attributions given to both supporters
and opponents of the death penalty across these articles, further show that there is no
evidence of priming.

Admittedly, it is surprising that no evidence of priming to support or oppose the
death penalty was found in these articles under these rubrics. The nature of discussing
the death penalty lends itself to absolute language—certainly most of the people quoted
in the articles studied were very clear which whether they supported or opposed the death
penalty. It would have been very easy for the newspapers studied to adopt the language
of supporters or opponents in their descriptions of the protocols, given Tribe’s (1999)
observation that “Our national institutions are braced for a seemingly endless clash of
 absolutes. The political stage is already dominated with the well-rehearsed and deeply-
 felt arguments…that we have come to know so well” (p. 6). Without a real middle
ground in the public discussion, it would seem as if newspapers should have been forced
to take a side when describing the issue—however this pilot study shows that this is not
necessarily the case. That said, should an additional, similar study be undertaken,
evidence of priming would seem most likely to be found in descriptions of issues that are
 similar clashes of absolutes—like abortion.

It is also conceivable that data collected in this study does point to priming, but
differently than priming simply to support or oppose the death penalty. The
overwhelmingly neutral language about the new protocols does not necessarily indicate a
lack of value judgment about the protocols or the death penalty itself. This neutrality
could also indicate that newspapers portray the death penalty as an established function
of government—similar to building and maintaining roads or providing police or fire
protection. The neutrality here could indicate that newspapers may not be priming readers to support or oppose the death penalty, but there may be evidence of priming about the established and unchanging nature of capital punishment in California.

**Limitations**

It is possible that the effort to construct narrow rubrics by which to search for evidence of priming has predisposed this pilot study not to find such evidence. The rubrics were narrow so as to make any evidence of priming stand out much more clearly, so a definitive declaration that “there is evidence” for priming in these articles might have been easier to make.

However, the idea of priming, according to Iyengar and Kinder (1987) is that “the idea that media draw attention to some aspects of political life at the expense of others” (p. 114). This study only looked at a very narrow set of circumstances by which newspapers might have been intentionally or unintentionally priming an audience, specifically in the instances where the newspaper provided the descriptions of the new death penalty protocols. If, in addition to studying descriptions of the new protocols themselves, perhaps the articles should also have been examined for not how the protocols themselves were described, but their function as well. One category of analysis recorded those descriptions of “scope” of the protocols—that is, their function, application, and other attributes of the protocols, but only what the protocols are described to be intrinsically—not for what they do. This may not have made much of a difference—as much of what the protocols are described as “doing” in the articles, at
least after a preliminary reading, are fairly technical descriptions of the process without much additional commentary.

Additionally, it is possible that the final part of the coding of this pilot study might have yielded richer data if done differently. In theory, whichever “side” of the death penalty debate was quoted first highlighted the opinion that the newspaper felt was most important. Perhaps this study focused too much of what the newspapers specifically said about the protocols, and not what information was featured most frequently. Maybe it would not matter that the newspapers do not explicitly state an opinion on the protocols if the majority of the information about them comes from one side or another, and the newspaper published one side’s views verbatim, while modifying the other side’s views. But a study of this magnitude would have required a great deal more time and resources to complete—for instance—it would have been necessary to hear what was actually said about the protocols and then see how the newspaper portrayed it.

**Implications for Future Research**

Future research that might be modeled from this pilot study could look at all instances of opinion about death penalty protocols in newspaper articles. This might provide a clearer picture of which opinions were featured in addition to the newspaper’s descriptions of them. A simple “count” method could easily determine which side of the debate got more inches of print, and an analysis could be done to weigh the information at the top of the article as more favorably placed than the information in the middle and bottom of the article. If future research on this topic is to be undertaken, this sort of “count” could yield data that might indicate priming in a manner that is relatively easy to
document. If this type of analysis were to find evidence of priming in support or opposition to the death penalty, then a follow up phone survey of newspaper readers could be conducted to see if the attitudes of these readers are in-line with the attitudes evident in the articles themselves.

Another strategy for future research might include limiting the study to one newspaper over a longer time period, and coding in a similar manner to this pilot study the instances where the death penalty is described. In this way, a shift in tone about the issue would be easier to observe as there would be patterns established in earlier coverage that may or may not change. One drawback to this approach is that while the death penalty is a state issue, this method would only look at one specific region. It may not be possible to extrapolate the viewpoints of one area to the rest of the state—for example, conclusions drawn from a more conservative newspaper in Orange County may not apply equally to the readers in more liberal Berkeley. However, it could provide interesting data as a part of a comprehensive examination of newspapers and attitudes about the death penalty. This could be a multi-pronged approach that examined one small aspect of the death penalty, like the new protocols, on a statewide level, while looking at how the death penalty was portrayed in one newspaper over a longer period of time. It might be especially relevant if the one newspaper was the Los Angeles Times, California’s largest newspaper. A follow up phone survey could be used to see whether information about the death penalty salient in this coverage was also salient in the minds of newspaper readers. This phone survey could also ask questions that might follow up from this pilot
study to see if newspaper readers indeed view the death penalty as an unchanging and established institution in California.

Future research using methodology similar to this pilot study, or to the alternatives listed above, could be conducted on any number of social issues. Abortion, immigration, same-sex marriage or other “hot-button” topics could be examined using a relatively small amount of articles about a small aspect of the discussion—for instance about a bill or ordinance that becomes law and is covered in the media.

Additional, better funded research might also take into account other mediums—specifically new media, like social networking or web logs (blogs), are a frequent source of information for younger generations. Television, radio, and newsmagazines could be approached in a similar fashion about any number of social issues.

Final Thoughts

This pilot study was conducted using a strict set of rubrics that examined how California newspapers portrayed the new proposed procedures for implementing the death penalty. While no evidence of priming to support or oppose the death penalty was found about these protocols, and by extension, about the death penalty, that does not make the results less valid. If anything, it shows that newspapers are at least attempting to report on this issue as unbiased documentarians of current events—and possibly at the same time treating the death penalty as a “settled” issue that is not worthy of much debate or discussion. This kind of research can help to ensure journalistic integrity by keeping newspapers accountable and checking up on them to make sure that reporting of events is not unduly influenced by the zeal to sensationalize events using slanted language.
APPENDICES
Health Sentences, Executions Wane

Los Angeles Times
January 1, 2009
Author: Carol J. Williams

Executions and new death sentences each continued their sharp nationwide decline in 2008, as states wrestled with legal, moral and financial concerns about capital punishment.

Thirty-seven people were executed in nine states, the lowest total in 14 years and a 62 percent drop from the 98 death sentences carried out in 1999, according to statistics compiled by the nonprofit Death Penalty Information Center.

A total of 111 death sentences were handed down, the fewest since executions resumed in 1976, according to the center, a repository of reports and research on capital punishment run largely by opponents. The total declined from 115 in 2007 and was barely a third of the numbers condemned each year in the 1990s.

The economic realities of cash-strapped state and local governments have undermined capital punishment where moral and legal arguments have failed to alter majority support for the death penalty, said Richard Dieter, a Catholic University law professor and director of the information center.

"I don't know that it will change public opinion but the practical effects of the economy are just that -- if you're a politician and you have to cut something, do you want fewer police officers on the streets "or do you cut one death penalty and save a few million dollars?" Dieter said. "At a time when states are cutting back on teachers, police officers, health care, infrastructure, and other vital services, citizens are increasingly concerned that the death penalty is not the best use of their limited resources."

A Gallup poll in October showed 64 percent support for capital punishment. But even in Texas, where 18 of the 37 executions occurred last year, the number of death sentences issued has declined by half over the past decade. In New Mexico, the state Supreme Court ruled last year that death penalties couldn't be pursued unless the Legislature budgeted adequate funding for legal representation of condemned inmates who cannot afford attorneys. Utah judges also signaled that they would overturn death penalties for convicts inadequately defended.

New Jersey and New York dropped the death penalty in 2007, and a vote expected early
this year in Maryland on whether to abolish capital punishment has been driven in part by taxpayers' sticker shock at reports that each of the five executions there cost about $37 million.

In California, home to one in five of the country's condemned prisoners, prosecutors are wary of seeking death penalties when life without parole accomplishes the objective of keeping killers off the street. San Quentin's death row, the nation's most populous, continued to grow last year, with 21 new capital judgments swelling the ranks of condemned prisoners to 677. Executions were suspended for legal review of the state's lethal injection procedures and reconstruction of the idled death chamber.
State Decides to Seek Public Input on Execution Plan

Alameda Times-Star
January 7, 2009
Author: Howard Mintz, Mercury News

California officials have abandoned a legal fight about their bid to secretly overhaul the state's execution method, a move that sends the issue back to square one and leaves San Quentin's newly-constructed execution chamber idle for the foreseeable future.

Gov. Arnold Schwarzenegger's administration decided not to appeal November's ruling by a state appeals court, which found that prison officials failed to follow proper administrative procedures when they attempted to revise California's lethal injection method without any public input. State lawyers had until Dec. 31 to appeal to the state Supreme Court but have decided instead to follow the administrative rules and put the execution plan through public review, likely including public hearings.

Deputy Attorney General Michael Quinn, who is handling the issue for the state, had no timetable on the administrative hearings, saying officials are now evaluating how to move forward. Brad Phillips, who represents two death row inmates in the case, could not be reached for comment Tuesday.

The latest development marks another tangle in California's bid to overcome various legal challenges to its execution method and resume lethal injections on the state's death row, which now houses about 770 condemned murderers. Executions have been on hold for nearly three years, the result of a federal court challenge to the lethal injection method, which death row inmates argue is inhumane.

A federal judge in San Jose two years ago found the state's lethal injection procedures "broken" but invited state officials to devise improvements, ranging from upgrading the training of execution team members to replacing San Quentin's antiquated death chamber. Prison officials and the governor responded with new execution procedures, but those were challenged separately in state court because of the failure to expose them to public review.

In the meantime, prison officials completed construction of a new execution chamber.
The end of the state court battle does not end the legal wrangling over lethal injections. The federal court case remains on hold until the state comes up with a valid plan to improve the way executions are carried out. Even when the administrative hearings are complete and the state finalizes new procedures, they will face further scrutiny in the federal case, ensuring more delays.

John Grele, who represents death row inmate Michael Morales in the federal case, could not predict how the administrative review will impact the ongoing challenge to lethal injection.

"I can't really say if it's a positive or negative," Grele said. "It depends on how things go through that process."

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APPENDIX C

Executions in Holding Pattern

San Francisco Chronicle (CA) - Sunday, February 22, 2009
Author: Bob Egelko,

It's been three years since the night a federal judge blocked an execution at San Quentin State Prison because of concerns that the state's haphazard lethal injection methods could inflict prolonged and excruciating pain on a condemned inmate, violating the U.S. Constitution.

Today, the state is no closer to executing the Stockton murderer-rapist who was to have died that night, Michael Morales, or any of the other 679 prisoners on the nation's largest death row. Gov. Arnold Schwarzenegger's administration says it's trying to break the logjam by agreeing to let the public comment on proposed new procedures for executing convicts, a concession that it opposed in court for more than two years.

"We believe this to be the most expeditious way to carry out the will of the people and allow California to resume capital punishment," said Seth Unger, a spokesman for the state Department of Corrections and Rehabilitation.

Bradley Phillips, a lawyer for Morales and another condemned prisoner, said the state could have taken that step in 2006. That's when Morales first sued in state court, arguing that prison officials couldn't legally switch execution procedures without gathering public reaction.

Even if the state now moves quickly to evaluate public comment on the revamped injections, and rapidly persuades the federal courts that it's solved the previous problems, executions are unlikely to resume in California for at least another year.

Support still strongSurveys have consistently shown that most Californians support the death penalty, although that majority has been shrinking. The last statewide Field Poll in February 2006, the month Morales was to have been executed, found that 63 percent favored keeping the death penalty, 32 percent opposed it and 5 percent had no opinion. Twenty years earlier, the same polling organization found 83 percent support.

Lance Lindsey, executive director of the anti-capital punishment group Death Penalty Focus, acknowledged that California isn't likely to repeal its death penalty law anytime soon. But he said there has been no recorded increase in violent crime during the moratorium, which he sees as evidence for opponents' position that executions don't promote public safety.
In light of a state commission's recent assessment that capital punishment costs California $137 million a year, "this pause in executions has allowed for political leaders to scrutinize whether the state of California can afford the death penalty," Lindsey said.

Family's 28-year wait

But Brian Chalk of Sacramento, the younger brother of Morales' murder victim, said he was more concerned about "the thousands and thousands of dollars we are paying every single year to keep these folks on Death Row nice and healthy and safe."

"The bureaucracy needs to stop, and they should go ahead with all the executions that are on hold," Chalk said. "That's what the people voted for."

Morales, now 49, raped and murdered 17-year-old Terri Winchell of Lodi (San Joaquin County) in 1981, choking, hammering and stabbing her at the behest of his jealous cousin. He was scheduled to die at San Quentin on Feb. 21, 2006, five weeks after 76-year-old triple murderer Clarence Ray Allen, the last man to be executed in California, was rolled to the death chamber in a wheelchair.

Morales' last hope was a challenge to lethal injection, the subject of growing controversy since it became the primary method of execution in the United States in the 1990s.

Promoted as a humane alternative to the electric chair and the gas chamber, injections use a sequence of three drugs - an anesthetic, a paralytic and a heart-stopping chemical - to cause death with no sign of suffering.

But some witness accounts and medical studies have suggested that the process does not always work as intended. A 2005 article in the Lancet, a British medical journal, found signs of inadequate anesthesia in nearly half the executions it reviewed in four U.S. states - an indication that prisoners may have been conscious and in agony as they died.

In blocking Morales' execution, U.S. District Judge Jeremy Fogel cited evidence of possible problems at six lethal injections at San Quentin and said prison officials had to find someone with medical training to make sure the inmate was unconscious. Unable to enlist a doctor who would participate, the state put the execution on hold.

After medical experts and execution witnesses testified at a trial in Fogel's San Jose courtroom, the judge halted all California executions in December 2006.

He said the state's procedures were so badly flawed - with poorly trained staff working with unclear instructions and little monitoring in a dimly lit chamber - that they posed a risk of inflicting pain at levels that violated the constitutional ban on cruel and unusual punishment.
The moratorium has continued despite the U.S. Supreme Court's April 2008 ruling in a Kentucky case that lethal injections are not inherently unconstitutional because the drugs do not create a substantial risk of severe pain.

Crawling through courts

The ruling left room for inmates to challenge lethal injections based on evidence of flaws in a state's past executions or current policies. That issue remains in Fogel's court, where Morales' lawyers plan to argue that the proposed new procedures still contain inadequate safeguards.

But the judge says he can't rule on California's changes until the state complies with its own law, a process that has moved at a snail's pace through state courts.

After Fogel blocked Morales' execution, the state proposed injection methods that would include continuously infusing a sedative to keep the prisoner unconscious. Morales' lawyers sued, arguing that execution procedures are state regulations that can't be adopted without public input.

The suit was pending more than a year later when state officials, responding to Fogel's December 2006 ruling halting all executions, presented a set of procedures that included altering chemical dosages, improving staff selection and training, and installing a new death chamber.

Defense lawyers renewed their regulatory challenge on behalf of Morales and Mitchell Sims, 49, a triple murderer who has been sentenced to death in both California and South Carolina. In December 2007, a Marin County judge ruled in their favor and invalidated the new procedures.

Administration gives up

The Schwarzenegger administration went to an appeals court, lost and decided not to press the issue before the state Supreme Court.

While fighting Morales' suit, the Corrections Department could have simultaneously gathered public comment, but didn't. Unger said the agency could issue its final regulations sometime this fall.

Meanwhile, Chalk, who was 9 when his sister was murdered, says the family is resigned to waiting.

"There's nothing we can do about it," he said. "The justice system is a joke."
His sister "had everything, talent, beauty, soul," Chalk said. Executing Morales "is not going to bring Terri back," he said, but "it would definitely bring closure."

"The bureaucracy needs to stop, and they should go ahead with all the executions that are on hold. That's what the people voted for."

AG Brown Says He'll Follow Death Penalty Law

The Associated Press, appeared in the Redding Record Searchlight
March 11, 2009
Author: Don Thompson

SACRAMENTO - Attorney General Jerry Brown said Wednesday he understands that California's support for the death penalty is now "part of the landscape," even though he opposed executions when he was governor a generation ago.

Brown vetoed the death penalty bill while he was governor from 1974 to 1982, but was overridden by the Legislature at the time. He also appointed state Supreme Court Justice Rose Bird, who was removed by voters in 1986 for her anti-death penalty rulings.

But the issue has long since been decided, he told reporters after addressing the California Law Enforcement Alliance's 17th annual Law Enforcement Legislative Day conference in Sacramento.

"This is the law. People have voted on it; the Legislature has voted on it. The California Supreme Court has upheld it not once, but dozens of times. So I would uphold that law like I would any other law in California," said Brown, who's considering another run for governor in 2010.

California executions have been on hold since February 2006 because of challenges to the way the state carries out the procedure using a mixture of three drugs. The state is developing new regulations it says would allow for humane executions.
APPENDIX E

Capital Punishment in California—New Execution Rules Posted—Protocol is Step Toward Ending Moratorium

*The Sacramento Bee* -
May 2, 2009
Author: Denny Walsh

California took a major step Friday to clear one of two legal hurdles that have halted executions at San Quentin for more than three years.

The state posted its new lethal injection protocol for executions and opened a public comment period as required under California's Administrative Procedures Act.

A state appellate court had ordered the state to vet its revised execution protocol in accord with the procedures act. The protocol's survival of public scrutiny would eliminate one of the legal obstacles imposed by state and federal courts.

The comment period will close June 30, the same day a public hearing will be conducted by the Schwarzenegger administration.

The 42-page document unveiled Friday lays out in excruciating, chronological detail every step of the execution process, from the time a death warrant is issued to the inmate's dying breath.

San Quentin's death row, the nation's largest, houses 680 prisoners.

The moratorium began on Feb. 21, 2006, when U.S. District Judge Jeremy Fogel of San Jose stayed the execution of Michael Morales after a challenge by his attorneys to the state's lethal injection methodology.

Morales, now 49, raped and murdered 17-year-old Terri Winchell of Lodi in 1981.

In December 2006, Fogel found the state's practices in violation of the U.S. Constitution's ban on cruel and unusual punishment. He cited evidence that condemned inmates are at risk of severe, unnecessary pain.

A high-powered barbiturate is supposed to anesthetize the recipient before a second drug induces paralysis and a third stops the heart. If the first drug fails -- Fogel said it has -- the second leaves the inmate incapable of expressing intense pain from the final one.

The judge said the state's methods were deeply flawed in a number of ways -- a poorly
trained staff acting with unclear instructions, keeping incomplete records, working with little supervision in a dimly lit chamber, and using drugs not properly secured.

The hiatus has continued despite the U.S. Supreme Court's April 2008 ruling in a Kentucky case that lethal injections are not inherently unconstitutional.

A task force formed by Schwarzenegger revamped execution procedures in 2007 in an effort to allay Fogel's concerns, and a new death chamber has since been constructed.

But before Fogel could review the changes, a Marin Superior Court judge ruled that the governor and corrections officials couldn't switch execution protocol without public reaction.

The 1st District Court of Appeal in San Francisco affirmed the lower court's ruling in November, and the state chose not to seek further review.

The new protocol calls for meticulous documentation by a carefully selected team that will undergo initial and then monthly training. High security will surround access to the drugs.

After half of the anesthetic -- sodium thiopental -- is administered, there will be "a consciousness assessment of the inmate; the intravenous sub-team member (standing next to the inmate) shall brush the back of his/her hand over the inmate's eyelashes, and speak to and gently shake the inmate," the regulations state.

"Observations shall be documented. If the inmate is unresponsive, it will demonstrate that the inmate is unconscious."

The rest of the anesthetic will then be administered, followed by the same assessment of consciousness.

If the inmate is deemed to be unconscious, the warden will give the green light to inject the paralytic, pancuronium bromide, and the heart-stopping chemical, potassium chloride.

Even if the public evaluation of the revised protocol goes smoothly, and the state is able to convince Fogel the problems he found have been corrected, executions are unlikely to resume in the foreseeable future.

No matter how Fogel finally rules, there will be an appeal to the 9th U.S. Circuit Court of Appeals. And, no matter which way that goes, the losing side will seek review before the Supreme Court.

Morales' attorneys say the record in the Kentucky case did not begin to approach the
massive amount of evidence on lethal injection that has already been presented to Fogel by each side.

A year ago, Morales attorney David Senior cited to The Bee this excerpt from Supreme Court Justice John Paul Stevens' concurring opinion in the Kentucky decision: "The question whether a similar three-drug protocol may be used in other states remains open, and may well be answered differently in a future case on the basis of a more complete record."
APPENDIX F

Prison Officials Develop Method of Lethal Injection—Revised Procedures to be Reviewed

San Jose Mercury News
Tuesday, May 5, 2009
Author: Howard Mintz,

California prison officials have developed a new lethal injection procedure for public review, hoping to end the legal impasse over the state's method of executing condemned inmates.

In a 42-page proposal released Friday, the state has outlined what it considers execution procedures that can pass legal muster and allow prison officials to resume executions on California's death row, where there are now about 680 condemned murderers awaiting death by lethal injection.

The new guidelines set out specific requirements for the qualifications of execution team members and various preparation stages in the months and weeks leading up to executions. One key provision during an execution calls for prison officials to determine if an inmate is unconscious from sedatives before receiving the final two doses of drugs; critics have argued that inmates can endure excruciating pain from the second drug, pancurium bromide, if not fully unconscious.

San Quentin also has completed a new lethal injection chamber to replace the prison's antiquated death chamber.

The new procedures are the latest attempt by the Schwarzenegger administration to restart capital punishment, which has been on hold since early 2007 because of legal challenges to the lethal injection method.

Prison officials are seeking public comment on the procedures and plan to hold a public hearing June 30 to address any objections to the plan. The state has opened up the process for public review after an appeals court last year found the previous effort to revise the execution system failed to comply with state administrative rules because it was devised in secrecy.

If the state approves the new lethal injection method, there is still likely to be extensive delay before executions resume. The new procedures would first have to be reviewed by San Jose U.S. District Judge Jeremy Fogel, who two years ago found the lethal injection procedures "broken" and invited state officials to craft improvements to ensure inmates
are executed humanely. Fogel is presiding over the ongoing legal challenge over lethal injection and would have to evaluate whether changes to the procedure have addressed his concerns about flaws in the system. Fogel's decision is certain to be appealed to the 9th U.S. Circuit Court of Appeals.

Death row inmate Michael Morales challenged the legal injection method before his scheduled February 2007 execution for the 1981 slaying of a Lodi girl. Morales argued that the fatal three-drug cocktail administered by prison officials exposes inmates to the possibility of a cruel and painful death. Fogel put the execution on hold while he considers the issue, which has cropped up in courts nationwide.

John Grele, one of Morales' lawyers, said Monday that he had not yet reviewed the newly released procedures to determine if they are different from what was proposed last year.

"Obviously, that's one of the things to look at, to see what, if any, changes they have made," Grele said.
APPENDIX G

Court Denies Rehearing for Killer—En Banc—But 11 Judges Favor Giving Him a New Hearing.

*The Press-Enterprise*
May 12, 2009
Author: Richard K. De Atley

Condemned prisoner Kevin Cooper was denied a rehearing Monday by a federal appellate panel in a 114-page order that bristled with dissents, one of them claiming that "the state of California may be about to execute an innocent man."

Another judge defended the decision, saying evidence and post-conviction forensic tests only point to Cooper, now 51, as the 1983 knife-and-hatchet slayer of three family members and a houseguest in a Chino Hills home.

With the denial of an "en banc" rehearing before an 11-judge judicial panel of the 9th U.S. Circuit Court of Appeals, Cooper has 90 days to ask the United States Supreme Court to review his case, the first step toward getting an appeal.

He has applied for relief nine times previously to the nation's high court.

Up to 28 of the 9th Circuit's judges can vote on an en banc hearing application. Published dissents indicate at least 11 were in favor of rehearing the case. One judge said the vote was closer than that.

Cooper's lead attorney, David Alexander, declined comment Monday.

Supervising Deputy Attorney General Holly D. Wilkens said her office agreed with the denial of a rehearing. "We have no doubt as to Cooper's guilt," she said.

Executions in California are on hold while issues about lethal injection protocol are resolved. The last execution took place in 2006.

Cooper's case has been in some form of appeal since his 1985 death sentence. The 9th Circuit in February 2004 granted him a last-minute stay of execution and ordered a hearing into his claims of evidence tampering and police misconduct.

U.S. District Judge Marilyn Huff in San Diego conducted the hearing and oversaw
forensic tests. She ruled they did not prove Cooper's claim of innocence and police misconduct. She was upheld in late 2007 by the 9th Circuit.

But then there was an unusually long wait for a decision on whether the 9th Circuit would rehear the case. The California attorney general's office last March filed papers complaining about the nearly 500-day wait for a decision.

DELAY EXPLAINED

The length and language of the order issued Monday seemed to explain the delay.

Orders denying en banc hearings are sometimes accompanied by dissents, but rarely with the number - four - or the passion - "There is no way to say this politely. The district court failed to provide Cooper a fair hearing" wrote Judge William A. Fletcher in the longest of the dissents, at about 100 pages.

There also were sharp ideological lines. Ten of the 11 judges who wrote or joined in the dissents were either Carter or Clinton administration appointees.

One Republican appointee, Chief Judge Alex Kozinski, was among the dissenters. Kozinski, named by Reagan, joined a three-line item that "generally" agreed with Fletcher that the case should be reheard.

ISSUES REVIEWED

Fletcher's lengthy dissent reviewed issues Cooper and his attorneys have raised since his conviction and sentencing.

Those include claims of misconduct and destruction of evidence by law enforcement investigators, poor police work in looking into other possible suspects, and claims that Huff improperly oversaw the DNA and blood tests during the 2004-05 hearings in her court.

"Kevin Cooper has now been on death row for nearly half his life," Fletcher wrote. "In my opinion, he is probably innocent of the crimes for which the state of California is about to execute him. If he is innocent, the real killers may have escaped . . . We should have taken this case en banc and ordered the district judge to give Kevin Cooper the fair hearing he never had."

Circuit Judge Pamela Rymer, wrote a concurrence with the denial order. "No test on any item has ever pointed to anyone else as the killer," she said. "The state courts found no evidence of tampering" with various items of evidence.
The bloody June 4, 1983, attack took the lives of Doug and Peggy Ryen; their 10-year-old daughter, Jessica; and neighbor Christopher Hughes, 11, who was staying overnight at the Ryens' home.

The boy was a friend of the Ryens' 8-year-old son, Joshua, who survived the attack with a slashed throat.

The slayings took place two days after Cooper had escaped from the nearby California Institution for Men in Chino. Cooper admitted hiding in a vacant house near the Ryen home, but he denied killing anyone.

"It seems that justice moves pretty slow," said Mary Ann Hughes, mother of Christopher Hughes. "All he has done is to throw up a bunch of smoke screens along the way . . . and all of it has to do with people who oppose capital punishment," she said Monday.

"They put their ideas forward, but it's unfair to our family and the Ryen family to go through 26 years of this," she said.
APPENDIX H

Public Rips Execution Procedures at Hearing

The Los Angeles Times
June 30, 2009
Author: Carol J. Williams

SACRAMENTO, Calif. -- Corrections officials heard overwhelming condemnation of proposed new lethal injection procedures Tuesday at California's first public hearing on execution methods.

Contrary to the solid majority of Californians who in opinion polls expressed support for the death penalty, only two out of more than 100 speakers supported a resumption of death sentences once legal hurdles are cleared.

But the sentiments of the opponents are unlikely to be persuasive because the hearing was intended to review specific execution procedures, not the pros and cons of capital punishment, which remains a legal option in the state.

Executions have been on hold since a federal judge raised concerns 3 1/2 years ago that California's three-drug method could inflict cruel and unusual punishment. Their resumption isn't expected soon, not because of opposition but because of legal and financial obstacles the state has yet to overcome.

Tuesday's hearing by the California Department of Corrections and Rehabilitation concluded a two-month period for public comment that drew more than 5,000 opinions, which will be considered before the protocols are adopted, said department spokesman Seth Unger.

Two court cases stand in the way of executing any of the 682 prisoners on death row; both were filed by Michael A. Morales, the convicted murderer whose challenge to the constitutionality of the process brought the de facto suspension in February 2006.

Once the protocols are approved, in two months at the earliest, the legal reviews are expected to take a year -- and probably longer if opponents are successful in raising other constitutional issues. Condemned prisoners have a right to habeas corpus appeals in federal court, but a lack of funds for lawyers and jammed court calendars delay the cases. It takes an average of 25 years between conviction and execution.

Despite what was scheduled to be a narrow discussion, religious leaders, doctors, lawyers, teachers and family members of murderers and their victims seized the opportunity to rail against "state-sponsored killing" and the $125 million a year spent to
Opponents rallied by the American Civil Liberties Union of Northern California capped the eight-hour session of three-minute speeches by delivering a symbolic, oversized check for $1 billion to Gov. Arnold Schwarzenegger's office -- the amount needed over the next five years to bring executions up to constitutional standards.

Crucifixion, beheading, drawing and quartering, hanging, firing squads, the electric chair and the gas chamber all have had their day as acceptable means of punishing the worst offenders only to be recognized later as barbaric, said retired Oakland engineer Charles Feltman.

Paul J. Kaplan, a professor of criminal justice at San Diego State University, recalled waking up during surgery, fully conscious but unable to convey his ability to feel pain to the doctor because the paralytic agent in his anesthesia had immobilized him.

"I woke up on the operating table but couldn't breathe or move. I was totally paralyzed but alert and feeling," he said, providing a cautionary tale for the lethal injection procedures that use the same anesthetizing and paralyzing sequence.

"This is nothing more than a costly manicure on the bloody fingers of the state of California," Lyle Grosjean, a minister from Paso Robles, said of the revised execution procedures.

Johanna Westerson, a Swedish human-rights lawyer living in San Francisco, urged state officials to "join the civilized nations of the world in abandoning this barbaric practice" and part company with the likes of China, Iran and Saudi Arabia.

"Let's televise these events and show the world what we're doing, like the Taliban," Palo Alto resident Gerard McGuire proposed. "Shine the full light of public knowledge on this event, this state-sanctioned murder."

Former wardens and chaplains from the nation's busiest death houses sent accounts of witnessing executions that have haunted them.

The only speakers in favor of resuming executions, John Mancino and Howard Garber of the Los Angeles chapter of the American Civil Responsibilities Union, blamed the cost of maintaining death row on inmates' excessive appeals and vowed to defeat the efforts of activist judges to deprive murder victims' families of justice.
State’s Budget Woes Fuel New Anti-Death Penalty Effort

Los Angeles Times
June 29, 2009
Author: Carol J. Williams

Nearly 3 1/2 years into a court-ordered suspension of executions in California, opponents have embraced a new argument: Californians can't afford to carry out the death penalty in a constitutional manner.

They contend that by commuting all 682 death row inmates' sentences to life without the possibility of parole, the state could save as much as $1 billion over the next five years -- a view expected to be offered, and challenged, during a public hearing Tuesday in Sacramento, the capital, on proposed changes to the lethal injection procedures.

The cost-saving argument has emerged as abolitionists unsuccessfully have lobbied for repeal of capital punishment on moral grounds. They have been empowered by the state's budget crisis, as well as by some influential law-and-order advocates who have concluded that deficiencies in the legal and corrections systems are beyond repair.

More California death row inmates have died in the time that executions have been halted than were put to death in the previous 30 years: 16 have died since early 2006, 11 of natural causes and five by suicide, compared with 13 put to death since 1976.

Tuesday's hearing concludes a two-month period for public comment on the revised lethal injection routine that has drawn at least 2,000 written opinions.

Among those calling for commutation on economic grounds are former California Attorney General John van de Kamp and former corrections chief Jeanne Woodford.

"With California facing its most severe fiscal crisis in recent memory -- with draconian cuts about to be imposed from Sacramento that will affect every resident of the state -- it would be crazy not to consider the fact that it will add as much as $1 billion over the next five years simply to keep the death penalty on the books," Van de Kamp argued.

An advocate of the ultimate penalty through his long prosecutorial career, Van de Kamp led a review last year of the state's capital punishment apparatus by the California Commission on the Fair Administration of Justice. The bipartisan panel concluded that the system is dysfunctional and needs nearly $100 million more annually to provide adequate legal representation for capital cases and cut in half what is an average of 25
years between conviction to execution .

Or, opponents of execution say, the state can abandon the legal battles and special death row accommodations that boost the cost of imprisoning each capital inmate to about $138,000 a year, or three times that of other prisoners.

Longtime death penalty foes have jumped on the savings bandwagon, recognizing an approach more likely to convince budget-conscious conservatives than their traditional arguments that executions are immoral and disproportionately applied to minorities, the poor and the mentally ill.

"Now is really the time to ask: If we are faced with the choice of laying off police and prosecutors and closing crime labs or shutting down the death penalty, is the goal to protect the public? If it is, that should be an easy decision to make," said Natasha Minsker, head of death penalty policy for the American Civil Liberties Union of Northern California.

Even people wrongfully convicted, identified by Innocence Projects and made into symbols for repealing the death penalty have switched tactics to point out the social benefits of commutation.

"Weighing the need for the death penalty with our other needs -- police, firemen, teachers -- I think the balance should go on the side of the community," said Tom Goldstein, an Orange County man who spent 24 years in prison for a murder he didn't commit.

Still, arguments persist for retaining execution as a sentencing option.

A study this year by the Criminal Justice Legal Foundation suggested the savings from commuting death sentences may be elusive and that prosecutors might have a harder time getting plea bargains in murder cases if the possibility of death is off the table.

"In states where the death penalty is the maximum punishment, a larger number of murder defendants are willing to plead guilty and receive a life sentence," said Kent Scheidegger, legal director for the Sacramento-based foundation.

District attorneys, however, appear to be seeking the death penalty less often. The number of death sentences in California has fallen by half over the past decade, from 42 in 1999 to 18 last year. Nationally, the numbers have fallen even more sharply, from 328 in 1994 to 111 last year.

California's distinction of housing the nation's largest death row yet accounting for only 13 of the 1,168 U.S. executions since 1976 demonstrates the state's ambivalence about capital punishment, said Mark Drozdowski, a deputy federal public defender who heads
the Los Angeles capital case unit.

"It's like a college where nobody ever graduates, where they just keep building more dorms," Drozdowski said of the death row population.

"The fact that we hardly ever have executions in California makes it more palatable," he said, for people who oppose capital punishment, fostering tolerance of the status quo that fails to bring about closure for victims' families or timely reprieve for those found on appeal to be wrongly convicted.
Quick Take—Capital Punishment—Execution Rules Review Period is Nearly Up

The Sacramento Bee,
June 29, 2009
Author: Sam Stanton;

California's death penalty has been on hold since a federal court ordered a moratorium Feb. 21, 2006, over questions about how lethal injections are administered at San Quentin State Prison. State officials built a new death chamber, rewrote their procedures and, facing court action, opened the matter up for public comments through Tuesday at 5 p.m.

A public hearing on the new policies is set for Tuesday from 9 a.m. to 3 p.m. in the Department of Health Services auditorium at 1500 Capitol Ave. in Sacramento. Hundreds are expected to voice their opinions on the new policies, which run 42 pages in length and can be viewed at www.cdcr.ca.gov.

Various groups have lodged objections to the lethal injection process, including complaints about its fiscal impact, the manner in which witnesses are selected, the type of drugs used and the way condemned inmates are treated in the days before their scheduled execution. An analysis of the regulations and objections to them by opponents of capital punishment is available at www.aclunc.org.
Death Penalty Foes Jam Public Hearing

*The Sacramento Bee*,
July 1, 2009
Author: Sam Stanton

It was supposed to be a dry public hearing on a "notice of proposed regulations," a meeting to let citizens speak about technical aspects of how lethal injection is administered to condemned inmates.

But anti-death penalty groups galvanized hundreds of their supporters to file into a Sacramento auditorium Tuesday for an emotional, day-long debate on whether capital punishment is justified or should be abolished.

It was clearly a one-sided debate.

By the time the scheduled 3 p.m. close of the hearing arrived, nearly 100 people had spoken -- only two in favor of the death penalty -- and the hearing was extended two hours because so many more people wanted to talk.

"I have a commission from on high," Bill Babbitt, a 66-year-old Elk Grove man who travels the nation speaking out against the death penalty, said before he took the lectern. "God has told me what he wants me to do with my life."

Babbitt has believed that since he watched his brother, Manny, die in the San Quentin death chamber in 1999 on Manny Babbitt's 50th birthday.

He was executed for killing a 78-year-old Sacramento grandmother, Leah Schendel, in 1980, despite pleas that he be spared because his service in Vietnam had left him with mental disorders.

Many of the witnesses Tuesday had similar, personal connections to the death penalty: a mother whose daughter was stabbed to death but who opposed the death penalty for the killer; a former Death Row inmate from Oklahoma who was later exonerated and freed; a witness to the execution of Stanley Tookie Williams in 2005.

Ostensibly, the hearing was simply to allow comment on new lethal injections guidelines drafted by the California Department of Corrections and Rehabilitation, part of an effort to fend off legal challenges that have kept the death penalty on hold in California since 2006.
To allay legal challenges, corrections officials drafted 42 pages of procedures for administering three drugs to kill a condemned inmate, bolstered the amount of training execution teams receive and built a new death chamber at San Quentin.

Now, the department has until May 2010 to submit them to a federal judge in San Jose for approval, which likely will be followed by further legal challenges.

Supporters of the death penalty on Tuesday called the legal challenges "frivolous" and urged a resumption of executions.

John Mancino, a leader of the movement in 1986 that ousted state Supreme Court Justice Rose Bird from her post because of her opposition to the death penalty, told the hearing that 108,000 murders have been committed in California since 1963, while only 14 executions have.

He added that claims that inmates may suffer pain during the lethal injection process are a "smoke screen" aimed at ending capital punishment.

"If you have even been anesthetized for a tonsillectomy, you don't feel a thing," Mancino said.

But he clearly was in the minority at the hearing, where teachers, doctors, clergy and college professors gathered to speak out against capital punishment.

One woman drew loud applause when she noted the irony that a hearing on executions was being held in an auditorium at the state health department.

Some wore T-shirts or carried signs with slogans such as "Execute Justice, Not People," "The Death Penalty is Killing California's Budget," and "Money for Education, Not Executions."

With California teetering on the financial brink, many speakers said abolishing the death penalty could save the state millions of dollars, despite the corrections department's statement that the new lethal injection process would have no fiscal impact.

Proponents of abolishing the death penalty cite a state study that says housing 680 inmates on death row and trying to implement the death penalty costs $137 million each year, while placing them all in prison for life would save $125 million.

Mike Farrell, the former M*A*S*H star who now heads the anti-death penalty group Death Penalty Focus, said there are too many unknown costs associated with capital punishment, including psychological pressures on execution team members and wardens.
Lance Lindsey, the group's executive director, called the death penalty procedures "heinously flawed," and said it was something "you will take with you for the rest of your lives."

But the very first speaker of the day provided one of the most poignant -- and personal -- arguments.

Donna Doolin-Larsen said her son Keith is on death row at San Quentin, and facing the prospect of his execution is "terribly painful and dehumanizing."

She described her son as "factually innocent," and said the death penalty "has impacted me and my family in many ways."

"I visualize in my nightmares the moment when I may have to witness Keith entering the death chamber, being strapped to the death gurney, seeing the death catheter inserted into his vein for the death poison to be administered, hearing Keith's last dying words, and thinking, 'Save my son,' " she said.

Keith Zon Doolin was convicted in 1996 and sent to California's death row for shooting six prostitutes in Fresno County, two fatally.
Death Penalty Use Differs by County

The Modesto Bee
July 5, 2009
Author: Phillip Reese

Also Appeared in the Sacramento Bee on July 3, 2009

Killers are more likely to be sentenced to death in conservative California counties, particularly in the southern part of the state, according to a Sacramento Bee analysis of recent data from the state attorney general's office.

From 1998 to 2007, prosecutors obtained about one death penalty conviction for every 100 murders statewide, the figures show.

In Orange County, the rate was twice as high; in Riverside County, it was three times as high.

At the same time, San Francisco and San Mateo counties haven't sentenced anyone to death in 15 years (with the exception of the Scott Peterson case, transferred to San Mateo from Modesto).

Overall, the five large California counties with the highest rate of registered Republicans sentenced killers to death almost three times as frequently as the five counties with the lowest rate of Republicans.

There are major exceptions.

Largely Republican Placer County hasn't issued the death penalty in 20 years, but largely Democratic Alameda County condemns killers more frequently.

Debate about the death penalty has been stirred up again by state hearings on new protocols for lethal injection, the state's method of executing condemned criminals.

PREFERENCE AND POLITICS

Most slayings can be charged as death penalty crimes, said UCLA law professor Stuart Banner, so it often comes down to the preference -- and politics -- of a district attorney.

"District attorneys are elected," said Banner, author of "The Death Penalty: An American
History. "The death penalty is more popular in some counties than in others."

The expense of capital cases also can deter prosecutors in very small and very large counties, Banner added.

Riverside County District Attorney Rod Pacheco, a former Republican assemblyman, noted that many convictions in the state's figures came or started under the watch of his predecessor, Grover Trask. His office now spends more time listening to law enforcement, victims' families and even defense attorneys before making a decision about whether to seek the death penalty, he said.

'TAKES COURAGE' TO CHANGE

Nonetheless, noted University of California at Berkeley law Professor Elisabeth Semel, Pacheco seems to have continued prosecuting death penalty cases at the same rate as his predecessor.

Pacheco said he did not know whether his approach had shifted the numbers, but noted that his constituency generally is tough on crime, as is he.

"The people here have a very different view of public safety than the people in San Francisco," Pacheco said.

Semel, a death penalty opponent and director of Boalt Hall's Death Penalty Clinic, said prosecutors such as Pacheco could reverse the pro-death penalty stance of their counties if they wanted.

"In some places," she said, "it will take a small measure of courage."
REFERENCES


