Race and Gender Disparities in Capitally-Charged Louisiana Homicide Cases, 1976-2014

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EXECUTIVE SUMMARY

We review the outcomes of 1,822 capitally charged homicide cases across eight judicial districts in Louisiana from 1976 through 2014, out of 6,300 homicides during the same period. In most cases, capital charges were reduced, but in 385 cases (six percent) the state sought death through to the final stage of the prosecution, and in 107 cases (1.7 percent) a death sentence was imposed. We analyze these outcomes, looking at legally relevant factors as well as legally irrelevant ones in determining final capital charges and death sentences. Legally relevant factors include the number of victims as well as various statutory aggravating circumstances (e.g., victims under 12 or over 64, simultaneous felony circumstances, the type of weapon, the relationship between the victim and offender). Legally irrelevant factors include the judicial district and the race and gender of the offenders and victims. Many legally relevant factors have a powerful impact: the number of victims, certain felony circumstances, child victims, elderly victims. But factors which in theory should have no impact in fact have powerful effects. We found only modest differences across the eight judicial districts we studied, but especially powerful differences in rates of final capital charges and death sentences in cases that involved White victims, particularly White females. No demographic combination was as likely to see a final capital charge or a death sentence as those cases with a Black male offender and a White female victim, which were more than five times as likely to lead to a final capital charge or a death sentence compared to the much more frequent crimes involving Black offenders and Black victims. These findings come after a review of the bivariate relations as well as a series of multivariate logistic regressions. The Louisiana death penalty system is heavily weighted by a tendency to seek the harshest penalties in those cases with White female victims. Our powerful and consistent findings of racial and gender-based disparities hold in a multivariate analysis and are inconsistent with the equal protection of the law or any common understanding of equality or justice.

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[4] Note: This version has not yet been edited and formatted for publication. Please consult published version before citing.

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I. INTRODUCTION

Between 1972 and the end of 2020, 28 prisoners (all male) were put to death in Louisiana.[5] The last person on that list, Gerald Bordelon (Jan. 7, 2010) is the only one of the 28 who dropped his appeals and asked to be executed, and the only person in Louisiana to be executed since 2002.[6] One of the 28, Leslie Lowenfield, was a foreign national from Guyana,[7] while the remaining 27 were American citizens. All the defendants and their victims in the 28 cases were either White or Black, with no Hispanics, Asians, or Native Americans involved in the cases that resulted in an execution.

The U.S. Census Bureau estimates that in mid-2019, Louisiana's 4.6 million residents were 62.4 percent White, 32.8 percent Black, and 4.4 percent "other."[8] Table 1 displays the races of the defendants and victims among the 28 whose cases that ended with an execution.

[Table 1 about here]

Overall, the data in Table 1 show that among those executed, there were 13 Black defendants (46.4 percent) and 15 White defendants. Much more striking, however, is the fact that, regardless of the race of the defendant, 24 of the 28 cases resulting in execution involved White victims (85.7 percent). Therefore, while Whites composed 62.4 percent of the state's population in 2019, those convicted of killing Whites make up nearly 86 percent of the prisoners

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[5]DEATH PENALTY INFORMATION CENTER, *Execution Database*, https://deathpenaltyinfo.org/executions/execution-database. 1972 marks the beginning of the modern era of the death penalty in the United States. In that year, the Supreme Court (in effect) invalidated all existing death penalty statutes, forcing jurisdictions that decided to retain the death penalty to enact revised death penalty statutes. *Furman v. Georgia*, 408 U.S. 238 (1972).

[6]*Id.* Restated, it has been twenty years since Louisiana executed a prisoner who exhausted his appellate avenues. Associated Press, *Why Louisiana Executions have Stalled for a Decade with 68 Remaining on Death Row*, THE ADVOCATE, Feb. 3, 2020, *available at* https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_a802a5f6-46d1-11ea-9f51-eff2fa808090.html

[7]*Louisiana Man Dies in Electric Chair*, NEW YORK TIMES, Apr. 14, 1988, at 28. Lowenfield was Black.

[8]UNITED STATES CENSUS BUREAU, *Quick Facts: Louisiana*. https://www.census.gov/quickfacts/LA.

executed since 1972.[9] Nine Blacks were put to death for killing White victims and no Whites were executed for killing Black victims.[10] In 20 of the 28 cases (71.4 percent), the executed prisoner was convicted of killing at least one female. Women or girls constituted just 19 percent of homicide victims in Louisiana from 1976 through 2011[11], so the data show that killers of Whites, and killers of females are substantially over-represented in execution cases compared to their shares of homicides. As we will see below, this is even further accentuated when we look at killers of White women, and among killings where the suspect is a Black male.

Louisiana has a poor record for sentencing defendants to death who were likely innocent. Eleven men sentenced to death in Louisiana since 1972 were later vindicated when new evidence emerged that supported their innocence claims.[12] Eight of these defendants (72.7 percent) were Black. Louisiana ranks fourth among all states, behind Florida, Illinois, and Texas, in the number of people sentenced to death since 1972 who were later released because of doubts about guilt.

As of July 1, 2020, 69 prisoners awaited execution in Louisiana, including one woman.[13] Of these, 46 were Black, 20 White, and three were Latinx. Note that while 32.8 percent of the state's population identifies as Black,[14] 46 percent of those executed in Louisiana since 1972 were Black, as are 66.7 percent of those awaiting execution today. These stark racial disparities invite scrutiny to ascertain if legally-irrelevant factors (like race) correlate with the death sentences, even after controlling for legally relevant factors such as the characteristics of the

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[9] *Id.*
[10] In fact, the most recent execution in Louisiana of a White offender for a crime against a Black victim was in 1752; *see* Michael L. Radelet, *Executions of Whites for Crimes Against Blacks: Exceptions to the Rule?*, 30 SOCIOLOGICAL QUARTERLY 529 (1989).
[11] Frank R. Baumgartner & Tim Lyman, *Race-of-Victim Discrepancies in Homicides and Executions, Louisiana 1976-2015*, 17 LOYOLA JOURNAL OF PUBLIC INTEREST LAW 129 (2015-2016).
[12] DEATH PENALTY INFORMATION CENTER, *Innocence by the Numbers*, https://deathpenaltyinfo.org/policy-issues/innocence/innocence-by-the-numbers. See also NATIONAL REGISTRY OF EXONERATIONS https://www.law.umich.edu/special/exoneration/Pages/about.aspx.
[13] NAACP Legal Defense and Educational Fund, Inc., *Death Row USA* (Summer 2020), at 49.
[14] https://www.census.gov/quickfacts/LA.

crime. For example, perhaps the apparently large racial differences are themselves correlated with non-racial factors such as the particular characteristics of the crime, the type of weapons used, or differences across racial categories in the presence of particular aggravating circumstances. This is our object in the analysis below.

We conduct this analysis by exploring, for a large set of homicide offenders across multiple judicial districts in Louisiana and several decades of recent history, the correlates of capital prosecution. We start with a list of over 6,000 homicides and look particularly at those 1,822 who faced capital charges. First, we look at how these 1,822 differ from the larger group from which they are drawn. Then we conduct an intense analysis of which individuals saw the capital charges against them dropped or reduced before final disposition. Over 1,800 individuals in our study faced capital charges, but almost 80 percent of these charges were later reduced, and some were dismissed. Only about 20 percent of those facing capital charges at any point in the pretrial stages saw the prosecution seek capital charges in the final stage. And just 107, or fewer than six percent, were sentenced to death. By exploring prosecutors' decisions to retain capital charges through to the end of the prosecution in some cases but not others, we shed light on the correlates of the decision to seek death, both legally relevant and not. Especially noteworthy in our findings are the effects of legally irrelevant factors, including racial and gender effects, particularly associated with victim characteristics.

II. Recent Studies of the Processing of Homicide Cases in Louisiana

Over the past twenty years, four projects have studied the processing of homicide cases in potential death penalty cases in Louisiana, all of which were conducted by one or more of the present authors. The first focused on all homicides cases that contained a formal charge for first-degree murder in East Baton Rouge Parish that were committed over a 19-year period, January 1,

1990 through December 31, 2008.[15] There were 406 relevant cases. Of those, charges were reduced to a non-homicide offense in half the cases and 12 others resulted in a non-guilty verdict or were still pending at the time of the study. Of the remaining group of 191 homicide convictions, 26 resulted in death sentences.

While the defendant's race was not by itself a statistically significant predictor of who was sentenced to death, the victim's race was; 21.4 percent of the cases with White victims resulted in death, compared to 8.1 percent of those with Black victims. When both the race of the defendant and the victim were examined, the data showed that 30 percent of the cases with Black defendants and White victims (B-W) resulted in a death sentence, compared to 12 percent of the W-W cases and 8.3 percent of the B-B homicides.[16] Further, "even in homicides where aggravating factors are present, those who kill Whites are still more than twice as likely to be sentenced to death as those who kill Blacks."[17] Similarly, among cases with one or more felonies (in addition to the homicide) were present, 27.5 percent of the cases with White victims resulted in death sentences, compared to 13.2 percent of the cases with Black victims. When these and other variables that measured the severity of the homicide were added to a multivariate predictive model, the authors found that "the odds of receiving a death sentence in a [B]lack victim case are on average 97.3% lower than are the odds of a death sentence in a [W]hite victim case …, controlling for the other variables in the analysis."[18]

Pierce and his colleagues followed with a study that examined possible racial disparities at earlier stages of the cases following arrest. More specifically, they were interested in whether

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[15]Glenn L. Pierce & Michael L. Radelet, *Death Sentencing in East Baton Rouge Parish, 1990-2008*, 71 LOUISIANA LAW REVIEW 647 (2011).
[16] There were too few cases with White defendants and Black victims to allow for reliable statistical analysis.
[17]*Id*., at 663.
[18]*Id*., at 670.

prosecutors compiled a more detailed and thicker case file—reflecting greater investigative effort—in homicide cases with White victims than in homicides that took the lives of Blacks.[19] Here they looked at 431 cases with initial charges of first-degree murder, second-degree murder, or manslaughter that occurred in Louisiana's Caddo Parish (the Shreveport area) in the 21 years between January 1, 1988 and December 31, 2008. They simply counted the number of pages in the prosecutor's files for each case. They found that the case files were more expansive in cases with Black defendants, cases with White victims, cases with more aggravating circumstances present, and in homicides in which the victim and defendant were strangers. When all these variables were entered into a multivariate model predicting the length of the case file, the researchers found the strongest predictor of the size of the file was having a White female victim. The authors concluded that "even among cases with similar levels of aggravation, the time and energy expended on the case significantly varies with the demographic characteristics of the victim."[20]

A third recent study looked at a comprehensive sample of almost 13,000 homicide cases in Louisiana from 1976 through 2015.[21] A death sentence was imposed in 241 of these cases. The authors found that while "[B]black males constitute 61 percent of the victims of homicides, they are just 8 percent of the victims of those who were later executed. White females, by contrast, represent 7 percent of the overall victims, but 47 percent of those for whom the murderer was later put to death."[22] Further, "Although [W]hites constitute only around a quarter (26 percent) of modern-era homicide victims, they are close to two-thirds (64 percent) of the

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[19]Glenn L. Pierce, Michael L. Radelet, Chad Posick, & Tim Lyman, *Race and the Construction of Evidence in Homicide Cases*, 39 AMERICAN JOURNAL OF CRIMINAL JUSTICE 771 (2014).
[20]*Id.*, at 785.
[21]Frank R. Baumgartner & Tim Lyman, *Race-of-Victim Discrepancies in Homicides and Executions, Louisiana 1976-2015*, 17 LOYOLA JOURNAL OF PUBLIC INTEREST LAW 129 (2015-2016).
[22]*Id.*, at 134.

victims in death sentence cases, and nearly four-fifths (79 percent) of the victims in cases that have ended in execution."[23]

Finally, using the same dataset, Baumgartner and Lyman extended their analysis to study which of the 241 death sentences imposed, 1972 through 2015, were later vacated by appellate courts.[24] Among the 155 cases that had completed the appellate process, there were 127 reversals (of which nine were exonerations) and 28 executions. Regardless of the race of the defendant, those convicted of killing Whites were more than six times more likely to receive a death sentence than those convicted of killing Blacks, and 14 times more likely to be executed. Further, the White-victim cases were less likely to be reversed on appeal.

The above four articles show a strong and persistent pattern of disparities in the administration of the death penalty in Louisiana that are strongly correlated with the race and the gender of the victim. Left unanswered by the above studies, however, is the question of *where* the racial disparities enter into the chain of decisions that might culminate with a death sentence. We therefore decided to examine a large sample of Louisiana homicide cases that at some point were charged as first-degree murders—and therefore eligible for a death sentence—to see which are most likely to remain first-degree murder cases until the end of the prosecution. We now turn our attention to the methodology we employed to shed light on this question.

III. DATA COLLECTION

Data for this study come from 1,822 capitally-charged homicide cases in eight Louisiana Judicial Districts covering the period 1976–2014.[25] In Louisiana, all first-degree murders are

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[23] *Id.*, at 141.

[24] Frank R. Baumgartner & Tim Lyman, *Louisiana Death-Sentenced Cases and Their Reversals, 1976-2015*, 7 J. RACE GENDER & POVERTY 58 (2015-2016).

[25] See this website [link to Baumgartner's web page to be added after publication acceptance] for the underlying database as well as Stata replication files for all the analysis presented in this paper.

eligible for the death penalty, at the discretion of the district attorney.[26] Therefore, in this Article we use "first-degree murder" and "capital murder" as synonymous. We refer to our universe of cases as having been "capitally charged" because, in each case, there is evidence from the case file that the prosecution included a first-degree murder charge at some point before the case was ultimately resolved. We have a census of such cases for the parishes and the years that we study.

Our data come from eight judicial districts. Louisiana is divided into 64 "parishes" (called "counties" in other states), and the parishes are organized into 42 Judicial District Courts (JDCs),[27] numbered generally from northwest to southeast. The eight JDCs included in this study generated 55 percent (134÷242) of all death sentences imposed in Louisiana during the period of 1977 through 2016. Figure 1 illustrates the coverage of the study by providing a map of the state identifying each of the 64 parishes and showing the number of death sentences. The Figure also indicates which parishes are included in the present study.

[Figure 1 about here]

The parishes included in the study are from all regions of the state and account for 8,482 of the 20,862 non-negligent and non-jusitified homicides in Louisiana during the period from 1976 to 2014, or 41 percent. The data come from every parish in the state that had eight or more death sentences imposed during the study period, with the exception of Orleans Parish and JDC 21. Table 2 lists the parishes included in this study and the years our data covers in each. The first column indicates the rank of the JDC with regards to the cumulative number of homicides from 1976 to 2014. Orleans Parish, first in rank, is not included, but the JDCs listed include those ranked 2-5, 7-9, and 12, among the 42 JDCs.

[Table 2 about here]

[26] La. R.S. 14:30
[27] Ballotpedia, *Louisiana Judicial Courts*, https://ballotpedia.org/Louisiana_District_Courts.

In some JDCs, physical case files from earlier years were not available. For example, the case files from the Orleans JDC (covering the city of New Orleans) were destroyed by flooding in 2005. Others had early case files unavailable for a variety of other reasons. In addition, some data were gathered before the homicide prosecutions had reached their final dispositions (whether through trial or plea agreement), a process that can often take three years or more.

In almost every case, the capital charge was levelled at the initial stage of the prosecution (1,791 cases of 1,822, or 98 percent). In 31 cases they were "upgraded" to first-degree at a later stage of the prosecution (18 from a second-degree murder charge, three from a manslaughter charge, and 10 from less-than-murder charges).

As shown in Table 4, only a small subset of these cases saw the first-degree charge carried to the last stage of the prosecution. Many more saw the initial first-degree charges reduced or dropped. In fact, when we consider the final charges faced by each defendant, 21 percent were first-degree; 29 percent second-degree; 26 percent manslaughter or negligent homicide; nine percent less-than-murder; and 15 percent were dropped. Our analytical interest is to distinguish the 21 percent who faced final charges of first-degree murder from those who saw a lesser final charge.

A. The Master Case Data Set

The Master Case Data Set was compiled for eight individual JDC studies made over a ten-year period by the first author for use in various criminal cases, both trials and appeals. Since each of the eight studies used the same underlying methodology, we report combined results here.[28] Working with the clerk of court in each JDC, lists of first- and second-degree indictments were assembled. The second-degree cases were reviewed for evidence of previous charges of

[28] More information about our data collection procedures can be found in the single JDC studies conducted by the first author. See all the JDC studies on his SSRN author page: http://ssrn.com/author=1603675.

first-degree murder, a process that led to the discovery of such charges in approximately 15 percent of the second-degree cases reviewed.

In order for a case to qualify for inclusion in the Master Case Data Set, four criteria had to be met: a) documentation of a first-degree murder charge; b) presence of a Black or White suspect and victim; c) known age and gender of the defendant and victim; and d) a record of the highest final charge sought by the prosecution at plea or trial. For example, if a case ended in a plea agreement for second-degree murder, this is the highest final charge, since the prosecutor's office agreed to it. Final charges of first-degree murder are those where a plea agreement ended in such a conviction or where the suspect went to trial on first-degree charges. This qualification process was followed in each of the eight JDCs studied. Because Louisiana has a low population of Asians, Native Americans, and people of other races—none of whom were involved in any post-1972 executions—94 cases with victims of other races were excluded from our study so we could better pinpoint differences between Black and White suspects and victims.[29]

Finding evidence of a capital charge entailed searching for "first-degree" or "14:30" (its statutory code[30]) in the case file documents, whether physical or virtual, including affidavits, appeals, autopsies, bond documents, investigative reports, lab requests, minutes, motions, police reports, preliminary hearings and examinations, probable cause documents, requests for appointment of counsel, sheriff's documents, statements of fact, transcripts, warrants, and writs. Supplementary data also came from newspaper-of-record reporting, including information on arrests with names, ages, and charges; pre-trial and case development news; trial and plea news; and finally appeal news.

[29] In 2020, only 4.4 percent of Louisiana's population identified as neither Black nor White. *See* UNITED STATES CENSUS BUREAU, *supra* note 4.
[30] LA Rev Stat § 14:30.

B. Data from Supplemental Homicide Reports

Next, the first author made a Data Set out of Louisiana's "Supplemental Homicide Reports,"[31] compiled by the Federal Bureau of Investigation corresponding to the parishes and time periods included in the Master Case Data Set.[32] Data reported in the SHRs include the parish, investigating police department, month and year of the homicide (but not the specific date), the gender, race, and ethnicity of suspects[33] and victims, the weapon used, the number of suspects and victims in the homicide event, a circumstance code indicating whether or not the investigating police department concluded that the homicide event included an accompanying felony, and the relationship between the suspect(s) and victim(s).

The FBI's SHRs for Louisiana include 7,908 homicides occurring in the same parishes and years as the entries in the Master Case Data Set. Of these homicides, 1,568 cases were excluded because the race of suspect was listed as "unknown" in the SHR record. We further excluded 261 cases where none of the suspects or victims was Black or White. This left us with SHR data on 6,079 homicide suspects.

C. Matching Cases from the Master Case Data Set to Corresponding SHR Incidents

Using information primarily on the investigating police department, year, month, sequence number within the month, and demographics of the victim(s) and suspect(s),[34] the first

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[31] Bureau of Justice Statistics, The Nation's Two Measures of Homicide, July 2014, U.S. Department of Justice, Office of Justice Programs.

[32] "Though a rich source of homicide data, researchers are well aware of the weaknesses associated with the UCR, inattention to which may lead to serious errors and misleading results. Colin Loftin & David McDowell, *The Use of Official Records to Measure Crime and Delinquency*, 26 J. OF QUANTITATIVE CRIMINOLOGY 527 (2010). Perhaps the biggest of these weaknesses is the level of missing information for the homicide incident in the UCR. Official sources like the Bureau of Justice Statistics have found that the SHRs are over 90% complete, but there are still a number of homicides that go unaccounted for. Some agencies do not even submit their forms at all, due to the fact that participation by police agencies with the UCR program is completely voluntary." Karen F. Parker & Richard Stansfield, *Homicide*, in ENCYCLOPEDIA OF THEORETICAL CRIMINOLOGY 436 (J. Mitchell Miller ed. 2014).

[33] Since these data are gathered by investigating police departments from homicide cases soon after their occurrence, we use the term "suspects" or "potential defendants" to refer to the demographic group of the people initially suspected by the local authorities of the homicide.

[34] The SHRs do not include names of suspects or victims, which makes the process of matching more difficult.

author matched the cases from the Master Case Data Set to the relevant incident reported in the SHRs. Matches were made for 1,601 of the 1,822 cases in the Master Case Data Set (87.9 percent).[35] For the remaining 221 capitally-charged defendants in the Master Case Data Set (those whose homicide incidents did not appear in the SHRs), information from court records was used to fill out the relevant circumstance and other information otherwise taken from the SHRs. Adding these 221 cases to the 6,079 SHR suspect cases leads to a total of 6,300 cases with identified suspects (see Table 3). Our analysis below is based on all 1,822 cases, not only the 1,601 matched to the SHR.[36]

IV. FINDINGS

A. Race, Decision Outcomes, and the Stages of the Capital Prosecution Process

As described above, our Master Case Data Set includes only defendants charged at some point with first-degree murder, and therefore suspects who, at least at one point before the conclusion of their case, were under the threat of a death sentence. The data set includes information on homicide suspects and victims, on the level of charge that they faced at the end of the case processing pretrial (e.g., at trial, plea agreement, or case dismissal), and on the final disposition of the case. Figure 2 and Table 3 show several stages, each a subset of the previous one. Beginning with 6,300 homicides, we see 1,822 homicides with capital charges, 904 cases where the final charge was either first- or second-degree, 385 with final charges of first-degree murder, and 107 death sentences. A single glance at the Figure makes clear that as the cases move through the successive filters of the capital prosecution process, the racial characteristics

[35] This level of matching is not unexpected. The Bureau of Justice Statistics (2014) reports that "Historically, between 85% and 90% of all homicides reported in the UCR summary data also have a corresponding SHR form." Bureau of Justice Statistics, The Nation's Two Measures of Homicide, July 2014, U.S. Department of Justice, Office of Justice Programs. https://www.bjs.gov/content/pub/pdf/ntmh.pdf.

[36] Our Appendix replicates our main findings using only the 1,601 cases where there was a clear match to the SHR. Findings are similar regardless of whether we use 1,601 cases or 1,822 cases.

change dramatically. Cases with White victims are much more likely to see the harsher outcomes, particularly Black-on-White crimes. Black-on-Black crimes, by contrast, represent a smaller share at each stage of the process.

[Figure 2 and Table 3 about here]

Across all the years and JDCs in the study, 63.3 percent of the 6,300 homicide suspects had Black suspects and Black victims (these are abbreviated "B-B" in the Table). Among those capitally charged at any time before trial, this number dropped to 51 percent. It declined further to 42 percent among those facing final charges of first or second-degree murder, to 31 percent among those facing final charges of first-degree murder, and to 26 percent among those ultimately sentenced to death. By contrast, B-W homicides were relatively rare; just 10.7 percent of all homicides. But these represented 41 percent of all death sentences. The B-B cases are increasingly under-represented and the B-W cases are increasingly over-represented as they go through the stages of the capital prosecution process. For example, B-W cases represent 10.7 percent of all homicides, but this number more than doubles to 22.1 percent of those with capital charges, and almost doubles again, to 41.1 percent of those receiving a death sentence. The B-B cases, on the other hand, decline in relative shares from 63.3 percent of the homicides to 26.2 percent of the death sentences. These numbers are illustrated in Figure 2 and can be verified in the column percentages reported in Table 3.

For both Black and White suspects, having a Black victim dramatically reduces the probability of a final charge of first-degree murder or of ultimately receiving a death sentence. W-B cases are much less likely to face capital charges or to result in a death sentence than W-W cases. In fact, just two W-B cases ended with a death sentence (2÷164 or 1.2 percent). Among W-W cases, 2.2 percent received a death sentence (33÷1,472). Thus, among cases with White

suspects, the probability of a death sentence is 1.87 times higher in cases with White victims than in cases with Black victims. Having a White victim doubled the probability of a death sentence for the White suspects. Among Black suspects, the impact was much greater: just 0.70 percent of the B-B homicides (28 of 3,991) resulted in a sentence of death, compared to 6.5 percent of B-W cases (44 of 673). Thus, for Black suspects, those with White victims were 9.3 times more likely to be sentenced to death than those suspected of killing Blacks. Both Black and White suspects were more likely to be sentenced to death when the victims are White, but the B-W were three times more likely than the W-W cases to end with a death sentence (6.5 percent vs. 2.2 percent).

Given the strong association between the racial composition of the cases and filtering effects of capital prosecution decisions that lead some cases to harsher or more lenient final outcomes, the next question is to what extent these patterns are functions of legally relevant factors, or if race and/or gender is tainting the process. We now turn our attention to that question, using a broad range of predictor variables across the 1,822 cases in the Master Case Data Set. We focus on the distinction laid out in Table 3 and Figure 2. Of the 1,822 cases charged capitally, what differentiates the 385 that included a capital charge as the final stance by the prosecution? Similarly, what distinguishes the 107 individuals who were finally sentenced to death?

B. Factors Associated with Final First-Degree Charges

We first examine how race correlates with the likelihood of the homicide suspects being charged with first-degree murder at some point prior to sentencing. Table 4 focuses on the first column from Table 3. Of all homicide suspects, which ones face capital charges, according to the race of the victim and suspect? Here the data show that among the B-W homicides, 59.7 percent became a first-degree murder case, followed by 39.0 percent of the W-B homicides, 29.0 percent

of the W-W homicides, and 23.3 percent of the B-B homicides. Thus, the B-W cases are 2.5 times more likely to have charges of first-degree murder than the B-B cases, and they are twice as likely to have that charge as the W-W cases. Our focus, however, is on which of those cases ever charged capitally are also capitally charged at the end of the prosecution stage. Table 4 makes clear that our starting point, the decision to bring capital charges (even if these are later reduced or dropped) is subject to strong disparities based on racial factors.[37]

[Table 4 about here]

The remaining analyses examine the final charging decisions among the 1,822 cases in the court records that had first-degree murder charges at least at one point before disposition. Table 5 displays the distribution of the final charges in each case. These represent the position of the prosecution at the last stage of the prosecution (before a trial or acceptance of a plea agreement). The table shows that charges were dropped in 15 percent of the cases, charges were reduced to a non-homicide in 9 percent of the cases, and so on. The final charge was first-degree murder in 385 cases (21.1 percent). In the end, over half (50.4 percent) of all capitally charged cases were reduced to manslaughter or less.

[Table 5 about here]

Table 5 presents a puzzle central to our analysis: How do the 385 cases in which the final charge was first-degree murder differ from the other cases?

Table 6 shows that cases with White suspects are more likely than cases with Black suspects to be prosecuted as first-degree murder cases at the time of final charge (29.5 percent of the cases vs. 18.0). However, this pattern is reversed when we look at the race of the victim.

[37] We present the results from Table 4 broken down by JDC in Appendix Table A-2, where it can be seen that the same pattern of racial disparities *occurs in each of the JDCs individually*, with the minor exception of JDC 24 (Jefferson Parish). The first-degree murder charge disparities by suspect-victim race are statistically significant for each of the JDCs and for the overall sample of cases.

Table 7 shows that 30.9 percent of the cases with White victims were prosecuted at the end as first-degree murder cases, compared to only 13.0 percent of the cases with Black victims.

[Tables 6 and 7 about here]

Similarly, cases with female victims were more likely to be prosecuted as first-degree murder cases through the final charge, with 15.1 percent of the cases with male victims and 37.6 percent of the cases with female victims including first-degree murder as a final charge (see Table 8).

[Table 8 about here]

Table 9 combines both suspects' and victims' races. Here we can see the impact of victim race, no matter the race of the defendant. About 30 percent of cases with White victims see a final capital charge (31.4 percent of the W-W cases and 30.3 percent of the B-W cases), but only about half that rate in the cases with Black victims (17.2 percent of the W-B cases and 12.7 percent of the B-B cases). Thus, the differences correlate with the race of the victim, not the defendant.

[Table 9 about here]

Table 10 shows that cases with multiple victims are more likely than single-victim homicides to see a final charge of first-degree murder. Here we see that 41.8 percent of the multiple-victim cases were so charged at the end, compared to 18.1 percent of the cases with a single victim.

[Table 10 about here]

Table 11 shows that the probabilities of final first-degree murder charges also vary with the number of defendants charged in the same case. These data show that as the number of defendants increased from one to four, the proportion of cases that had first-degree murder as a

final charge reduced. Cases with more co-defendants were less likely to be prosecuted as first-degree murder cases at the end. (Note that this does not necessarily imply that no defendant faced final capital charges, but that if there were multiple defendants, such charges were more likely to be reduced for at least some of them. Our unit of analysis here is the defendant)

[Table 11 about here]

The age of the victim is another circumstance that correlates with prosecutorial decisions, as would be expected given Louisiana law making killings of children under the age of 12 or persons over the age of 64 statutory aggravators. Table 12 shows that when at least one victim in the homicide event is aged 11 or lower, 32.6 percent face final charges of first-degree murder, compared to 20.2 percent of the remaining cases. Similarly, Table 13 shows that if the homicide includes a victim aged 65 or older, the proportion of cases with a final charge of first-degree murder (34.3 percent) is higher than in the other homicide cases (19.7 percent).

[Tables 12 and 13 about here]

The next several tables present data on whether final first-degree charges are associated with the presence of factors that often make the homicide cases more aggravated—the presence of some indication that the homicide was accompanied by a rape (Table 14), a burglary (Table 15), a robbery (Table 16), illegal drugs (Table 17), another additional felony (Table 18), or the presence of an unknown aggravator (Table 19). The data show the presence of each of these additional criminal circumstances is positively associated with the probability that the case will include first-degree murder charges among the final charges. Rape and Burglary aggravators are relatively rare (just 34 cases indicated the presence of a rape circumstance and 51 that of burglary), but they substantially increase the probability of first-degree final charges; 67.6 percent of the cases with rape and 43.1 percent of those with robbery had this outcome. The odds

that the rape circumstance will be associated with final capital charges is strongly connected to the presence of a White victim: Just 5 of 12 B-B and zero of two W-B cases saw such final charges, but 9 of 10 W-W cases, and 9 of 10 B-W cases did. (This relationship is highly significant despite the small number of cases: chi-sq (3 df) = 12.45; prob. = 0.006.)

[Tables 14-19 about here]

Similarly, Table 20 presents data on the question of whether the relationship between the suspect and the victim is related to final first-degree murder charges. Here there is a tendency for homicides between family members and between strangers to be more likely than other homicides to result in final capital charges; homicides between family members (29.2 percent) and among strangers (25.5 percent) are more likely to contain first-degree charges at the final stage, compared to crimes where the suspect is known to the victim (19.9 percent), or where the relationship is unknown, according to the SHR reports (15.4 percent).

[Table 20 about here]

Table 21 looks at the type of weapon; killings by handgun are the most common but least likely to lead to final capital charges (16.4 percent). Knife-related killings (36.2 percent), killings involving other or unknown types of weapons (23.5 percent), and those involving rifles or other kinds of firearms (21.4 percent) see higher rates of final capital charging.

[Table 21 about here]

Finally, Table 22 looks at the different Judicial District Courts. There is some variability in the likelihood that cases proceed to the final capital charge across the eight districts included in the present study. Rates are between 16.6 and 19 percent in five of the eight JDCs but higher in three: 31.1 percent in JDC 22; 31.3 percent in JDC 16; and 32.6 percent in JDC 15.

[Table 22 about here]

The different bivariate relations presented above can be summarized with a simple graphic (see Figure 3). Note that the data underlying Figure 3 are the same as those in the preceding tables; Figure 3 simply summarizes an abundance of information. Looking simultaneously at suspect-victim race combinations, number of victims, number of suspects, various particular aggravators, suspect-victim relationship, type of weapon, and across the 8 JDCs included in our study, the Figure shows the number of cases included in each category, and (by the length of the horizontal bar) the percentage of those cases that faced a first-degree charge at the final stage of the prosecution.

[Figure 3 about here]

The first row in Figure 3 shows the overall outcome: 21 percent of the cases faced first-degree charges at the end. The suspect-victim racial combinations show a powerful effect; the first two rows (cases with Black victims) have lower-than-average rates of final capital prosecution, while the next two rows (cases with White victims) have higher-than-average rates. Furthermore, the 122 cases with Black male suspects and White female victims have a 48 percent rate of final capital prosecution. Other B-W cases have a rate of final capital charging similar to the overall average. In fact, the W-W cases see a higher rate than these. This finding appears to be related to the combined importance of both the race and gender of victims.

Figure 3 also shows that multiple victim cases are significantly more likely to see final capital charges, whereas cases with multiple suspects are less so. Figure 3 also shows the effects of various aggravators, including the perhaps counter-intuitive idea that drug-related crimes are dramatically less likely to see final capital charges; this could relate to an idea that those 197

cases involved some shared guilt on the part of the victim.[38] Certain particular aggravators, particularly rape, show much higher rates of final capital prosecution. In fact, 23 of the 34 cases with presence of rape circumstances, or 68 percent, saw a final first-degree prosecution.

The Figure shows the same modest effects of victim-suspect relations as in the tables above, and the differences across weapon types. Finally, it illustrates that three JDCs have higher rates of final first-degree changes than the five others; those with higher rates are JDCs 15, 16, and 22.

Given these bivariate relationships, the final step of our analysis is to consider all these predictor variables together to ascertain if the race effects will lose their predictive abilities once other factors are simultaneously considered. Rape is such a significant aggravating circumstance, for example, that perhaps by including it in a multivariate analysis, it will cause the coefficient for female victims to be attenuated. Similarly, perhaps the crimes involving White victims are more likely to be stabbings, or more likely to occur in JDC 15, 16, or 22, or more likely to involve strangers, or to be associated with other significant aggravators. If so, then in a multivariate analysis those other factors will remain statistically significant, while the racial factors will not. A multivariate analysis can tell us, in other words, the impact of variable *x*, holding the other variables constant. If, in such an analysis, the suspect-victim combination factors remain consistently powerful predictors, then we can be assured that their apparent impact is not simply because they happen to be correlated with other aggravating factors.

C. Multivariate Analysis

[38] Note that the FBI SHR "circumstance" coding allows only one felony or other circumstance code. In cases with more than one felony circumstance, the rape, burglary, or robbery felonies might be indicated more often than drug-related.

We now assess the potential impact of each variable we presented above, measuring their unique explanatory effects net of the other variables in the predictive modes. This allows examination of the effects of extra-legal factors on death sentencing while statistically controlling for the legally relevant factors in our data. To do this, we employ logistic regression analysis.[39] Logistic regression models estimate each independent variable's effect, while controlling the effects of all other independent variables, on the odds that suspects charged with first-degree murder receive 1) a final charge of first-degree murder, and/or 2) a sentence of death. Logistic regression is the preferred statistical approach for analysis of dichotomous dependent variables such as whether a capitally-charged suspect receives a final charge of first-degree murder versus a less serious outcome (e.g., a lesser charge, an acquittal, or charges dropped). We conduct two separate analyses, predicting: a) a final charge of first-degree murder (corresponding to the analyses presented above); and b) the imposition of a death sentence. Theoretically, a multivariate analysis could show that some of the simple comparisons shown above are no longer apparent when other factors are considered. For example, Table 7 above showed that cases with White victims were more than twice as likely to lead to final capital charges than cases with Black victims. If this effect were explained by such factors as different likelihoods of using a particular type of weapon, relations between the offender and the victim, or particular aggravating circumstances, then the logistic regression would reveal that that initial relationship was spurious. As we show below, none of the main findings from our bivariate analyses above show themselves to be spurious. In fact, our multivariate analysis shows the

[39] For an explanation of logistic regression including how to interpret coefficients, see Andrew Gelman and Jennifer Hill, *Data Analysis Using Regression and Multilevel / Hierarchical Models* (New York: Cambridge University Press, 2007, chapter 5, pp. 79-108, or David W. Hosmer and Stanely Lemeshow. *Applied Logistic Regression* 2nd ed. (New York: John Wiley & Sons, Inc., 2000).

robustness of the bivariate findings shown above and highlights the continued and pervasive influence of race in the Louisiana death penalty system.

Table 23 presents four logistic regression models. Each includes 26 legally relevant "predictors," and then includes alternative ways of measuring the victim and suspect racial and gender categories. The first 26 indicators are common to each of the models tested and include a dichotomous indicators for multiple victim homicides (variable 1); the number of suspects in the homicide case (variable 2); homicides with victims either below 12 years of age or greater than 65 years of age (variables 3 and 4); homicides with potentially aggravating circumstances (i.e., rape, burglary, robbery, drug involvement, other felonies, and unknown circumstances—variables 5 -10); type of weapon used (11 – 14); victim -suspect relationship (variables 15 – 18); and the eight JDCs where each homicide case was prosecuted (variables 19-26).

We present three models for final capital charging decisions which vary in how potential extra-legal factors are incorporated in the analyses, and then a single model for death sentences. The baseline model (Model 1) examines the race and gender of homicide victims and the race of the suspect as separate variables. The race and gender of homicide victims is measured with four dichotomous variables; Black male victim, Black female victim, White male victim and White female victim (variables 27 – 30), and a dichotomous measure for the race of the homicide suspect (variable 31 – Black or White). Model 2 examines the combinations of the race of suspects and of victims, with four dichotomous measures: B-B, W-B, B-W, and W-W (variables 32 – 35). Model 3 adds one additional variable to those used in Model 2: an indicator for cases with a Black male suspect and a White female victim. Finally, Model 4 presents the same analysis as in Model 3, but the dependent variable is whether the defendant was sentenced to death.

[Table 23 about here]

The entries in Table 23 are odds ratios, with standard errors in parentheses. Odds ratios show the change in the likelihood of the event in question (e.g., facing final charges of first-degree murder for models 1-3, or receiving a death sentence, in model 4), based on the value of the predictor variable. For example, the first entry in the table shows that the odds of facing first-degree murder as a final charge in cases with multiple victims are 3.709 times higher than the odds of first-degree murder as the final charge in cases with a single victim, *net of the effects of all other variables in the model*. The effect is 4.591 in the second model, 4.337 in the third model, and 2.805 in the fourth model (calculating the odds of receiving a death sentence). Odds ratios below 1.00 indicate the variable reduces the odds of the outcome variable. Therefore, in the second row, cases with multiple suspects reduce the odds of the outcome variable in question. A value of 0.698 means that it reduces the odds of the outcome by about 30 percent (e.g., the odds are about 70 percent of what they would be if only a single person were prosecuted for the crime). Asterisks indicate whether or not the estimates are statistically significant at the .05, .01, and .001 levels.

In order to interpret the numerous results summarized in Table 23, a first step is to look at the consistency of findings across Models 1 to 3 for the legally relevant variables. Here we see clearly that rape, burglary, multiple victims, victims aged less than 12, other felonies, and crimes involving a knife are much more likely to lead to final charges of first-degree murder (net of the effects of all other variables in the equation), and consistently so across the three models. In addition, having multiple suspects in the same case significantly reduces the odds that any given suspect from such a case will see a final charge of capital murder. And, looking at Model 4, it can be seen that these same factors predict who will be sentenced to death. Readers may note that

several of the variables included in Table 23 are statutory aggravators in Louisiana law, so an impact is expected. However, recall that all 1,822 cases included here were, at some point, capitally charged. Therefore they all have some aggravating circumstances, by definition. The analytic question whose answer is in Table 23 is which, of these 1,822 capital defendants, saw the state continue to seek death through to the last stage of the prosecution (Models 1-3), or received a sentence of death (Model 4).

The analysis also documents that some things that should not matter in fact do not. The different JDCs are, for the most part, consistent (though JDC 22 has increased odds of capital charges). The relation between the suspect and the victim is, for the most part, unrelated to the probability of final capital charges, net of the effects of the other variables. Note that Table 20, the bi-variate presentation, showed a significant but modest relation, and that is no longer apparent in this multivariate presentation. In Table 20, crimes involving family members and those among strangers were slightly more likely to involve final capital charges than crimes involving acquaintances or crimes where the relationship was unknown. Here, these modest differences are not significant. Similarly, the type of weapon is not a strong predictor, though stabbings appear to be more likely to lead to final capital charges, compared to handgun killings. (Again, these relations seemed slightly stronger in the bi-variate presentation in Table 21, above.) None of this is particularly surprising, and if the story ended there one might conclude that the system is operating in a reasonable manner. In other words, the models do a good job of identifying several legally relevant factors that indeed predict the increased odds of a first-degree final charge. And it shows that some things do not matter much at all, such as which JDC handled the case, or the relations between the victim and the suspect. The fact that crimes

committed by strangers are no more likely to lead to final capital charges may be surprising, given the popular fear of or possible juror response to such crimes.

The bottom rows of Table 23 allow us to look at the effects of race and gender after statistically controlling for all other factors in the model. Model 1 looks at the race and gender of the victims, with Black male victims as the baseline, or reference category. Compared to that group, the odds of final capital charges are 2.96 times higher in cases with Black female victims; 2.425 times higher in cases with White male victims; and 4.777 times higher in cases with White female victims. In this model, Black suspects have a slightly higher (13 percent) odds of final capital charges than the baseline of White suspects, but this finding is not statistically significant. This shows that the race and gender of the victims have a strong effect, with cases involving Black male victims (the reference category) much less likely to correlate with final capital charges than any other group.

Model 2 displays the impact of the suspect-victim race combinations. In this analysis, cases with Black suspects and Black victims are the baseline category, so the odds ratios are in comparison to that. The model shows no significant effect when comparing the B-B reference group to the W-B cases. But when the victim is White, results are more powerful, consistent with Model 1. The odds of a final charge of capital murder are 2.24 times higher among the W-W cases compared to the B-B cases, and 2.99 times higher among the B-W cases.

Model 3 introduces victims' gender in addition to the race of suspects and victims. This model examines five suspect-victim combinations. The first four are the same as those used in Model 2. The fifth is the special case of Black male suspects with White female victims, which is a subset of the B-W category. But the results shown in the last row of the table, variable 36, indicate that it is quite a powerful independent predictor. Note that in Model 3, row 35 differs as

well; it is now limited to that group of B-W homicides not including Black male suspects and White female victims (so, cases with Black female suspects and / or White male victims; generally the latter). Compared to Model 2, the coefficients for this variable are lower, and the final coefficients, for Black male – White female crimes, are very high. Controlling for other factors in the model, the odds that such a crime would have final charges of first-degree murder are more than five times higher than the odds of a similar outcome with Black male suspects with Black male victims.

Finally, Model 4 predicts who is sentenced to death.[40] We present the results in the same format and with the same specification as Model 3. This model shifts from explaining the behavior of the prosecutor's office to looking at the criminal justice system as a whole: in which cases is death imposed? The results are similar to what we found in Model 3. Recall from Table 3 that 385 individuals saw a final capital charge, but only 107 death sentences were imposed. Therefore, coefficients in Model 4 tend to be lower than those in Models 1-3 in Table 23. The most prominent positive predictors of a death sentence include: Row 5 (Rape circumstance), with the odds of a death sentence higher by a factor of 6.22, compared to the baseline; Row 36 (Black male offender and White female victim), odds ratio of 5.5; Row 9 (Other felony), 3.6; Row 3 (Child victim), 3.4; Row 6 (Burglary), 3.3; Row 1 (multiple victims), 2.8; Row 7 (Robbery), 2.5; Row 4 (Elderly victim) 2.4; Row 35 (Black offender with White male victim), 24; Row 34 (White offender with White victim), 2.3; and Row 12 (Weapon a firearm other than a handgun), 2.1. These factors all increase the odds of death, compared to the baseline, by a factor of 2 or greater. Note that every category with White victims is in this list, including when the offender is

[40] Note that we replicate Models 3 and 4 in Appendix Table A-1 and compare the results presented here with the results from identical models that exclude the 221 cases that did not match to the SHR. These models, with 1,601 observations, are highly consistent with the ones presented here.

White and when the victim is a White male, but in the particular case of the Black male offender and the victim is a White female, odds are much higher. And, of course, these odds-ratios are the result of our multivariate test controlling for the impact of other factors at the same time. In the model, the only factor that dramatically reduces the odds of a death sentence is if the offender is one of multiple suspects: Row 2 (Number indicted) shows an odds-ratio of 0.634, indicating a 37 percent reduction in the likelihood of a death sentence.

In Figure 4 we present the findings from Models 3 and 4 (final charges of first-degree murder in the top row; death sentences on the bottom) across the suspect-victim categories just described in a slightly different way. In this Figure, all other variables are held at their mean or median values. The results can therefore be interpreted as the odds of a given outcome with everything else in the model held constant. Note that the figures presented here are predicted probabilities, not odds-ratios. They simply refer to the predicted likelihood (as a percent) that a give case will see the outcome of interest.

[Figure 4 about here]

The top row of Figure 4 shows the odds of final capital charges. In the left column, we use the four categories of suspect-victim races from Model 2, and in the right column, we use the five-category breakdown that separately identifies the Black male suspect / White female victim cases from Model 3. Starting at the left, we can see that a B-B homicide would be predicted to have about a 10 percent chance of proceeding to final capital charges. A similar pattern is found for a W-B crime, but it would rise significantly for crimes with White victims. In the final category, Black male – White female, the predicted probability of final capital changes, all other factors held constant, increases to approximately 40 percent. In the bottom panel we show the same analysis for death sentence outcomes. These predicted probabilities are much lower, since

death sentences are much rarer than final capital charges, but the patterns are similar. The predicted probability of a death sentence, with the effects of other variables held constant, go from 1.9 percent to 9.8 percent. Other things held constant, Figure 4 shows that crimes with White victims have much higher rates of final capital charging than crimes with Black victims. It is also noteworthy that the most common racial combination of homicides in our study, B-B crimes, have the lowest rate of final capital charging and death sentencing. By contrast, the least common crimes, those with White female victims, have the highest rates of both. Because the many legally relevant factors we identify in our logistic regression models are held at their typical values here, Figure 4 allows us to see the effect of race over and above the effects of other factors. These are very large effects and clearly demonstrate the power of race and gender in driving prosecutorial decisions to seek death at the final stages of a capital prosecution, and of sentencers to impose it.

V. CONCLUSIONS

In this paper we have examined a large sample of Louisiana homicide cases in an effort to shed light on how the cases are processed at various stages of the pretrial process to identify factors that lead to a final charge of first-degree murder and to see which cases end with the pronouncement of a death sentence. We began with 1,822 cases that, at least at one point, included a charge for first-degree murder from eight judicial districts, 1976-2014. Only cases with Black or White suspects and victims were included. First-degree murder cases in Louisiana are all eligible for death sentences. At the time of trial or plea bargaining, only 385 cases remained that included allegations of first-degree murder.

What differentiates these 385 cases from the larger pool of 1,822? Table 6 shows that White suspects are more likely to have first-degree charges at the time the case reaches its final

disposition in trial court, but this correlation is greatly overshadowed by the correlation between final charges of first-degree and the race of the victim. In fact, the data in Table 7 shows that 30.9 percent of the cases with White victims were prosecuted through to trial as first-degree murder cases, compared to only 13.0 percent of the cases with Black victims. Further, the data in Table 8 show that 15.1 percent of the cases with male victims and 37.6 percent of the cases with female victims included first-degree murder as a final charge. And so, initially it appears that cases with White and female victims are treated more harshly when the cases are in the hands of prosecutors prior to trial court disposition. How can this be?

Perhaps the cases with White and/or female victims are more aggravated, and thus more deserving of the death penalty, than other homicide cases. Tables 10-21 consider a number of factors, such as number of victims and suspects, the age of the victim, and circumstances that accompany the murder (e.g., rape, robbery) are related to charging outcomes as we would expect. The question addressed, however, is whether such factors accounted for the harsher outcomes for White victim cases and especially White female victim cases with Black suspects, and they do not. To address this question, we entered each of our predictor variables into a logistic regression equation to see which factors retained their explanatory power after controlling for the effects of all others. This comprehensive analysis shows clearly that cases involving White victims (and especially White female victims) are much less likely to see the charges reduced during the course of the case, much more likely to end with a first-degree murder charge, and much more likely to result in a death sentence. This difference is not explained by other factors such as geography or aggravating elements of the offense. Instead, this powerful racial disparity must be seen as a consistent feature of Louisiana's use of capital charges and the death penalty. Even controlling for the circumstances of the crime, the Louisiana

death penalty system targets crimes with White female victims for the harshest punishment and treats those with Black male victims much more lightly. This cannot be consistent with legal precepts of equal protection of the law or common notions of equality or justice.

VI. TABLES

Table 1
Races of Defendants and Victims in Louisiana Cases in which Defendant Executed, 1972 through 2020 (n=28)

Race of Defendant*	Race/Gender of Victim/s	Cases
B	WF	5
B	WM	4
B	BM	2
B	BM & 4BF	1
B	BF	1
W	WF	8
W	WM & WF	3
W	WM	3
W	2 WM & 2 WF	1

* W=White, B=Black, M=Male, F=Female

Table 2
State-wide Rank of the JDC Homicide Counts, and Study Years

Rank[41]	JDC	Main City	Parishes Included	Years
2	19	Baton Rouge	East Baton Rouge	1990-2014
3	24	Gretna	Jefferson	1976-2011
4	1	Shreveport	Caddo	1988-2014
5	15	Lafayette	Lafayette, Acadia, & Vermilion	1976-2014
7	14	Lake Charles	Calcasieu	1976-2013
8	22	Covington	St. Tammany & Washington	1976-2013
9	9	Alexandria	Rapides	1982-2014
12	16	New Iberia	Iberia, St. Martin, & St. Mary	1976-2011

[41]"Rank" refers to the JDC's place on the ordered list of raw homicide numbers 1976-2014.

Table 3
Race of Suspect and Victim by State of Capital Charging Process

Race of Suspect And Victim	Homicide Suspects	Faced Capital Charges	Final 1st or 2nd Charges	Final 1st Deg. Charges	Death Sent.
B-B	3,991	929	381	119	28
Col %	63.3	51.0	42.1	30.9	26.2
Row %	100.0	23.3	9.5	3.0	0.7
B-W	673	402	219	121	44
Col %	10.7	22.1	24.3	31.4	41.1
Row %	100.0	59.7	32.5	18.	6.5
W-W	1,472	427	268	134	33
Col %	23.3	23.4	29.6	34.8	30.8
Row %	100.0	29.0	18.2	9.1	2.2
W-B	164	64	36	11	2
Col %	2.6	3.5	4.0	2.9	1.9
Row %	100.0	39.0	22.0	6.7	1.2
N	6,300	1,822	904	385	107
Col %	100.0	100.0	100.0	100.0	100.0
Row %	100.0	28.9	14.3	6.1	1.7

Table 4
Capitally Charged Cases Among Total Homicide SHR Suspects
by Race of Suspect and Victim (n=6,300)

	Race of Victim and Suspect				
Cases Charged	B-B	B-W	W-B	W-W	Total
Cap charged #	929	402	64	427	1,822
%	23.3	59.7	39.0	29.0	28.9
Not cap charged #	3,062	271	100	1,045	4,478
%	76.7	40.3	61.0	71.0	71.1
Total suspects #	3,991	673	164	1,472	6,300
%	100.0	100.0	100.0	100.0	100.0

Chi-Square=380.79; df=3; p <.001

Table 5
Final Charges Sought by the State in All Capitally-Charged Cases

First-Degree Murder	385	.211
Second Degree Murder	519	.285
Manslaughter, Negligent Homicide	481	.264
Non-Homicide	162	.089
Charges Dropped	275	.151
N	1,822	

Table 6
Final Charge of First-Degree Murder, by Race of Suspect

	Race of Suspect		
	Black	White	N
Final Charge: 1st Degree Murder			
Yes	240	145	385
	.180	.295	.211
No	1091	346	1437
	.820	.705	.789
N	1331	491	1,822

Chi-Square=28.463; df=1; $p < .001$

Table 7
Final Charge of First-Degree Murder, by Race of Victim

	Race of Victim		
	Black[42]	White[43]	N
Final Charge: 1st Degree Murder			
Yes	129	256	385
	.130	.309	.211
No	864	573	1437
	.870	.691	.789
N	993	829	1,822

Chi-Square=86.764; df=1; $p < .001$

Table 8
Final Charge of First-Degree Murder, by Gender of Victim

	Gender of Victim		
	Male[44]	Female[45]	N
Final Charge: 1st Degree Murder			
Yes	201	184	385
	.151	.376	.211
No	1132	305	1437
	.849	.624	.789
N	1333	489	1,822

Chi-Square=109.151; df=1; $p < .001$

[42] At least one Black victim but no White victims.
[43] At least one White victim
[44] No female victim/s
[45] At least one female victim

Table 9
Final Charge of First-Degree Murder, by Race of Suspect and Victim

	Race of Suspect and Victim				
	B-B	B-W	W-B	W-W	N
Final Charge: 1st Degree Murder					
Yes	118	122	11	134	385
	.127	.303	.172	.314	.211
No	811	280	53	293	1437
	.873	.697	.828	.686	.789
N	929	402	64	427	1,822

Chi-Square=87.619; df=3; $p < .001$

Table 10
Final Charge of First-Degree Murder, by Multiple Victims Aggravator

	Number of Victims		
	≥ 2	One	N
Final Charge: 1st Degree Murder			
Yes	97	288	385
	.418	.181	.211
No	135	1302	1437
	.582	.819	.789
N	232	1590	1,822

Chi-Square=68.219; df=1; $p < .001$

Table 11
Final Charge of First-Degree Murder, by Number of Suspects

	Number of Suspects									
	1	2	3	4	5	6	7	8	9	N
Final Charge: 1st Degree Murder										
Yes	234	91	43	12	0	1	0	0	4	385
	.277	.183	.167	.083	-	.056	-	-	.444	.211
No	610	405	215	132	45	17	0	8	5	1437
	.723	.817	.833	.917	100	.944	-	1.00	.556	.789
N	844	496	258	144	45	18	0	8	9	1,822

Chi-Square=61.321; df=7; p < .001

Table 12
Final Charge of First-Degree Murder, by Victim's Age <12 Aggravator

	Any Victims Under 12		
	Yes	No	N
Final Charge: 1st Degree Murder			
Yes	44	341	385
	.326	.202	.211
No	91	1346	1437
	.674	.798	.789
N	135	1687	1,822

Chi-Square=11.494; df=1; p < .001

Table 13
Final Charge of First-Degree Murder, by Victim's Age >64 Aggravator

	Any Victims over 64		
	Yes	No	N
Final Charge: 1st Degree Murder			
Yes	60	325	385
	.343	.197	.211
No	115	1322	1437
	.657	.803	.789
N	175	1647	1,822

Chi-Square=20.103; df=1; $p < .001$

Table 14
Final Charge of First-Degree Murder, by Rape Felony Aggravator

	Presence of Rape Circumstance[46]		
	Yes	No	N
Final Charge: 1st Degree Murder			
Yes	23	362	385
	.676	.202	.211
No	11	1426	1437
	.324	.798	.789
N	34	1788	1,822

Chi-Square=44.983; df=1; $p < .001$

[46] Includes 32 cases of rape and 2 of CIR 17, Other Sex Offense.

Table 15
Final Charge of First-Degree Murder, by Burglary Felony Aggravator

	Presence of Burglary Circumstance		
	Yes	No	N
Final Charge: 1st Degree Murder			
Yes	22	363	385
	.431	.205	.211
No	29	1408	1437
	.569	.795	.789
N	51	1771	1,822

Chi-Square=15.247; df=1; $p < .001$

Table 16
Final Charge of First-Degree Murder, by Robbery Felony Circumstance

	Presence of Robbery Circumstance		
	Yes	No	N
Final Charge: 1st Degree Murder			
Yes	112	273	385
	.244	.200	.211
No	347	1090	1437
	.756	.800	.789
N	459	1363	1,822

Chi-Square=3.937; df=1; $p < .05$

Table 17
Final Charge of First-Degree Murder, by Drug Felony Aggravator

	Presence of Drug Circumstance[47]		
	Yes	No	N
Final Charge: 1st Degree Murder			
Yes	18	367	385
	.091	.226	.211
No	179	1258	1437
	.909	.774	.789
N	197	1625	1,822

Chi-Square=19.065; df=1; $p < .001$

Table 18
Final Charge of First-Degree Murder, by Other Felony Aggravators

	Presence of Other Felonies[48]		
	Yes	No	N
Final Charge: 1st Degree Murder			
Yes	37	348	385
	.296	.205	.211
No	88	1349	1437
	.704	.795	.789
N	125	1697	1,822

Chi-Square=5.776; df=1; $p < .05$

[47] Often, drugs were involved in murders with other felonies, such as Robbery; in these cases, the other felony was usually chosen as the SHR circumstance.
[48] Includes CIR codes 26 (Other Felony), 70 (Suspected Felony), 6 (Larceny), 7 (Vehicle Theft), 9 (Arson), 10 (Vice), and 19 (Gambling).

Table 19
Final Charge of First-Degree Murder, by Circumstance Unable to Determine Presence of Unknown Circumstance

	Yes	No	N
Final Charge: 1st Degree Murder			
Yes	81	304	385
	.171	.225	.211
No	392	1045	1437
	.829	.775	.789
N	473	1349	1,822

Chi-Square=6.151; df=1; $p < .05$

Table 20
Final Charge of First-Degree Murder, by Suspect-Victim Relation

	Suspect-Victim Relation				
	Family	Known	Stranger	Unknown	N
Final Charge: 1st Degree Murder					
Yes	57	141	116	71	385
	.292 .	.199	.255	.154	.211
No	138	569	339	391	1437
	.708	.801	.745	.846	.789
N	195	710	455	462	1,822

Chi-Square=22.771; df=3; $p < .001$

Table 21
Final Charge of First-Degree Murder, by Weapon

	Type of Weapon				
	Handgun	Other gun	Knife	Other / Unknown	N
Final Charge: 1st Degree Murder					
Yes	152	55	81	97	385
	.164	.214	.362	.235	.211
No	777	202	143	315	1437
	.836	.786	.638	.765	.789
N	929	257	224	412	1,822

Chi-Square=44.492; df=3; p < .001

Table 22
Final Charge of First-Degree Murder by JDC

	JDC								
	1	9	14	15	16	19	22	24	N
Final Charge: 1st Degree Murder									
Yes	52	26	29	44	35	68	65	66	385
	.177	.166	.190	.326	.313	.184	.311	.168	.211
No	241	131	124	91	77	302	144	327	1437
	.823	.834	.810	.674	.688	.816	.689	.832	.789
N	293	157	153	135	112	370	209	393	1,822

Chi-Square=40.521; df=7; p < .001

JDC numbers correspond to Parishes as follows: 1=Caddo; 9=Rapides; 14=Calcasieu; 15=Lafayette, Acadia, Vermillion; 16=Iberia, St. Martin, St. Mary; 19=East Baton Rouge; 22=St. Tammany, Washington; 24=Jefferson.

Table 23. Logistic Regression Analysis of First-Degree Final Charges, and Death Sentencing

Model number		(1)	(2)	(3)	(4)
Predictor variables:		Baseline	Suspect-Victim Race	BM Suspect / WF Victim Included	Death Sentence
1	More than one victim	3.709*** (0.678)	4.591*** (0.803)	4.337*** (0.765)	2.805*** (0.734)
2	Number Indicted	0.698*** (0.0448)	0.693*** (0.0449)	0.681*** (0.0442)	0.634*** (0.0731)
3	Any Victim Less than 12	2.573*** (0.665)	2.799*** (0.717)	2.811*** (0.720)	3.394** (1.468)
4	Any Victim Over 64	1.370 (0.286)	1.439 (0.299)	1.368 (0.287)	2.411** (0.736)
5	Rape	6.870*** (3.026)	10.08*** (4.371)	8.706*** (3.863)	6.221** (3.506)
6	Burglary	5.719*** (2.272)	5.088*** (1.993)	4.915*** (1.949)	3.334* (2.042)
7	Robbery	1.664* (0.345)	1.536* (0.314)	1.604* (0.329)	2.459* (0.870)
8	Drugs	0.653 (0.201)	0.588 (0.179)	0.622 (0.190)	0.469 (0.312)
9	Other Felony	3.278*** (0.890)	3.112*** (0.840)	3.265*** (0.884)	3.586** (1.533)
10	Unknown Aggravator	0.997 (0.203)	0.987 (0.200)	0.977 (0.199)	0.813 (0.321)
11	Weapon: Handgun		Reference Category		
12	Weapon: Other Firearm	1.301 (0.261)	1.320 (0.262)	1.280 (0.256)	2.144** (0.621)
13	Weapon: Knife	1.637* (0.318)	1.855** (0.355)	1.833** (0.351)	1.503 (0.479)
14	Weapon:	0.890	0.947	0.928	0.569

	Other / Unk.	(0.172)	(0.181)	(0.179)	(0.203)
15	Relation: Fam. / Int. Partner		Reference Category		
16	Relation: Acquaintance	1.141 (0.253)	0.939 (0.205)	0.931 (0.203)	0.932 (0.362)
17	Relation: Stranger	1.325 (0.340)	1.065 (0.272)	1.079 (0.276)	1.308 (0.564)
18	Relation: Unknown	0.723 (0.186)	0.604* (0.154)	0.603* (0.154)	0.736 (0.333)
19	JDC 1		Reference Category		
20	JDC 9	0.711 (0.213)	0.754 (0.224)	0.719 (0.216)	0.686 (0.343)
21	JDC 14	0.930 (0.272)	0.942 (0.274)	0.961 (0.281)	1.253 (0.574)
22	JDC 15	1.652 (0.453)	1.639 (0.446)	1.616 (0.442)	0.415 (0.231)
23	JDC 16	1.603 (0.461)	1.643 (0.472)	1.646 (0.477)	0.849 (0.431)
24	JDC 19	1.044 (0.240)	1.005 (0.230)	1.004 (0.231)	1.215 (0.434)
25	JDC 22	1.892* (0.473)	1.891** (0.467)	1.858* (0.462)	0.547 (0.262)
26	JDC 24	0.830 (0.194)	0.829 (0.191)	0.820 (0.191)	1.245 (0.442)
27	Victim Black Male		Reference Category		
28	Victim Black Female	2.960*** (0.571)			
29	Victim White Male	2.425*** (0.553)			

30	Victim White Female	4.777*** (1.042)			
31	Suspect Black	1.133 (0.193)			
32	Black Suspect Black Victim		Reference Category		
33	White Suspect Black Victim		1.241 (0.489)	1.224 (0.481)	0.974 (0.769)
34	White Suspect White Victim		2.240*** (0.380)	2.241*** (0.380)	2.340** (0.704)
35	Black Suspect[49] White Victim		2.989*** (0.540)	2.212*** (0.458)	2.397* (0.823)
36	Black Male Suspect White Female Victim			5.227*** (1.299)	5.482*** (1.983)
	N	1,822	1,822	1,822	1,822

Exponentiated coefficients; Standard errors in parentheses. * prob. < .05; ** prob. < .01; *** prob. < .001.

[49] In models 3 and 4, this category excludes cases included in the category below. It is made up of Black male suspects with White male victims and a small number of Black female suspects with White victims of either gender.

VII. FIGURES

Figure 1
Map of Louisiana Showing Cumulative Death Sentences Imposed by Parish (with the eight JDCs included in this study highlighted), 1977-2016

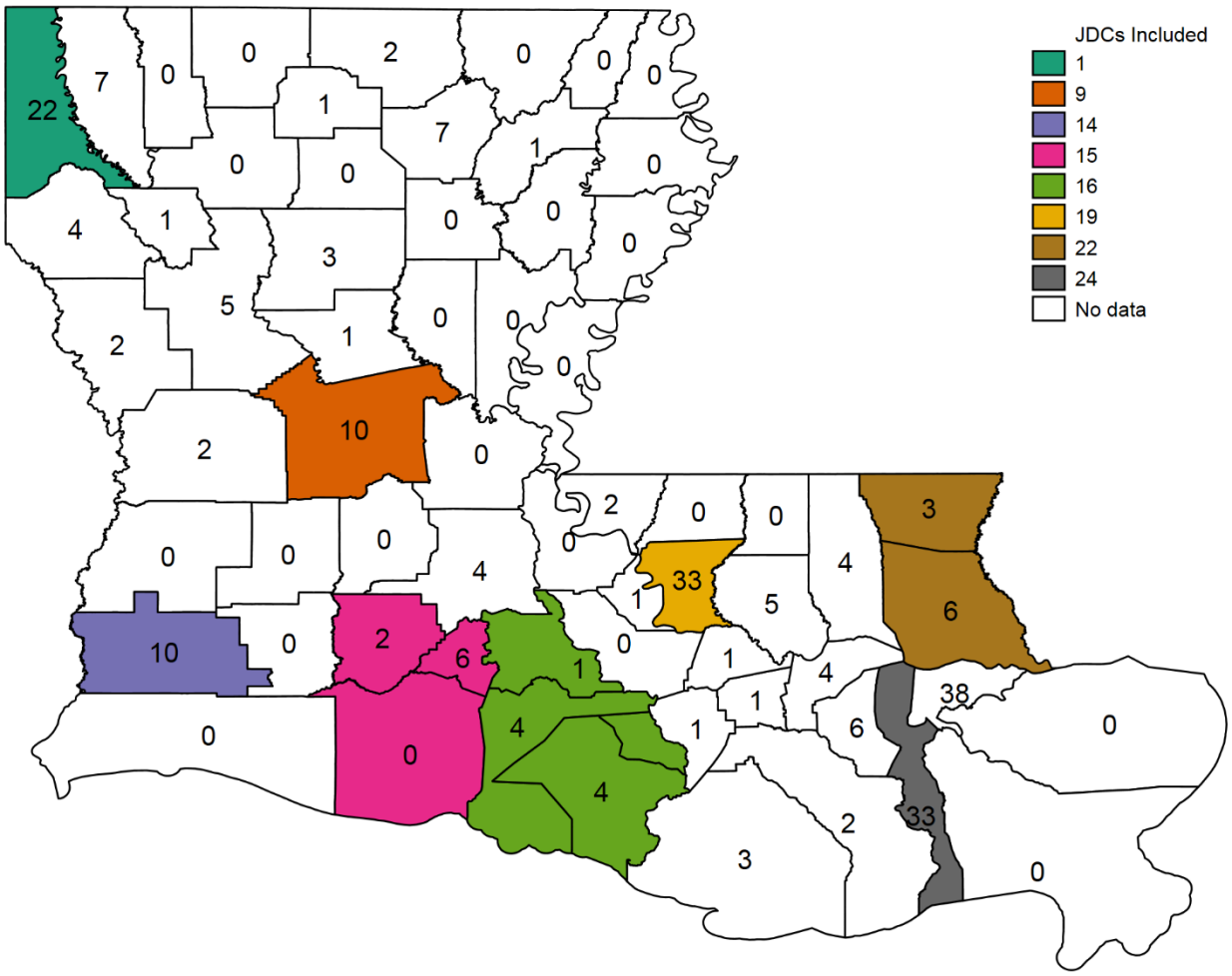


Figure 2
Racial Differences in the Capital Charging Process

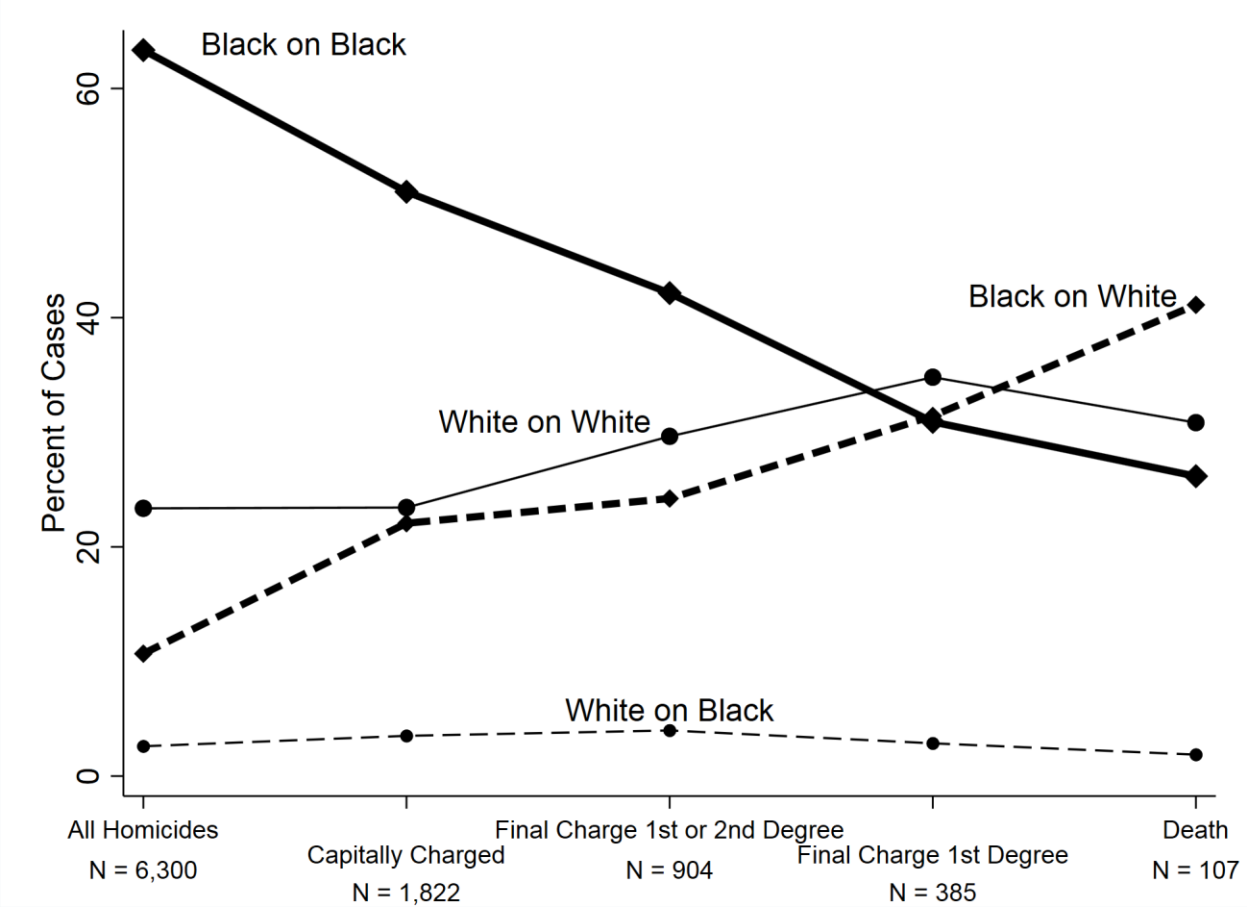
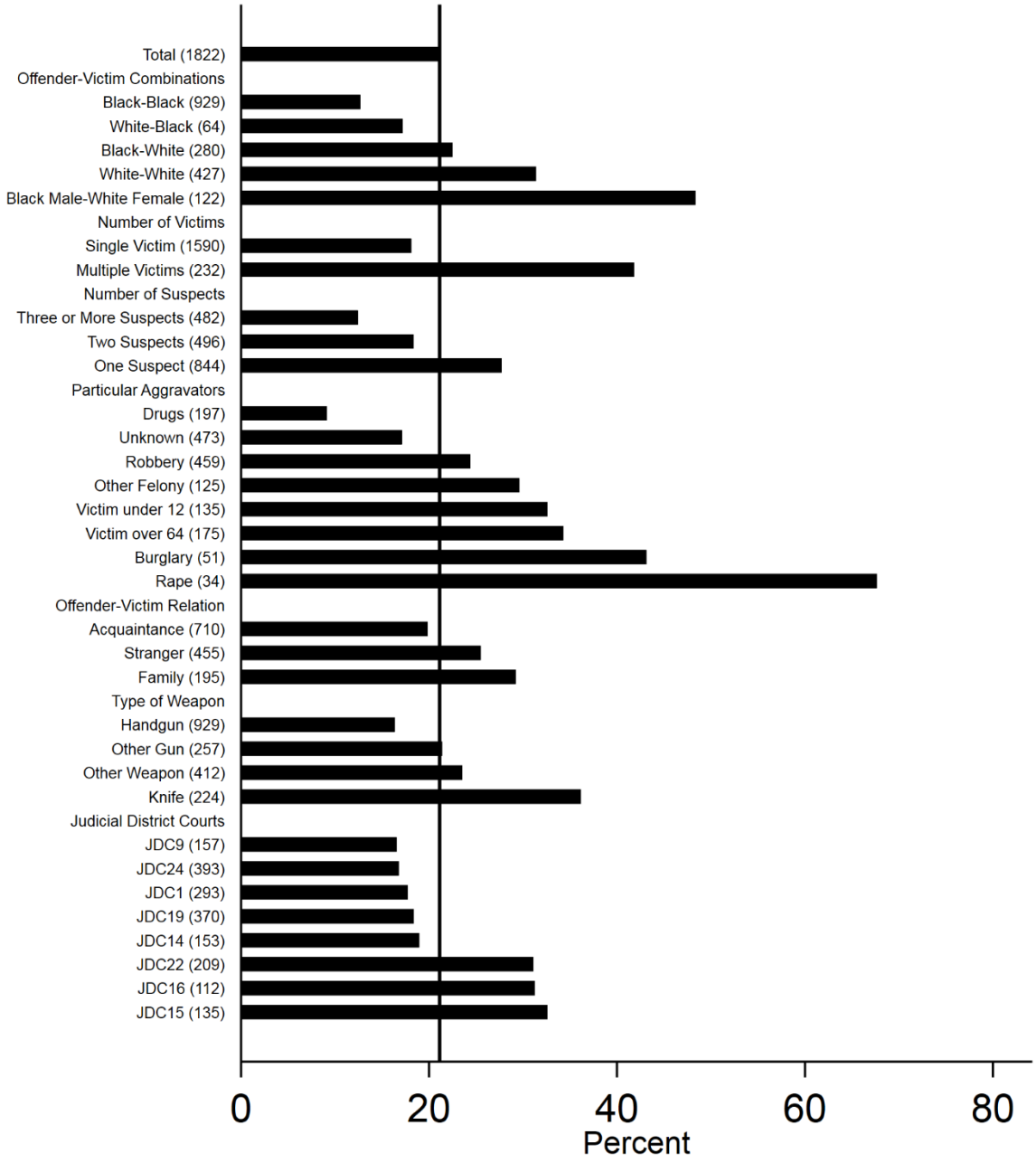
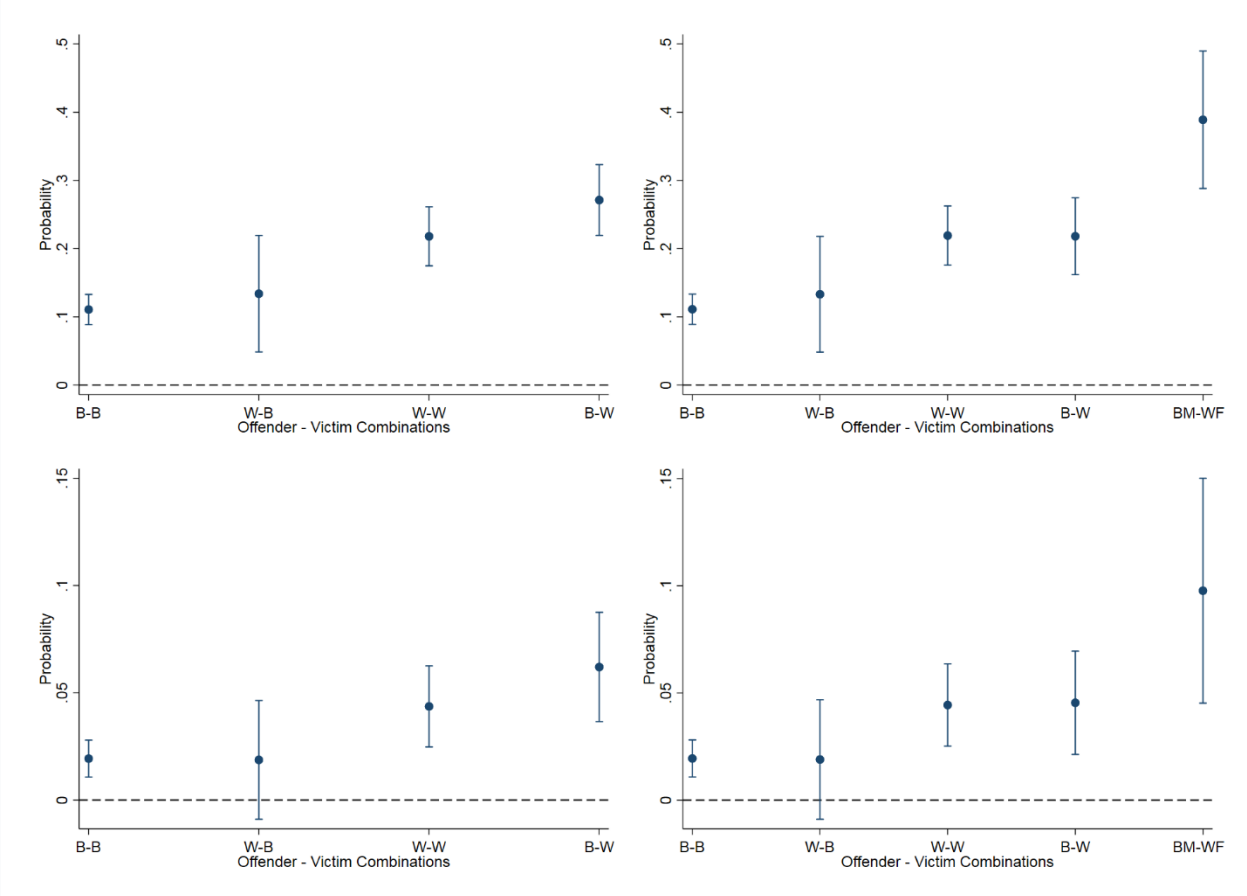


Figure 3
Summary of Bivariate Relations with Final First-Degree Charges



Numbers in parentheses indicate the number of cases.
Vertical line shows the overall rate: 21.13 percent.

Figure 4
Predicted Probabilities of Final First-Degree Charges (top), and Death Sentences (bottom) by Race of Suspect and Victim



Note: In the top row, the predicted value is a final charge of first-degree murder; in the bottom, a death sentence. In the left column, 4 suspect-victim categories are compared. In the right column, the Black-on-White category is divided into two groups, with the group labeled "BM-WF" being limited to Black male suspects with White female victims and the other category, labeled "B-W" consisting of the remaining observations.

VIII. APPENDIX

In this Appendix we replicate selected analyses from our main paper while excluding cases where there was no match to the FBI Supplemental Homicide Reports (SHR). As described in the main paper, the overall N for our analysis was 1,822. Here, we report results for those 1,601 cases where we found a clear match to the SHR. The 221 cases where no match was found to the SHR data are generally listed as "unknown" or "missing" in the various tables in the main paper that make use of information derived from the SHR (for example, aggravators, characteristics of the victims, weapon type, relation between victim and suspect). Rather than recreate each table in the paper, we replicate here Models 3 and 4 of the logistic regression presented in Table 23 of the main paper. For each of the two models, we first replicate the results with the original N of 1,822 and then display the equivalent analysis with the restricted N of 1,601. Comparing the "Original" with the "Restricted" results for the two models clearly shows their comparability, and therefore the robustness of the findings presented in the main paper. Table A-1 presents these results.

We also present the break-down by Judicial District Court of our findings from Table 4 concerning the proportion of suspects with a capital charge out of all homicides, by race of suspect and victim. Table A-2 presents these results.

Finally, we replicate Figure 2 from the paper, comparing it to a version based only on the 1,601 cases with an SHR match. Figure A-1 shows these results.

Table A-1. Replication of Models 3 and 4 from Table 23 in the Main Text, comparing original N of 1,822 with Restricted N of 1,601 excluding cases not matched to the SHR.

	Original Model 3, N = 1,822	Restricted Model 3, N = 1,601	Original Model 4, N = 1,822	Restricted Model 4, N = 1,601
More than one victim	4.337***	4.471***	2.805***	3.122***
	(0.765)	(0.850)	(0.734)	(0.851)
Number Indicted	0.681***	0.665***	0.634***	0.628***
	(0.0442)	(0.0472)	(0.0731)	(0.0737)
Any Victim Less than 12	2.811***	3.148***	3.394**	3.069*
	(0.720)	(0.866)	(1.468)	(1.414)
Any Victim Over 64	1.368	1.317	2.411**	2.393**
	(0.287)	(0.300)	(0.736)	(0.782)
Rape	8.706***	7.517***	6.221**	6.277**
	(3.863)	(3.780)	(3.506)	(3.979)
Burglary	4.915***	4.459***	3.334*	2.277
	(1.949)	(1.913)	(2.042)	(1.612)
Robbery	1.604*	1.680*	2.459*	2.500*
	(0.329)	(0.363)	(0.870)	(0.917)
Drugs	0.622	0.610	0.469	0.507
	(0.190)	(0.198)	(0.312)	(0.340)
Other Felony	3.265***	2.448**	3.586**	4.988***
	(0.884)	(0.762)	(1.533)	(2.198)
Unknown Aggravator	0.977	1.125	0.813	1.103
	(0.199)	(0.245)	(0.321)	(0.445)
Weapon: Handgun	Reference Category			
Weapon: Other Firearm	1.280	1.133	2.144**	2.312**
	(0.256)	(0.247)	(0.621)	(0.684)
Weapon: Knife	1.833**	1.858**	1.503	1.656
	(0.351)	(0.371)	(0.479)	(0.540)
Weapon: Other / Unk.	0.928	0.986	0.569	0.431*
	(0.179)	(0.213)	(0.203)	(0.180)

Relation: Fam. / Int. Partner		Reference Category		
Relation: Acquaintance	0.931 (0.203)	0.856 (0.201)	0.932 (0.362)	0.732 (0.294)
Relation: Stranger	1.079 (0.276)	1.031 (0.285)	1.308 (0.564)	1.166 (0.521)
Relation:	0.603* (0.154)	0.603 (0.171)	0.736 (0.333)	0.471 (0.230)
JDC 1		Reference Category		
JDC 9	0.719 (0.216)	0.612 (0.213)	0.686 (0.343)	0.975 (0.528)
JDC 14	0.961 (0.281)	0.774 (0.257)	1.253 (0.574)	1.008 (0.532)
JDC 15	1.616 (0.442)	1.499 (0.430)	0.415 (0.231)	0.486 (0.276)
JDC 16	1.646 (0.477)	1.524 (0.482)	0.849 (0.431)	0.946 (0.504)
JDC 19	1.004 (0.231)	0.989 (0.237)	1.215 (0.434)	1.306 (0.486)
JDC 22	1.858* (0.462)	1.519 (0.409)	0.547 (0.262)	0.572 (0.296)
JDC 24 JDC 1	0.820 (0.191)	0.732 (0.178)	1.245 (0.442)	1.296 (0.481)
Black Suspect Black Victim		Reference Category		
White Suspect Black Victim	1.224 (0.481)	1.024 (0.481)	0.974 (0.769)	0.986 (0.792)
White Suspect White Victim	2.241*** (0.380)	2.609*** (0.482)	2.340** (0.704)	2.399** (0.754)

Black Suspect	2.212***	2.354***	2.397*	2.069*
White Victim	(0.458)	(0.518)	(0.823)	(0.748)
B M Suspect	5.227***	5.894***	5.482***	5.822***
W F Victim	(1.299)	(1.566)	(1.983)	(2.197)
N	1,822	1,601	1,822	1,601

Exponentiated coefficients; Standard errors in parentheses
* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Table A-2
Total Suspects and Total with a Charge of
First-Degree Murder by JDC and Race of Suspect and Victim

JDC		B-B	B-W	W-B	W-W	Total
1	Total 1st Degree	183	63	5	42	293
	Not 1st Degree	582	31	15	73	701
	Total Suspects	765	94	20	115	994
	Proportion	.239	.670	.250	.365	.295
	Chi-Square=78.03; df=3; p<.01					
9	Total 1st Degree	76	32	3	46	157
	Not 1st Degree	182	6	5	49	242
	Total Suspects	258	38	8	95	399
	Proportion	.295	.842	.375	.484	.393
	Chi-Square=45.9; df=3; p<.01					
14	Total 1st Degree	79	27	2	45	153
	Not 1st Degree	221	15	15	117	368
	Total Suspects	300	42	17	162	521
	Proportion	.263	.643	.118	.278	.294
	Chi-Square=28.76; df=3; p<.01					
15	Total 1st Degree	50	41	7	37	135
	Not 1st Degree	292	27	21	162	502
	Total Suspects	342	68	28	199	637
	Proportion	.146	.603	.250	.186	.212
	Chi-Square=72.14; df=3; p<.01					
16	Total 1st Degree	41	24	4	40	112
	Not 1st Degree	150	9	6	61	226
	Total Suspects	191	33	10	104	338
	Proportion	.021	.727	.400	.396	.331
	Chi-Square=38.46; df=3; p<.01					
19	Total 1st Degree	260	68	7	35	370
	Not 1st Degree	813	56	14	84	967
	Total Suspects	1073	124	21	119	1337
	Proportion	.242	.548	.333	.294	.277
	Chi-Square=52.59; df=3; p<.01					
22	Total 1st Degree	62	42	12	93	209
	Not 1st Degree	151	3	7	116	277
	Total Suspects	213	45	19	209	486
	Proportion	.291	.933	.632	.445	.430

Chi-Square=66.62; df=3; p<.01

24	Total 1st Degree	178	105	24	86	393
	Not 1st Degree	671	124	17	383	1195
	Total Suspects	849	229	41	469	1588
	Proportion	.210	.459	.585	.183	.257

Chi-Square=96.77; df=3; p<.01

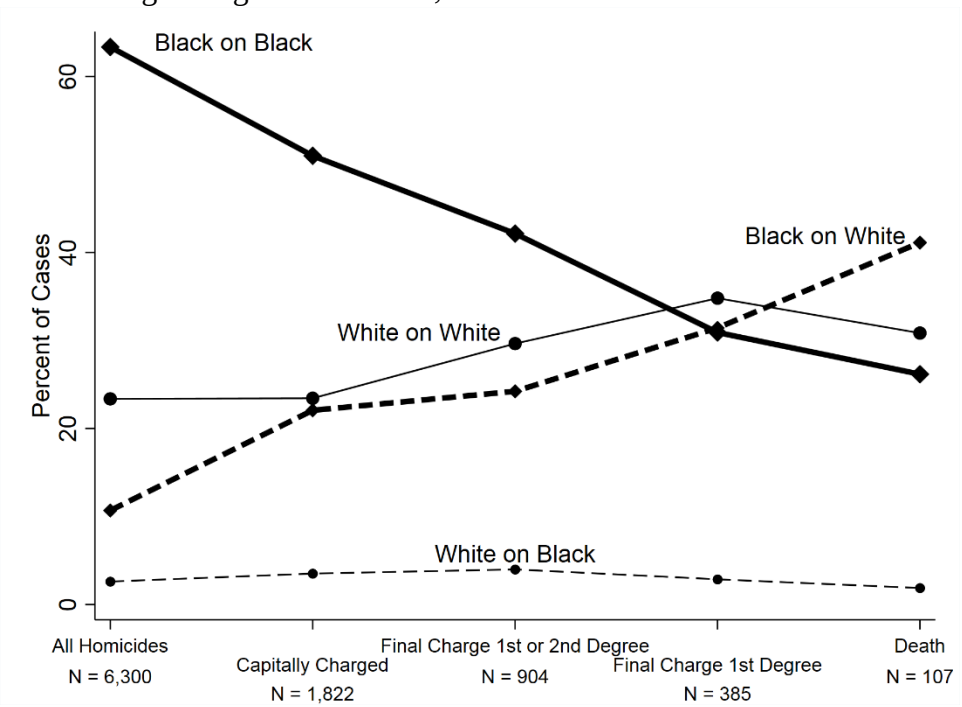
Total 1st Degree	929	402	64	427	1822
Not 1st Degree	3062	271	100	1045	4478
Total Suspects in SHRs	3991	673	164	1472	6300
Proportion	.233	.597	.390	.252	.289

Chi-Square=380.79; df=3; p<.01

Note: The final set of data, with 1,822 cases charged capitally out of 6,300 total suspects, corresponds to Table 4 in the main paper. JDC numbers correspond to Parishes as follows: 1=Caddo; 9=Rapides; 14=Calcasieu; 15=Lafayette, Acadia, Vermillion; 16=Iberia, St. Martin, St. Mary; 19=East Baton Rouge; 22=St. Tammany, Washington; 24=Jefferson.

Figure A-1
Racial Differences in the Capital Charging Process

Part A. Original figure based on 1,822 observations:



Part B. Revised figure based on 1,601 observations with an SHR match: