

#BlackLivesDon'tMatter:

Race-of-Victim Effects in US Executions, 1976-2013

Abstract: This paper examines the role of racial bias in the implementation of capital punishment. First, our analysis of existing literature confirms higher rates of capital punishment for those who kill Whites, particularly for Blacks who kill Whites. Second, we compare homicide victim data with a newly collected dataset including information on the victims of every inmate executed in the US from 1976 through 2013, some 1,369 executions. These data reveal Black males have been the primary victims of homicides, but their killers are much less likely to be put to death. While previous scholars have emphasized the over-representation of killers of White women, we shed additional light on another aspect of the racial and gender biases of the US death penalty. Capital punishment is very rarely used where the victim is a Black male, despite the fact that this is the category most likely to be the victim of homicide.

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The US routinely experiences over 10,000 homicides in a single year but in the modern period (post-1976) has never executed as many as 100 individuals; death is not and never has been the likely consequence for murder. In spite of the low rates of usage of capital punishment, its symbolic and emotional power are immense. In this article, we focus on one particular element of that power: the great odds against being executed if one's victim is a Black male. Black men, especially among the relatively young, have a statistical risk of homicide victimization many times higher than any other racial or gender group, but their killers rarely face the death penalty. We explore the extent of these discrepancies here first by reviewing the literature and second by presenting the results of a newly collected database of all US executions from 1976 through 2013.

The single most reliable predictor of whether a defendant in the United States will be executed is the race of the victim. Blacks make up about half of the total homicide victims in the US though they represent only about 12 percent of the population. Yet, among convicted murderers who have been executed, only 15 percent of victims have been Black. A substantial body of academic research has confirmed a persistent racial bias in death sentencing in favor of White victims. Further, research suggests that among defendants charged with killing White victims, Blacks are more likely than Whites to receive a death sentence. Just 7% of executions for interracial murders involve White killers with nonwhite victims (Death Penalty Information Center, 2014). One statistic is particularly stark: Since the reinstatement of capital punishment in 1976 through the end of 2013, 1,359 inmates were executed. Among this group were 534 White inmates executed for killing a single victim. Just nine of that group of 534 had a Black male victim.¹ Including killers with multiple victims, just 16 Whites executed had a Black male

¹ Eight had Black female victims.

victim (these 16 cases are listed in Appendix B). It has long been widely known that racial disparities affect criminal justice, of course. Academics and activists have for years argued that the judicial system places more values on the lives of Whites, resulting in disproportionately harsh treatment of Black criminals who have White victims (ACLU, 2007; NAACP, 2013; Baldus, Pulaski, & Woodworth, 1983). Our goal in this paper is to draw attention to the scope of existing disparities in treatment, and in particular to focus on a group which is nearly invisible in this system: Black male victims.

Our work offers new evidence in efforts to document racial bias in the implementation of capital punishment, providing both a systematic review of existing literature and a new, comprehensive review of all 1,359 executions in the modern era. We would certainly expect to uncover patterns in the direction of what we observe, given the robust literature documenting bias in capital punishment. However, the scope of the disparity identified is greater than even the existing body of scholarship would lead one to expect. In addition, our findings are not based on a sample or an estimate; they come from a complete list of every execution in the modern era and detailed information about each victim. The thorough nature of our evidence allows us to make substantial conclusions about the state of capital punishment in the United States; it is clearly a racial project, and a highly gendered one as well.

The Influence of Victim Race in Capital Sentencing

Of course, suggesting that the race of the victim has an impact on the likelihood of a death sentence is hardly new. It is one of the most consistent findings in all empirical legal scholarship relating to capital punishment. The landmark work on the influence of victim race in death penalty sentencing was conducted by David Baldus, Charles Pulaski and George Woodworth (1983). Their work examined over 2,000 murders in Georgia, controlling for over 230 variables.

It found that those accused of killing White victims were four times as likely to be sentenced to death as those accused of killing Black victims (Baldus, Pulaski, & Woodworth, 1983).²

Research has continued on this topic apace, and by 1990 the federal Government Accounting Office had issued a report reviewing the substantial body of scholarship on racial bias in capital punishment. According to the GAO, 82% of studies found that those who murdered Whites were more likely to be sentenced to death than those who murdered Blacks (GAO, 1990).

In the years following the GAO report, academic research has continued to demonstrate that victim race is a strong determinant of whether defendants are sentenced to death, and done so with increasingly sophisticated methods (Baldus & Woodworth, 2003; Bowers, Pierce, & McDevitt, 1984; Donohue, 2014; Paternoster & Brame, 2003; Pierce & Radelet, 2005; Radelet, 1989). These more recent works have found that even after controlling for aggravating factors, defendants with White victims are as much as four times as likely to be sentenced to death than those with Black victims (Baldus & Woodworth, 2001; Paternoster, Brame, Bacon, & Ditchfield, 2004). Donohue (2014) was particularly complete in assessing the degree of heinousness of the crimes for all death-eligible homicides in Connecticut. His conclusion was that death sentences were not reserved for the “worst of the worst”—many not sentenced to death had committed more heinous or aggravated murders than those sentenced; rather, victim race and geography were major predictors. Similar disparities have been found across the death penalty states.³

² It was notably the central evidence presented in the 1987 Supreme Court decision *McCleskey v. Kemp*, which alleged widespread racial bias in the implementation of the death penalty in Georgia. In the end the Supreme Court ruled that even strong statistical evidence of racial bias in sentencing did not render the death penalty unconstitutional.

³ Examinations of capital punishment in Texas have found the death penalty more likely in cases with White victims after controlling for a large number of potential explanatory values (Bowers, 1984; Eklund-Olson, 1988). Similar results were found in studies of death penalty sentencing in North Carolina and Florida (Unah, 2011; Zeisel, 1981). In North Carolina, the rate of death penalty sentencing for White victim cases was almost twice as high of that of non-White victim cases between 1993 and 1997. A study of California executions found that those convicted of killing White victims were 3.7 times as likely to receive a death sentence as those with Black victims (Pierce & Radelet, 2005).

Though victim race is the key determinant, certain combinations of victim race and defendant race can result in even greater bias. Donohue's study of over 4,600 murders in Connecticut found that African-American defendants received the death penalty at three times the rate of White defendants in cases where the victims are White (Donohue, 2014). The race of a defendant and victim can play a role even after the death sentence has been imposed. Among those already on death row, minority inmates convicted of killing Whites are more likely to be executed than any other perpetrators (Jacobs, Qian, Charmichael, & Kent, 2007).

Several US states, even among those that are substantial users of capital punishment, have never seen a White inmate executed for killing a Black man. In his 1981 study of the death penalty in Florida, Zeisel found that not only were there no Whites on death row for killing only a Black person, but that there had "never been such a person on Florida's death row in living memory" (Zeisel, 1981). In Texas and Alabama the execution of a White man for the murder of a Black man has occurred only once in living memory, in both cases within the last decade. The men executed in those two cases, Lee Taylor and Henry Francis Hays, were both White supremacists convicted of particularly gruesome and racially motivated murders.⁴

Meta Analysis of Race-of-Victim Bias

As the preceding review of the literature suggests, race-of-victim bias has been a topic of great interest to scholars. To better understand the scope of race-of-victim effects in capital prosecution and sentencing, we conducted a meta-analysis of existing research. In so doing we expand on the work of Baldus and Woodworth whose 2005 article provides an excellent

⁴ See Appendix B for a list and short description of the cases where a White has been executed for the crime of killing a Black man.

overview of empirical research on racial bias in the death penalty, with an emphasis on post 1990 research.

To begin, we produced a comprehensive inventory of the body of research, identifying 236 sources, of which 72 listed empirical estimates. The articles included are empirical analyses and discussions of race and gender-based differences in death penalty prosecution and sentencing. This review is limited to works from academic journals, governmental studies and state-commissioned reports.⁵ The review is also limited to works published after 1972, which was the year the Supreme Court of the United States decided in *Furman v. Georgia* that states had to reevaluate their death penalty statutes to eliminate arbitrariness. Michael Radelet (1989) has argued that much of the research conducted before the *Furman* decision failed to consider important controls, including the effect of prior criminal records and employed methodologies that have since become outmoded due to their simplicity. The periods under study range from 1972 to 2008 and jurisdictions include the U.S. Armed Forces, Federal Courts and 33 current and prior death penalty states from all regions of the United States. Notably, the controls used in the studies under review varied widely.

In every study of racial bias in capital prosecution, prosecutors were more likely to charge killers of Whites with capital crimes than they were killers of Blacks.⁶ Studies of bias in death sentencing (in the penalty phase of a capital trial) covered an even greater range than those of capital prosecution.⁷ The vast majority of these studies found that killers of Whites were more

⁵ We make one exception to this rule, including a piece from the *Los Angeles Times*, which details the results of a study commissioned by the newspaper.

⁶ Thirty studies examined race-of-victim bias in prosecutor's decisions to charge defendants capitally. In addition, the literature covered 16 current and past death penalty states including states in the geographic West, South, and Northeast as well as cases prosecuted within the judicial branch of the US Armed Forces. Studies covered a period of over 30 years with periods studied ranging from 1976 to 2007.

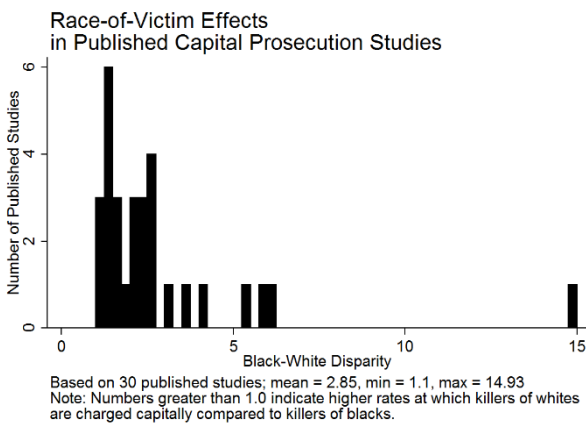
⁷ Researchers collectively examined cases over a period of 35 years, from 1972 to 2008, and from 33 states as well as cases conducted within the US Armed Forces.

likely than killers of Blacks to receive a death sentence.⁸ Though existing scholarship would certainly lead us to expect to find frequent documentation of racial bias, the enormous range of methods, time frames, geographic foci and control variables used make finding consistent evidence of anything far more difficult. In light of this, the persistent presence of bias is both striking and extremely robust.

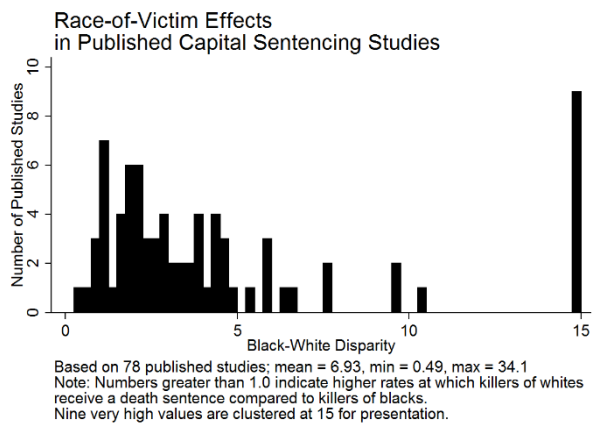
Figure 1 illustrates the collective findings of all the studies we reviewed. Part A summarizes the race-of-victim findings for published studies on the prosecutor’s decision to charge a defendant capital, and Part B does so for studies looking at sentences of death after a trial. The bars indicate the number of studies that found each level of bias. A value of 1.00 would indicate that Black and White victims are equally likely to see the crime proceed capital (Part A), or lead to a sentence of death (Part B). As Figure 1 makes clear, almost all published studies find some degree of racial bias, and, for the decision to prosecute, this was unanimous.

Figure 1. Race-of-Victim Effects found in Published Studies

A. Capital Prosecutions



B. Death Sentences



Note: For a list of sources and more details on the findings, see Appendix A.

In the studies summarized in Figure 1A, none found a value below 1.00. That is, each of the 30 studies identified found that killers of Whites were more likely than killers of Blacks to

⁸ Appendix A lists each of the studies reviewed, indicates the geographic scope and time coverage of the study, and lists the findings.

face a capital prosecution. These studies cover a wide range of geographic areas and time periods, and include different sets of statistical controls. In Figure 1B we see almost the same pattern, with some slight differences. Though the vast majority of studies found that killers of Whites are sentenced to death at higher rates than killers of Blacks, there were cases in which this was not found.⁹ Nine studies found a negative effect or no significant effect (ratios below 1.09), and 69 studies found significant and substantial race-of-victim effects. As the captions to the figures show, the average bias in the charging studies (Part A) was 2.85; in the sentencing studies (Part B), 6.93. These are very high racial disparities, and as Appendix A makes clear they have been found in many time periods, geographical areas, and with different statistical models controlling for legally relevant factors. Note that Part B shows that nine studies where ratios could not be calculated because no Whites had been sentenced to death for killing Black victims. Overall, then, our comprehensive review of past studies shows ample evidence of racial biases in the vast majority of cases. The unique contribution of the current study is to examine all US executions since 1976. We turn to those findings in the next section.

Methodology

The US has executed 1,359 inmates from 1977 through December 31st 2013.¹⁰ Each of these executions is the object of considerable public record, and several web sites make available information about each of them. Most prominent is that of the Death Penalty Information Center (DPIC), a Washington-based clearinghouse of information related to the modern death penalty. Another prominent and near-comprehensive source is the website of the Clark County (IN)

⁹ One study, in Delaware, found a value of 0.49; a second, from South Carolina, found 0.54; seven studies found values in the range of 0.93 to 1.09; 60 studies found race-of-victim disparities ranging from 1.19 to 34.1; and nine studies found an infinite ratio, as there were no death sentences handed down for any killers of Blacks (these are clustered at a value of 15 in the graph).

¹⁰ The modern period starts with the reinstatement of the death penalty by the US Supreme Court in *Gregg v. Georgia* in 1976; the first execution occurred in 1977. The most recent before that had been in 1965.

Office of the Prosecuting Attorney. This site, in fact, links to newspaper coverage, legal documents, and other sources relating especially to the underlying crimes that lead to the death penalty in each case. Beginning with these two sources, the senior author of this article, working with a team of research assistants, compiled a database listing the race and gender of each of the victims of these executions. For cases from 2000 through 2013, the Clark County Prosecutor's Office site contains full information; for earlier cases, extensive web and legal database searches were conducted to ascertain information about the victims, dates of crimes, dates of sentencing, and country of crime and conviction; this article makes use only of the victim information. With information about the inmate easily available, and information about the victims now compiled, our analysis is relatively straightforward; we simply want to know the number of cases with various combinations of offender-victim race and gender. These can then be compared with US Department of Justice (Bureau of Justice Statistics – BJS) statistics about homicides overall.¹¹ BJS statistics come from "Homicide Trends in the United States" and are available only through 2005. The time coverage of our execution database is therefore slightly longer than that of homicides, but we report the full series available. Limiting our execution database to 2005 would show similar results; executions typically follow homicides by more than 10 years in any case.

It is important to recognize some limitations to our comparisons of execution cases with all US homicides; the key point is that we do not know which homicides are capital-eligible and

¹¹ The usual caveats apply to the use of homicide data reported by the BJS, as it comes from local jurisdictions and may not always be a full census. However, for homicides, the data are more fully reported than for lesser crimes. And, most importantly, we are concerned with percentages of victims and offenders of different race and genders. These percentages may vary somewhat in the real world from those reported by BJS, but as the reader will see, the differences we report are so large that we are confident they cannot be due to measurement error in the BJS reports. Further, to the extent that crimes are not closed and therefore offender data is missing, this may be expected disproportionately to affect Black-on-Black crimes, rather than others. If this were the case, it would make our findings stronger rather than weaker.

which are not. Here, we follow the examples of Blume et al. (2004) and Fagan et al. (2006), who looked at particular states (eight states where offender and victim race and gender data were available for Blume, and Texas in the case of Fagan) and compared death-sentence cases with homicides more generally. For example, Blume et al. calculated the number of death sentences per homicide (using the same BJS statistics that we use) and showed these rates per 1,000 homicides: Black Offender-Black Victim, 8.4; White Offender-Black Victim, 19.3; White Offender-White Victim, 30.1; Black Offender-White Victim, 65.4 (calculated from Blume et al. 2004, 197; note that for Arizona, the comparisons are Minority-Majority rather than Black-White). Our results are highly consistent and use a similar methodology to those, with these differences: Blume et al. looked at death sentences where we look at executions; they looked at just eight states where we look at all US jurisdictions; and they reviewed statistics from 1977 through 2000 and we go through 2013.

Fagan et al. (2006, 1825, Figure 2) compare homicide trends with capital homicide trends and show that capital homicides represent roughly 15 to 25 percent of all homicides in death penalty states from 1976 through 2005, or 22 to 28 percent of homicides nationally. The percentage of homicides eligible for capital prosecution increases slightly over time nationally as well as in death states. As our interest is in proportions and trends over time, these numbers suggest that a national analysis based on all homicides will show similar trends as one limited to death-eligible homicides (since these represent a relatively constant percentage of all homicides), and to look at national data rather than to limit our assessment to death-penalty states only (since the trends are highly similar in both).

Systematic data on capital-eligible homicides are not available, but the number of capital-eligible homicides is generally related to the number of homicides more broadly, as Fagan et al.

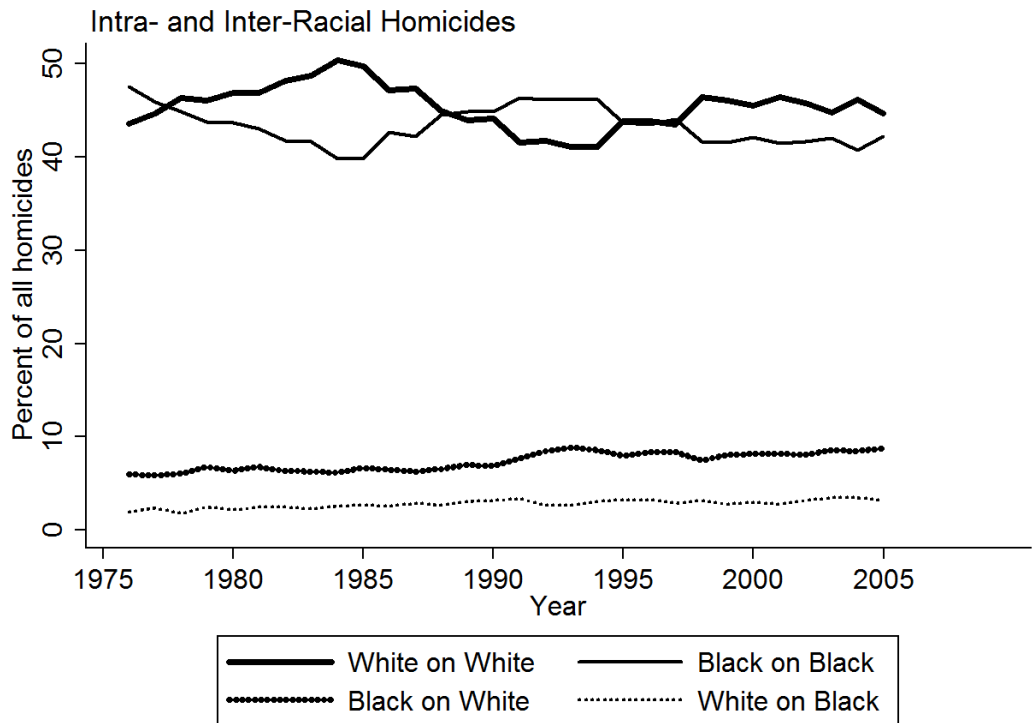
(2006) demonstrate. Further, a number of carefully controlled studies reviewed above have looked at individual-level factors including victim and defendant SES, number of victims, egregiousness of crime and aggravating and mitigating factors statutorily considered in death penalty sentencing and reached findings broadly similar to our own (Baldus & Woodworth, 2003; Donohue, 2014; Paternoster & Brame, 2003; Pierce & Radelet, 2005).¹² And, finally, a review of the White-on-Black killings that did lead to an execution in Appendix B makes clear, even to a reader accustomed to the violent nature of capital homicides, that these cases are indeed particularly heinous.

Results

To begin, we examine overall homicide rates in order to determine how many executions of each racial combination we would expect in the absence of bias. Using data from the Department of Justice on all US homicides, available from 1975 through 2005, we find that the vast majority of homicides are intra-racial (between two people of the same race). As shown in Figure 2, White-on-White homicide and Black-on-Black homicide each consistently make up over 40 percent of all homicides. Interracial crimes, White-on-Black and Black-on-White homicides, each make up less than 10 percent.

¹² As noted earlier, we expand on these works here both in our use of a new, more comprehensive national data set of modern-era executions as well as in our focus on bias against Black victims (and in favor of White defendants with Black victims).

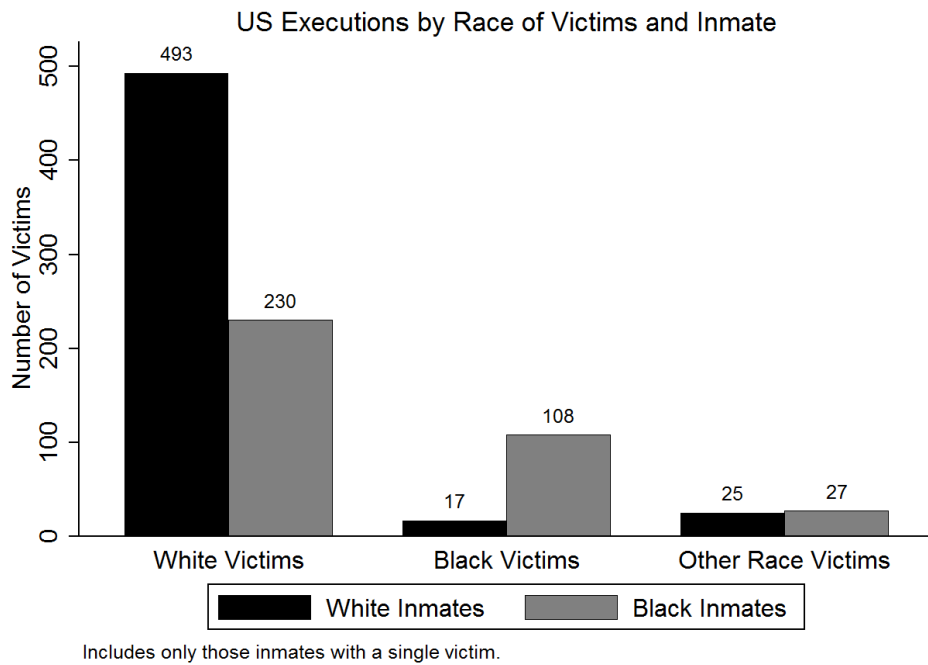
Figure 2. Percent of Homicides by Offender-Victim Race.



Source: Bureau of Justice Statistics 2008, 2011.

In the absence of legally permissible factors that are relevant in death sentencing we would expect that most executions would be the result of White-on-White or Black-on-Black crime, and that executions for White-on-Black and Black-on-White crime would be infrequent, and roughly equal to their proportion of all homicides (10 percent). However, literature on race-of-victim bias suggests that executions for Black-on-White crime will be relatively common while executions for White-on-Black crime will be rare (see our meta-analysis above). Our analysis confirms that this is the case, but extends the evidence to a larger historical period, with greater geographic coverage than has been done before, and shows that the bias is larger than had been previously estimated. Figure 3 provides a visual representation. The dark bars show the number of victims of White killers who were later executed; grey bars show the number of victims of Black killers who were later executed.

Figure 3. Race of Victim for Blacks and Whites Executed.



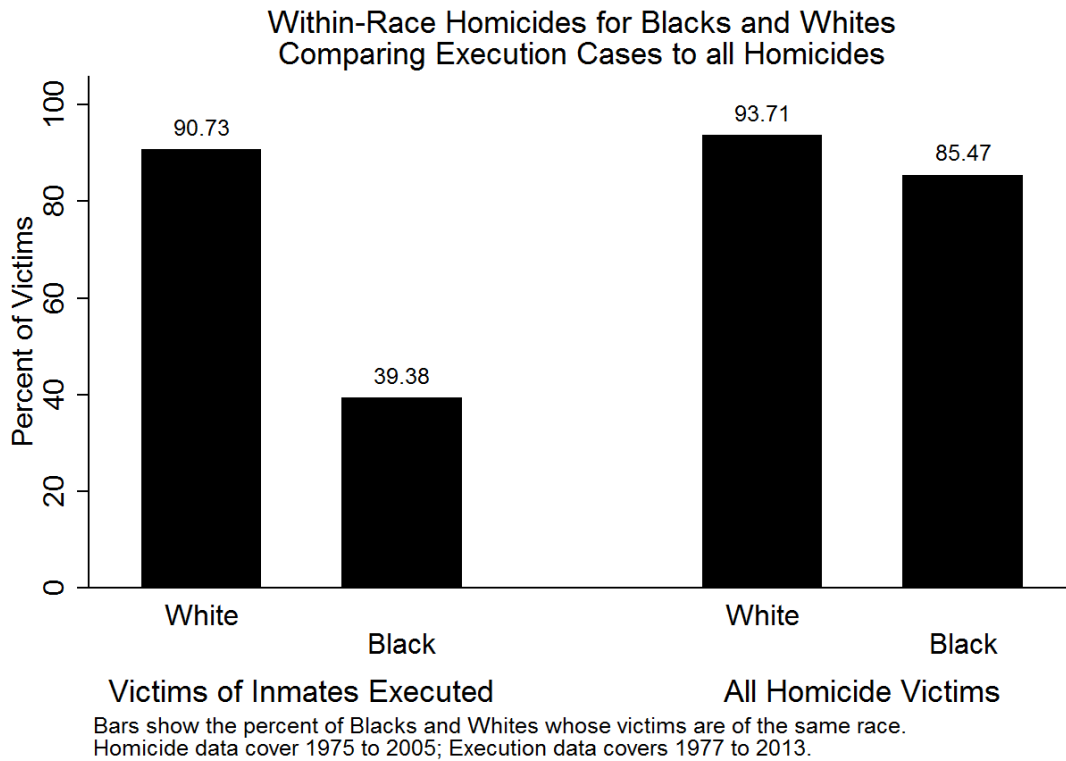
While 17 Whites have been executed for killing a Black, 230 Blacks have been executed for killing a White. In fact, twice as many Blacks have been executed for killing Whites (230) as have been executed for killing Blacks (108). This is in spite of the fact that the vast majority of all homicides committed by Blacks have a Black victim.¹³

Figure 4 compares execution rates for intra-racial (White-on-White and Black-on-Black) and inter-racial homicides. Figure 2 showed that the vast majority of homicides occur between individuals of the same race, and this is reflected in the right-most columns of Figure 4, which show that 94 and 85 percent, respectively, of Whites and Blacks have victims of the same race. The left-most columns in Figure 4 show that patterns of intra-racial homicide are not reflected in

¹³ Note that our analysis here focuses on those cases where there was only a single victim. Including all 1,359 cases shows a similar pattern but the results are clouded because many with multiple victims included victims of different races. Blume et al. (2004) note that race-of-offender effects often are not found because Black offenders typically have Black victims, and crimes with Black victims are unlikely to lead to a death sentence. Blacks who kill Whites, however, are greatly over-represented on death row.

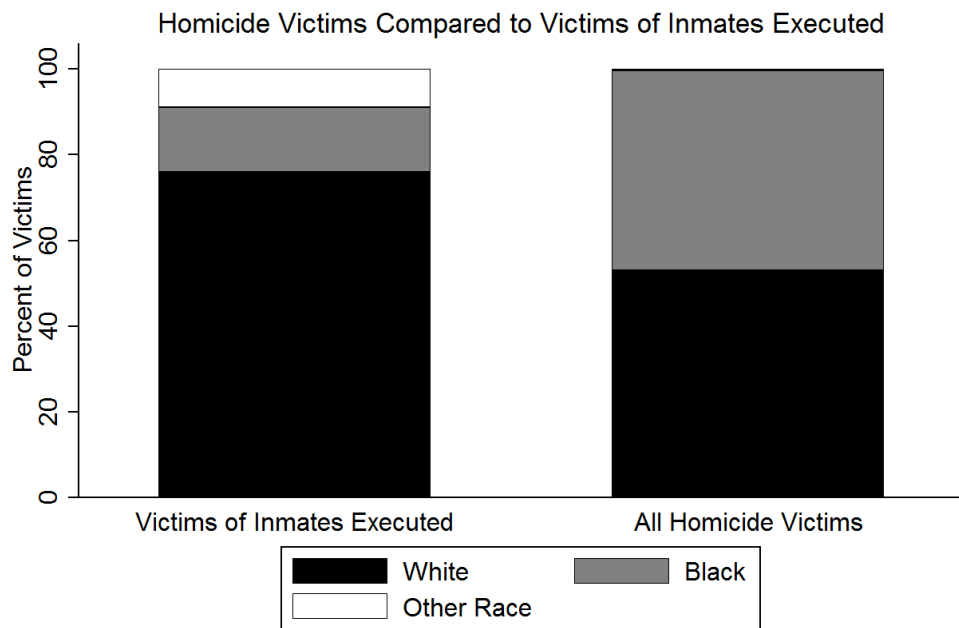
executions. As in the case of homicides, the vast majority of Whites have victims of the same race. There is no such correspondence in the case of Black defendants. While 85 percent of all Blacks found guilty of homicide have Black victims, fewer than 40 percent of Blacks executed for homicide have Black victims.

Figure 4. Inter- and Intra-Racial Homicides and Executions.



We see the same phenomenon in Figure 5, below, which compares the race of all homicide victims (on the right) with the victims of individuals later executed (on the left).

Figure 5. Race of Homicide Victims compared to Race of Victims of those Executed.



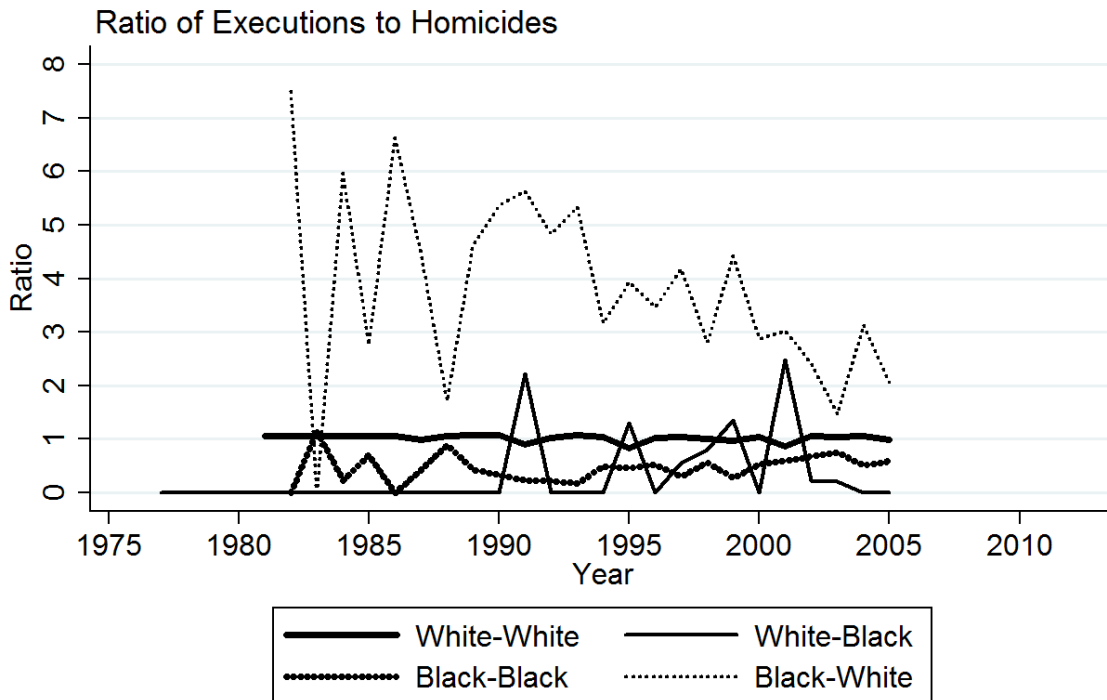
Based on 2128 victims of those executed 1977-2013 and 401,650 homicide victims 1975-2005. Blacks are 47 Percent of all homicide victims but only 17 percent of those leading to an execution.

Figure 5 shows that Blacks make up 47 percent of all homicide victims, but just 17 percent of the victims of those executed. This suggests that Blacks are not only overrepresented among the executed (as scholars have long argued) but are also vastly underrepresented among victims of those executed. Analysis of the 2,128 victims of all individuals executed between 1977 and 2013, and all 401,650 homicide victims between 1975 and 2005 reveals that although Blacks make up almost half (47 percent) of all homicide victims, they represent just a small proportion (17 percent) of the victims of crime where the perpetrator is later executed by the state. Conversely, Whites are overrepresented among victims of those executed as compared to homicides in general. These findings suggest that race-of-victim bias can work not only to increase the perceived seriousness of crimes against White victims, but also to decrease the perceived seriousness of crimes against Black victims.

Figure 6 shows the ratio of executions to homicides, by year, for the different combinations of inmate and victim race. It calculates the ratio of percent of all homicides in a

given offender-victim race category to the percentage of execution-related homicides for that same category. If an equal percentage of homicides led to execution, the ratio would be 1.00. Numbers below 1.00 indicate that such homicides are relatively unlikely to lead to an execution, and numbers above 1.00 show where the executions are statistically more likely.

Figure 6. Ratio of Executions to Homicides by Race of Offender and Victim.



Lines show the ratio of percent of all executions compared to all homicides. Numbers above 1.0 indicate a higher percentage of executions than homicides. Overall Ratios: W-W, 1.02; W-B, 0.34; B-B, 0.46; B-W 3.83.

The thick Black line in Figure 6 shows that White-on-White crime is consistently treated in a proportionate manner, with an overall ratio 1.02. For these crimes, roughly the same percentage lead to execution as not. This is what we would expect in the absence of any kind of bias for or against victims or perpetrators. In both of the victim/perpetrator combinations with Black victims, however, overall ratios are well below 1, meaning that killers of Black victims are substantially less likely than killers of Whites to be executed. Of course, the low odds of execution are particularly stark in the case of White-on-Black crime, for which the overall ratio

is 0.34. In fact, as the thin solid line makes clear, there are many years where this ratio is 0.00: no Whites were executed killing Blacks in many of the years shown. (A quick perusal of Appendix B gives a feel, in fact, of just how horrific these crimes need to be in order to lead to execution.) The dotted line at the top of the graph shows the opposite for Black-on-White crime. In this case, Black-on-White murders make up a far larger proportion of all executions than they do of all homicides. While Whites who killed Blacks are vastly under-represented in the list of those executed, Blacks with White victims are dramatically over-represented. These trends are stark, consistent over time, and overwhelming in their magnitude.

Conclusion

Strong race-of-victim effects have consistently been found in post-*Furman* studies indicating that individuals with White victims are treated more harshly than those with Black victims. Our own data consisting of all reported homicides and executions in the modern era (from 1976 onwards) confirms that there are very few cases in which Whites are executed for killing Blacks, and a disproportionately high number of cases in which Blacks are executed for killing Whites. Researchers have tended to focus on the latter cases, specifically as evidence of a troubling bias in favor of White victims. In fact, our data suggests that an exploration of both kinds of cases presents even more compelling evidence of the power of race-of-victim bias.

A long line of scholarship documents persistent racial bias in the implementation of capital punishment. In *McCleskey v. Kemp* the United States Supreme Court ruled that even the most convincing evidence of racial bias is not enough to demonstrate a violation of constitutional rights unless it presents proof of intentional, conscious discrimination. Such evidence is nearly impossible to come by barring an outright admission. Further, as the magnitude and scope of racial bias documented in our findings suggests, a focus on intentional discrimination by

individuals ignores the ways in which bias might be built into the system or operate unconsciously across multiple individuals and processes. Recent litigation regarding the retention of the death penalty in Connecticut included the compilation of extensive statistics in a massive data collection effort by Donohue (2014) covering every death-eligible homicide in recent years in that state, and confirming important racial and geographic biases in the application of the penalty. (From 1973 through 2007, Donohue’s analysis showed that Connecticut had 4,979 homicides, 205 death-eligible homicides, 12 death sentences, nine death sentences sustained after appeals, and one execution.) The court, as in *McCleskey*, threw out the argument that such evidence was persuasive. Scheidegger (2011, 2012) argued that if crimes occur in urban areas, and urban juries have Blacks, and Blacks are unwilling to impose the death sentence, then “racial disparities would shrink to insignificance if legitimate factors, *including jurisdiction*, could properly be taken into account” (2011, 22).¹⁴ In another article (2012, 164) he asks: “To the extent that a race-of-the-victim disparity exists, is it due to racial animus of the decision makers?” If this cannot be demonstrated, then his logic suggests that there can be no finding of disparity, and that was the finding in *McCleskey* as well as in the Connecticut litigation.

The idea that racial disparities require the demonstration of racial animus and intent is what Eduardo Bonilla-Silva (1997) refers to as the “prejudice problematic”—the expectation that we should identify a single racist villain to explain an outcome that could well be due to more structural causes. To a large extent, the courts have remained true to this “prejudice problematic,” unwilling to confront implicit bias and structural differences. Further, as

¹⁴ He obviously ignores Houston, Dallas, Fort Worth as top ten counties nationally by executions, and Philadelphia and Los Angeles, top counties by death sentences imposed. The “death qualification”, limiting jury participation only to those with abstract support of the death penalty, mitigates his concerns at the same time as it eliminates many Blacks from capital juries.

Scheidegger (2011) suggests, they take geographic disparities—which of course can be related to racial outcomes—as signs of appropriate “local control” properly to be left to the discretion of locally elected prosecutors, judges, and juries and in fact a sign of healthy variation rather than a challenge to the equal protection clause of the Constitution.

Despite the rejection of powerful evidence by the courts, scholarship continues to document the presence of racial bias in capital punishment. Numerous studies, such as those by Bonilla-Silva (1996, 1997, Bonilla-Silva et al. 2004) and Eberhardt with various colleagues (Eberhardt et al. 2004, 2005/06; Williams and Eberhardt 2008; Rattan et al. 2012; Hetey and Eberhardt 2014) convincingly show the subconscious bias the underlies many decisions in the criminal justice system from traffic stops to eyewitness ID procedures to prosecutors’ decisions about capital punishment to whether an offender should be tried as a child or an adult, to the imposition of the ultimate penalty. Our work builds on these important theoretical works, providing both a systematic review of existing empirical literature and a new, comprehensive review of all 1,359 executions in the modern era. In both cases the results are stunning. The trend is certainly expected given the large body of scholarship documenting bias. However, the scope of the disparity is greater than even the existing literature would lead one to expect. Further, our findings are not based on a survey or an estimate; we have assembled a complete list of every execution in the modern era, and looked up information on each of the victims. The comprehensive nature of our evidence allows some strong conclusions about the state of capital punishment in the US now almost 40 years since its re-establishment in 1976.

The enormous scope of racial bias identified here, in both the review of existing literature and analysis of all modern-era executions, suggests that we question the standard for evidence presented in *McCleskey v. Kemp*. It is clear that significant, troubling, racial disparities exist

without proof of intentional discrimination by state actors. These disparities are not, as Justice Powell suggested, “an inevitable part of our criminal justice system” (*McCleskey v. Kemp* 1987). More pressingly, these findings suggest that we reevaluate the death penalty itself. At a minimum, we must recognize its strongly racialized character.

The justices have recognized these facts. In fact, an internal memorandum from Justice Scalia to the conference during consideration of Justice Powell’s draft decision quoted above, he wrote: “‘Since it is my view that unconscious operation of irrational sympathies and antipathies, including racial, upon jury decisions and (hence) prosecutorial decisions is real, acknowledged in the decisions of this court, and ineradicable, I cannot honestly say that all I need is more proof’” (quoted in Gross 2012, 1921). In other words, no evidence could change his mind: he already believes that “irrational sympathies,” and even their “unconscious operation” (that is, with no explicit intent) are powerful factors in the criminal justice system. And, furthermore, he thinks this is a fact we simply have to become accustomed to, as it cannot be avoided.

Whether or not Justice Scalia’s opinion that racial factors in the criminal justice system are both real and “ineradicable” remains the operating assumption on the US Supreme Court, the degree of racial disparity demonstrated here is powerful enough to cause many others to find it unacceptable. In a time when support for capital punishment among legislators and the public has reached record lows, our study adds another reason to oppose the practice. In its modern history as in its use in previous eras, racial bias in its application is consistently high. In addition to the threat to the equal protection of the law that these numbers suggest, such overwhelming evidence of differential treatment erodes public support for the judicial system. Further, the strength of these biases makes clear that complaints of unequal treatment are real, not imagined. If the ultimate and highly symbolic punishment is meted out in such a disparate manner with

regards to race, and with these patterns of racial bias so similar in the modern period to the overtly racist practices of previous generations, the statistical patterns laid bare in this study can only lead to a decline in support and efficacy of the judicial system overall.

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Appendix A: Empirical Legal Studies of Race-of-Victim Effects¹⁵

The table below shows the degree of racial bias found in published studies of race-of-victim effect. Unless otherwise noted the data refer to the ratio between Black and White victims; “size” refers to the number of homicide cases included in the study, unless otherwise noted. All available studies published since 1972 are included, thus reflecting the “modern era” of the death penalty. Note, however, that different studies have different geographic scope and time coverage. Footnotes at the bottom of the table explain the particulars of each comparison made.

Methodology: Our starting point was the foundational 1983 article “Comparative Review of Death Sentences: An Empirical Study of the Georgia Experience” by David C. Baldus, Charles Pulaski, and George Woodworth. A Google Scholar search identified 394 works that cite Baldus’ 1983 journal article. We reviewed the sources and retained those articles whose titles and abstracts mentioned “race,” “discrimination,” “arbitrariness,” “gender,” “injustice,” “bias” or “disproportionality.” We also conducted searches in relevant academic journals for works referencing “death penalty,” “death sentencing,” or “capital sentencing.” We conducted a second round of review using Google Scholars “Cited by” function to find articles citing our initial selection of articles. Finally, we reviewed the references of these works to find additional sources, including legal journals with volumes or issues devoted to examination of discrimination in the death penalty. We also used reference databases including ProQuest and JSTOR to search for articles with keywords and phrases such as “death penalty race” and “discrimination and the death penalty,” taking note of articles that cited relevant articles. Lastly, the review included books relating to death penalty and discrimination found in a major university library. *Capital Punishment in America: Race and the Death Penalty Over Time* by Martin Guevara Urbina (2012) was especially valuable because the author includes a comprehensive review of prior research from which we were able to find works we had not previously included.

#	Study	Geographic Scope	Time Range	Size	Ratio
Panel A. Studies examining capital prosecution					
1	Wilson, Marcia J (2008).	New Mexico	7/1979-12/2007	211 [≈]	14.93
2	Baldus, David C., Catherine M. Grosso, George Woodworth, and Richard Newell (2012).	U.S. Armed Forces	7/16/1984-10/13/2005	105 [^]	6.17 ^o
3	Songer, Michael J. and Isaac Unah (2006-2007).	South Carolina	1993-97	2,319	5.85
4	Bohm, Robert M (1994).	GA: Chattahoochee and Ocmulgee judicial circuits	3/28/1973-7/1990	274 [~]	5.3
5	Hindson, Stephanie, Hillary Potter, and Michael L. Radelet (2006).	Colorado	1972-2005	110 [≈]	4.22
6	Baldus, David C., Charles Pulaski and George Woodworth (Autumn 1983).	Georgia	1970-78	724 ^o	3.68
7	Jacoby, Joseph E. and Raymond Paternoster. (Spring 1982).	South Carolina	6/8/1977-11/30/1979	205	3.2

¹⁵ The studies included in these tables were all published after 1972, which was the year the Supreme Court of the United States decided *Furman v. Georgia*.

8	Paternoster, Raymond (Autumn 1983).	South Carolina	6/8/1977- 12/31/1981	1,686 [^]	2.69
9	Barnes, Katherine, David Sloss and Stephen Thaman (2009).	Missouri	1997-2001	247	2.64
10	Paternoster, Raymond, Robert Brame, Sarah Bacon, and Andrew Ditchfield (2004).	Maryland	7/1/1978- 12/31/1999	1,311 [^]	2.55 [†]
11	Paternoster, Raymond (1984).	South Carolina	6/8/1977- 12/31/1981	1,686 [^]	2.51 ^{^^}
12	Paternoster, Raymond, Robert Braeme, Sarah Bacon and Andrew Ditchfield (2003).	Maryland	7/1978- 9/1999	1,311 [^]	2.38 [†]
13	Paternoster, Raymond and Ann Marie Kazyaka (Winter 1988).	South Carolina	6/8/1977- 12/31/1981	302 ^{^^}	2.31
14	Unah, Isaac (February 2009).	NC: Durham County	2002-07	149 [^]	2.31
15	Keil, Thomas J. and Gennaro F. Vito (March 1990).	Kentucky	12/22/1976 - 10/1/1986	401	2.16
16	Rohrlich, Ted and Federic N. Tulsy (December 3, 1996).	CA: Los Angeles County	1990-94	9,442	2.14
17	Bienen, Leigh B., Neil Alan Weiner, Deborah W. Denno, Paul D. Allison, and Douglas Lane Mills (1988-1989).	New Jersey	8/6/1982- 8/18/1988	703	2.04
18	Sorensen, Jonathan R. and Donald H. Wallace (1995).	Missouri	1977-91	3,873 [~]	1.91
19	Wagers, Kristin Amber (2010).	Tennessee	1976- 2007	1,068 ^Δ	1.71
	Scheb II, John M. and Kristin A. Wagers (2008-2009).				
20	Phillips, Scott (2008-2009).	TX: Harris County	1992-99	504 [~]	1.69 [‡]
21	Phillips, Scott (December 2009).	TX: Harris County	1992-99	504 [~]	1.57 [‡]
22	Bortner, Peg and Andy Hall (June 2002).	Arizona	1995-99	971 [~]	1.49 [†]
23	McNally, Kevin (2003-2004).	US	1988-2000	381 [~]	1.42 [†]
24	Klein, Stephen P. and John E. Rolph (1991-1992).	California	9/10/1977- 3/1/1984	496 [◊]	1.4 [†]
25	Brock, Deon E., Jon Sorensen, and James W. Marquart (1999).	Texas	9/1991- 9/1993	179 [◊]	1.33
26	Baldus, David C., Charles Pulaski and George Woodworth (1984-1985).	Georgia	3/28/1973- 6/30/1978	606	1.3
	Baldus, David C., Charles A. Pulaski, Jr. and George Woodworth (Spring 1986).				
27	Klein, Stephen P., Richard A. Berk, and Laura J. Hickman (June 2006).	US	1/1/1995- 7/31/2000	312 [^]	1.3 [†]
28	Donohue, John (October 2011).	Connecticut	1973-2007	205 [^]	1.2 [†]
29	Baldus, David C., George Woodworth, Catherine M. Grosso, and Aaron M. Christ. (2002-2003).	Nebraska	4/30/1973- 12/31/1999	185 [^]	1.13 [†]
30	Baldus, David. C., Julie Brain, Neil A. Weiner, George Woodworth (2008-2009).	Arkansas Judicial Circuits 8 and 8S: Lafayette, Miller, Nevada, and Hempstead counties	1990-2005	63 [^]	1.1 [◊]

Panel B. Studies examining capital sentencing					
1	Baldus, David C., Julie Brain, Neil A. Weiner, George Woodworth (2008-2009).	Arkansas Judicial Circuits 8 and 8S: Lafayette, Miller, Nevada, and Hempstead counties	1990-2005	63 [^]	∞
2	Zeisel, Hans (December 1981).	Florida	1972-77	378 ^{^^}	34.1
3	Gross, Samuel R. and Robert Mauro (1989).	Mississippi	1976-80	852	10.45
	Gross, Samuel R., and Robert Mauro (November 1984).	Georgia		2,126	9.7
		Florida		3,501	7.6
		Arkansas		798	6.53
		North Carolina		1,871	5.97
		Oklahoma		898	5.78
		Illinois		3,115	5.38
		Virginia		1,389	4.31
4	Keil, Thomas J. and Gennaro F. Vito (March 1990).	Kentucky	12/22/1976 - 10/1/1986	401	9.56
5	Radelet, Michael L. and Glenn L. Pierce (January 1991).	Florida	1976-87	10,142	5.9
6	Paternoster, Raymond, Robert Brame, Sarah Bacon, and Andrew Ditchfield (2004).	Maryland	7/1/1978- 12/31/1999	1,311 [^]	4.82 [†]
7	Brock, Deon, Nigel Cohen, and Jonathan Sorensen (2000-2001).	TX: Dallas, Tarrant, Harris, Bexar counties	1980-96	28,286	4.64
8	Paternoster, Raymond, Robert Braeme, Sarah Bacon and Andrew Ditchfield (2003).	Maryland	7/1978- 9/1999	1,311 [^]	4.6 [†]
9	Radelet, Michael L. (December 1981).	Florida	1976-77	637 [~]	4.48
10	Baldus, David C., Charles Pulaski and George Woodworth (Autumn 1983).	Georgia	1970-78	724 [∅]	4
11	Baldus, David C., Charles Pulaski and George Woodworth (1984-1985).	Georgia	3/28/1973- 6/30/1978	606	3.9
	Baldus, David C., Charles A. Pulaski, Jr. and George Woodworth (Spring 1986).				
12	Pierce, Glenn L. and Michael L. Radelet (2005-2006).	California	1990-99	263 [≈]	3.7
13	Smith, M. Dwayne (1987).	Louisiana	10/1/1976- 12/31/1982	504 [^]	3.5
14	Pierce, Glenn L. and Michael L. Radelet (2002).	Illinois	1988-97	4,182	3.45
15	Donohue, John (October 2011).	Connecticut	1973-2007	205 [^]	3.14 [†]
16	Thompson, Ernie (Spring 1997).	Arizona	1982-91	2,028	3.06
17	Baldus, David C., Catherine M. Grosso, George Woodworth, and Richard Newell (2012).	U.S. Armed Forces	7/16/1984- 10/13/2005	105 [^]	2.98 [∅]
18	Barnett, Arnold (1984-1985).	Georgia	1973-78	606	2.9
19	Phillips, Scott (2012).	TX: Harris County	1/1/2001- 2/15/2008	488 [^]	2.86
20	Williams, Marian R. and Jefferson E. Holcomb (2001).	Ohio	1981-94	5,319	2.66
21	Pierce, Glenn L. and Michael L. Radelet (2010-2011).	LA: East Baton Rouge Parish	1990-2008	191 [^]	2.64

22	American Civil Liberties Union of Virginia (December 2000).	Virginia	1978-97	78 ⁺	2.2
23	Unah, Issac (February 4, 2003).	North Carolina	1993-97	520 ^o	2.13 [†]
	Unah, Isaac (2011).				
24	Bienen, Leigh B., Neil Alan Weiner, Deborah W. Denno, Paul D. Allison, and Douglas Lane Mills (1988-1989).	New Jersey	8/6/1982-8/18/1988	703	2.07
25	Bortner, Peg and Andy Hall (June 2002).	Arizona	1995-99	971 [~]	2.02 [†]
26	Phillips, Scott (December 2009).	TX: Harris County	1992-99	504 [~]	1.89 [‡]
27	Wagers, Kristin Amber (2010).	Tennessee	1976- 2007	1,068 ^Δ	1.85
	Scheb II, John M. and Kristin A. Wagers (2008-2009).				
28	Unah, Isaac (April 16, 2001).	North Carolina	1993-97	502 ^o	1.69 [†]
29	Baldus, David C, George Woodworth, Gary L. Young, and Aaron M. Christ (July 25, 2001).	Nebraska	4/20/1973-12/31/1999	177 [^]	1.54 [†]
30	Sorensen, Jonathan R. and Donald H. Wallace (1995).	Missouri	1977-91	3,873 [~]	1.5
31	Phillips, Scott (2008-2009).	TX: Harris County	1992-99	504 [~]	1.5 [‡]
32	Barnes, Katherine, David Sloss and Stephen Thaman (2009).	Missouri	1997-2001	247	1.2
33	Baldus, David C., George Woodworth, Catherine M. Grosso, and Aaron M. Christ. (2002-2003).	Nebraska	4/30/1973-12/31/1999	185 [^]	1.19 [†]
34	Aguirre, Jr., Adalberto, Richard P. Davin, David V. Baker, and Konrad Lee (1999).	California	1/1989-3/1994	151 ^o	1.09
35	Reckdenwald, Amy (June 2004).	North Carolina	1979-2000	640 ^o	1.03
36	Brock, Deon E., Jon Sorensen, and James W. Marquart (1999).	Texas	9/1991-9/1993	179 ^o	1.03
37	Paternoster, Raymond and Ann Marie Kazyaka (Winter 1988).	South Carolina	6/8/1977-12/31/1981	302 ^{^^}	.54
38	Radelet, Michael L. and Glenn L. Pierce (2011)	North Carolina	1/1/1980-12/31/2007	368	2.96
39	Baldus, David C., Charles A. Pulaski, Jr. and George Woodworth (Spring 1986).	Georgia	1977-84	606	1.3
	(Ratios beyond first Georgia ratio are computed from data in Henderson and Taylor, "Racist Justice: Discrimination Even in Death," <i>Dallas Times Herald</i> , November 18, 1985)	New Jersey		722 ^{^^}	1.05
		Maryland		451 ^{^^}	7.57
		Arkansas		205 ^{^^}	6.28
		Texas		1,890 ^{^^}	4.61
		Kentucky		277 ^{^^}	4.47
		Georgia		377 ^{^^}	4.30
		Mississippi		179 ^{^^}	3.99
		Missouri		480 ^{^^}	3.97
		Virginia		331 ^{^^}	3.89
		Illinois		1,459 ^{^^}	2.96
		Arizona		197 ^{^^}	2.51
		Florida		1,128 ^{^^}	2.49
		Tennessee		388 ^{^^}	2.44
		California		3,392 ^{^^}	2.38
		Louisiana		510 ^{^^}	2.19
		Alabama		342 ^{^^}	2.04
		South Carolina		448 ^{^^}	1.87
		Indiana		360 ^{^^}	1.84
		Oklahoma		242 ^{^^}	1.79

Nebraska	55 ^{^^}	1.75
Ohio	664 ^{^^}	1.19
North Carolina	480 ^{^^}	.99
Pennsylvania	970 ^{^^}	.98
Nevada	110 ^{^^}	.93
Delaware	49 ^{^^}	.49
Idaho	37 ^{^^}	∞
New Mexico	50 ^{^^}	∞
Montana	25 ^{^^}	∞
Wyoming	45 ^{^^}	∞
Utah	54 ^{^^}	∞
Washington	131 ^{^^}	∞
Colorado	125 ^{^^}	∞

Notes

[^] Death-eligible cases

^{^^} Felony homicides

^Δ First-degree murder convictions

[~] Defendants indicted for murder

[◇] Defendants sentenced for murder (life or death sentences)

[≈] Death penalty cases (death penalty sought)

^{***} Combination of death-sentenced, life-sentenced, and non-penalty-trial cases

⁺ Rape convictions

[±] Robbery-murders

[∞] Ratio could not be calculated because there were no death-sentenced cases in one of the reference categories to compare to the other reference category

Race-of-Victim

[∅] White victim and other cases

[†] White victim and nonWhite/minority victim

[‡] White or Hispanic victim and other cases

^{††} NonBlack victim and Black victim

Race-of-Inmate

[§] Black defendants and other cases

[#] Defendant of color/minority/nonWhite and White defendant

[%] Black and nonBlack defendants

Combined Race-of-Inmate and Race-of-Victim

^{##} Minority-inmate/White-victim and other cases

[√] Black-inmate/White-victim and other cases

^{<<} Minority/defendant of color/nonWhite-inmate/White-victim and White-inmate/White-victim

^{and} Black-inmate/nonBlack-victim and other cases

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Appendix B: White-On-Black Homicides Resulting in Execution 1975-2013¹⁶

So few occurrences of White-on-Black homicides have led to an execution in the modern history of the death penalty that we can list each of them here. Even for those accustomed to reading of the often horrific crimes associated with many death penalty cases, these crimes or the criminals involved are particularly noteworthy, gruesome, or overtly racially motivated.

As it happens, South Carolina has seen more White-on-Black homicide executions than any other state since 1975. Their cases include William Downs, a two-time child rapist and murderer who requested the death penalty and waived his appeals, and Richard Johnson, also a double murderer, who fatally shot the Black South Carolina state trooper who pulled him over following his first murder. Joseph Atkins murdered his Black adopted father and the thirteen-year-old neighbor girl just five years after being paroled for the murder of his brother. He shot the girl at close range with a shotgun while she slept (*Atkins v. Moore* Fourth Circuit, 1998). By the time police began to suspect Donald “Pee Wee” Gaskins, often described as the state’s most infamous and prolific serial killer, he had killed at least 13 people. Though these were initially thought to be Gaskins’ only victims he would later claim to have killed 181 people (Gaskins & Earle, 1992). Gaskins’ initial death sentence was vacated, but he was sentenced to death a second time after conducting a paid hit using a bomb disguised as a homemade radio, killing a Black inmate in the adjacent prison cell (AP, 1999; O’Boyle, 1988). Therefore, while his execution was a result of the killing of a Black man, his previous crimes had already qualified him as one of the most prolific murderers in state history. Here we present a list and short description of each Black-on-White homicide that has led to an execution.

¹⁶ Facts for these cases were found through a review of rulings on subsequent appeals and LexisNexis searches of news coverage of the cases.

The first 10 cases listed had only Black male victims. Edwin Turner had 2 such victims but all the others had only a single Black male victim. Six additional cases are listed below, where the killer had multiple victims some of whom were Black males but others were of other races. In all, just 10 Whites have been executed for the crime of killing a Black male, and, as this list makes clear, many of them had previously killed others, though they eventually were sentenced to death and executed for the killing of a Black male. Others had explicit racial motivations.

Donald Gaskins, SC, September 6, 1991: Donald (Pee Wee) Gaskins is described as South Carolina's most infamous and prolific serial killer. By the time police began to suspect Gaskin of the murder of a local woman, he had killed at least 13 people. He would later claim to have had 181 victims. After having his first death sentence vacated due to the Supreme Court initiated moratorium, Gaskins was eventually executed for his 14th known murder, a paid hit on Rudolph Tyner, a fellow inmate, using a bomb disguised as a radio.

Robert O'Neal, MO, December 6, 1995: In 1984, Robert O'Neal was a member of a White supremacist prison gang and had been incarcerated since the age of 18 for murdering a 78-year-old man during the commission of a burglary (Bell, 1995). On February 3, 1984, O'Neal, Rodnie Stewart, and Lloyd E. Schlup, approached Black inmate Arthur Dade. Stewart threw hot liquid in Dade's eyes and Schlup restrained the victim while O'Neal stabbed him to death with a 12 inch long homemade knife (O'Neil, 1993). Prosecutors called the murder an "Aryan hit."

Henry Francis Hays, AL, June 6, 1997: In 1981 the Alabama KKK ordered a lynching to "show Klan strength." On March 20, 1981 Henry Francis Hays and fellow Klansman James "Tiger" Knowles, abducted 19-year-old Michael Donald and drove him to a secluded area where they struck him with a tree limb over 100 times. When Donald stopped moving they slit his throat and placed a rope around his neck. Before hanging Donald's body from a tree, they took him to the home of Henry's father, a Klan leader, to show other Klan members.

Norman Lee Newsted, OK, July 8, 1999: On February 20, 1984 Norman Lee Newsted fatally shot cab driver Larry Donnell Buckley after the men stopped to ask for directions to the home of Newsted's sister. Newsted had hailed the cab after arriving at the airport having fled Utah, where he and an accomplice had each shot three people during the commission of a robbery. All three victims died.

William Downs, SC, July 14, 2006: After being arrested in the 1999 kidnapping, rape and murder of 6 year old Keenan O'Mailia, William Downs admitted to having raped and killed another boy, James Porter in Savannah Georgia eight years earlier. Before being sentenced for the murder of O'Mailia Downs told the court that he deserved the death penalty saying, "I think

it would be disrespectful to the family and...to the whole world if you did not give me the death penalty.”

John Yancey Schmitt, VA, November 9, 2006: In 1999 John Yancey Schmitt robbed the Bon Air NationsBank armed with a semi-automatic handgun. According to prosecutors, the bank's security guard Earl Dunning placed himself between Schmitt and the bank tellers during the holdup. Witnesses reported that Schmitt shot Dunning twice. Security cameras captured a “vivid” photo of Schmitt, who was identified as the same man who had robbed the bank a month earlier.

Lee Andrew Taylor, TX, June 16, 2011: In 1999 Lee Andrew Taylor was serving a life sentence for an aggravated robbery in which an elderly couple were beaten in their home. The elderly man died as a result of the attack and his wife required extensive reconstructive surgery. On April 1, 1999 Taylor attacked Donta Greene, who was unarmed, fatally stabbing him in the chest thirteen times with a prison-made stabbing device that resembled an ice pick.

Lawrence Brewer, TX, September 20, 2011: On June 7, 1998, in an area of Texas known for Klan activity, Larry Byrd accepted a ride from White supremacists Lawrence Brewer, John King and Shawn Berry. The men took Byrd to a secluded area where they beat him, urinated on him and chained him to their truck before dragging his body behind the vehicle for two miles. Byrd remained conscious throughout the attack, dying only when his right arm and head were severed. The men dumped Byrd's remains in front of an African-American church.

Edwin Turner, MS, February 8, 2012: In December of 1995, Edwin Turner and Paul M. Stewart drank beer and smoked marijuana before setting out to rob convenience stores in Carroll County Mississippi. Armed with rifles, the men approached the first convenience store, where Turner shot attendant Eddie Brooks. At the next store he shot Everett Curry while he pumped gas. The men returned home with \$400 in cash.

Frederick Treesh, OH, March 6, 2013: On August 27, 1994 Frederick Treesh and Benjamin Brooks entered an adult bookstore store armed with a nine-millimeter handgun and a sawed-off shotgun. Treesh fatally shot the store's security guard and while fleeing shot the store's clerk twice. According to prosecutors, in the days preceding the murder Treesh and Brooks had robbed banks and businesses, stolen and carjacked cars, committed sexual assaults and fatally video store owner Ghassan Danno in a series of crimes that crossed five states.

The six inmates listed below had at least one Black male victims, but also had other types of victims:

Roger Stafford, OK, July 1, 1995: In 1975 Stafford, along with his wife Verna and brother Harold, killed a family of three in a robbery, after tricking them into stopping to come to the aid of Verna alongside a highway. Three weeks later they killed six restaurant employees while robbing a steakhouse in Oklahoma City. Stafford ordered all of the employees into the walk in freezer and killed the only Black employee, janitor Isaac Freeman, before opening fire on the others.

Joseph Atkins, SC, January 22, 1999: After being paroled for the murder of his brother in 1985, Joseph Atkins cut the phone lines to his neighbors' home, entered armed with a machete and shotgun, and shot the 13-year old neighbor girl while she slept. He then returned to his own home where he fatally shot his father.

Timothy McVeigh, FE, June 11, 2001: On April 19, 1995 Timothy McVeigh detonated a rental truck filled with explosives in front of the Alfred P. Murrah Federal Building in Oklahoma City. The explosion damaged or destroyed 324 buildings within a 16-block radius, injured over 600 people and killed 168 including 19 children. It remains the deadliest act of domestic terrorism in U.S. history.

Richard Johnson, SC, May 3, 2002: In September of 1985, Dan Swanson, who was driving his RV to Florida, picked up, Richard Johnson along with two other hitchhikers. During the trip, Johnson shot Swanson and hid his body in the RV. He then fatally shot the Black state trooper who pulled the RV over for reckless driving six times, at least once after he had already fallen to the ground.

Frank G. Spisak Jr., OH, February 17, 2011: In February of 1982 neo-Nazi Frank Spisak began shooting Black and Jewish individuals at Cleveland State University as part of a "war" for the "survival" of the "Aryan race." Spisak killed Horace Rickerson, Brian Warford and Timothy Sheehan and shot two others, John Hardaway and Coletta Dartt, who survived.

Harry Mitts, OH, September 25, 2013: In August 14, 1994, Harry Mitts Jr., severely inebriated, threatened several people in his apartment complex with a gun armed with a laser site. Mitts shouted racial epithets at his White neighbor and her Black boyfriend, John Bryant before fatally shooting Bryant. When police arrived at the scene Mitts fatally shot Sgt. Dennis Glivar and wounded two other responding officers.