

'Death Qualifying' a Jury Called Unfair

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FOX NEWS

LOS ANGELES — Capital punishment is the law in 38 states, but some claim that the deck is stacked against defendants who may face the death penalty.

Before a capital case goes to trial, jurors must say they are willing to impose the death penalty if they find the defendant guilty. The practice of selecting these jurors is referred to as "**death qualifying.**" ([search](#))

More than a century ago "the Supreme Court said that if a juror's attitude toward the death penalty was such that it could interfere with the true administration of justice, then that juror can be removed," Fox News legal analyst Stan Goldman said.

But some people say that the jurors' willingness to sentence a criminal to death makes them more likely to convict the defendant.

Jury consultant Kathy Kellerman said research shows that jurors who say they could sentence someone to death are, by nature, pro-prosecution.

"They tend to find police witnesses more credible, they tend to be more law-and-order types of folks and they tend to weigh the evidence in the prosecution's favor," she said.

This week in Redwood City, Calif., attorneys will start seating a "death qualified" jury in the trial of accused double-murderer **Scott Peterson** ([search](#)).

Defense attorney **Mark Geragos** ([search](#)) had requested that should his client be found guilty, he would get two separate juries — one to hear the case and another to decide the penalty. But the judge in the case ruled last week that if Peterson is convicted, the same jury that heard the case will decide the penalty.

Click [here](#) to watch a report by Fox News' Anita Vogel.