

# **A Hierarchy of Victims in the North Carolina Death Penalty**

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## **Abstract**

We review the literature on racial dynamics and the death penalty and present the results of a comparison of all homicides and death sentences imposed in North Carolina since 1976. The results show a clear hierarchy of victims, with white females at the top and black males at the bottom. We also present data comparing capital eligible homicides in Durham County in 2003 to 2007 with decisions by the District Attorney in that county to prosecute the case capitally. This more detailed study shows similar findings. Results for North Carolina reflect national patterns and reflect the long-standing factors that generate a racial hierarchy of victims and an unequal treatment of offenders in death penalty cases nationwide.

Keywords: Capital punishment, death penalty, race, gender, racial disparities, North Carolina

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## **A Hierarchy of Victims**

North Carolina's criminal justice system is as multifaceted and complex as that found in any other American state. Pursuing justice in this state involves a series of difficult decisions by individuals at various stages of the criminal justice process. In the case of capital trials, law enforcement officers must investigate and solve crimes within the constraints of constitutional principles designed to safeguard rights and liberties. They must transmit any evidence they have collected to the district attorney who would determine, based upon technical and legal guidelines, whether to bring charges against the assailant and, if so, which charges to launch and what prosecutorial strategy to adopt. If necessary to satisfy justice, the prosecutor has the capacity to negotiate a plea agreement with the defendant and to determine the legal parameters of such an agreement. These decisions take place before the jury is selected and the trial begins. At the end of the trial, the jury must determine whether to convict the defendant. If so, at the final sentencing phase, the jury must determine whether to impose a sentence of life in prison or death.

Described in this way, the criminal justice process appears simple and straightforward. Theoretically speaking, decisions made at each of these stages of the process are guided by law enacted by the North Carolina General Assembly, sanctioned by the people, and dutifully followed by criminal justice officials. In reality, however, criminal justice actors exercise considerable discretion at each stage of the criminal justice process, including the prosecutorial stage. Research suggests that this discretion is a powerful source of indeterminacies, arbitrariness, and bias in the outcome of criminal justice processing (Baldus et al. 1990; Nakell and Hardy 1987; Unah 2011). In fact, the possibility of prosecutorial discretion leading to arbitrary or racially biased outcomes has been central to North Carolina law and jurisprudence:

Until 2001, there was no discretion. In any homicide case with aggravating circumstances, the law required the district attorney to seek death. North Carolina was the only state in the nation to mandate a capital trial, rather than leave it up to the discretion of the prosecutor to weigh the relative importance of aggravating and mitigating circumstances, as well as the strength of the evidence of guilt. As we will see in this paper, even this extreme measure justified as a bulwark against arbitrariness did not lead to racially equitable outcomes, and of course it was eliminated in 2001, after which rates of capital prosecution declined precipitously. Whereas earlier analyses of death penalty outcomes have tended to focus on the characteristics of defendants (e.g., Johnson 1941; Garfinkel 1949; Bowers and Pierce 1980), recent years have witnessed a proliferation of studies stressing the importance of victim characteristics (Baldus, Woodworth, Pulaski 1990; Baumer, Messner, and Felson 2000; Unah and Songer 2006; Baumgartner et al. 2015).

In this paper, we focus on victim characteristics in order to demonstrate how crucial demographic features of the victims are in death penalty processing both at the prosecutorial stage and the jury decision stage. We address two fundamental questions. First, do victim characteristics determine prosecutors' decisions to seek death? Second, are *victims* classified within a gradient of social importance when determining legal procedure and punishment for defendants accused of committing murder? These are some of the central questions of concern for social science researchers interested in issues of fairness in the distribution of justice. These questions are the centerpiece of this paper.

We examine these questions using county-specific as well as statewide data focusing on various stages of death penalty processing. First, at the prosecutorial stage, we examine homicide data prosecuted in Durham County, North Carolina from 2003 to 2007. We examine the extent to

which the choice of seeking the death penalty is determined by the race and gender characteristics of the homicide victim. In doing so, we control for several factors that the literature suggests are important in determining death penalty outcomes, including the nature of the crime, the race of the defendant, and the criminal background of the defendant (Paternoster 1984; Unah 2011). Finally, we examine North Carolina's homicides and death sentenced populations to determine the extent to which the race of the homicide victim is associated with who is admitted into death row in North Carolina. Note that our detailed study of Durham County comes during the time when prosecutors throughout the state had been granted the authority to decide for themselves whether to seek death.

We find that prosecutors and juries in North Carolina have, perhaps unwittingly, developed a racialized and gendered hierarchy of victims that is employed during the processing, disposition, and sentencing of homicide defendants. The dominant characteristic of this hierarchy is that it adheres to a gradient that places white women consistently at the top of the social value ladder and black men consistently at the bottom. We discussed in other writings how these results, which show dramatic statistical disparities in outcomes, need not be the result of individual-level racial animus or hostility on the part of any member of the criminal justice system (see Baumgartner, Kotch, and Unah n.d.). In fact, a focus on claims of intentional discrimination can be seriously misleading and need not be present in order for race and gender-related differences to be apparent. We believe that district attorneys and judges would be appalled at the racial disparities that we document here. They employ mechanisms to attempt to mitigate whatever trends in these directions they may have recognized in the past. However, while it is important not to accuse people of racial animus (especially when in any case it cannot be proven), we must nonetheless look at the data and determine whether statistical disparities

exist. They do. Such disparities may be caused by many factors and need not be driven by conscious racial animus. Still, whatever the causes of the racial disparities that we document, we must understand them. Looking either at a detailed examination of one county in a limited time period, or state-wide at the final outcomes of death cases compared to homicides in general, killers of different types of victims, ordered by a strict racial and gender hierarchy, face the penalty of death with vastly different probabilities. We demonstrate these facts here and then explore the implications of this hierarchical assignment of victims for the legitimacy of and confidence in the justice system.

### **Comparative Conflict Theory and the Racial Hierarchy of Victims**

In this paper, we rely on comparative conflict theory to explain the hierarchy of victims in the criminal justice system. Researchers have long pointed to comparative conflict theory as a critical framework for explaining racial and ethnic differences and similarities in criminal justice policy and in individual-level behavior. V. O. Key (1949) was among the earliest to articulate this theory when he analyzed the nature of electoral politics in the American South. The basic logic of the theory is captured succinctly by Huckfeldt and Sprague (1993): “White racial hostility is a common feature of American political life, and it frequently varies as a direct function of blacks’ presence in the population” (p. 284). At its genesis, the conflict perspective emphasized standard political and sociological concepts: social class, group threat, powerlessness and pursuit of interest in modern plural societies (Key 1949; Blalock 1969; Chamblis and Seidman 1971). The theory asserts that group threat to existing social, political and economic arrangements posed by disadvantaged groups can be used to explain why certain groups are more likely than others to have unfavorable encounters with the criminal justice system (Turk 1969; Hagan and Albonetti 1987).

Early emphasis was placed on people's social class status and their attachment to the economic structure (Chambliss and Seidman 1971). Social scientists paid little attention to the effects of racial and ethnic cleavages on social organization. Following the Marxian tradition, many scholars simply assumed that race was merely a social form that in due course would be assimilated into larger social identities based upon class (Bonacich 1980). Given the overlap between social class and race, however, ascriptive group cleavages failed to disappear and even grew in theoretical and practical importance as subsequent investigations on the conflict perspective turned to the salience of race in grounding group conflicts and to help explain the differences in treatment of black and white victims and defendants in the criminal justice system (Hawkins 1987; Henderson et al. 1997; Hochschild 1995; Mitchell and Sidanius 1995; Sigelman and Welch 1991).

More recent analyses have turned toward a notable hypothesis generated from comparative conflict theory—the racial gradient thesis—which emphasizes a hierarchy or gradations of experiences among groups in an ongoing competition for control over economic, political, and social structures in society (Hagan, Shedd, and Payne 2005; Unah and Wright 2015). The racial gradient thesis suggests that the experiences of defendants and victims follow an intensity level adhering to a black/Hispanic/white gradient, with blacks being most likely to be treated unjustly, whites being least likely to be treated unjustly, and Hispanics being sandwiched in-between blacks and whites in their unjust treatment within the criminal justice system (Hagan, Shedd, and Payne 2005; Gabiddon and Jordan 2013).

What are the causal antecedents of this apparent hierarchy in the experiences of racial and ethnic groups? One is the historical mistreatment of racial minorities by law enforcement. Social science research provides incontrovertible evidence that as a group, blacks have suffered the

brunt of racial inequities and injustices in government policy concerning arrest (Tonry 1999), drug enforcement (Becket et al., 2006), mass incarceration (Clear, 2007; Unah and Coggins 2013; Smith 2004), escalation of criminal charges and punishment (Hagan and Albonetti 1982; Paternoster 1984; Unah 2011) and execution and wrongful convictions (Baumgartner, De Boef, and Boydston 2008; Gross et al. 2022). This painful reality is perceived by minority groups, particularly African Americans, as unfair and it contributes to a feeling of alienation and distrust of legal and criminal justice institutions.

Minority groups also perceive the police, courts, and other criminal justice institutions as instruments of “the system,” assembled primarily to guard, protect, and promote the interest of whites, while minimizing competition over valuable resources such as jobs and political power (Weitzer and Tuch, 1999, 2006; Giles and Evans 1986). Desmond King and Rogers M. Smith (2005) have gone as far as to argue that the justice system is deliberately biased and that it constitutes a loosely coordinated racial order designed by whites to reassert social control over blacks and other racial minorities and minimize their “menace” to society.

Buttressing this rather bleak vision of the justice system by scholars in its treatment of blacks and other minorities is an analysis by Schneider and Ingram (1993) that suggests that law itself functions as a tool established by, and for the benefit of, the dominant group whose members control the levers of economic and political power that they use for subjugating and suppressing the interests of socially constructed minority populations. Therefore, contrary to minority groups, members of the dominant group are more likely to receive distinctly favorable treatment either as defendants or victims from the criminal justice system and its social agents (police, prosecutors, and jury).

Macro-level studies provide further support for this group threat argument by showing that, up to a certain threshold level, the size of the black population in a city or state is positively associated with increased spending on police (Jackson and Carroll 1981), police officer numbers (Kent and Jacobs, 2005), incarceration rates (Jacobs and Carmichael 2001; Jacobs and Helms 2006; Yates and Fording 2005) and the likelihood that state governors would use aggressive language to describe the crime situation during their state-of-the-state addresses (Unah and Coggins 2013).<sup>1</sup> Thus the treatment and consideration of disadvantaged groups by the justice system is largely determined by the levels of perceived threat posed by blacks relative to their proportion in the population. Research suggests that within social and political contexts, the perceived threat to white interests is actually high and this often translates into escalated punishment for blacks convicted of murdering a white person (as opposed to a black person) and perfunctory investigation by police when blacks are the victims of murder.

Outside the criminal justice system, differences in perceptions of injustices remain. Minorities, particularly African Americans, are more likely to perceive that inequities in education, healthcare, and employment exist and that these problems are rooted in prejudice, discrimination, and denial of opportunity by whites (Schuman, Steeh, and Bobo, 1985). Whites, however, tend to think that discrimination is a thing of the past and view the apparent inequality

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<sup>1</sup> When the community has a sizeable black population, we would expect that nonwhites have more political power and more influence in running and directing the affairs of the community, including the legal system. This would be expected to reduce systemic discrimination and lead to relatively more severe treatment of defendants accused of killing nonwhite victims. Thus the expected relationship between minority share of the population and these outcomes is curvilinear, or subject to a threshold effect. Below a threshold, there is little impact. Above the threshold, a strong relationship is expected. Above an even higher level, the relationship may flatten out.



experienced by blacks and other minorities as primarily the result of low motivation and lack of effort (Bobo and Kluegel 1997; Sigelman and Welch 1991).

Recent research on the link between whites' levels of "racial resentment" and criminal justice attitudes shows that the two are closely connected. At the individual level, those with stronger levels of racial resentment (e.g., the belief just described that poor social and economic outcomes for black Americans are the result of their own lack of effort rather than stemming from systemic barriers to success) correlate with more punitive criminal justice attitudes in general and support for the death penalty in particular (see for examples see Unnever and Cullen 2007, 2010; Brown 2009; Jardina 2019; DeSante and Smith 2020; Enns and Ramirez 2018; Kam and Burge 2019).

Peffley and Hurwitz (2007, 2010) conducted a survey experiment where they primed some respondents with the statement that "some people say that the death penalty is unfair because most of the people who are executed are African Americans." When they did so, compared to the control group, the percentage of whites who supported the punishment *increased* by 12 percentage points; for blacks, it decreased by the same amount. When primed with the statement that "some people say the death penalty is unfair because too many innocent people are being executed," there was no change among whites (-0.68 percent from the baseline) and a -16 percent drop for black respondents (2007, 1002). There is strong reason, in other words, to believe that racial resentment is strongly connected to death penalty attitudes at the individual level. These authors have clearly demonstrated the difference between those who ascribe racial differences to systemic factors versus "dispositional" factors and how these attitudes correlate with race and severity of criminal punishments, including the death penalty.

Baumgartner and colleagues (2022) used this background literature and that connecting the death penalty to historical patterns of lynching to demonstrate a clear connection between aggregate levels of racial resentment in a given state in a given year and the number of death sentences handed down in that state. The model controlled for previous history of lynchings (which was found to be an important intermediary factor), crime, homicides, and racial demographics. Crucially, it also controlled for general political conservatism and various institutional factors (e.g., electing judges, Republican control in the state government). Racial resentment remained a strong predictor.

Compared to African Americans and Anglos, there has been little empirical attention given to the treatment of Hispanics in the justice system, although as the Hispanic population continues to explode, this dynamic will surely change. The reason for the scant attention to Hispanics is not because Hispanics are infrequent targets of mistreatment by courts and law enforcement personnel but because Hispanics occupy a “disadvantaged middle ground where they are a less comprehensive and intensive focus of criminalization efforts than African Americans” (Hagan et al. 2005, 384). We think this reduced intensity of focus is due to Hispanics’ lighter skin-tone, which makes them more socially acceptable, thus rendering their experiences not as bad as that of African Americans but not as good as that of whites. Supporting this account is a growing line of social science research that suggests that skin-tone is an important criterion of social acceptance and a strong indicator of how individuals are treated in socio-legal and political processes (Eberhardt et al. 2006; Terkildsen 1993; Portes and Rumbaut 2001). Indeed, according to Portes and Rumbaut, a “racial gradient continues to exist in U.S. culture so that the darker a person’s skin, the greater is the social distance from dominant groups and the more difficult it is to make his or her personal qualifications count” (2001, 47).

This racial gradient has also been found to exist among blacks, based on skin color. Eberhardt and colleagues (2006) re-analyzed death sentencing records from a Baldus study of Philadelphia court records; these were actual cases where individuals were sentenced to death or to life in the penalty phase of their trials by actual jurors. The findings were that, among black killers with white victims, the offenders were much more likely to be sentenced to death if their facial features were “stereotypically African.” A recent study by Traci Burch (2015) based on records from the Georgia Department of Corrections also showed that blacks with lighter skin tone were treated in a manner statistically indistinguishable from whites, whereas blacks with “medium” or “dark” skin were treated more harshly.

In sum, there is a racial hierarchy in criminal justice, and the research pointing in this direction is voluminous.

### **Previous Research on Victim Characteristics**

Previous research on the influence of victim characteristics on death penalty outcomes focused on the number of victims involved in a crime, the pre-trial screening decisions of prosecutors, and variation in sentencing outcomes. Empirical studies conducted in North Carolina (Nakel and Hardy 1987, 132) and South Carolina (Unah and Songer 2006, 194) indicate that a multiple murder transaction is significantly more likely to result in a death penalty charge and for the prosecutor to take the case to trial compared to murders of single individuals.

A number of pre-trial screening studies focusing on prosecutorial decision making have examined demographic characteristics of victims. These studies have found that defendants are more likely to be prosecuted capitally when accused of killing whites as compared to nonwhites (Hawkins 1987; Kleck 1981; Unah and Songer 2006). Also at the trial stage, Myers (1979; 1980) reported that felony cases involving white victims are more likely to result in a murder

conviction when the defendant is black rather than white. Nakell and Hardy (1987, 146) similarly reported that after accounting for the quality of evidence and the seriousness of the offense, white victim cases were six times more likely to result in guilty verdicts than cases in which the victim was nonwhite. At the penalty phase, numerous empirical accounts have also reported that defendants of whatever race convicted of first degree murder are more likely to be sentenced to death when their victim is white than when their victim is nonwhite (Baldus et al. 1990; Gross and Mauro 1989; Paternoster et al. 2004).

Some studies have specifically examined the racial configuration of victims and defendants as independent variables and have concluded that the influence of victim's race is conditioned by the race of the defendant. Unah (2011) reported that black defendants who murder whites are significantly more likely to be sentenced to death compared to whites who murder other whites.

A few authors have examined victims through the lens of chivalric paternalism in society by comparing how female and male victims fare in the justice system. These studies have indeed reported large differences in the treatment of defendants based upon the victim's gender. Beaulieu and Messner (1999) find that defendants who murder females are significantly less likely to receive a reduction in charges than defendants who murder males. In their study of South Carolina prosecution of homicide cases, Unah and Songer (2006) found that female victim cases were usually considered more aggravated and therefore more likely to lead to a capital prosecution. In analysis of other predatory crimes such as sexual assault, Spohn and Spears (1994) reported that prosecution is significantly more likely to occur and prison sentences more severe when the victim is a white female compared to black female. These findings on the intersection of race and gender point to an interesting historical duality in which white women as

a subgroup of victims are placed in a special protective class and identified as the groups most deserving of protection from crime and the group most likely to generate the most severe punishment for their assailants. In essence, white women carry highly significant symbolic power as victims that neither black women nor Hispanic women carry when they are victimized.

The perception of white women as a specially protected class of victims is, of course, not something of a recent vintage. It has been around through historical time, often resulting in differential policy responses to white female victimization. James W. Messerschmidt (2007) has argued in a book chapter entitled “We must protect our Southern White Women” that the organization and inception of the Ku Klux Klan constitutes a racial order conceptualized to boost not only hegemonic white male masculinity but also to “protect” white women against black men, especially in the South.

The symbolic value of white women as victims has also been used to generate a variety of government policies, many of them highly punitive. For example, Holcomb et al. (2004, 877-901) reported that the rape of white women has historically been treated as a more serious crime and given greater punishment than the rape of black women. Until the Supreme Court outlawed the death penalty for rape of adult women in *Coker v. Georgia* (1977), capital punishment for rape was reserved almost exclusively for cases involving white female victims and typically when the alleged attacker was from a different race or ethnicity (LaFree 1989). Moreover, *The White Slave Traffic Act* enacted by Congress on June 25, 1910 (alternatively known as The Mann Act) prohibits the transportation of women across state lines for immoral purposes. David Langum (1978) has examined the legislative history of the law and concluded that the law’s principal purpose was to protect white women from crimes of moral turpitude.

Overall, the literature clearly indicates that there are racial, ethnic, and gender-based differences among murder victims and how their assailants are treated in the criminal justice system. We therefore hypothesize that the treatment of victims in North Carolina criminal justice system adheres to a racialized and gendered hierarchy in which white women are placed at the top of the victim pyramid and black men are placed at the bottom of that pyramid. We further hypothesize that the placement of black women and white men falls somewhere (sometimes interchangeably) between the placement of white women and black men. In these matters, our expectations are essentially that the situation in North Carolina will correspond to what others have shown in other states: a race- and gender-based hierarchy of victims.

## **Analysis**

For this analysis, we rely on several different datasets to investigate these hypotheses. First, we collected data on murder cases in Durham County, NC in which the defendant was indicted between January 1, 2003 and December 31, 2007. Only death eligible cases were considered. These include cases in which there is at least one element of aggravation present and the defendant is at least 18 years of age under the rules set by the Supreme Court in *Roper v. Simmons* (2005) for death eligibility. During the 2003-2007 time period, 151 death eligible murders with known defendants occurred in Durham County. Second degree murders and manslaughter cases were not considered because they are death ineligible under the state criminal code. Our second dataset is statewide and concern various statistics derived from the North Carolina Department of Corrections about the characteristics of death row inmates and of the victims they have been convicted of killing.

## **Durham County Capital Prosecutions Compared to Capital-Eligible Crimes**

We begin our examination of the results by looking closely at homicide victimization rates in Durham County. Note here that the baseline is all death-eligible crimes (151 cases), and the comparison is whether the DA's office sought death (58 cases, 38 percent). In this category of cases, the assailants are predominantly African American (81 percent) and the victims are also predominantly African American (70 percent). This trend is similar to homicide victimization trends found in other major cities. Whites constitute a small fraction of the murder victims in Durham County (19 percent) and an even smaller percent of murder defendants (7 percent). Table 1 indicates that prosecutors are significantly more likely to seek the death penalty in white victim cases even though the proportion of white victims is relatively small compared to the proportion of black victims. Table 1 lays out the race and gender characteristics of these crimes and prosecutions.

Table 1. Durham County Death Prosecutions by Race and Gender of Offender and Victim

Offender	Victim	Death Eligible		Death Sought		Rate
		N	%	N	%	
All	All	151	100.00	58	100.00	38.41
All	White	29	19.21	12	20.69	41.38
All	Black	105	69.54	38	65.52	36.19
All	Male	109	72.19	41	70.69	37.61
All	Female	25	16.56	9	15.52	36.00
All	White Female	8	5.30	5	8.62	62.50
All	White Male	21	13.91	7	12.07	33.33
All	Black Male	88	58.28	34	58.62	38.64
All	Black Female	17	11.26	4	6.90	23.53
Black	All	123	81.46	48	82.76	39.02
White	All	11	7.28	2	3.45	18.18
Other or Unknown	All	21	13.91	10	17.24	47.62
Black	White	20	13.25	11	18.97	55.00
Black	Black	103	68.21	37	63.79	35.92
White	White	9	5.96	1	1.72	11.11
White	Black	2	1.32	1	1.72	50.00
Black	White Female	6	3.97	4	6.90	66.67
Black	White Male	14	9.27	7	12.07	50.00
Black	Black Male	86	56.95	33	56.90	38.37
Black	Black Female	17	11.26	4	6.90	23.53
White	White Male	7	4.64	0	-	-
White	Black Female	0	-	0	-	-
White	Black Male	2	1.32	1	1.72	50.00
White	White Female	2	1.32	1	1.72	50.00

Source: Durham Death Penalty Study.

Durham county prosecutors sought death during the period of this study in 58 of 151 eligible cases, or 38 percent of the time. There was little difference by way of race of the victim (white victim cases saw a rate of 41 percent and black victim cases, 36 percent). By gender of victim, similarly there was little different (38 percent for male victims, 36 percent for female



victims). But these modest differences are sharply amplified when we look at the combined races and genders of victims or the offender-victim combinations.

Looking at victim race and gender, we see that white female victim cases had a rate of 62.5 percent (5 of 8 cases were prosecuted capitally). By contrast, cases with black female victims saw a rate of only 23.5 percent (4 of 17 cases), with black male (38.6 percent) and white male victim cases (33.3 percent) in between these two extremes.

Offender race appears an important driver: 39 percent of black offenders saw a capital prosecution as compared to 18 percent of white offenders. Note, however, that in Durham as in other localities the vast majority of crimes occur within race. Durham saw 123 capital eligible homicides committed by black offenders, and 103 of their victims were black. In this subset, the capital prosecution rate was 36 percent. In the 20 cases where black offenders had a white victim, the capital prosecution rate was 55 percent. Similarly, there were 11 white offenders, 9 of whom had white victims, of which only one case saw a capital prosecution (11 percent). In the two cases where a white offender killed a black victim, one resulted in a capital prosecution (50 percent).

Among black offenders, those with white female victims saw the highest rate of capital prosecution, 67 percent. This declined to 50 percent with white male victims, 38 percent with black male victims, and 24 percent with black female victims. Among white offenders, there were only 9 cases so it is difficult to draw statistical conclusions. The two capital prosecutions followed from cases with a black male victim and a white female victim.

While our Durham study is relatively small and covers only a short time period, it reflects serious disparities in rates of capital prosecution decisions by the state depending on the racial configuration of the crime. White female victim cases stand apart from all the others.

## **Race and Gender Characteristics of North Carolina Homicides and Death Sentences, 1976 to 2023**

This section compares the race and gender characteristics of homicide incidents with the subset of those incidents in which the offender is sentenced to death, or later executed. Homicides data come from the FBI Supplemental Homicide Reports (SHR). Note that the SHR database includes crimes that may not be eligible for the death penalty under North Carolina law. However, such a database does not exist. Further, it remains instructive to compare the characteristics of those involved in homicides generally with that subset selected for the ultimate punishment. Table 2 provides an overview of this comparison. The Table shows a total of 30,655 homicide offenders, 419 death sentences, and 43 executions. It then breaks down these three categories in an identical manner by the race and gender characteristics of the offenders, the victims, and the combined characteristics of both. Note that there are more victims than offenders; the Table shows 32,725 victims, 539 from cases where the offender was later sentenced to death, and 55 in cases where the offender was executed. These higher numbers by victim rather than by offender occur for two reasons. First, some offenders have multiple victims (the Table shows this precise number, about five percent of all homicides and a larger share of those selected for death or execution). Second, some crimes have multiple offenders. In cases with multiple offenders, I have associated the victim information with each offender. This is necessary to calculate accurate rates of death sentencing when looking at the offender-victim characteristics. It inflates the total number of victims by a small share but has little impact on the share of the victims coming from different racial or gender groups.

Table 2. Summary of North Carolina Homicides, Death Sentences, and Executions.

Label	Homicides		Death Sentences		Executions		Death Sentences per	Executions
	N	%	N	%	N	%	100 Homicides	per 100 Homicides
Total by Offenders	30,655		419		43		1.37	0.14
	By Offender Gender							
Female	3,181	12.5	12	2.9	1	2.3	0.38	0.03
Male	22,278	87.5	407	97.1	42	97.7	1.83	0.19
Total	25,459	100.0	419	100.0	43	100.0		
Missing, other	5,196	16.9	-	-	-	-		
	By Offender Race							
Black	15,718	65.3	202	52.6	14	34.1	1.29	0.09
White	8,357	34.7	182	47.4	27	65.9	2.18	0.32
Total	24,075	100.0	384	100.0	41	100.0		
Missing, other	6,580	21.5	35	8.4	2	4.7	0.53	0.03
Total By Victims	32,725		539		55		1.65	0.17
	By Victim Gender							
Female	7,238	22.2	257	47.7	30	54.5	3.55	0.41
Male	25,393	77.8	282	52.3	25	45.5	1.11	0.10
Total	32,631	100.0	539	100.0	55	100.0		
Missing, other	94	0.3	-	-	-	-	-	
	By Victim Race							
Black	18,241	59.4	161	31.4	10	19.2	0.88	0.05
White	12,467	40.6	352	68.6	42	80.8	2.82	0.34
Total	30,708	100.0	513	100.0	52	100.0		
Missing, other	2,017	6.2	26	4.8	3	5.5	1.29	0.15
	By Victim Race and Gender							
Black Male	14,878	48.5	76	14.8	2	3.8	0.51	0.01
White Male	8,960	29.2	189	36.8	21	40.4	2.11	0.23
Black Female	3,356	10.9	85	16.6	8	15.4	2.53	0.24

White Female	3,500	11.4	163	31.8	21	40.4	4.66	0.60
Total	30,694	100.0	513	100.0	52	100.0		
Missing, other	2,031	6.2	26	4.8	3	5.5		
By Offender-Victim Race								
White kills Black	814	3.5	10	2.7	1	2.4	1.23	0.12
Black kills Black	13,088	55.7	100	26.6	7	17.1	0.76	0.05
White kills White	7,331	31.2	170	45.2	26	63.4	2.32	0.35
Black kills White	2,253	9.6	96	25.5	7	17.1	4.26	0.31
Total	23,486	100.0	376	100.0	41	100.0		
Missing, other	9,239	28.2	163	30.2	14	25.5		
Males kill males of same race								
Black male kills Black male	9,380	68.9	50	41.7	2	16.7	0.53	0.02
White male kills White male	4,228	31.1	70	58.3	10	83.3	1.66	0.24
Total	13,608	100.0	120	100.0	12	100.0		
Males of different races kill White females								
White male kills White female	1,970	77.6	91	65.9	15	78.9	4.62	0.76
Black male kills White female	570	22.4	47	34.1	4	21.1	8.25	0.70
Total	2,540	100.0	138	100.0	19	100.0		
By number of victims								
One victim	29,025	94.7	322	76.8	32	74.4	1.11	0.11
Two victims	1,324	4.3	82	19.6	10	23.3	6.19	0.76
Three or more victims	306	1.0	15	3.6	1	2.3	4.90	0.33
Total	30,655	100.0	419	100.0	43	100.0		
Missing, other	2,070	6.8	120	28.6	12	27.9		

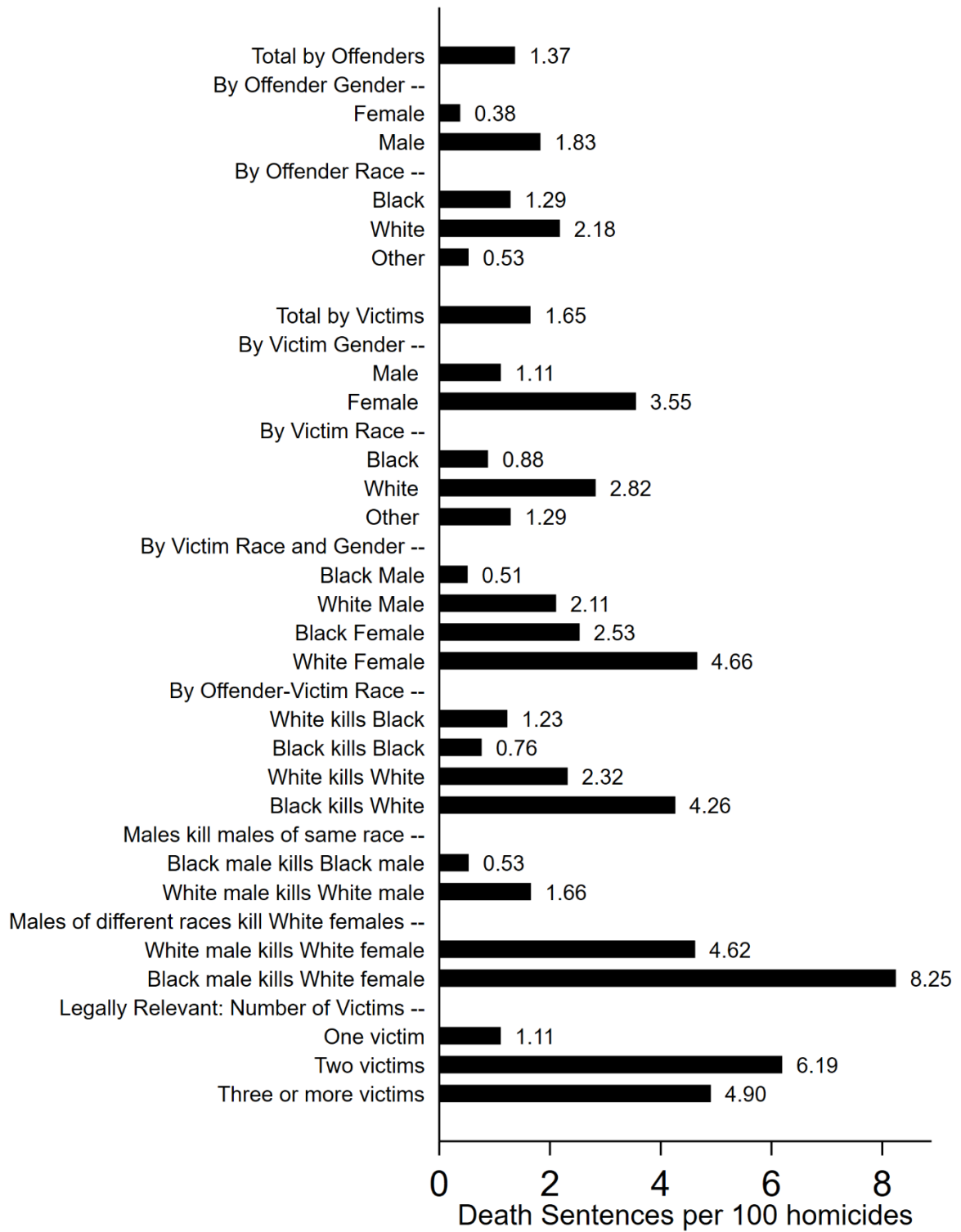
Table 2 presents a lot of information. The most important is in the last two columns. These show, for each category of homicide, the rate of death sentencing or execution per 100 such homicides. The first row shows the overall rates: 1.37 percent of offenders receive a death sentence, and 0.14 percent are executed. Then, looking at offender gender, the Table shows that 0.38 percent of female offenders are sentenced to death as are 1.83 percent of male offenders. The underlying numbers and percentages are presented in the columns to the left. This allows one to see how common each type of homicide is. Female offenders represent 12.5 percent of all homicide offenders (not counting those unknown to the FBI, and whose gender therefore is not known). Female offenders represent much smaller shares of those sentenced to death (just 12 of 419, 2.9 percent), and executed (just one individual, 2.3 percent of the total). The Table allows a comparison by looking at the numbers and percentages of each demographic group among homicide, death sentence, and execution cases. It also shows the simple summary which is the most straightforward comparison: Based on all those numbers, what is the rate per 100 homicides at which such cases lead to a death sentence or an execution? This is shown in the last two columns and deserves the most attention.

Note that the Table focuses only on the comparison of blacks and whites, excluding other races. Further, a significant number of offenders in the SHR are unknown to the police, as the crime may not have been solved at the time of the annual report. (For example, 5,196 homicides offenders are missing data on gender, 16.9 percent of all homicides. This is much more likely because the offender is unknown than because they are known but their gender could not be determined.) This is much less of an issue with the death sentence or execution columns, as a careful review of the numbers in Table 2 will reveal. (There is no missing data on offender gender, for example, among those sentenced to death or executed.) The rows labeled “Total”

refer to the total on which the percentages are based. The rows labeled “Missing, other” include both instances where the race or gender of the relevant individual is unknown as well as when the person is Asian-American, Native-American, or of another race. By focusing on the black-white comparison, the number of categories is lower and we avoid attempting to draw conclusions from relatively small numbers of observations. The black-white divide is also substantively an important one in the use of the death penalty in North Carolina.

Figure 1 provides a graphical summary of the large amount of information contained in Table 2. It shows the death-sentencing rate per 100 homicides, drawing from the column so labeled in Table 2, and presenting the comparisons in the same order as in the Table. Figure 2 does the same for executions. To interpret these Figures, imagine a scenario where there were no differences in the odds of a death sentence depending on demographic factors. All the bars would be of the same length. So, where the bars are different, this shows a disparity in the application of the death penalty depending on those demographic characteristics. The greater the difference between the bars within a single set of comparisons, the greater the disparity.

Figure 1. Summary of Death Sentence Rates by Category.



Sources: FBI homicide reports 1976 to 2021; 419 death sentences 1977 to 2023.

Reading from the top, Figure 1 first shows the overall rate of death sentencing by offenders, 1.37 percent. Then it compares by offender gender: 0.38 for female offenders and 1.83 for male offenders. Black offenders have a rate of 1.29; white offenders, 2.18. Looking at victims, the overall rate is 1.65 (slightly higher than for offenders because multiple victims can be associated with a single death sentence). Here we see the impact of gender is reversed: while female offenders are considerably less likely than males to be selected for death, offenders with female victims are much more so: 3.55 percent of female homicide victims are associated with a death sentenced case compared to 1.11 percent of male victims. Race-of-victim effects are powerful as well, with white victims seeing a rate of 2.82 compared to 0.88 for black victims of homicide. Comparing race and gender of victims shows even more powerful effects: 0.51 for black male victims, rising steadily to 2.11 for white male victims, 2.53 for black female victims, and to a high of 4.66 for white female victims.

Offender-victim combinations are quite significant. Whites who kill whites are much more likely to receive a death sentence (2.32 percent) compared to whites who kill blacks (1.23 percent). Among black offenders, this impact is even greater, with just 0.76 percent of their crimes involving black victims leading to death, but 4.26 percent when the victim is white.

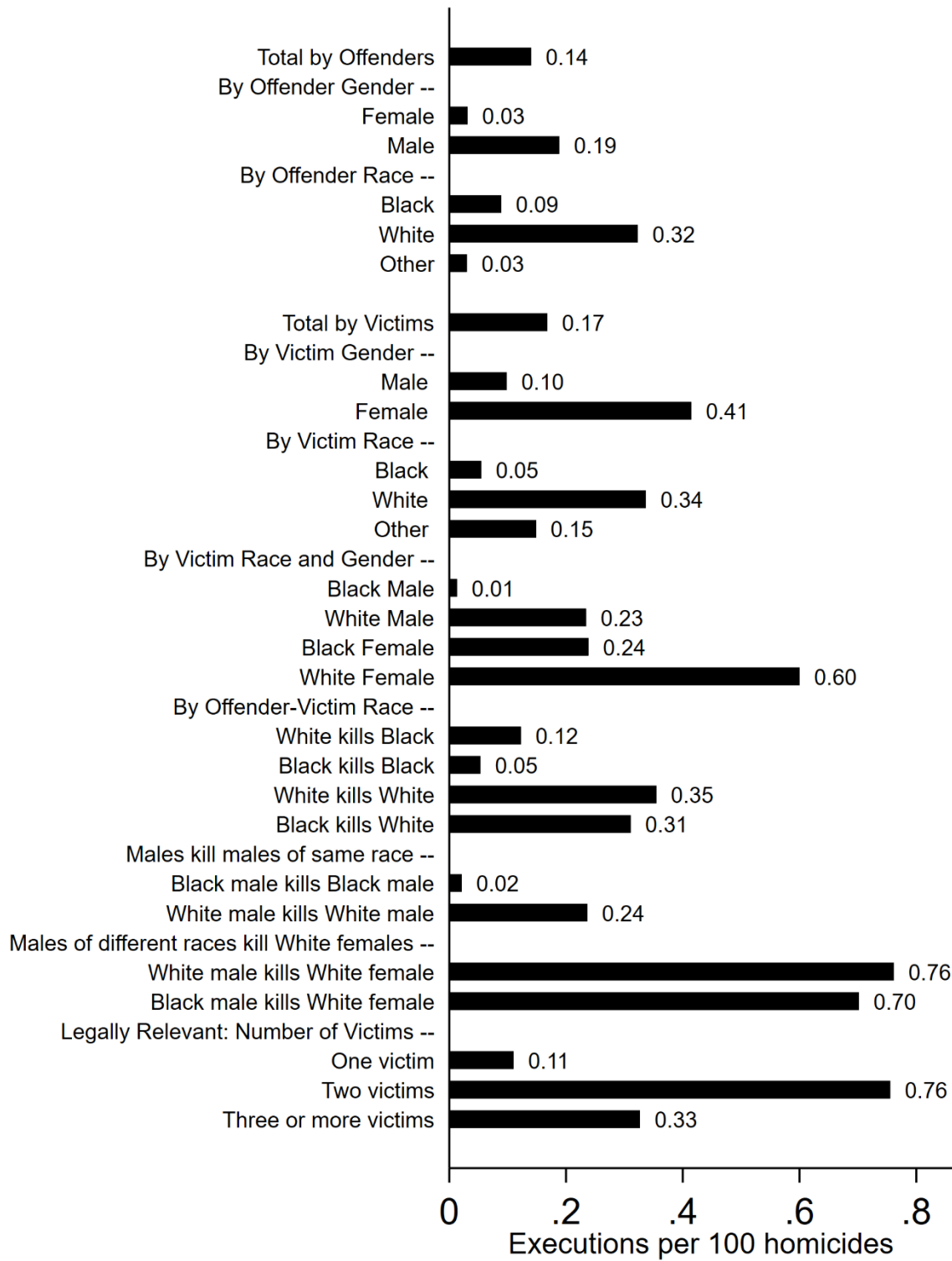
Table 2 showed that 87.5 percent of all homicide offenders are male, and when we look specifically at the crimes committed by males, the racial effects are even more striking. In particular, black males with black male victims are quite unlikely to receive a death sentence; just 0.53 percent. However, if the victim is a white female, the black male offender sees a rate of 8.25, the highest of any combination shown in the Figure. Note that white males who kill white females also have a significantly higher death sentencing rate (4.62) compared to when they kill white males (1.66). While this shows the impact of victim characteristics while controlling for



offender demographics, the increase in rate is much greater for black males than for white males. It is highly significant for both, however. White female victims are strongly associated with death sentencing, no matter the demographics of the offender. But this rate is at its peak when the offender is a black male.

Figure 2 shows the same comparisons in an identical format, looking at executions rather than death sentences. Note that the overall rate is very low: 0.14 for offenders and 0.17 for victims. The highest rates, 0.70 and 0.76, are for black male and white male offenders with white female victims. Generally, the Figure shows similar results and patterns as Figure 1.

Figure 2. Summary of Execution Rates by Category.

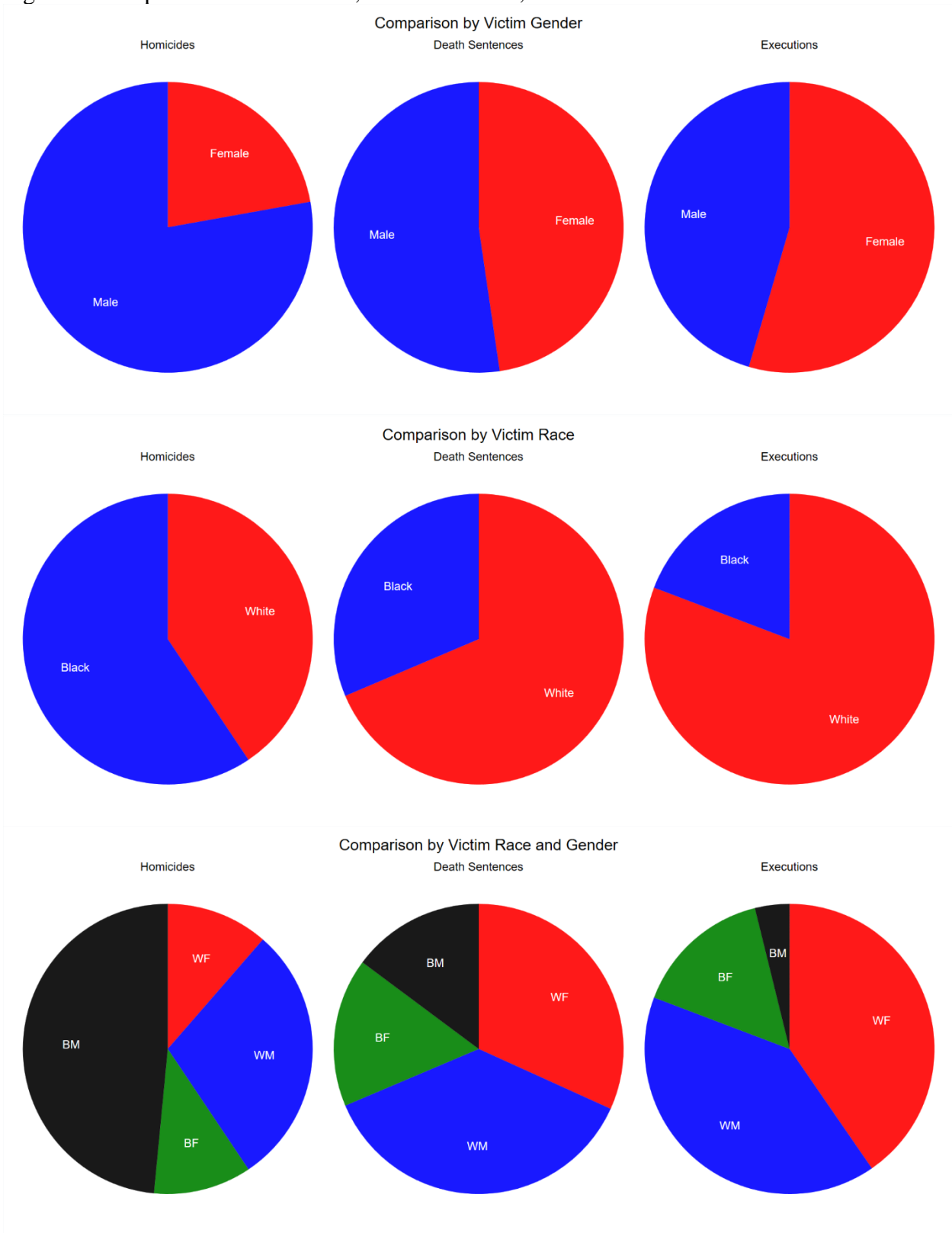


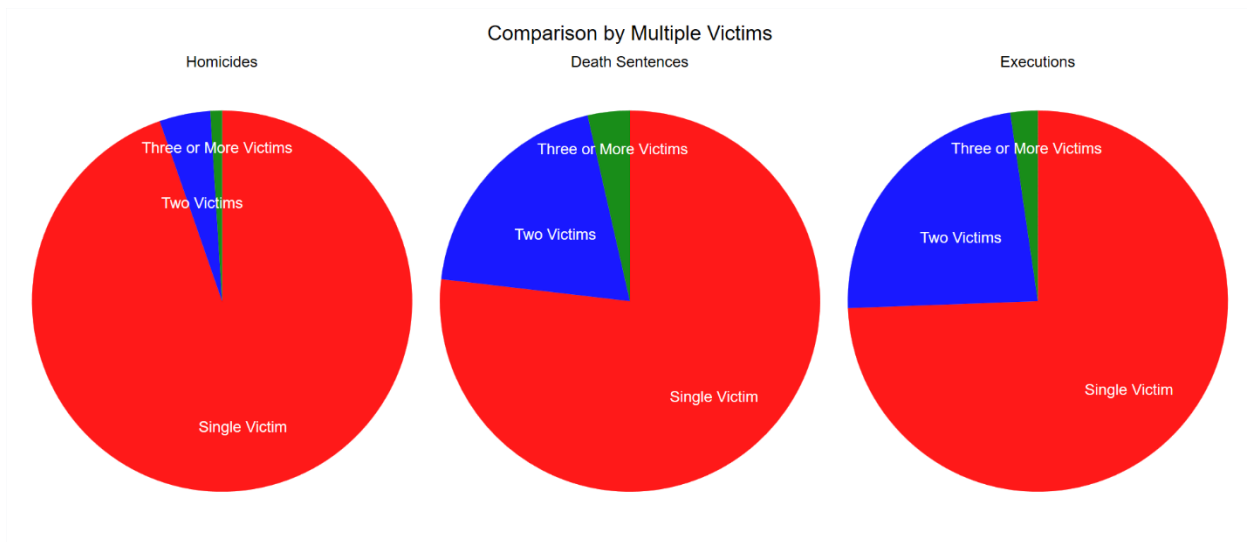
Sources: FBI homicide reports 1976 to 2021; 43 NC executions 1977 to 2023.

Figures 4 and 5 paint a bleak picture of the North Carolina death penalty system. Rather than being applied relatively equally no matter the demographic characteristics of the crime, consistent and powerful patterns show its use is much greater when the victims are white, female, or both. The race of the offender must be considered in conjunction with the race of the victim, because most homicides occur within racial categories. White offenders are more likely to have white victims. When they do, they have an elevated risk of a death sentence or execution compared to when they have black victims. Black offenders tend to have black victims, and when they do, they have a lower risk of a death sentence or execution. But when black offenders have white victims, they see a dramatic increase in their odds of a death sentence or execution, approximately double the rate for white offenders.

As we move from homicides to death sentences to executions, the demographics are transformed because of the facts just described. These patterns are so powerful that we can visualize them in a series of simple pie charts. Figure 3 shows these comparisons, using the numbers in Table 2. It looks first at victim gender, in the top pane, then victim race, then combined victim race and gender. Finally, the last pane of the Figure shows a legally relevant factor, the number of victims, one, two, or more than two.

Figure 3. Comparisons of Homicide, Death Sentence, and Execution Cases.





The first pane in Figure 3 looks at victim gender. Table 2 showed that female victims number 7,238, or 22.2 percent of all homicides where the gender of the victim was known. These are shown in the red slice of the pie on the left column in the first pane: less than one-quarter of homicide victims are female. Glancing at the next column makes the comparison obvious: female victim cases are much more common in the death sentenced group (just less than half, 48 percent), and this also extends to executions (where the number is just greater than half, 55 percent). Table 2 gives the precise numbers: Female victims are 257 out of 539 victims in death-sentenced cases where gender is known, or 48 percent. Similarly, 30 of 55 victims in execution cases were female, 55 percent.

The second pane looks at victim race: white victims are just 40.6 percent of all homicide victims, but about their share rises to 68.6 percent in the death sentence category and 80.8 percent in execution cases. By victim race and gender, white female victims (labeled “WF” in the Figure) constitute a small share of all homicide victims (11.4 percent), but the share grows to 31.8 percent in the death sentence and 40.4 in the execution groups. Equally remarkable, black males (“BM” in the Figure) are 48.5 percent of all the homicide victims, but they are only about 14.8 percent of those associated with death sentences and 3.8 percent of those in execution cases.

Finally, the Figure shows the impact of multiple victims, a legally relevant factor. Killers of single victims are the vast majority of homicide offenders, about 95 percent. Their share declines to 77 and 74 percent among those sentenced to death and executed, respectively. This is a useful comparison with the legally irrelevant factors associated with race and gender. The legally relevant factor does matter, but the legally irrelevant factors are even more important.

### ***Odds Ratios or “Risk Factors”***

Table 3 presents odds ratios for relevant comparisons laid out in Table 2 above. In each case, a “comparison group” is compared to a “baseline group” with the two rates drawn from Table 2. Then the last column shows the odds ratio, which is simply the comparison rate divided by the baseline rate.

Table 3. Summary of Death Sentencing Rates and Odds Ratios.

Baseline	Comparison	Baseline Rate	Comparison Rate	Odds Ratio
Female Offender	Male Offender	0.38	1.83	4.82
Black Offender	White Offender	1.29	2.18	1.69
Male Victim	Female Victim	1.11	3.55	3.20
Black Victim	White Victim	0.88	2.82	3.20
Black Male Victims	White Male Victims	0.51	2.11	4.14
Black Male Victims	Black Female Victims	0.51	2.53	4.96
Black Male Victims	White Female Victims	0.51	4.66	9.14
Black kills Black	White kills Black	0.76	1.23	1.62
Black kills Black	White kills White	0.76	2.32	3.05
Black kills Black	Black kills White	0.76	4.26	5.61
Black male kills black male	White male kills white male	0.53	1.66	3.13
White male kills white female	Black male kills white female	4.62	8.25	1.79
Black male kills black male	Black male kills white female	0.53	8.25	15.57
Single victim	Two victims	1.11	6.19	5.58
Single victim	Three or more victims	1.11	4.90	4.41

Note: An odds-ratio of 1.00 reflects equality of treatment.

The first comparison shown in Table 3 is between male and female offenders; the rates (drawn from Table 2) are 0.38 for female offenders and 1.83 for males, generating a ratio of 4.82. Male offenders are much more likely to be sentenced to death, as a share of all homicide offenders, than female offenders. We see these ratios: 1.69 for white offenders compared to black; 3.20 for those with female victims compared to male; 3.20 for those with white victims compared to black victims, and so on. Only ratios near 1.00 reflect proportionate outcomes across the categories of comparison. We see no such ratios here.

Compared to killings with black male victims, those with white male victims have 4.14 times the odds of a death sentence; those with black female victims, 4.96; and those with white female victims, 9.14 times the odds. Note that black male victims are the most numerous category of homicide victim state-wide. Their killings see very low rates of death sentencing compared to killings of other victims.

The combined effects of offender and victim characteristics are particularly important. In particular, blacks who kill whites are 5.6 times as likely to get death as blacks who kill blacks, and black men who kill white females are more than 15 times as likely to get death than black males who kill black males.

Finally, the last rows in the table refer to a legally relevant factor: The number of victims. This does indeed make an important difference; killers of three or more victims in the same incident are more than 5 times as likely to receive a death sentence than those with a single victim. This ratio is lower, however, than several others in the table, and only slightly higher than most of them.



## Conclusions

This paper has presented a simple comparison of death sentencing rates based on the demographic characteristics of the offenders and victims. Results should be very troubling to anyone concerned about the equal application of the law. Clearly, crimes with white victims, female victims, or both are treated specially by the state of North Carolina when assessing which crimes deserve the ultimate punishment.

## References

- Baldus, David C., George G. Woodworth, and Charles A. Pulaski Jr. 1990. *Equal Justice and the Death Penalty: A Legal and Empirical Analysis*. Boston: Northeastern University Press.
- Baumer, Eric P., Steven F. Messner, and Richard Rosenfeld. 2003. Explaining Spatial Variation in Support for Capital Punishment: A Multilevel Analysis. *American Journal of Sociology* 108, 4: 844–75.
- Baumgartner, Frank R., Seth Kotch, and Isaac Unah N.d. *A Deadly Symbol: Race and Capital Punishment in North Carolina*. Book manuscript in preparation.
- Baumgartner, Frank R., Amanda J. Grigg and Alisa Mastro. 2015. #BlackLivesDon'tMatter: Race-of-Victim Effects in US Executions, 1977–2013. *Politics, Groups, and Identities* 3, 2: 209–221
- Baumgartner, Frank R., Suzanna L. De Boef and Amber E. Boydston. 2008. *The Decline of the Death Penalty and the Discovery of Innocence*. New York: Cambridge University Press.
- Beckett, Katherine, Kris Nyrop, and Lori Pfingst. 2006. Race, Drugs, and Policing: Understanding Disparities in Drug Delivery Arrests. *Criminology* 44(1) 105-137.
- Blalock, Hubert, M. 1967. *Toward a Theory of Minority Group Relations*. New York: Wiley.
- Bonacich, Edna. 1980. Class Approaches to Race and Ethnicity. *Insurgent Sociologist* 10: 9-23.

- Bowers, William J., and Glenn L. Pierce. 1980. Deterrence or Brutalization: What Is the Effect of Executions? *Crime and Delinquency* 26: 453-484.
- Burch, Traci. 2015. Skin Color and the Criminal Justice System: Beyond Black-White Disparities in Criminal Sentencing. *Journal of Empirical Legal Studies* 12, 3: 395–420.
- Chambliss, William and Robert Seidman, 1971. *Law, Order and Power*. Reading, MA: Addison-Wesley.
- Clear, Todd. 2007. *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Neighborhoods Worse*. New York: Oxford University Press.
- Cochran, John and Mitchell Chamlin. 2006. The Enduring Racial Divide in Death Penalty Support. *Journal of Criminal Justice* 34: 85-99.
- Eberhardt, Jennifer L., Paul G. Davies, Valerie J. Purdie-Vaughns and Sheri Lynn Johnson. 2006. Looking Deathworthy: Perceived Stereotypicality of Black Defendants Predicts Capital-Sentencing Outcomes. *Psychological Science* 17, 5: 383–386.
- Gabiddon, Shaun and Kareem L. Jordan. 2013. Public Opinion on the Killing of Trayvon Martin: A Test of the Racial Gradient Thesis. *Journal of Crime and Justice* 36: 283-298.
- Garfinkel, Harold. 1949. Research Note on Inter- and Intra-Racial Homicides. *Social Forces* 27: 369-381.
- Giles, Michael and Arthur Evans. 1986 The Power Approach to Intergroup Hostility. *Journal of Conflict Resolution* 3: 469-486.
- Goidel, Kirby, Wayne Parent and Bob Mann. 2013. Race, Racial Resentment, Attentiveness to the News Media, and Public Opinion Toward the Jena Six. *Social Science Quarterly* 92: 20–34.

- Gross, Samuel R., Maurice Possley, Ken Otterbourg, Klara Stephens, Jessica Weinstock Paredes, and Barbara O'Brien. 2022. *Race and Wrongful Convictions in the United States, 2022*. Irvine, CA: National Registry of Exonerations, September. <https://www.law.umich.edu/special/exoneration/Documents/Race%20Report%20Preview.pdf>
- Hagan, John, and Celesta Albonetti. 1983. Race, Class and the Perceptions of Criminal Injustice in America. *American Journal of Sociology* 88: 329-355.
- Hagan, John, Carla Shedd, and Monique R. Payne. 2005. Race, Ethnicity and Youth Perceptions of Criminal Injustice. 2005. *American Sociology Review* 70: 381-407.
- Hawkins, Darnell. 1987. Beyond Anomalies: Rethinking the Conflict Perspective on Race and Criminal Punishment. *Social Forces* 65: 719-45.
- Henderson Martha, Francis Cullen, Liqun Coa, Sandra L. Browning and Renee Kopache. 1997. The Impact of Race on Perception of Criminal Injustice. *Journal of Criminal Injustice* 25: 447-62.
- Hochschild, Jennifer. 1995. *Facing up to the American Dream: Race Class and the Soul of the Nation*. Princeton New, Jersey Princeton University Press.
- Huckfeldt, Robert and John Sprague 1993. Citizens, Contexts, and Politics In Political Science: *The State of the Discipline II*, ed. Ada Finifter, Washington D.C.: American Political Science Association.
- Johnson, Guy B. 1941. The Negro and Crime. *The ANNALS of the American Academy of Political and Social Science* 217, 1: 93–104.
- Key, V.O. 1949. *Southern Politics in State and Nation*. New York: Knopf.
- King, Desmond and Rogers Smith. 2005. Racial Orders in American Political Development. *American Political Science Review* 99: 75-92.

- Mitchell, Michael and James Sidanius, 1995. Social Hierarchy and Executions in the United States: A Social Dominance Perspective. *The Death Penalty: A Social Dominance Perspective. Political Psychology* 16: 591-619.
- Nakell, Barry, and Kenneth A. Hardy. 1987. *The Arbitrariness of the Death Penalty*. Philadelphia: Temple University Press.
- Paternoster, Raymond et al. 2004. Justice by Geography and Race: The Administration of the Death Penalty in Maryland. *Margins* 1: 38-40
- Peffley, Mark, and Jon Hurwitz. 2010. *Justice in America: The Separate Realities of Blacks and Whites*. New York: Cambridge University Press.
- Portes, Alejandro and Ruben Rumbaut. 2001. *Legacies: The Story of the Immigrant Second Generation*. University of California Press.
- Radelet, Michael and Glenn Pierce. 1985. Race and Prosecutorial Discretion in Homicide Cases. *Law and Society Review* 19: 587-622.
- Riley, John. 1992. Race, Defense Lapses Seen as Key to Verdict. *Newsday* Apr. 30 1992 p. 4.
- Sampson, Robert and Dawn Bartusch. 1998. Legal Cynicism and (Subcultural?) Tolerance of Deviance: The Neighborhood Context of Racial Differences. *Law and Society Review* 32: 777-804.
- Sampson, Robert and Janet Lauritsen. 1997. Racial and Ethnic Disparities in Crime and Criminal Justice in the United States. *Ethnicity, Crime, and Immigration* 21: 311-374.
- Schneider, Anne and Helen Ingram. 1993. Social Construction of Target Populations: Implications for Politics and Policy. *The American Political Science Review* 87: 334-347.

- Schuman, Howard, Charlotte Steeh, Lawrence Bobo. 1985. *Racial Attitudes in America: Trends and Interpretations*. Cambridge, MA: Harvard University Press.
- Sigelman, Lee and Susan Welch. 1991. *Black Americans' Views of Racial Inequality: The Dream Deferred*. New York: Cambridge University Press.
- Smith, Kevin B. 2004. The Politics of Punishment: Evaluating Political Explanations of Incarceration Rates. *Journal of Politics* 66: 925-38
- Stewart, Eric A., Eric P. Baumer, Rod K. Brunson, and Ronald L. Simons. 2009. Neighborhood Racial Context and Perceptions of Police-Based Racial Discrimination among Black Youth. *Criminology* 47: 847–887.
- Terkildsen, Nayda. 1993. When White Voters Evaluate Black Candidates: The Processing Implications of Candidate Skin Color, Prejudice, and Self-Monitoring. *American Journal of Political Science* 37: 1032-1053
- Tonry, Michael. 1999. Why are U.S. Incarceration Rates So High? *Crime and Delinquency* 45: 419-437.
- Tuch, Steven and Ronald Weitzer. 1997. Trends: Racial Differences in Attitudes Towards the Police. *Public Opinion Quarterly* 61: 642-43.
- Turk, Austin. 1969. *Criminality and Legal Order*. Chicago: Rand McNally.
- Tyler, Tom. 1990. *Why People Obey the Law*. New Haven: Yale University Press
- Unah, Isaac and K. Elizabeth Coggins. 2013. When Governors Speak up for Justice: Punishment Politics and Mass Incarceration in the United States. *Journal of Political Sciences & Public Affairs* 1: 1-12.

- Unah, Isaac and Michael J. Songer. 2006. The Effect of Race, Gender, and Location on Prosecutorial Decisions to Seek the Death Penalty in South Carolina. *South Carolina Law Review* 58: 161-210
- Unah, Isaac and Valerie L. Wright. 2015. Race, Public Perceptions of Injustice and the Racial Gradient Thesis. In *Deadly Injustice: Race, Criminal Justice, and the Shooting of Trayvon Martin*, eds. Devon Johnson, Amy Ferrell, and Patricia Y. Warren. New York: New York University Press.
- Unah, Isaac. 2011. Empirical Analysis of Race and the Process of Capital Punishment in North Carolina. *Michigan State Law Review* 2011: 609-58
- Weitzer, Ronald W., and Steven A. Tuch. 2006. *Race and Policing in America: Conflict and Reform*. New York: Cambridge University Press.
- Weitzer, Ronald W., and Steven Tuch. 1999. Race, Class and Perceptions Discrimination by the Police. *Crime & Delinquency* 45: 494-507.
- Yates, Jeff and Richard Fording. 2005. Politics and State Punitiveness in Black and White. *Journal of Politics* 67: 1099-1121.

### **Appendix. From *Furman* to *Woodson***

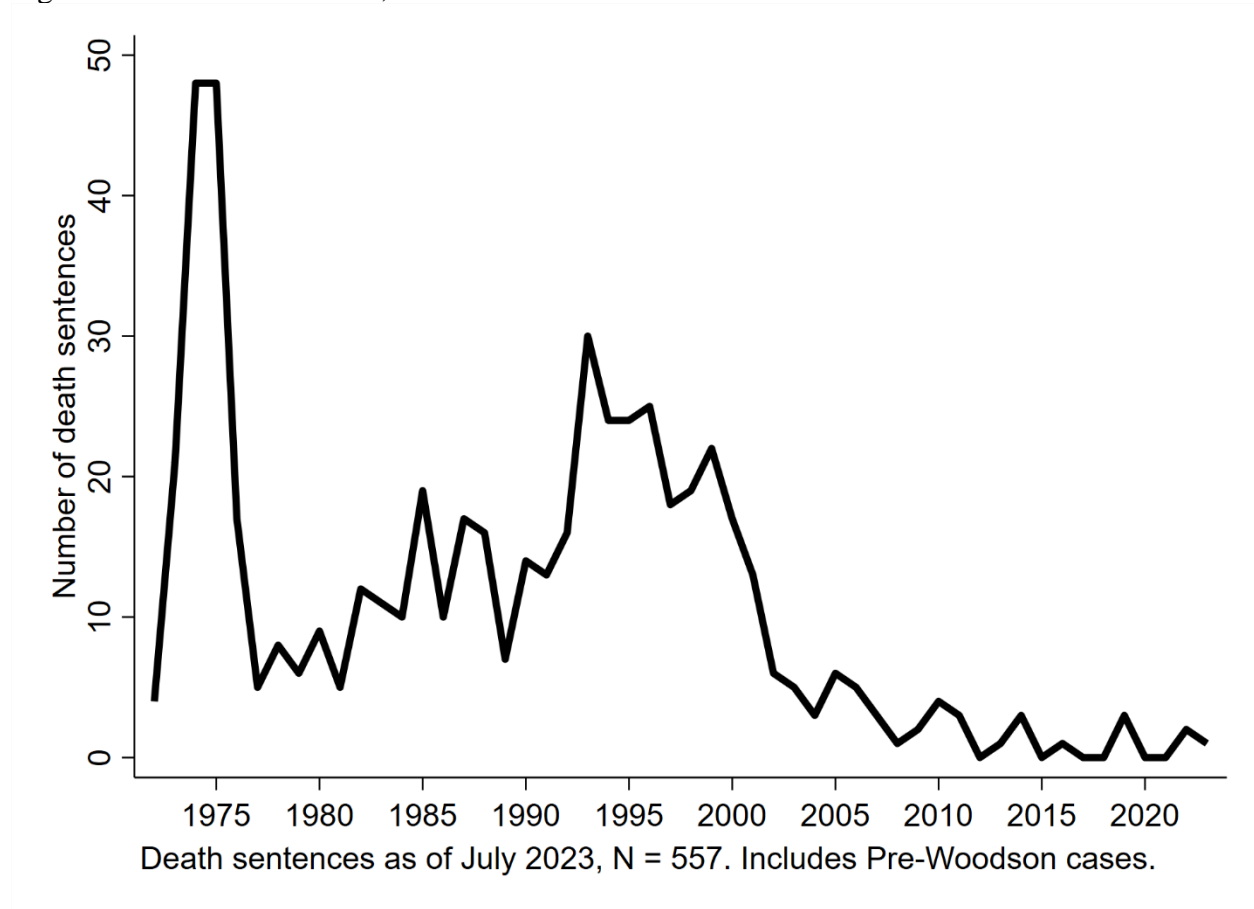
*Furman v. Georgia* was decided on June 29, 1972. The state of North Carolina responded with a reversion to the most recent applicable law, which included mandatory death sentences for those convicted of eligible crimes; the first death sentence under the post-*Furman* system was that of Johnny Blackmon, in Union County, who was sentenced on August 31, 1972. Three additional death sentences followed in 1972 as North Carolina was one of the first states in the nation to resume sentencing under the new system. Twenty-one were sentenced to death in 1973, 48 each

in 1974 and 1975 before the *Woodson* decision invalidated the mandatory death sentence scheme the following year.

*Woodson v. North Carolina* was decided on July 2, 1976. Seventeen death sentences were imposed in 1976, including five during the month of June, and one the day before the Supreme Court decision, on July 1. (This individual, Charles Ray Finch, like all those sentenced under the unconstitutional mandatory scheme, had his death sentence overturned because of the Supreme Court decision, and was resentenced to life in prison. In 2019, he was exonerated after evidence arose that the forensic evidence linking him to the firearm used in the crime was fabricated; he served 43 years.) There were then no death sentences until March 1977 as the state was forced to revise its death penalty statute.

The main text of this report focuses on the post-*Woodson* period because that is the system currently in place. However, it is instructive to review the numbers and rates of death sentencing with the full post-Furman time period in mind. Figure A-1 shows the number of death sentences annually since 1972 as well as the rate per 100 homicides. (It uses the same SHR data used in the main text but substitutes the very similar UCR numbers for 1972 through 1975, when the SHR data are not available.)

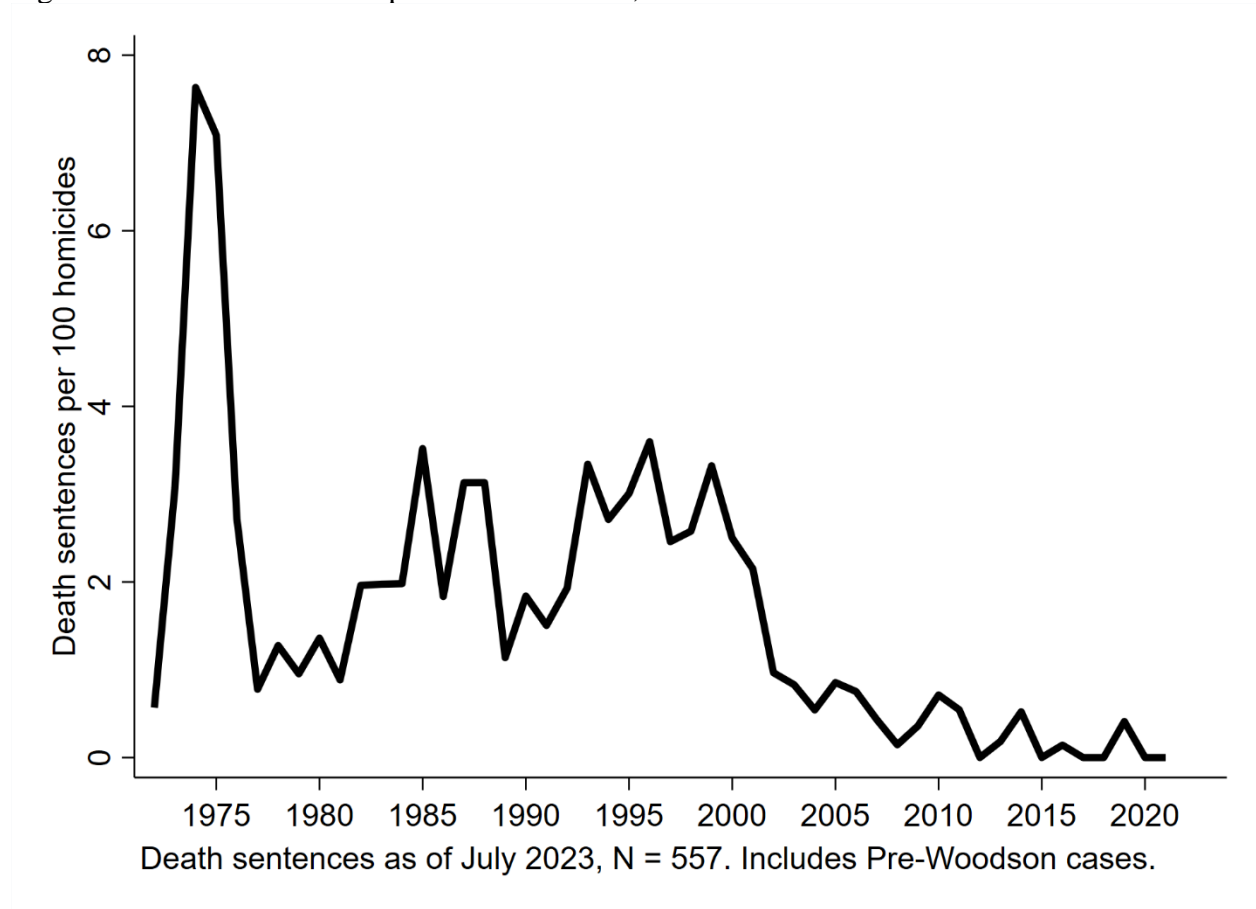
Figure A-1. Death Sentences, 1972 to 2023.



The period since 1972 can reasonably be divided into three: the Pre-Woodson period lasting until July 2, 1976, which showed very high rates of use. (Note that 1972 and 1976 show lower rates of use than the neighboring years, but there was no valid death sentencing regime in place for half of those years.) The second period shows increasing rates of use, but never reaching the pre-Woodson peaks. This continues until reforms in 2001 that eliminated mandatory prosecution in capital-eligible cases and that reorganized the system of indigent defense in capital cases. These two reforms signal the start of the third period, since 2001, which is a period of virtual abandonment of the practice. Figure A-2 shows the same information expressed as a rate of death sentences per 100 homicides. Both figures show similar trends.



Figure A-2. Death Sentences per 100 Homicides, 1972 to 2023.



Note: Homicides data not available after 2019. No rates calculated.