

Race, Region, and Death Sentencing in
Illinois, 1988-1997

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Outline

- I. Summary of Findings
- II. Introduction and Statement of Research Questions
- III. Prior Research on Post-Furman Death Sentencing in Illinois
 - A. Gross and Mauro
 - B. Chicago Tribune
- IV. Methodology
 - A. The Data
 - 1. Department of Corrections
 - 2. Chicago Homicide Data
 - 3. Victim Data from Selected State and Local Records
 - 4. Supplemental Homicide Reports Data
 - B. The Variables
 - C. Statistical Approach
- V. Findings
- VI. Conclusions and Policy Recommendations
 - A. Limits to this Study
 - B. Summary of Major Conclusions
 - C. Recommendations
 - D. A Final Note

Appendix I: Post-1990 Research on Race and Death Sentencing Outside Illinois

- A. Arizona
- B. Florida
- C. Indiana
- D. Kentucky
- E. Maryland
- F. Nebraska
- G. New Jersey
- H. North Carolina
- I. Philadelphia
- J. Virginia
- K. The Federal System

Appendix II: Indicators of Death Sentence Eligibility Documentation

Appendix III. Tables 3 – 31 of the Findings

Appendix IV: Acknowledgements

I. Summary of Findings

1. Holding aggravating factors constant, there is strong evidence that the race of the homicide victim is a significant predictor of who is sentenced to death in Illinois.
2. The frequency of death sentencing in Illinois, holding constant level of aggravation, shows a statistically significant relationship between regions of the state. Among cases with a first-degree murder conviction, 8.4% of those from rural counties, 3.4% of those from urban counties, 3.3% of those from collar counties, and 1.5% of those from Cook County resulted in a death sentence. These statistically significant regional differences remained after controlling for level of aggravation.
3. In the sample of cases studied, we have found no statistically significant evidence of disparate treatment based on race of the defendant, once aggravating factors are held constant.
4. Because conservative methodology was employed, estimates of arbitrariness and/or discrimination identified in this study may under-represent the effects of extra-legal factors. This is because the present study only examines defendants convicted of first-degree murder. Earlier stages in the judicial process are not examined, and decisions made at these points could have also been influenced by these same extra-legal factors.
5. Information about a number of known indicators of arbitrariness and/or discrimination was not available for this analysis. For example, past research has found measures of victim and defendant social status, adequacy of defense counsel, and racial and ethnic makeup of juries have been associated with death sentence decisions. Information on these types of indicators could very well reveal additional extra legal factors that influence death sentence decisions in Illinois.
6. If the death penalty is to be continued in Illinois, to assure equity in its application, vast improvements are needed in the collection and dissemination of data. As it now stands, data on Illinois homicides is scattered and incomplete, making comprehensive monitoring all but impossible.

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II. Introduction and Statement of Research Questions

Along the long and complicated path to an execution in Illinois, many are called, but few are chosen. Before an execution can occur, law enforcement officials must first devote ample resources to collecting the type of high-quality evidence that prosecutors and jurors would usually like to see before agreeing on a capital sentence. Prosecutors must decide both to seek a death sentence and to steadfastly stand by that decision, even if the defendant seeks some sort of plea bargain. Resources must be available for defense attorneys, regardless of the region of the state or the racial attributes of the defendant or victim. Jurors must unanimously agree that a given defendant, convicted of first-degree murder, should be executed rather than live the rest of his life in prison. The Illinois Supreme Court must concur. The governor, if asked to consider executive clemency (whereby the death sentence can be commuted to a prison term), must also give a green light. Clearly, not everyone sentenced to death will be executed. Nonetheless, examining who is sentenced to death is a useful starting spot from which to begin studying who is executed.

According to data collected by the Center for Wrongful Convictions at Northwestern University, between mid-1977, when the current Illinois death penalty statute took effect, and December 31, 2001, some 289 people were sentenced to death in Illinois. Of these, 173 remained on death row on December 31, 2001¹; the other 116 had been resentenced to prison terms, died from natural deaths or execution, or otherwise had been released from death row. This is a tiny fraction of the state's 12.4 million residents. In their seminal study of death sentencing in Illinois, Gross and Mauro found that in the 3.5 years ending in December 1980, only one percent of homicides, and 1.4 percent of those with a known suspect, resulted in a death sentence for the perpetrator. Hence, the death penalty has been infrequently imposed.

The goal of the present study is quite narrow. Using ten years of data, we compare characteristics of cases in which the death penalty was imposed with the characteristics of other Illinois cases in which defendants were convicted of first-degree murder. Are cases in which the death penalty is imposed more "aggravated" than cases in which it is not? Among cases with similar levels of aggravation, do extra-legal factors, such as race or region, correlate with who is sentenced to death?

The decision to start with a sample of cases where people have already been convicted of first-degree murder is not the ideal way to shed light on what we refer to as the "continuous chain" of decisions, from the initial police investigation through appellate and clemency decisions, that result in (some) executions. Law enforcement officials, prosecutors, judges, and juries are all involved in

¹ NAACP Legal Defense and Educational Fund, Inc., *Death Row, U.S.A.* (unpublished document) (Winter 2002), at 40.

deciding who to send to death row. Ideally, we would want to start a study such as this by initially focusing on how the race of defendant or victim might correlate with the amount of resources that law enforcement devotes to gathering evidence. Then, we would isolate and look solely at prosecutorial behavior, examining all cases (or a sample of cases), which, on the basis of their characteristics, were *eligible* for the death penalty, and then comparing them with cases in which the prosecutor originally *sought* death -- whether or not a death sentence was ultimately imposed. We would like to know in which cases the prosecutor was willing to accept a guilty plea in exchange for a prison term. However, limitations on data for Illinois homicides would make such a study a long-term and extremely high-cost project. In short, since death sentencing involves a chain of decisions, one dependent on another, any decisions made before the point at which data are gathered, whether or not infected by improper bias, are invisible.

Similarly, in this study we do not focus attention on what happens after a death sentence is imposed. We do not explore any differences that may or may not exist between who is on death row (the 173 cases) and who has been sentenced to death but, for whatever reason, is no longer on death row (the 116 cases).

Some questions can be raised by comparing those sentenced to death with the demographic characteristics of the state as a whole. Estimates by the U.S. Bureau of Census put the population of Illinois on April 1, 2000, at 12.42 million, of whom 75.1 percent are white and 15.6 percent black.² While blacks are 15.6 percent of the population, the Northwestern data indicate that 58.5 percent of those sentenced to death are black (169/289), 3.75 times more than their representation in the population. Whites account for 75.1 percent of the Illinois population, but only 34.9 percent (101/289) of those sentenced to death. And, while 40.8 percent of the African Americans sentenced to death were convicted of killing whites (69/169), only 3 of the 100 whites sentenced to death were convicted of killing blacks.³ Of the twelve men executed in Illinois since 1977, eleven were convicted of killing at least one white victim.

Similarly, the racial makeup of inmates currently on death row in Illinois is quite different than the racial characteristics of the state's population as a whole. Today, some 63 percent of the 173 condemned inmates in Illinois are African American.⁴

Such comparisons between census data and the racial characteristics of those sentenced to death or those on death row raise interesting questions. As those comparisons do not control for differential involvement in, or victimization from, homicides (much less the most aggravated

² See <<http://www.nipc.cog.il.us/GDP-counties/gdp17.pdf>>

³ Center for Wrongful Convictions, *Illinois Death Penalty Fact Sheet -- 1977-2001*. Unpublished Report, School of Law, Northwestern University (Nov. 9).

⁴ NAACP Legal Defense and Educational Fund, Inc., *Death Row, U.S.A.* (unpublished document) (Winter 2002), at 40. The precise count of inmates varies depending on whether one includes inmates who are awaiting resentencing.

homicides), in and of themselves they do not, and cannot, prove racial disparities. Instead, they simply challenge the researcher to examine, or "control for," legally-relevant factors that might explain the disparities. For example, to say that African Americans are 15.6 percent of the population and 58.5 percent of those sentenced to death leads to no conclusions; it simply invites one to see if the disparity is "explained" by such factors as the possibility that African Americans are more likely to be involved in highly-aggravated homicides than are whites.

The same can be said about characteristics of homicide victims. As mentioned, between the time the Illinois death penalty statute took effect in 1977 and the end of 2001, 289 people were sentenced to death, of whom 173 remained on death row at the end of 2001. Table 1 displays the racial breakdowns of the homicide victims of the 289 death-sentenced defendants are:

Table 1
Race-of-Victim Among Those Sentenced to Death in Illinois
1977-2001
(N=289)

White	165	(57.1%)
Black	97	(33.6%)
Latino	12	(4.2%)
Black & White	10	(3.5%)
Asian & White	1	(.3%)
Other	5	(1.7%)

Thus, among the 289 Illinois death sentences, 173, or 60 percent, were imposed on defendants who were convicted of killing at least one white victim. But if homicides with white victims are more aggravated or otherwise more death-eligible than homicides with black victims, this disparity can be explained by legally-relevant variables.

While the above patterns may raise important questions, they do not at all "prove" that racial bias is present in death sentencing in Illinois. It is entirely possible, for example, that African Americans are more likely than whites to be arrested for and convicted of criminal homicides. If true, this would explain at least some of the above disparities. Even given a conviction for homicide, it is possible that whites tend to be convicted of homicides committed in the heat of passion (such as an argument with a friend or loved one), while blacks are more likely to be convicted of homicides which more closely match the statutory requirements for the imposition of a death sentence, such as homicides accompanied by a robbery or rape. In addition, it could be that the racial differences above are, in part, a reflection of defendants' prior records of violent criminality. Given identical homicides, if black defendants tend to have longer records of prior arrests than white defendants, at least some of the racial differences in death sentences would be explained by perfectly appropriate, non-racial factors.

Hence, to rigorously assess whether race, gender, region, or other inappropriate factors are associated with death sentencing, researchers need to "statistically control" for legally-relevant factors that appropriately influence death sentencing. Accordingly, in this study, to assess whether these appropriate factors can account for any initial correlations observed between extra-legal factors (e.g., race) and death sentencing, we have secured data that allow us to measure a broad range of such factors. This allows us, for example, to first examine only those homicides accompanied by additional felonies. But if blacks are more likely than whites to be sentenced to death (or those who kill whites are more likely to be sentenced to death than those who kill blacks) for similar homicides (e.g., among those with accompanying felonies), then the conclusion that race does indeed affect death sentencing would be supported. As additional legally-relevant variables are statistically controlled, any race differences that remain serve to buttress the conclusion of racial bias.

After controlling for legally-relevant factors -- that is, assessing the effect of race and region among homicides with roughly similar levels of aggravation -- there are three possible outcomes. First, if the death sentencing system operates in a fair manner, cases that have the highest level of aggravation would be those most likely to result in a death sentence, regardless of race or region. Cases with similar levels of aggravation would have roughly equal probabilities of resulting in a death sentence. A second possible outcome might be that even after taking into account legally-relevant factors, it is difficult or impossible to figure out who has been sentenced to death and who was not among similar homicides. This result would lend support to the conclusion that death sentencing is affected by arbitrariness. Third, even after controlling for legally-relevant factors, race or region may still predict who is, and who is not, sentenced to death. This is not arbitrariness in a strict sense -- who is sentenced to death can be predicted, so it is not random or arbitrary -- but death sentences are predicted on the basis of legally irrelevant factors.

Both arbitrariness and racial disparities, if found, have policy implications. For example, Walter Berns, one of the nation's most articulate supporters of the death penalty, points out that support for the death penalty in principle is quite different than support for the death penalty as it is actually applied. He argues that regardless of how strong a person may support the death penalty in theory, its propriety in practice "depends on our ability to restrict its use to the worst of our criminals and to impose it in a nondiscriminatory fashion."⁵ Any penalty that is justified on the basis of its "justness" or on "just desserts" is undermined by injustices in its application.

If racial disparities in death sentencing remain after statistically controlling for legally-relevant factors, the conclusion that race indeed affects death sentencing gains significant strength. Such a finding, however, does not mean that race necessarily operates in a given individual case. Thus, in the seminal 1987 decision in McCleskey v. Kemp, the U.S. Supreme Court held that such statistical evidence of racial disparities in death sentencing cases was not legally sufficient for a defendant (McCleskey) to challenge his death sentence.⁶ Written by Justice Lewis Powell, who later called the

⁵ Walter Berns, *Defending the Death Penalty*, 26 CRIME & DELINQUENCY 503, 511 (1980).

⁶ McCleskey v. Kemp, 481 U.S. 279 (1987).

decision the worst decision he made while sitting on the Court,⁷ this 5-4 ruling placed major blockades in the path of defendants alleging that race affected their death sentences.⁸ This is because any race effect found in statistical studies of death sentencing can be either intentional or non-intentional (or, more likely, some combination of the two), and the Court held that, to prevail, a defendant must show intentional racial discrimination in his or her specific case.⁹ Intentional racial discrimination is extremely difficult to prove; one would need to have a prosecutor who, in public, states (for example) that the death penalty was sought in a specific case because the defendant was black or the victim was white.¹⁰ Instead, the Court in *McCleskey* said that statistical patterns of racial bias were within the province of the executive and legislative branches of the government to correct. Thus, any statistical demonstration of disparities is of relevance to legislative and gubernatorial decisions, not judicial decisions.

"Nonintentional" discrimination is more insidious and difficult to prove or measure than overt racial bias. The racial disparities observed by researchers who have studied modern death penalty systems do not necessarily reveal, or even suggest, that the individual actors (judges, jurors, prosecutors, and defense attorneys) in the system act with conscious discriminatory intent.¹¹ Statistical patterns of racial biases in the application of the death penalty cannot be attributed solely (or even primarily) to "bad apples" in decision-making positions. Instead, the enormous costs of seeking a death penalty and securing an execution force prosecutors and other decision-makers to make very difficult decisions about which first-degree murders are "normal" and which are "worse." In making those decisions, the race, ethnicity, and social class of the victim, while inappropriate, may be part of the ingredients used to determine which human lives are more valuable. As such, the decision becomes political.

⁷ JOHN C. JEFFRIES, JUSTICE LEWIS F. POWELL, JR.: A BIOGRAPHY 451 (1994).

⁸ "In this century, no American court has upheld a legal claim alleging racial discrimination in the use of the death penalty." David C. Baldus, George Woodworth, David Zuckerman, Neil Alan Weiner, & Barbara Broffitt, *Racial Discrimination and the Death Penalty in the Post-Furman Era: An Empirical and Legal Overview, with Recent Findings from Philadelphia*, 83 CORNELL L. REV. 1638, 1643 (1998).

⁹ It is for that reason that Illinois courts have not been receptive to previous studies that have examined race and death sentencing in Illinois, most notably the work published by Gross and Mauro (1984; 1989). However, the lack of interest expressed by the courts in their work has nothing to do with its quality. See, e.g., *People v. Davis*, 119 Ill.2d 61, 65 (1987); *People v. Stewart*, 121 Ill.2d 93 (1988).

¹⁰ Although rare, it is not unheard of for judges or prosecutors to use racially derogatory language when referring to minority defendants. For example, in a Florida death penalty case in the mid-1980s, the trial judge referred to the African-American defendant's family as with a racially derogatory term. See *Peek v. State*, 488 So.2d 52, 56 (Fla. 1986).

¹¹ Sheri Lynn Johnson, *Unconscious Racism and the Criminal Law*, 73 Cornell Law Review 1016 (1988).

We now turn our attention to studies that have examined the application of the death penalty in Illinois since 1977 (similar research from other states is reviewed in Appendix I).

III. Prior Research on Post-Furman¹² Death Sentencing In Illinois

A. Gross and Mauro

The only post-Furman scholarly study to assess the possibility of racial disparities in death sentencing in Illinois was conducted by Samuel Gross and Robert Mauro.¹³ Their study, which also examined seven other states, focused on the five-year period, January 1, 1976 through December 31, 1980, or, as they note, “for that portion of that period during which the state in question had a capital sentencing statute in force.”¹⁴ Because Illinois did not have an active death penalty statute until mid-1977, Gross and Mauro confined their attention in Illinois to the period July 1, 1977 through 1980.¹⁵

Special attention was given to death sentencing in Florida, Georgia, and Illinois -- the three states with the largest death row populations at the time. Among the three states, Illinois had the lowest death sentencing rate. There, 1.4 percent of all homicides with known offenders were sentenced to death, compared to 3.7 percent in both Georgia and Florida.¹⁶ Their study included 45 death sentences in Illinois, which is approximately 15 percent of all death sentences imposed in Illinois between mid-1977 and the end of 2001. These 45 death sentences (out of 3,115 homicides) provide sufficient data to ascertain several statistically significant patterns (e.g., a correlation between victim’s race and death sentencing in several subsamples), but not enough data to draw conclusions about other patterns (e.g., whether blacks convicted of killing whites during robberies are treated differently than whites convicted of killing whites).

The homicide data used by Gross and Mauro came from the Supplemental Homicide Reports, which are compiled by local police departments and filed with the Uniform Crime Reports division of the Federal Bureau of Investigation. They obtained data on the:

- (1) sex, age, and race of the victim or victims;
- (2) sex, age, and race of the suspected killer or killers;
- (3) date and place of the homicide;
- (4) weapon used;

¹² *Furman v. Georgia*, 408 U.S. 238 (1972).

¹³ Samuel R. Gross & Robert Mauro, *Patterns of Death: An Analysis of Racial Disparities in Capital Sentencing and Homicide Victimization*, 37 STANFORD LAW REVIEW 27 (1984); SAMUEL R. GROSS & ROBERT MAURO, *DEATH & DISCRIMINATION: RACIAL DISPARITIES IN CAPITAL SENTENCING* (1989).

¹⁴ GROSS & MAURO, *supra* note 12 (1989), at 35.

¹⁵ *Id.* at 233.

¹⁶ *Id.* at 43.

- (5) commission of any separate felony accompanying the homicide; and
- (6) relationship between the victim(s) and the suspected killer(s).

To determine which of these homicides resulted in a death sentence, Gross and Mauro used data on death penalty cases collected by the NAACP Legal Defense Fund. That death row data set also included data on such characteristics as the location, month, year, and county, and sex, age, and race of both the defendant and victim. Hence, by comparing these items in both the LDF and the SHR data, it became possible to “match” cases and identify those that resulted in a death sentence.

According to the 1980 Census, the population of Illinois was 11.5 million, 80 percent of whom were white, 14.5 percent black, and 5.5 percent Hispanic.¹⁷ Despite the fact that blacks were only 14.5 percent of the total population, Gross and Mauro note that some 58.6 percent of the homicides in Illinois during the 3.5-year study period took the lives of blacks. Thus, blacks were four times more likely to be victims of homicides than their representation in the population would suggest. As we have noted earlier in this report, however, comparison of the demographic characteristics of death row inmates and the larger state population can raise questions, but not offer conclusions.

Gross and Mauro then demonstrated that race was clearly associated with the imposition of death sentences. Among those suspected of killing whites, 2.9 percent went to death row, compared to 0.5 percent of those suspected of killing blacks. In cases where a black was suspected of killing a white, 7.5 percent were sentenced to death, compared to 1.9 percent of the whites killing whites and 0.6 percent of the blacks killing blacks. None of the 56 whites suspected of killing blacks during the study period were sentenced to death.

What accounts for these racial disparities? One hypothesis might be that homicides that victimize whites are generally more serious or “death penalty eligible” than those that victimize blacks. But if it was found that among only those highly-aggravated cases (such as rape murders or multiple murders) those who victimize whites are still more likely to be sentenced to death, then solid evidence of racial disparities -- or even racial discrimination -- would remain. After all, in Illinois only 27.1 percent of the homicides involved an accompanying felony, but 75 percent of the death penalty cases involved accompanying felonies. If felony circumstances were more prevalent in white-victim cases, then a race-neutral and legally-relevant explanation for the racial differences in death sentencing would be suggested.

Nonetheless, the presence of felony circumstances (i.e., a murder in the course of another felony) did not explain the racial disparities. In Illinois, 9.4 percent of the white victim cases with felony circumstances ended in a death sentence, compared to only 3.0 percent of similar cases with black victims. Nor did the relationship between defendant and victim, where 22 percent of all homicides, but 70 percent of death penalty cases, involved strangers. Here 5.8 percent of those suspected of killing white strangers were sentenced to death, compared to only 1.5 percent of those suspected of killing black strangers. Similarly, 4 percent of all murders, but 44 percent of the death

¹⁷ U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES: 1981 (102d edition), at 33.

penalty cases, involved multiple murders. But when the victims of those multiple murders included at least one white, 22.5 percent ended in a death sentence, compared to 6.8 percent of the cases where the victims were black.

In the end, these “control variables” failed to explain the racial disparities in death sentencing. Among all homicides, those suspected of killing whites were 5.8 times more likely to be sentenced to death than those who kill blacks (2.9/0.5). Among those with accompanying felonies, the ratio is 3 to 1 (9.4/3.0). Among those suspected of killing strangers, the ratio was 3.9 (5.8/1.5). Among those suspected of multiple murders, the ratio was 3.3 (22.5/6.8).

To conclude their study, Gross and Mauro developed an Aggravation Scale by assigning each homicide one point for each of three factors: 1) it involved accompanying felonies, 2) the suspect and victim were strangers, or 3) there were multiple victims. This aggravation scale does a good job in predicting who is sentenced to death. Only 0.1 percent of the homicides with “0” on this aggravation scale ended in a death sentence, 1.0 percent of those with a “1,” 7.4 percent of those coded as “2,” and 22.6 percent of those coded as “3.” However, within each level of aggravation, those suspected of killing whites were more likely than other homicide suspects to be sentenced to death. For example, among those with a “2” or “3” level of aggravation, 12.4 percent of those suspected of killing whites in Illinois and 4.4 percent of those suspected of killing blacks were sentenced to death. When all the variables were entered into a logistic regression model, it was found “In Illinois the overall odds of an offender receiving the death penalty for killing a white were 4.0 times greater than for killing a black.”¹⁸

B. Chicago Tribune

In a 1999 analysis of 285 death penalty cases in Illinois, journalists Ken Armstrong and Steve Mills found that 33 included defense attorneys who were subsequently disbarred or suspended, 46 where the conviction rested on the testimony of jailhouse informants, 20 that included controversial hair analysis, and 25 where black defendants were convicted and sentenced to death by all-white juries.¹⁹ They concluded that the findings “reveal a system so plagued by unprofessionalism, imprecision and bias that they have rendered the state’s ultimate form of punishment its least credible.”

We now turn our attention to the methodology we employed to more thoroughly examine these issues.

IV. Methodology

A. Data Sources

¹⁸ GROSS & MAURO, *supra* note 12 (1989), at 66.

¹⁹ Ken Armstrong & Steve Mills, *Death Row Justice Derailed*, CHICAGO TRIBUNE, Nov. 14-18, 1999 (five-part series).

The data used in this report is a subset of conviction data from the cases of all defendants convicted of first-degree murder in Illinois who were formally sentenced during the ten-year period, January 1, 1988 through December 31, 1997. The cases included in this study are analyzed in terms of sentencing events. As used in this report, the term "sentencing event" refers to a judicial proceeding in which a sentence is imposed. A defendant may be sentenced in one judicial proceeding for the murders of multiple victims where those murders occurred as part of the same course of conduct. Or, where multiple murders occur in separate events, a defendant is more likely to be sentenced in separate judicial proceedings for each murder. As a result, defendants in the latter category appear in our data set on more than one occasion. A total of 5,310 cases or sentencing events in the study time frame were identified from IDOC records, of which 115 ended with a death sentence. The subset of cases for which there is no missing data for any of the 27 independent variables used in this analysis (see Table 2) is 4,182 cases, which contain 76 death sentence cases.

As we will discuss further in our conclusions section, the focus on only those convicted of first-degree murder introduces a conservative bias into our results. Race or region, for example, might be correlated with which types of homicide cases (other factors constant) are most likely to result in a conviction for first-degree murder. It may correlate with the amount of effort made by the prosecutor to find mitigation sufficient to justify offering to reduce the penalty for first-degree charges. Or, once a prosecutor brings a defendant charged with first-degree murder before a jury, race may correlate with the probability the defendant is found guilty. Illinois is among several states that have been criticized for the unbridled discretion that prosecutors have in deciding in which cases the death penalty will be sought.²⁰

However, the multitude of decisions made before a defendant is convicted of first-degree murder are not examined in this project, so any possible impact on these decisions by political and extra-legal factors cannot be exposed. Again we refer to the "continuous chain" of decisions that are necessary before a person is executed, with police, prosecutors, jurors, judges, appellate courts, and governors all involved. The individual decisions may be invisible (that is, detailed data are not collected that would allow one to show consistency), but their effects are not. Therefore, if extra-legal factors are shown to correlate with sentencing decisions among those convicted of first-degree murder, the results will be conservative because these earlier decision points are not studied, and whatever improper biases may or may not exist will not be spotted. In addition, our data measure only whether or not the death penalty was imposed. This sentence reflects decisions made not only by prosecutors, but also by judges and juries. To pinpoint any political influences in prosecutors' decisions, the ideal research project would examine cases where the death penalty was sought, not only where it is imposed.

Several sources of official data were supplied to the researchers to develop the analytic database for this analysis. The final database for this analysis was based exclusively on data supplied and/or collected by the State of Illinois. The specific data used in this study are outlined below.

²⁰ William G. Potratz, *The Prosecutor's Discretionary Power to Initiate the Death Sentencing Hearing*, 29 DEPAUL L. REV. 1097 (1980).

1. Department of Corrections. Our “master list” of cases was obtained from the Illinois Department of Corrections (IDOC). This is a confidential, non-public database that was made available to us solely for purposes of this study. That office maintains an “Offender Tracking System” (OTS) data file that contains a wide array of information about the offender and the offense/s for which she or he was convicted. Included are only those cases where defendants were sentenced for first-degree murder, where the sentencing date occurred between 1/1/88 through 12/31/97.

In addition to providing the sample of events that are the basis for this study, IDOC data also allowed us to construct a broad range of variables that measure the potential seriousness of a homicide(s) associated with the first-degree homicide offenders in our sample. This is possible because IDOC data provide information on all previous and contemporaneous offenses for which a first-degree homicide offender has been convicted and incarcerated in Illinois Department of Corrections. Two types of indicators of legally-relevant factors were developed from IDOC data on offenses for which defendants were incarcerated: indicators of 1) death sentence eligibility and 2) aggravating facts for the death sentencing proceeding. Finally, IDOC data also provides information on the race and sex of offenders and on the county from which offenders in this study were sentenced.

While the IDOC data provide detailed information on the offense, we turned to three additional sources of data to obtain information about the victims.

2. Chicago Homicide Data: Approximately three-quarters of Illinois homicides occur in Cook County, and almost all of those take place in the City of Chicago. Detailed data on Chicago homicides has been collected by the Chicago Police Department, on and off, for at least 130 years. Data from cases during the study period were obtained from the Illinois Criminal Justice Information Authority (ICJIA). The data give important information about the circumstances of the crime and characteristics of the victim. Of special importance is that the Chicago Police data also contain a unique number that we used to link the case with the information on the offender in the IDOC database.²¹ Using the unique Chicago case number we were able to link information on the victims of homicide to 2,898 (or 54.7 percent) of the offenders in the sample.

3. Victim Data from Selected State and Local Records: Information on the race, ethnicity and sex of victims for non-Chicago first-degree murders in the study sample was obtained primarily by the Illinois Criminal Justice Information Authority, a state agency responsible for research on the criminal justice system in Illinois. This information was gathered by ICJIA through a search of a variety of official records, both state and local, including some law enforcement records. Information was gathered on the age, gender, and race of victims of non-Chicago first-degree murder offenders in the study sample. Data was gathered on the race of victims for an additional 1,091 (or 20.6 percent) first-degree murder offenders in the sample.

²¹ The Chicago Police Department’s unique identifying link, which the Department provided to connect IDOC case numbers to victim information, was provided by the Chicago Police Department. These linking identifiers are generally not available to the public. They were obtained for this study pursuant to a confidentiality agreement.

4. Supplemental Homicide Reports Data: For offenders in the study for which no victim information was available from the search of state records or from linking to Chicago police data, a final search for victim information was conducted through use of the Supplemental Homicide Report (SHR) data. SHRs represent homicide data gathered by local police departments and forwarded to the Federal Bureau of Investigation for national tabulations. While the data do not give the name of the victim or offender, or the specific date of the offense, they do contain information on the county, month, and year of the offense, the gender, race, and age of the defendant and victim, and information on 1) the victim-defendant relationship, 2) the method of killing, and 3) information on the type of felony (if any) that accompanied the homicide. There was sufficient SHR information on the race, age, and sex of offenders, as well as on the date and county of offense to "match" SHR victim data with comparable information from the Department of Corrections. Using SHR data we were able to link homicide victim information to 263 additional offenders in the sample that did not already have victim data from the state or Chicago Police sources. Linking to SHR data added an additional 4.9 percent of offenders where the victim information was available. Overall race of victim information was matched to 80.1 percent of the offenders in our sample.

B. Variables Used for the Analysis

Two major categories of variables were developed for this analysis: legally-relevant factors that could be expected to affect the likelihood of a first degree murder offender receiving a death sentence, and extra-legal factors which should not affect whether an offender receives a death sentence. Among the legally-relevant factors two types of indicators were developed for the first degree murder offenders in this study: 1) indicators of death sentence eligibility, and 2) indicators of aggravating facts. Below the specific variables used in the analysis are reviewed within their major substantive categories.

1. Indicators of Death Sentence Eligibility: Illinois has a bifurcated death-sentencing proceeding. The first part focuses on the question of whether the defendant is eligible for the death penalty. Here the State must prove, beyond a reasonable doubt, that the defendant is at least age 18, and prove the existence of at least one of the twenty death penalty eligibility factors provided for under Illinois law. Using IDOC offender data, we developed indicators for two major classes of death penalty eligibility; specifically, indicators were developed for "multiple-murder factor" first-degree murders and "in the course of another felony" first-degree murders. Under the multiple-murder factor a defendant may be eligible for the death penalty if s/he has been convicted of murdering two or more individuals. Case law indicates that these contemporaneous and/or prior convictions must be for intentional murder or for knowing murder (not for felony murder) to qualify as a multiple murder eligibility factor. Variables 1 and 2 in Table 2 present the indicators of contemporaneous and prior multiple murder eligibility factors used in this analysis. Appendix II presents the specific Illinois statutory citations for convictions that define these factors in the present study.

Under the "in the course of another felony" factor a defendant is eligible for the death penalty where the murder has occurred in the course of any one of several statutorily specified felonies. Using IDOC data a number of specific "in the course of another felony" eligibility indicators were

developed, based on convictions for felonies that occurred within the same sentencing event as the first-degree murder for which the defendant was incarcerated. Variables 3 through 12 in Table 2 present the indicators of “in the course of another felony” eligibility factors used in this study. Appendix II presents the specific Illinois statutory citations that identify crimes as potential contemporaneous felonies. There is a requirement that, in addition to a contemporaneous felony offense,²² there be some element of intentional or knowing conduct on the part of offender. This element cannot be measured with IDOC data.

Finally, three additional indicators of death penalty eligibility were developed from victim information that we obtained from the Chicago Police Department, state records, or SHR data sources. Specifically indicators for the murder of an elderly person (over age 59), for the murder of a young person (under age 12), and for multiple-victim murders (contemporaneous murders, but not necessarily “intentional or knowing”) were developed from victim data. For the age of the victim to qualify as death penalty eligibility factors requires “brutal and heinous” conduct, which are factors that we were unable to measure. Variables 13 through 15 in Table 2 present these indicators.

2. Indicators of Aggravating Facts: After the defendant is determined to be eligible for the death penalty, then proceedings move on to the “aggravation/mitigation” phase. At that point, the state provides evidence in aggravation (prior criminal history, etc.) and defendant provides mitigation evidence. In theory those defendants with the worst set of aggravating facts (e.g., the worst criminal history) should be more likely to receive the death penalty (assuming level of culpability, etc., is constant).

IDOC data provides information on evidence in aggravation in the form of measures of contemporaneous or prior other serious murder convictions (e.g., solicitation for murder, conspiracy to murder, attempted murder, etc.), and in the form of measures of offender’s prior criminal history that go beyond the offender’s prior history of murder. In terms of prior criminal history, IDOC provides information on the number of prior IDOC incarcerations for all Class X, 1, 2, 3, and 4 offenses for the first-degree offenders in our sample (see variables 16 through 22 in Table 2 for the indicators of other serious murder convictions and prior criminal history). Appendix II presents the specific Illinois statutory citations that identify other serious murder convictions and other felony convictions.

3. Indicators of Extra Legal Factors: Information on the race, ethnicity and sex of victims was provided from victim information that we acquired from the Chicago Police Department, selected state records, or SHR data sources (see variables 23 and 24). IDOC data provides information on the race and sex of offenders (see variables 25 and 26 in Table 2) and on the county from which offenders in this study were sentenced (see variable 27). Information on offender’s trial court sentencing county allows us to investigate the possibility of geographic disparities in death penalty sentencing. The county of offender’s sentencing was coded into four standard Illinois sub-regions

²² An actual conviction for the contemporaneous felony is not required for an offense to serve as a death sentence eligibility factor. Since we can only measure the cases where there was an actual conviction, that makes our data more conservative.

used by the Illinois Criminal Justice Authority (ICJIA), specifically; Cook County, “Collar” counties, other urban counties, and rural counties. Because of its size, Cook County is its own category. The Collar counties are the five counties which border Cook County (DuPage, Lake, Kane, McHenry and Will). Urban and rural counties are defined by whether or not they lay within a Metropolitan Statistical Area (MSA). Based on this definition, there are 28 counties in Illinois that are part of a MSA (Cook, Collar and urban counties) and 74 counties that are not part of a MSA (in other words, rural).

A number of obvious potential extra legal factors are not included in the analysis, such as the social class of the victim, whether the victim was a member of the community, adequacy of legal counsel, and the quality of police/forensic investigative work on the case. In addition to these more obvious factors, this class of variables has the peculiar quality of containing information that may seemingly be far removed from the legal process of a given case, but may nevertheless sometimes have a direct and significant effect on the imposition of a death sentence. Such factors may include events such as violent crime waves or spectacular media coverage of violent crime, and/or they may include organizational/political phenomena, such as political campaigns or local community pressures. Very little is known about the influence of these types of factors on processes in the criminal justice system, because they are very difficult to study. Nevertheless they do provide some examples of types of extra legal factors that are potentially useful to examine in death penalty research and may be important in the monitoring of the death sentencing process.

Table 2
Independent Variables for Death Sentence Analysis

1. MPMFM1
Prior Intentional/Knowing Murder (no=0; yes=1)
2. MCMFACTR
Contemporaneous Intentional/Knowing Murder (no=0; yes=1)
3. MCGRPA1
Contemporaneous Armed Robbery (no=0; yes=1)
4. MCGRPB1
Contemporaneous Aggravated Criminal Sexual Assault (no=0; yes=1)
5. MCGRPC1
Contemporaneous Home Invasion (group 3c) (no=0; yes=1)
6. MCGRPD1
Contemporaneous Aggravated Kidnapping (group 3d) (no=0; yes=1)
7. MCGRPE1
Contemporaneous Arson (no=0; yes=1)
8. MCGRPF1
Contemporaneous Simple Robbery (no=0; yes=1)
9. MCGRP3BR
Contemporaneous Residential Robbery (no=0; yes=1)
10. MCGRP3CR
Contemporaneous Armed Violence (no=0; yes=1)
11. MCGRP3DR

- Contemporaneous Vehicular Hijack (no=0; yes=1)
12. MCBFCTR1
Contemporaneous Burglary (no=0; yes=1)
13. VCCNTT4
Number of Homicide Victims (1, 2, 3, 4+)
14. VICGT59D
Homicide Victim/s Over Age 59 (no=0; yes=1)
15. VICT12D
Homicide Victim/s Under Age 12 (no=0; yes=1)
16. MCSM2
Contemporaneous Other Serious Murder Convictions (0, 1, 2+)
17. MPSM2
Prior Other Serious Murder Convictions (0, 1, 2+)
18. MPCLAS12
Prior Class 1 Offenses (0, 1, 2+)
19. MPCLAS22
Prior Class 2 Offenses (0, 1, 2+)
20. MPCLAS32
Prior Class 3 Offenses (0, 1, 2+)
21. MPCLAS42
Prior Class 4 Offenses (0, 1, 2+)
22. MPCLASX2
Prior Class X Offenses
23. VICSEX_D
One or more female victims (none, 1+)
24. VICRACE
Victim's Race (1 only white, 2 only black, 3 only Hispanic, 4, only other race, 5 victims from more than one race)
- 24a. VICBLK_D
At least one black victim (none, 1+) – This is a dichotomous variable version of variable 24.
25. MI_RSEX
Offender's sex is female (0 not female, 1 female)
26. OFFRACE
Offender's Race (1 white, 2 black, 3 Hispanic, 4, other race)
- 26a. OFFBLACK (0 not black, 1 black) – This is a dichotomous variable version of variable 26.
27. COUNTY
County of Trial (1, Cook County, 2 Collar Counties, 3 Other Urban Counties, 4 Rural Counties)
- 27a. COOKOTH
County of Trial (0 Not Cook County, 1 Cook County) – This is a dichotomous variable version of variable 27.
- 27b. CNTYCOUR
County of Trial (0 Not Collar or Other Urban counties, 1 collar of Other Urban Counties) - This is a dichotomous variable version of variable 27.

C. *Statistical Approach*

The analysis first examines the bivariate relationships between sentencing and 22 indicators of legally relevant factors that are potential determinants of death sentencing in Illinois. These indicators include measures of death penalty eligibility factors (variables 2-15 in Table 2), and measures of facts of aggravation (variables 16-22 in Table 2). The analysis also examines the bivariate relationship between death sentencing and three potential extra-legal factors including, the race and sex of victims, the race and sex homicide offenders, and the county where the offender were sentenced (variables 23-27 in Table 2).

After presenting the results of these cross-tabulations, we then assess the unique ability of each of these variables to explain who is and who is not sentenced to death. That is, we assess the potential impact of extra-legal factors on death sentencing while statistically controlling for legally relevant factors. To do this, logistic regression analysis was employed. Logistic regression models estimate the average effect of each independent variable (predictor) on the odds that a convicted felon would receive a sentence of death. An odds ratio is simply the ratio of the probability of a death sentence to the probability of a sentence other than death. Thus, when one's likelihood of receiving a death sentence is .75 (P), then the probability of receiving a non-death sentence is .25 (1-P). The odds ratio in this example is .75/.25 or 3 to 1. Simply put, the odds of getting the death sentence in this case are 3 to 1.

The dependent variable is natural logarithm of the odds ratio, y , of having received the death penalty. Thus, $y = P / 1-P$ and;

$$(1) \ln(y) = \hat{\alpha}_0 + X\hat{\alpha} + E_i$$

where $\hat{\alpha}_0$ is an intercept, $\hat{\alpha}_i$ are the i coefficients for the i independent variables, X is the matrix of observations on the independent variables, and E_i is the error term.

Results for the logistic model are reported as odds ratios. Recall that when interpreting odds ratios, an odds ratio of 1 means that someone with that specific characteristic is just as likely to receive a capital sentence as not. Odds ratios of greater than one indicate a higher likelihood of the death penalty for those offenders who have a positive value for that particular independent variable. When the independent variable is continuous, the odds ratio indicates the increase in the odds of receiving the death penalty for each unitary increase in the predictor.

V. Findings

A total of 5,310 cases in the study time frame were identified from IDOC records, of which 115 ended with a death sentence. Of the 5,310 total cases, there was county of trial information on 5,300. We were able to match 4,252 cases with race of victim information (80.1 percent). Of the cases we were able to match to race of victim, 84.1 percent of the cases in Cook County were

matched, 60.8 of the cases in the collar county region were matched, 72.9 percent of the cases in the urban county region were matched, and 66.1 percent of the cases in the rural county region were matched. The subset of cases for which there is no missing data for any of the 27 independent variables used in this analysis (see Table 2) is 4,182 cases, which contain 76 death sentence cases.

1. Bivariate Analysis of Death Sentence Eligibility. Tables 3 through 17 are presented in Appendix III. They examine the imposition of the death penalty by the indicators of death sentence eligibility. These include indicator for “multiple murder factor” (i.e., conviction for a contemporaneous or prior “intentional or knowing murder” in addition to the offender’s first-degree murder conviction), and for “in the course of another felony” murders. In addition, death sentence eligibility indicators are examined for the murder of an elderly person (over age 59), the murder of a young person (under age 12), and for multiple victim murders.²³

Tables 3 and 4 examine the imposition of a death sentence by convictions for prior and contemporaneous murder. Both variables show a statistically significant relation with death sentencing. Under the “in the course of another felony” factor, a defendant is eligible for the death penalty when the murder has occurred in the course of any one of several statutorily specified felonies. Tables 5 through 14 examine the imposition of the death penalty by our indicators of “in the course of another felony” eligibility factors. Of the ten accompanying felony indicators examined, nine showed a statistically significant relationship with imposition of the death sentence based on the Pearson chi-square test, and six showed a significant relation base on the Yates Continuity Correction for the chi-square test²⁴. Some of these indicators may not have achieved a statistically significant relationship with death sentences due to the low frequency of their occurrence in the sample. In addition, the magnitude of the relationships between the “in the course of another felony” factors and imposition of a death sentence shows considerable variability across the ten indicators. Among the indicators showing a statistically significant effect on death sentencing, the percent of death sentences imposed where one of these eligibility factors is present varies from a low of 4.1 percent for the armed robbery indicator (Table 5) to a high of 15.7 percent for the aggravated kidnapping indicator (Table 8). Since these variables represent indicators of death penalty eligibility, the data indicate that the eligibility factors vary considerably in their overall importance in death penalty decisions.

Tables 15 through 17 examine imposition of the death penalty by the three indicators of death sentence eligibility derived from homicide victim data: the murder of an elderly person (over age 59), the murder of a young person (under age 12), and for multiple victim murders. As would be expected, each of these indicators shows a statistically significant correlation with imposition of the

²³ It should be noted that the multiple murder conviction factor and the multiple victim murder indicator are not duplicative since one depends almost entirely prior murder convictions and one relates to the number of victims in a single incident.

²⁴ In using the chi-square as a test for statistical significance care must be taken if in a given table some of the expected frequencies are very low (under 10). In this case the Yates continuity correction reduces the difference between the observed and expected frequencies by .5. This reduces the overall size of the chi-square and provides a more conservative estimate of statistical significance.

death sentence, with the multiple victims murder indicator showing the largest effect on death sentencing.

2. Bivariate Analysis of Facts of Aggravation. As noted, after a defendant is determined to be eligible for the death penalty, the judicial proceedings then move on to the “aggravation/mitigation” phase. At that point, the state provides evidence in aggravation (e.g., prior criminal history), and defendant provides mitigation evidence. IDOC data provides information on evidence in aggravation in the form of measures of contemporaneous or prior “other serious murder convictions” (e.g., solicitation for murder, conspiracy to murder, attempted murder, etc.), and in the form of measures of offender’s prior criminal history that go beyond the offender’s prior history of murder.

Tables 18 and 19 examine imposition of the death penalty by contemporaneous and prior “other serious murder convictions.” Convictions for contemporaneous offenses are not statistically related to the imposition of a death sentence. Cases with one or more convictions for prior “other serious murder offenses” show a statistically significant relationship with imposition of the death sentence only using the Pearson Chi-square test, but not with the Continuity Correction.

In terms of prior criminal history, IDOC provides information on the number of prior IDOC incarcerations for all Class X, 1, 2, 3, and 4 offenses for the first-degree offenders in our sample. Tables 20 through 24 examine the relationship between offenders' prior criminal record and imposition of the death sentence. Of the five indicators of prior criminal record examined, three show a statistically significant relationship with death sentencing. The indicators not statistically related to the death sentence were 1) an offender's prior record of incarcerations of Class 1 offenses (Table 21), and 2) their prior record of Class 4 offenses (Table 24).

3. Bivariate Analysis of Extra Legal Factors. Extra legal factors represent those factors that should not affect whether an offender receives a death sentence. A major objective of this study is to examine the potential impact of extra legal factors on death sentencing in Illinois. Factors we examined include geographic region of the state, the race and sex of the first-degree murder victims and offenders.

Geographic Region. Information on county of sentence allows us to investigate the possibility of geographic disparities in death penalty sentencing decisions. To this end, offender’s county of trial was coded into the four standard Illinois sub-regions used by the Illinois Criminal Justice Information Authority: Cook County, Collar counties, other urban counties, and rural counties. Table 25 shows patterns of death sentencing in these four regions. In Cook County, 1.5 percent the first-degree murders ended with a death sentence, versus 3.3 percent of the cases in the Collar counties, 3.4 percent of the cases in other urban counties, and 8.4 percent of the cases in rural counties. The cross regional differences were statistically significant at < .001 level of significance.

Sex and Race of Victim. Table 26 examines the imposition of the death sentences by the sex of the homicide victims. Examination of Table 26 shows that the sex of murder victims is significantly related to imposition of the death sentence. Specifically, 4.3 percent of the offenders who were convicted of killing one or more females received the death penalty, versus 1.2 percent of the offenders who were convicted of killing solely male victims.

Table 27 reveals statistically significant differences in the imposition of the death penalty by race of first-degree murder victims. Specifically, 3.8 percent of the first-degree murder cases where the victim(s) was white resulted in a death sentence, versus 1.1 percent of the cases where the murder victim(s) was black, and 1.5 percent of the cases where the victim(s) was Hispanic²⁵. Where the victim was “other” race or was part of a mixed race multiple homicide case, the death sentence was imposed 5.7 and 4.0 percent of the time respectively. This disparity in the imposition of the death sentence was statistically significant at a $< .001$ level of significance.

Sex and Race of Offender. Table 28 examines the imposition of death sentences by the sex of the offender. Examination of Table 28 shows that 1.3% of the women and 2.2% of the men in our sample were sentenced to death. This difference, however, is not statistically significant.

Examination of Table 29 reveals statistically significant differences in the imposition of the death penalty by race of offender. Specifically, 4.5 percent of the first-degree murder cases where the offender was white resulted in a death sentence, versus 1.8 percent the cases where the offender was black, and .7 percent of the cases where the offender was Hispanic.²⁶ None of the 23 cases where the offender’s race was listed as “other” ended in a death sentence. However, as we will discuss below, focusing simply on the race of offender without also including race of victim can be very misleading. This disparity in the imposition of the death sentence was statistically significant at a $< .001$ level of significance.

Race of Victim and Offender Combinations. Initial examination of Table 29 shows that black offenders are less likely to receive the death penalty than white offenders, given a conviction for first-degree murder. We also know, however, that most murders are *intra-racial* incidents and that (as Table 27 shows) first-degree murders with black victims are the least likely to receive the death sentence. Thus, in order to examine the imposition of the death penalty by the race of offender, it is important to also control for the race of victim. In comparing white and black homicide offenders, we must control for the race of the victim because our data show that blacks are most likely to be convicted for killing other blacks and the murders of black victims are the least likely to receive a death sentence.

Table 30 examines the imposition of the death sentence by race-of-victim and offender combinations for white and black victims and offenders. Examination of this Table shows that when race of victim is taken into consideration, the offender race differences largely disappear. Thus, among offenders convicted of killing white victims, 4.5 percent of the black offenders received a death sentence, versus 4.8 percent of the white offenders. In contrast, only 1.1 percent of the black offenders who killed black victims were sentenced to death. Finally, 4.8 percent of the whites who were convicted of killing blacks received the death sentence, but this percent is based on only 62 cases in this category.

²⁵ No information on ethnicity was available on the 263 cases that were matched to SHR for race of victim data. For these 263 cases victims who were Hispanic would have been coded as white or possibly black victims depending on their race.

²⁶ See note 24.

4. Multivariate Analysis of Indicators of Death Eligibility, Aggravating Facts, and Extra Legal Factors. In the final stage of our analysis, we assess the potential impact of extra-legal factors on death sentencing while statistically controlling for legally relevant factors. To do this, as noted above, logistic regression analysis was employed. Logistic regression models estimate the effect of each independent variable (predictor) on the odds that a convicted felon would receive a sentence of death while controlling for the other variables in the equation.

Logistic regression is the preferred statistical approach for analysis of dichotomous dependent variables such as the dependent variable in this study that measures the presence or absence of a death sentence. Nevertheless, any multivariate statistical technique will be limited by the quality and scope of available data. As noted, despite extensive efforts to obtain data, there may be important legal and/or extra legal factors that have not been included in the present analysis. In addition, although most of the independent variables in the study have very little missing data, there are some missing data on race and sex of victims.

Finally, we have limited the scope of the analysis to more recent first-degree murder cases (i.e., cases that were sentenced between 1/1/88 and 12/31/97). By doing so we assume that these more recent cases better reflect the death penalty today than do pre-1988 cases that we did not examine.

Table 31a presents the results of the logistic regression analysis. The logistic analysis shows that two important extra-legal factors identified in the bivariate analysis: race-of-victim and sentencing county/region are statistically significant predictors of imposition of the death sentence after controlling for the 22 indicators of legally relevant factors developed for this study. Of the statutorily defined indicators of death penalty eligibility (variables 1-12 in Table 2 and in the logistic regression) introduced into the analysis, 7 out of 12 indicators remained statistically significant predictors of death sentencing when the effects of all the other variables were controlled.

Comparison across all the variables in the logistic regression analysis shows that sentencing county/region (i.e., Cook County) and race of victim (one or more black victims versus all other race of victim categories, variable 24a, Table 2) are among the five independent variables (out of 27 variables) that achieved the highest level of statistical significance (see the Wald statistic in Table 31a). To examine the estimated effect of an independent variable, controlling on the other variables, we use the exponentiated value of the Beta (B) coefficient, which is the logistic regression beta coefficient, Exp(B)(see the Table 31a for these coefficients). The Exp(B) coefficient is the B coefficient expressed as an odds ratio.

Examination of the Exp(B) coefficients in Table 31a shows that the odds of receiving a death sentence for killing a black victim(s) decrease by a factor of .404, controlling on the other 26 independent variables. As noted, .404, (the Exp(B) value for black victim) is the odds ratio of a first-degree murder offender who killed a black victim being sentenced to death. An odds ratio of exactly 1.0 would mean that the likelihood of receiving the death sentence changed by a factor of 1, or not at all. In this case, the results indicate that the odds of receiving a death sentence, if a first-degree murder offender kills a black victim, are on average 59.6 percent lower (i.e., $1 - .404 = .596$ or 59.6%) controlling for the other 26 variables in the analysis.

Turning to the question of geographic region, Table 31a indicates that the odds of receiving a death sentence for killing a victim(s) in Cook County decrease by a factor of .164 (i.e., the Exp(B) value for Cook County in Table 31a). Likewise, the odds of receiving a death sentence in for killing a victim(s) in Cook County are on average 83.6 percent lower than for killing a victim(s) in the rural county region of Illinois controlling for the other 26 variables in the analysis.

Readers of this report will disagree among themselves about the policy implications suggested by our finding of geographic disparities. Some will say that the finding that first-degree murder offenders in Cook County are less likely to receive the death sentence than offenders in other counties may mean that the Cook County criminal justice system is not pursuing potential death sentence cases with sufficient rigor. Others will argue that rural counties are imposing the death sentence too liberally and/or without sufficient oversight. However, one consequence to carefully consider in proposing that Cook County is not rigorously and/or properly pursuing death sentences, is that a more rigorous application the death sentence by Cook County, on the order of the rural county region or even the other urban county region, would result in dramatically higher numbers of offenders sentenced to death in Illinois.

Overall, the statistical analysis reveals some surprises about what factors correlate with death sentences in Illinois. Some of the predictor variables that would be expected to affect death sentencing do not show statistically significant relationships with sentence outcomes.. For example, of the 12 indicators of statutorily-defined death eligibility included in the analysis, only seven were significantly related to death sentencing, even though each one of the twelve are legally relevant in identifying which first-degree murder cases are eligible for a death sentence. These 12 indicators represent two (i.e., the multiple murder factor and the in the course of another felony factor) of the twenty death eligibility factors identified in Illinois statutes. Nonetheless, these two factors are the most commonly used factors in death sentence cases, and thus account for a high proportion of death eligible cases.

VI. Conclusions and Policy Recommendations

A. Limits to this Study

The results of this study are limited by both scope and data. First, the goal of this study was to examine only those cases that involved a conviction for first-degree murder, comparing cases that resulted in a death sentence with those that did not. Our study examines only sentencing decisions, not charging decisions or a wide array of other decisions involved in sending a defendant to death row. It is quite possible that disparities correlated with extra-legal factors (e.g., race, social class, region, or gender) also exist, either at a greater or lesser strength, in decisions in the criminal justice system that are not examined in this research.

Critics of this study who point to its limited scope and limited number of variables should realize that the addition of more data could very well increase the power of non-legal explanatory variables. Baldus et al., for example, point to nine states where both well-controlled and less-well-controlled studies of death sentencing have been conducted. In two-thirds of these states, the racial

disparities were stronger in the well-controlled studies than in the less complex work.²⁷ Certainly the data we have gathered for this research is strong enough to raise serious concerns in the minds of both those who support and oppose the death penalty about whether it is being equitably applied in Illinois.

A second limitation of this research is missing victim data on cases included in our analysis. As noted, we were able to match 4,252 cases with race of victim information (80.1 percent) to form the final sample for our analysis. However, missing data is only a problem if the cases excluded are somehow different than the cases for which we do have complete data. We see nothing to indicate that the cases with missing data in this study are significantly different the cases for which there are data.

B. Summary of Major Conclusions

Indicators of two extra legal factors, the race of first-degree murder victims and geographic region, were found to be statistically related to the imposition of the death sentence in Illinois controlling on the other variables in this study. Although there are limitations to the present study, these findings on race and geography are consistent with those reported in many other studies. This pattern of findings raises important concerns about how the death sentence is imposed in Illinois.

A major limitation of this study is the lack of high-quality data that is needed to measure additional factors that may affect death penalty decision making. A great deal of time and effort was expended to acquire data necessary for the present study, and despite these efforts, the present study's data is limited in both scope and completeness. The data problems encountered in this study are not the responsibility of the Illinois state and local agencies that participated in this study. They provided extensive support and consultation (at no cost) to the project. The problem arises because present criminal justice information systems were designed to primarily to support administrative functions of the agencies they assist. These systems were not designed to support research activities and, equally important, judicial monitoring activities. Thus the limitations of data and information encountered by this study directly mirror the limitations that any death sentencing monitoring system would encounter in Illinois. Indeed, properly conducted assessments of death sentences in Illinois would resemble smaller scale projects of the type conducted for this project. Critically, today's criminal justice information systems are entirely inadequate to collect, manage and integrate the range and quality of information on criminal cases necessary to support a reliable criminal justice monitoring system. As a result, the quality of available criminal data will greatly limit the integrity of any death sentencing monitoring system for the foreseeable future.

C. Recommendations

The results of our analysis lead us to suggest two policy recommendations.

²⁷ Baldus et al., *supra* note 7 (Cornell), at 1661-62.

1. Proportionality Review. The data suggest the necessity for the Illinois Supreme Court, as the body responsible for reviewing death penalty cases, to pay special attention to issues of proportionality.²⁸ Like New Jersey, they might consider a comparison between cases in which the death penalty was imposed and other death-eligible cases with equal levels of aggravation and mitigation in which the defendant was sentenced to a prison term.²⁹ This type of review, however, will be very limited if only cases that end with a death sentence are examined and information and cases from prior stages of the criminal justice system decision-making process are not available.

2. Monitoring. To conduct a meaningful proportionality review, officials will need to construct, maintain, and use a database on Illinois homicides. As criminologists, one of the most important lessons we have learned from this research is that data on Illinois homicides is fragmented, difficult to obtain, and often of poor quality. It has been gathered not for purposes of ensuring even-handedness in sentencing, but rather for unique needs of individual state agencies (e.g., local police departments, Department of Corrections). If the death penalty is to be continued, comprehensive high-quality data needs to be gathered and made available to a diverse group of researchers so that issues of equity can be monitored.

A monitoring system built on a foundation of comprehensive high-quality data can be used both to help ensure that race and other inappropriate factors are not involved in death sentencing decisions, and to help ensure that pure arbitrariness (inequities not attributable to either legal or non-legal factors) does not permeate sentencing. While it is beyond the mandate given to the current authors to design a comprehensive monitoring system, it is clear that there must be an intensive effort by all parties involved in capital cases in Illinois to gather detailed data on all aspects of homicide cases. Here we are not suggesting data collection on decisions made from charging through sentencing, but, rather, going back to the day of the homicide and beginning with measures of the quality of the investigation by the police. If the police devote more resources to the investigation of the murders of prominent white victims than to other cases, even if all other decision-makers (e.g., prosecutors, judges, jurors, and governors) are fair, racial bias will still permeate the system. In addition, a database needs to be constructed to follow all cases from the time a death sentence is imposed to the time the person exits death row (via court or gubernatorial action, natural death, suicide, or execution). All links in the “continuous chain” of decision makers need to be involved in gathering data, which they can use to monitor their own performance.³⁰

²⁸ For an elaboration on this and on other ideas to improve the administration of the death penalty, see THE CONSTITUTION PROJECT, MANDATORY JUSTICE: EIGHTEEN REFORMS TO THE DEATH PENALTY 27 (2001).

²⁹ This proportionality review has the added advantage of alerting prosecutors and trial courts to the importance of issues of proportionality, which in turn may affect decisions on when to seek a death sentence. The New Jersey Supreme Court, for example, has struck down only one death sentence because of issues of proportionality. *State v. Pappasavvas*, 2002 N.J. LEXIS 51 (Feb. 14, 2002).

³⁰ The racial and ethnic backgrounds of these decision-makers are one example of data needed (as well as continued efforts to bring more diversity into the decision-making circle).

In some cases, data gathering itself may add an element of fairness in the system. For example, a study that examines charging decisions would most certainly remind prosecutors of their duty to be even-handed. But even if they were, decisions made at earlier points (e.g., by police) would remain invisible. Gathering data at all decision-points on the chain of decisions makes the decisions more transparent, more accountable, and reminds everyone that their work is no longer invisible.

Those designing such a database would need input from prosecutors, defense attorneys, judges, law enforcement investigators, forensic experts and other criminal justice personnel, as well as scholars and other more disinterested parties. To be sure, there will undoubtedly be differences in informed opinion between various parties in the debate, but if all cooperate in data gathering, the system will be made much more transparent.

Recent research has also shown the importance of gathering data on the racial characteristics of potential jurors in capital cases, and on how (and why) jurors are excused through peremptory challenges. The most thorough research to address this issue focused on 317 capital prosecutions in Philadelphia, 1981-1997. The authors found that “discrimination in the use of peremptory challenges on the basis of race and gender by both prosecutors and defense counsel is widespread.”³¹ They found that prosecutors are more successful than defense attorneys in controlling jury composition, and that these biases tend to increase the number of death sentences and the degree of racial discrimination in death sentencing decisions. The opportunity for prosecutors and defense attorneys to interview jurors after they have completed their service and rendered their verdicts might reveal occasional acts of overt racism that may have infected their work.

D. A Final Note

In conclusion, the unique character of homicide in general and the death penalty in particular raises the distinct possibility of powerful political and psychological factors intruding on and interfering with the criminal justice and judicial decision process and with the goal of equity in administration of the death penalty. Hence the importance of vigilant monitoring. When a murder occurs, all who hear about it -- citizens, prosecutors, jurors -- feel a threat and a need to confront, to varying degrees, personal fears of death. One way to deal with the threat is to retreat to the comfort of people who are familiar to us. When the murder victim is among those communities with which we are most familiar (and race and social class are part of the victim's social or human capital that can make them part of that familiar community) and the killer is more of an outsider (in both in social and geographic sense), the fear and outrage grow.

³¹ David C. Baldus, George Woodworth, David Zuckerman, Neil Alan Weiner, & Barbara Brottiff, *The Use of Peremptory Challenges in Capital Murder Trials: A Legal and Empirical Analysis*, 3 U. OF PENN. J. OF CONSTITUTIONAL LAW 3 (2001); *see also* William J. Bowers, Benjamin D. Steiner, and Marla Sandys, *Death Sentencing in Black and White: An Empirical Analysis of the Role of Jurors' Race and Jury Racial Composition*, 3 U. OF PENN. J. OF CONSTITUTIONAL LAW 171 (2001).

And in the past thirty years, the potential for death penalty decisions to become more political has grown like never before. One reason for this is media pressure -- the media can sensationalize homicides and prioritize them in terms of outrage and threat (not all murders are given equal media coverage), and it can put pressure on decision-makers to accept those priorities. In addition, all of the reforms in the death penalty in the past three decades have made it extremely costly and time-consuming to pursue. Especially in these days where state budgets are constrained, prosecutors must make priority decisions. There may be pressure from one source to pursue death (e.g., from the media), but also pressure from the office accountant not to do so.

Rational and informed citizens will continue to disagree on the death penalty, but certainly one point on which all interested parties can agree is that if we are going to make these life and death decisions, we need to make them as carefully and equitably as possible.

**Appendix I:
Post 1990 Research on Race and Death Sentencing Outside Illinois**

In 1990, the U.S General Accounting Office examined some 28 studies that had studied issues of race and arbitrariness in death sentencing in various American jurisdictions since 1972. The year 1972 was chosen as a beginning because that year the Supreme Court invalidated all existing death penalty statutes, and legislatures began to enact the new wave of death statutes, some of which remain in effect today. The GAO synthesis of the 28 studies revealed:

a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty after the Furman decision. In 82 percent of the studies, race-of-victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty ... This finding was remarkably consistent across data sets, data collection methods, and analytic techniques.

The GAO found the evidence for a race-of-defendant impact was less clear, and hence the evidence supporting a victim's race effect was "equivocal." Since that report, additional high-quality studies have investigated the relationship between race and death sentencing in a) Arizona, b) Florida, c) Indiana, d) Kentucky, e) Maryland, f) Nebraska, g) New Jersey, h) North Carolina, i) Philadelphia, and j) Virginia, and we now briefly review those studies as well as an ongoing study of death sentencing under federal statutes.

A Arizona

In September 2000, Arizona Attorney General Janet Napolitano appointed a 30-member Commission to prepare recommendations on how to "streamline the process," to examine legal representation, and to collect data on what types of homicides are most likely to result in a death sentence. She prohibited the Commission from examining whether a moratorium should be declared on executions, and from debating the issue of whether the death penalty should be abolished. "One of the things I want to ensure as the chief legal office (sic) of Arizona is that we do not become another Illinois."

Researchers from Arizona State University retained by the Commission began their work by examining the characteristics of 230 Arizona cases in which the death penalty was imposed (involving 228 defendants) between 1974 and July 1, 2000. This report was presented to the Commission in March 2001. Based on it, in July 2001, the Commission put forward three recommendations: additional resources for defense attorneys, commutation of death sentences for mentally ill death row inmates, and a ban on executing minors.

Next, the researchers built a database that included all cases (N=871) in which there was an indictment for first-degree murder in four Arizona counties, January 1, 1995, through December 31, 1999. Three groups of cases were compared: 1) the cases that ended with a death sentence (N=29), 2) the cases in this sample that were "death-noticed" (cases where the prosecutor announced that s/he would seek the death penalty) (N=343), and 3) the non-death noticed cases. Because the data from this analysis was presented to the Commission only recently (January 2002), no final conclusions

or recommendations have yet been released. In its present state, only cross-tabulations have been calculated; no multivariate statistics were given to the Commission so they could pinpoint the effects of one variable (e.g., race of defendant) net of the effects of other factors. No data on race of victim is contained in the January 2002 report, and the restriction of the sample to four counties will restrict any possible conclusion about regional variation in death sentencing. Hence, at this date, no statement can be made about death sentencing patterns in Arizona.

A third data set being compiled by the Commission will attempt to measure the costs of the death penalty vs. the costs of the alternative sentence of "life without parole." No date has yet been announced for when these data will be released.

B. Florida

Of the 28 studies reviewed by the GAO in 1990, four were authored or coauthored by the two authors of the present report. The first study examined Florida, Georgia, Ohio, and Texas, while the other three studies examined patterns solely in Florida. Shortly after the GAO study was released, Radelet and Pierce released the results of their most recent Florida study.

Commissioned by the Florida Supreme Court's "Racial and Ethnic Bias Study Commission," the study examined some 15,000 Florida homicides, covering the years 1976 through 1987. After correcting for missing data, the final sample analyzed included 10,142 cases, 3.6 percent of which resulted in a death sentence. Initially, it was found that 5.9 percent of those who killed whites and 1.0 percent of those who killed blacks were sentenced to death. This was not because of any greater probability for whites to be victims of murders with additional felony circumstances present. Among the homicides with accompanying felonies, 16.2 percent of those who killed whites and 3.3 percent of those who killed blacks were sentenced to death. Radelet and Pierce went on to examine the effects of defendant-victim relationship, number of victims, victim's sex, type of weapon, and location of crime -- none of which could explain the race effects. Overall, when all the explanatory variables were assessed with a linear equation, the authors found that the odds of a death sentence for those suspected of killing whites were 3.42 times higher than the odds of a death sentence for those suspected of killing blacks.

C. Indiana

While final results have not yet been released, a 26-member "Indiana Law Study Commission" was appointed by Governor Frank O'Bannon in March 2000 to study the administration of the death penalty in Indiana. Although the primary question investigated was whether Indiana needed additional safeguards to protect itself against the execution of the innocent, the effects of race on death sentencing were also examined. Preliminary results indicate that the race of victim is strongly associated with Indiana death sentencing, although it is unknown how detailed the data collection effort that underlies this conclusion has been.

D. Kentucky

The death penalty in Kentucky has been studied for many years by University of Louisville criminologists Thomas Keil and Gennaro Vito. Their latest work examines death

sentencing from the time that Kentucky's current capital statute took effect in December 1976, through 1991. All 577 homicides that occurred in Kentucky during this study period were examined.

After statistically controlling for legally relevant factors such as concurrent felonies, history of violence, number of victims, and the existence of multiple aggravating factors, Keil and Vito found that black defendants charged with killing white victims were more likely to be charged with a capital crime (by the prosecutor) and more likely to be sentenced to death (by jurors) than other homicide defendants. As a direct result of this work, Kentucky legislators passed a "Racial Justice Act," allowing capital defendants to use statistical evidence to support a challenge their death sentences were inappropriately sought on the basis of race. Kentucky remains the only state to have enacted such legislation.

E. Maryland

A major study of race and death sentencing in Maryland is currently being undertaken by University of Maryland criminologist Ray Paternoster. Regional disparities in death sentencing in Maryland are already obvious. That state currently houses 13 death row inmates, 9 of whom were sentenced from Baltimore County. Baltimore County records approximately 10 percent of the state's homicides, but defendants from Baltimore County make up nearly 70 percent of the state's death row. Homicide rates are ten times higher in the City of Baltimore (averaging 390 per year since 1990) than in Baltimore County (averaging 31 homicides per year since 1990), but only one person is on death row from Baltimore City. There are two reasons for this disparity. First, over the past two decades the state attorney in Baltimore County, Sandra A. O'Connor, has sought the death penalty in virtually every case possible. Her only exceptions are when the family of the victim stands opposed to the death penalty or when the sole evidence against the defendant comes from the testimony of a co-defendant. Second, the County is overwhelmingly white, and white Americans tend to show more support for the death penalty than blacks.

Nine of the 13 inmates on death row in Maryland are black. Whether this disparity can be attributed to legally relevant factors will be revealed by the Paternoster study, due for completion in late 2002.

F. Nebraska

By any measure, the most comprehensive study of death sentencing in the past decade was that undertaken by David Baldus and his colleagues in Nebraska. This study was released in 2001. The study focused on all 177 Nebraska homicides, 1973-1999, that were eligible for the death penalty. Twenty-seven cases resulted in a death sentence. Despite these low numbers, there were several patterns that were strong enough to attain statistical significance.

Of the 177 cases, 17 percent of the white victim cases and 11 percent of the black victim cases resulted in a death sentence. Of the 177 death-eligible cases, 81 included a penalty trial, in which the death penalty was considered. Of those 81, 36 percent of the white victim cases and 21 percent of the black victim cases ended with a death sentence.

However, these race-of-victim differences were overshadowed by regional and social class differences in death sentencing. Prosecutors in the two urban areas of the state, Lincoln and Omaha, were much more likely than their counterparts in other areas of the state to seek death sentences. Because most minorities in Nebraska live in the urban areas, the death penalty has a differential impact on minorities, although there is no evidence that they are subjected to differential treatment. "The data indicate that the differences between charging and plea bargaining practices of prosecutors in the major urban counties and those in greater Nebraska produce a statewide "adverse disparate impact" on racial minorities."

Finally, prosecutors sought the death penalty in 37 percent of cases with low-status victims (33 cases), 50 percent of the cases with middle-status victims (32 cases), and 65 percent of the cases with high-status victims (15 cases).

G. New Jersey

Since 1989, the New Jersey Supreme Court has sponsored a rigorous effort to collect high-quality data on New Jersey homicides. Such data are necessary for the court to conduct a "proportionality review" in death penalty cases, whereby death-sentenced inmates can challenge their sentences by pointing to similar cases of other convicted murderers where the death penalty was not imposed. Both prosecutors and defense attorneys have had ample opportunities to critique the methodology of this work, and the database is publicly available so attorneys and researchers from a wide array of backgrounds can easily access it. Consequently, "no other empirical study of the death penalty's administration has received such close and sophisticated scrutiny."

Three "Special Masters" have been appointed by the Supreme Court to assist their study. The first, David Baldus, found some evidence of racial disparities, but sample sizes were too small for a thorough analysis. The second and the third Special Masters, Richard Cohen and David S. Baime, found no racial disparities in New Jersey death sentencing.

Judge Baime's most recent report (282 pages), submitted June 1, 2001, found that neither race of defendant nor race of victim played any significant role in death sentencing in New Jersey. However, some evidence "strongly suggests" that those who kill whites are more likely than those who kill blacks to advance a penalty phase (where death vs. life sentence is considered). Judge Baime attributes this to regional disparities in death prosecutions: counties with a large number of African American murder victims are less vigorous in their pursuit of the death penalty than less urban counties where there are a higher proportion of white-victim murders. Such regional disparities, however, are beyond the scope of Judge Baime's inquiry.

H. North Carolina

A 2001 study released by University of North Carolina - Chapel Hill researchers Isaac Unah and Jack Boger found that race "infects and undermines" the capital punishment system of that state. The researchers looked the effects of 113 potential factors in 502 cases in which the

death penalty was imposed, 1993 through 1997. "The odds of receiving a death sentence rose by 3.5 times or more among those defendants (regardless of the defendant's race) who murdered white persons."

I. Philadelphia

The death penalty in Pennsylvania is largely a "Philadelphia death penalty." At the end of 2000, there were more people on death row from Philadelphia --135 -- than on the death rows of 42 states. Ninety percent of these prisoners are racial or ethnic minorities. Not surprisingly, Philadelphia has become the site for the most comprehensive study of death sentencing that any city in the U.S. has ever received.

David Baldus and his colleagues analyzed eleven years of homicide data from Philadelphia, 1983-1993. It is a complex piece of scholarship; the effects of several variables, including race, were examined at six crucial decision points. They began with 707 homicide cases, 157 of which ended when the prosecutor accepted a guilty plea and waived a death sentence. In 125 other cases, the defendant did have a guilt trial, but the prosecutor waived the death penalty. A third stage is penalty phase bench trial; 41 defendants had a penalty trial before a judge only (only four of whom were sentenced to death), while 384 had a penalty trial before a jury. Next, the researchers differentiated those cases where aggravating factors were and were not found, and those cases where mitigating circumstances were and were not found (in 63 cases where no mitigation was found, the death penalty was automatically imposed). Finally, they compared 180 cases where the aggravators were found to not outweigh the mitigators with 51 cases in which the death penalty was imposed after this weighing procedure (i.e., the aggravating circumstances outweighed the mitigating circumstances).

The researchers found widespread race-of-defendant and race-of-victim disparities, with the former, in most analyses, stronger than those exerted by race-of-victim. For example, among defendants who have a penalty trial, the odds of a death sentence for black defendants are 9.3 times higher than the odds faced by nonblack defendants, or, restated in another way, the odds of a death sentence for black defendants are 1.6 times greater than the odds for a similarly-situated nonblack defendant. In addition, cases in which the homicide victim has a low socioeconomic status were less likely to end with a death sentence. The race effects were strongest in cases with a midrange level of aggravation.

J. Virginia

Capital sentencing in Virginia was the subject of a one-year study conducted by the Virginia General Assembly's "Audit and Review Commission," the state's "watchdog" agency. Their report was released December 10, 2001. The study included data from only a five-year period (1995-1999), and focused on cases in which the prosecutor sought the death penalty (not the larger universe of cases that were potentially eligible for the death penalty). The data indicate that in cases where at least one of the victims is female, the defendant's odds of being indicted for capital murder "were over six times greater than for those defendants whose alleged victims were all male." In addition, Virginia prosecutors were three times more likely to seek the death penalty

when the victim was white rather than black, but the small sample size meant that this difference, even large, was not statistically significant. An earlier, and larger 20-year study in Virginia found that African Americans were 58 percent of those murdered in Virginia, 41 percent of the victims of potentially capital crimes, but only 19 percent of those sent to death row were convicted of killing blacks.

Most importantly, the Audit and Review Commission's data indicated a strong regional disparity in death sentencing, with prosecutors in high-density jurisdictions 87 percent less likely to seek the death penalty than prosecutors in medium-density locations. Overall, defendants are twice as likely to face a death sentence in rural areas than they are for the same crimes in an urban area. Hence, the researchers concluded that "significant inconsistencies are evident in the statewide application of capital punishment in Virginia."

K. The Federal System

Concern over the impact of race and geography on federal death sentencing was raised in a front-page New York Times article in June 2000. At that time, 17 of the 21 prisoners on federal death row were minorities, and half of all the cases in which the death penalty was sought originated from southern states. During the four years of George H.W. Bush's presidency (1989-1993), the administration sought the death penalty against 27 defendants for drug-related killings, 23 of whom were minorities. At that time the federal government has sought the death penalty against 199 defendants since 1988, 76 percent of whom were minorities.

Later in 2000, the Justice Department released a comprehensive study of decisions surrounding the federal death penalty. They found that three-quarters of the times in which a death sentence had been sought over the previous five years involved cases with minority defendants. In more than half the cases, the defendants were black. Furthermore, political factors appeared to influence the decision to seek a death sentence: a "handful" of the 93 U.S. attorneys accounted for some 40 percent of the death penalty prosecutions, while 20 U.S. attorneys had never sought death. However, within eight months after that report was released, a new administration was seated in Washington, and a new Justice Department report was released that concluded that the disparities were not the result of racial or ethnic bias, but instead a consequence of "the representation of minorities in the pool of potential federal capital cases." With that green light, the first two executions under federal authority since 1963 were quickly carried out during the Summer of 2001. During the Fall of 2001, the Justice Department solicited research proposals to stimulate further research on the issue.

Appendix II: Indicators of Death Sentence Eligibility and Aggravating Facts Documentation

Indicators of Death Penalty Eligibility and Facts in Aggravation

This appendix identifies the specific Illinois statutes and amendments to statutes that were used to develop indicators of death penalty eligibility and also facts in aggravation from Illinois Department of Corrections records for the first-degree murder offenders in our sample. Below are presented the specific indicators that were developed and their accompanying statutory citations. Statutory citations include references to Chapter 38 of the Criminal Code of 1961 and to the Illinois Compiled Statutes (ILCS), a comprehensive renumbering of the Illinois statutes, which took effect in 1993.

I. Indicators of Death Penalty Eligibility Factors

In Illinois, there are 20 statutory eligibility factors. Two commonly used eligibility factors could be identified in this database by virtue of information about convictions: the Multiple Murder factor (720 ILCS 5/9-1(b)(3)) and the Course of a Felony factor (720 ILCS 5/9-1(b)(6)).

Under eligibility factor (b)(3), a defendant may be eligible for the death penalty if he has been convicted of intentionally murdering two or more individuals. Illinois law recognizes three varieties of first degree murder: intentional murder, murder where the person knows or should know death is the probable result and felony murder. Case law suggests that the prior murder conviction must be for intentional murder or for knowing murder in order to make the defendant eligible for the death penalty. Generally speaking, a prior conviction for felony murder would not satisfy this requirement without proof of a separate intent to murder. This item is a factor in demonstrating that the defendant is actually eligible for the death penalty. The fact of multiple murder convictions may also be considered as an aggravating factor when the jury makes a determination of whether or not to impose the death penalty.

A defendant may also be eligible for the death penalty if he has been convicted of first degree murder “in the course of another felony.” 720 ILCS 5/9-1(b)(6). This factor makes a person eligible for the death penalty when the murder has occurred in the course of any one of several specified felonies. Illinois law also imposes the requirement that there be some element of intentional or knowing conduct by the defendant; those who are only tangentially involved in the criminal enterprise would not likely be eligible under this factor.

1.1. As a proxy for death eligibility under the Multiple Murder eligibility factor, we identified any offender in our sample with a prior conviction and incarceration in the Illinois Department of Corrections on one of the following:

MPMFM1, Table 2 *Number of occurrences = 176*

<i>Label</i>	<i>Statutory cite</i>
<i>1st Deg.</i>	<i>38/9-1</i>

<i>1st Deg.</i>	<i>38/9-1A</i>
<i>1st Deg.</i>	<i>720 ILCS 5/9-1A1</i>
<i>1st Deg.</i>	<i>720 ILCS 5/9-1A</i>
<i>1st Deg.StrongPr</i>	<i>38/9-1(A)(2)</i>
<i>1st Deg.StrongPr</i>	<i>720 ILCS 5/9-1(A)(2)</i>

This covers the range of intentional or knowing first-degree murders.

1.2. As a proxy for death eligibility under the Multiple Murder factor, we also identified any offender in our sample with a contemporaneous conviction and incarceration in Illinois Department of Corrections on one of the following:

MCMFACTR, Table 2 *Number of occurrences = 6*

<u><i>Label</i></u>	<u><i>Statutory cite</i></u>
<i>1st Deg.</i>	<i>38/9-1</i>
<i>1st Deg.</i>	<i>38/9-1A</i>
<i>1st Deg.</i>	<i>720 ILCS 5/9-1A1</i>
<i>1st Deg.</i>	<i>720 ILCS 5/9-1A</i>
<i>1st Deg.StrongPr</i>	<i>38/9-1(A)(2)</i>
<i>1st Deg.StrongPr</i>	<i>720 ILCS 5/9-1(A)(2)</i>

1.3 Indicators of “in the course of another felony” eligibility factor

As a proxy for this eligibility factor, we identified persons convicted of first-degree murder (720 ILCS 5/9-1) who were also convicted contemporaneously for certain felonies. As of 1984, the last year amendments were made before the study period, the statute made the following felonies eligible: armed robbery, robbery, rape, deviate sexual assault, aggravated kidnapping, forcible detention, arson, burglary, taking indecent liberties with a child, aggravated arson, home invasion, aggravated criminal sexual assault, or the attempt of any of these. Between 1988 and 1996 (which is the period of the study) additional felonies were added to the eligibility factor, on almost a yearly basis.

Group 1 below includes the original felonies contained when the death penalty statute was enacted in 1977, and also the amendments to the statute between 1982 and 1984, which added additional felonies. As a result, Group 1 represents the felonies that could make a defendant eligible for the death penalty at the beginning of the study period in 1988. Group 2 represents the amendments between 1988 and 1997, with the effective dates of the statutes. The Illinois Compiled Statutes (ILCS), a comprehensive rewrite and reorganization of all Illinois statutes, took effect in January of 1993. Finally, we included among felony factors only those that occurred in this sample 5 or more times.

1.3.1 Group1

Below are listed the felonies included in (b)(6) “in the course of a felony” prior to 1985.

Group 1 A

Armed Robbery Group

MCGRPA1, Table 2 *Number of occurrences = 723*

<u>Label</u>	<u>Statutory Cite</u>
Armed Robbery	38/18-2<X>
Armed Robbery	720 ILCS 5/18-2(A)<X>
Armed Robbery	720 ILCS 5/18-2<X>
Attempt Armed Robbery	38/18-2,8-4<1>
Attempt Armed Robbery	720 ILCS 5/18-2,8-4<1>

Group 1 B

Aggravated Criminal Sexual Assault Group

MCGRPB1, Table 2 *Number of occurrences = 99*

Rape	38/11-1<X>
Attempt Rape	38/11-1,8-4<1>
AggCrimSexAss/BodHarm	38/12-14(A)(2)<X>
AggCrimSexAss/BodHarm	720 ILCS 5/12-14(A)(2)<X>
AggCrimSexAss/ThreatLif	720 ILCS 5/12-14-(A)(3)<X>
AggCrimSexAss/Felony	38/12-14(A)(4)<X>
AggCrimSexAss/Felony	38/12-14<X>
AggCrimSexAss/Felony	720 ILCS 5/12-14<X>
AggCrimSexAss/Weapon	38/12-14(A)(1)<X>
AggCrimSexAss/Weapon	720 ILCS 5/12-14(A)(1)<X>
AttAggCrimSexAss/F	38/12-14,8-4 <1>
AttAggCrimSexAss/F	720 ILCS5/12-14, 8-4<1>

Group1 C

Home Invasion Group

MCGRPC1, Table 2 *Number of occurrences = 139*

<i>Home Invasion</i>	<i>38/12-11<X></i>
<i>Home Invasion</i>	<i>720 ILCS5/12-11<X></i>
<i>Home Inv/Armed/Force</i>	<i>720 ICLS5/12-11(A)(1)<X></i>
<i>Home Inv/Cause Injury</i>	<i>720 ILCS5/12-11(A)(2)<X></i>

Group1 D

Aggravated Kidnapping Group

MCGRPD1, Table 2 *Number of occurrences = 70*

<u><i>Label</i></u>	<u><i>Statutory cite</i></u>
<i>AggKidnapping/InflHarm</i>	<i>720 ILCS 5/10-2(A)(3)<1></i>
<i>AggKidnapping/No Rans.</i>	<i>38/10-2<1></i>
<i>AggKidnapping/No Rans.</i>	<i>720 ILCS 5/10-2<1></i>
<i>AggKidnapping/Armed</i>	<i>720 ILCS 5/10-2(A)(5)<1></i>
<i>AggKidnapping/Ransom</i>	<i>38/10-2<X></i>
<i>AggKidnapping/Ransom</i>	<i>720 ILCS 5/10-2<X></i>
<i>Attempt AggrKidNoRans.</i>	<i>38/10-2,8-4<2></i>

Group1 E

Arson/Aggravated Arson Group

MCGRPE1, Table 2 *Number of occurrences = 70*

<i>Arson</i>	<i>38/20-1<2></i>
<i>Arson</i>	<i>720 ILCS 5/20-1</i>
<i>Aggr Arson</i>	<i>38/20-1.1 <X></i>
<i>Aggravated Arson</i>	<i>720 ILCS 5/20-1.1<X></i>
<i>Attempt (Arson)</i>	<i>38/20-1, 8-4<3></i>

Group2 F

Simple Robbery Group

MCGRPF1, Table 2 *Number of occurrences = 65*

<i>Robbery</i>	<i>38/18-1<2></i>
<i>Robbery</i>	<i>38/18-1<X></i>
<i>Robbery</i>	<i>720 ILCS 5/18-1<2></i>
<i>Robbery/VicHand,60+</i>	<i>38/19-1<2></i>
<i>Robbery/VicHand.60+</i>	<i>720 ILCS 5/18-1<2></i>
<i>Attempt Robbery</i>	<i>38/18-1,8-4<3></i>
<i>Attempt Robbery</i>	<i>720 ILCS 5/18-1,5/8-4<3></i>
<i>AttemptRob/vicHand,60+</i>	<i>38-18-1,8-4<2></i>

Group1 G.

Burglary and Attempted Burglary

MCBFCTR1, Table 2 *Number of occurrences = 294*

<u>Label</u>	<u>Statutory cite</u>
<i>Burglary</i>	<i>38/19-1<2></i>
<i>Burglary</i>	<i>720 ILCS 5/19-1<2></i>
<i>Attempt Burglary</i>	<i>38/19-1,8-4 <3></i>
<i>Attempt Burglary</i>	<i>720 ILCS 5/19-1, 5/8-4<3></i>

1.3.2 Group2

Group 2 contains the felonies added to (b)(6) “in the course of a felony” statute along with the effective date of the amendment.

Group2 A

Calculated Criminal Drug Conspiracy

Effective September 7, 1989; adds calculated criminal drug conspiracy as defined in Section 405 of the Illinois Controlled Substances Act. There were no instances of an offender having calculated criminal drug conspiracy as a contemporaneous offense in the sample. As a result this variable was not included in the analysis

Group2 B

Residential Burglary

Effective **July 1, 1990**; adds residential burglary.

MCGRP3BR, Table 2 Number of occurrences = 67

<u>Label</u>	<u>Statutory cite</u>
Residential Burglary	38/19-3<1>
Residential Burglary	720 ILCS 5/19-3<1>
AttResidential Burglary	38/19-3,8-4<2>
AttResidential Burglary	720 ILCS 5/19-3,8-4<1>

Group2 C

Armed Violence

Effective **December 15, 1994**; adds armed violence

MCGRP3CR, Table 2 Number of occurrences = 15

<u>Label</u>	<u>Statutory cite</u>
ArmViol/Categ.I Weap.	38/33A-2<X>
ArmViol/Categ.I Weap.	720 ILCS 5/33A-2<X>
ArmViol/Categ.IIWeap/1 st	38/33A-2<2>
ArmViol/Categ.IIWeap/1 st	720 ILCS5/33A-2<2>
ArmViol/Categ.IIWeap/2 nd +	38/33A-2<1>
ArmViol/Categ.IIWeap/2 nd +	720 ILCS 5/33A-2<1>
ArmViol/Categ.IIWeap.	720 ILCS 5/33A-2*1<X>
ArmViol/Categ.IIIWeap.	720 ILCS 5/33A-2*1<2>

Group2 D

Armed Violence, Aggravated Vehicular Hijacking, and Aggravated Stalking

Effective **July 1, 1995**; adds Armed Violence, Aggravated Vehicular Hijacking, and Aggravated Stalking.

MCGRP3DR, Table 2 Number of occurrences = 6

<u>Label</u>	<u>Statutory cite</u>
AggVehicular Hijack	38/18-4<X>
AggrVehicular Hijack	720 ILCS 5/18-4<X>
AggVeh.Hijack/Weapon	720 ILCS 5/18-4(A)(3)<X>

[Agg.Stalking does not appear in database]

Group2 E

Predatory Criminal Sexual Assault of a child

Effective **December 13, 1995**; adds Predatory Criminal Sexual Assault of a child. There was only one instance of an offender having a predatory criminal sexual assault of a child as a contemporaneous offense in the sample. As a result this variable was not included in the analysis

II. Indicators of Facts in Aggravation

In addition to providing indicators of death sentence eligibility IDOC data can also provide information about the defendant that would be considered during the “aggravation” phase of the sentencing trial. While a variety of facts might be submitted at this time, the DOC data only provides information with respect to the defendant’s prior criminal history, generally considered to be an important factor in the imposition of the death penalty.

2.1. As a proxy for other, serious murder convictions (as opposed to just other serious felony convictions) the following were used:

MPSM2, Table 2 *Number of occurrences = 133*

<u>Label</u>	<u>Statutory cite</u>
<i>Vol. Manslaughter</i>	38/9-2<1>
<i>Vol. Mans.prior1/82</i>	38/9-2<2>
<i>2nd Deg. M.</i>	38/9-2D<1>
<i>2nd Deg. M.</i>	38/9-2D-553C8<X>
<i>2nd Deg. M.</i>	720 ILCS 5/9-2D<1>
<i>Att. M., Intent</i>	38/9-1,8-4 <X>
<i>Att. M., Intent</i>	38/9-1A, 8-4<X>
<i>Att. M., Intent</i>	720 ILCS 5/9-1(A)(1), 8-4<X>
<i>Att. M., Intent</i>	720 ILCS 5/9-1A, 8-4<X>
<i>Att. M., StrngPro</i>	720 ILCS 5/9-1(A)(2), 8-4<X>
<i>Consp.M., Intent</i>	38/9-1(A)(1), 8-2<X>
<i>Consp.M., Intent</i>	38/9-1,8-2<2>
<i>Consp.M., Intent</i>	38/9-1,8-2<4>
<i>Consp.M., Intent</i>	38/9-1A,8-2<2>
<i>Consp.M., Intent</i>	720 ILCS5/9-1A, 8-2<2>
<i>Sol.M., Intent</i>	38/9-1,8-1<X>
<i>Sol.M., Intent</i>	38/9-1A,8-1<X>
<i>Sol.M., for Hire</i>	38/8-1.2<X>
<i>Sol.M., for Hire</i>	720 ILCS 5/8-1.2<X>

2.2. As a proxy for other contemporaneous serious murder convictions (as opposed to just other serious felony convictions) the following were used:

MCSM2, Table 2 *Number of occurrences = 527*

<u>Label</u>	<u>Statutory cite</u>
<i>Vol. Manslaughter</i>	<i>38/9-2<1></i>
<i>Vol. Mans.prior1/82</i>	<i>38/9-2<2></i>
<i>2nd Deg. M.</i>	<i>38/9-2D<1></i>
<i>2nd Deg. M.</i>	<i>38/9-2D-553C8<X></i>
<i>2nd Deg. M.</i>	<i>720 ILCS 5/9-2D<1></i>
<i>Att. M., Intent</i>	<i>38/9-1,8-4 <X></i>
<i>Att. M., Intent</i>	<i>38/9-1A, 8-4<X></i>
<i>Att. M., Intent</i>	<i>720 ILCS 5/9-1(A)(1), 8-4<X></i>
<i>Att. M., Intent</i>	<i>720 ILCS 5/9-1A, 8-4<X></i>
<i>Att. M., StrngPro</i>	<i>720 ILCS 5/9-1(A)(2), 8-4<X></i>
<i>Consp.M., Intent</i>	<i>38/9-1(A)(1), 8-2<X></i>
<i>Consp.M., Intent</i>	<i>38/9-1,8-2<2></i>
<i>Consp.M., Intent</i>	<i>38/9-1,8-2<4></i>
<i>Consp.M., Intent</i>	<i>38/9-1A,8-2<2></i>
<i>Consp.M., Intent</i>	<i>720 ILCS5/9-1A, 8-2<2></i>
<i>Sol.M., Intent</i>	<i>38/9-1,8-1<X></i>
<i>Sol.M., Intent</i>	<i>38/9-1A,8-1<X></i>
<i>Sol.M, for Hire</i>	<i>38/8-1.2<X></i>
<i>Sol.M., for Hire</i>	<i>720 ILCS 5/8-1.2<X></i>

2.3 Other felony convictions.

Illinois also ranks felony convictions for purposes of sentencing by a classification system. Under that system, a felony may be ranked as **Class X (MPCLASX2, Table 2)**, the most serious non-murder felony carrying a mandatory minimum sentence, or ranked as **Class 1 through 4 (MPCLAS12, MPCLAS22, MPCLAS32, and MPCLAS42, Table 2)**. Of the felonies ranked **Class 1 through 4**, **Class 1** felonies are the most serious for purposes of sentence determination, and **Class 4** are the least serious. Armed Robbery, for example, is a **Class X** felony, while Robbery is a **Class 1** felony. The conviction data provided by IDOC contains information as to the classification of all felony convictions. As a consequence, measures could be developed in the database with respect to the seriousness of the felony record for an individual defendant.

**Appendix III:
Tables 3 Through 31 of the Findings**

Table 3. Death Sentence by Conviction for Prior Intentional or Knowing Murder

Sentence		Conviction for Prior Murder			
		None	One +	Total	
Other	N	5043	152	5195	
	%	98.3%	85.4%	97.8%	
Death	N	89	26	115	
	%	1.7%	14.6%	2.2%	
Total	N	5132	178	5310	
		100.0%	100.0%	100.0%	
			Value	df	Sign.
		Pearson Chi-Square	134.538	1	.000
		Continuity correction	128.531	1	.000
		Number of Cases	(5310)		

Table 4. Death Sentence by Contemporaneous Intentional or Knowing Murder

Sentence		Contemporaneous Intentional or Knowing Murder			
		None	One +	Total	
Other	N	5191	4	5195	
	%	97.9%	80.0%	97.8%	
Death	N	114	1	115	
	%	2.1%	20.0%	2.2%	
Total	N	5305	5	5310	
	%	100.0%	100.0%	100.0%	
			Value	df	Sign.
		Pearson Chi-Square	7.513	1	.006
		Continuity correction	1.450	1	.229
		Number of Cases	(5310)		

Table 5. Death Sentence by Contemporaneous Armed Robbery

Sentence		Contemporaneous Armed Robbery		
		None	One +	Total
Other	N	4501	694	5195
	%	98.1%	95.9%	97.8%
Death	N	85	30	115
	%	1.9%	4.1%	2.2%
Total	N	4586	724	5310
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	15.478	1	.000
Continuity correction	14.416	1	.000
Number of Cases	(5310)		

Table 6. Death Sentence by Contemporaneous Aggravated Criminal Sexual Assault

Sentence		Aggravated Sexual Assault		
		None	One +	Total
Other	N	5111	84	5195
	%	98.1%	84.0%	97.8%
Death	N	99	16	115
	%	1.7%	14.6%	2.2%
Total	N	5210	100	5310
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	92.061	1	.000
Continuity correction	85.527	1	.000
Number of Cases	(5310)		

Table 7. Death Sentence by a Contemporaneous Home Invasion

Sentence		Contemporaneous Home Invasion			
		None	One +	Total	
Other	N	5069	126	5195	
	%	98.0%	90.6%	97.8%	
Death	N	102	13	115	
	%	2.0%	9.4%	2.2%	
Total	N	5171	139	5310	
	%	100.0%	100.0%	100.0%	
			Value	df	Sign.
		Pearson Chi-Square	34.795	1	.000
		Continuity correction	31.399	1	.000
		Number of Cases	(5310)		

Table 8. Death Sentence by Contemporaneous Aggravated Kidnapping

Sentence		Aggravated Kidnapping			
		None	One +	Total	
Other	N	5136	59	5195	
	%	98.0%	84.3%	97.8%	
Death	N	104	11	115	
	%	2.0%	15.7%	2.2%	
Total	N	5240	70	5310	
	%	100.0%	100.0%	100.0%	
			Value	df	Sign.
		Pearson Chi-Square	61.454	1	.000
		Continuity correction	55.145	1	.000
		Number of Cases	(5310)		

Table 9. Death Sentence by a Contemporaneous Arson

Sentence		Contemporaneous Arson		
		None	One +	Total
Other	N	5134	61	5195
	%	98.0%	87.1%	97.8%
Death	N	106	9	115
	%	2.0%	12.9%	2.2%
Total	N	5240	70	5310
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	38.268	1	.000
Continuity correction	33.326	1	.000
Number of Cases	(5310)		

Table 10. Death Sentence by a Contemporaneous Simple (Unarmed) Robbery

Sentence		Contemporaneous Simple Robbery		
		None	One +	Total
Other	N	5133	62	5195
	%	97.9%	93.9%	97.8%
Death	N	111	4	115
	%	2.1%	6.1%	2.2%
Total	N	5244	66	5310
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	4.785	1	.029
Continuity correction	3.105	1	.078
Number of Cases	(5310)		

Table 11. Death Sentence by Contemporaneous Burglary

Sentence		Contemporaneous Burglary		
		None	One +	Total
Other	N	5175	20	5195
	%	97.9%	90.9%	97.8%
Death	N	113	2	115
	%	2.1%	9.1%	2.2%
Total	N	5288	22	5310
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	5.000	1	.025
Continuity correction	2.257	1	.133
Number of Cases	(5310)		

Table 12. Death Sentence by Contemporaneous Residential Burglary

Sentence		Contemporaneous Residential Burglary		
		None	One +	Total
Other	N	5160	35	5195
	%	97.9%	87.5%	97.8%
Death	N	110	5	115
	%	2.1%	12.5%	2.2%
Total	N	5270	40	5310
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	134.538	1	.000
Continuity correction	128.531	1	.000
Number of Cases	(5310)		

Table 13. Death Sentence by Contemporaneous Armed Violence

Sentence		Contemporaneous Armed Violence		
		None	One +	Total
Other	N	5181	14	5195
	%	97.8%	93.3%	97.8%
Death	N	114	1	115
	%	2.2%	6.7%	2.2%
Total	N	5295	15	5310
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	1.438	1	.230
Continuity correction	.097	1	.756
Number of Cases	(5310)		

Table 14. Death Sentence by Contemporaneous Vehicular Hijacking

Sentence		Contemporaneous Vehicular Hijacking		
		None	One +	Total
Other	N	5190	5	5195
	%	97.9%	83.3%	97.8%
Death	N	114	1	115
	%	2.1%	16.7%	2.2%
Total	N	5304	6	5310
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	5.961	1	.015
Continuity correction	1.078	1	.299
Number of Cases	(5310)		

Table 15. Death Sentence by Number of Victims

Sentence		Number of Victims				Total
		One	Two	Three	Four +	
Other	N	4017	169	18	4	4208
	%	98.7%	90.4%	75.0%	44.4%	98.1%
Death	N	53	18	6	5	82
	%	1.3%	9.6%	25.0%	55.6%	1.9%
Total	N	4070	187	24	9	4290
	%	100.0%	100.0%	100.0%	100.0%	100.0%
				Value	df	Sign.
				Pearson Chi-Square	273.787	3 .000
				Continuity correction	88.127	3 .000
				Number of Cases	(4290)	

Table 16. Death Sentence by One or More Victims over 59

Sentence		Victims over 59		Total	
		None	One +		
Other	N	3839	286	4125	
	%	98.2%	96.3%	98.1%	
Death	N	70	11	81	
	%	1.8%	3.7%	1.9%	
Total	N	3909	297	4206	
	%	100.0%	100.0%	100.0%	
			Value	Df	Sign.
			Pearson Chi-Square	5.348	1 .021
			Continuity correction	4.383	1 .036
			Number of Cases	(4206)	

Table 17. Death Sentence by One or More Victims Under 12

Sentence		Victims Under 12		Total
		None	One +	
Other	N	3909	216	4125
	%	98.3%	94.3%	98.1%
Death	N	68	13	81
	%	1.7%	5.7%	1.9%
Total	N	3977	229	4206
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	18.042	1	.000
Continuity correction	16.003	1	.000
Number of Cases	(4206)		

Table 18. Death Sentence by Contemporaneous Other Serious Murder Conviction

Sentence		<u>Contemporaneous Other Serious Murder Conviction</u>			Total
		None	One	Two +	
Other	N	4677	482	36	5195
	%	97.8%	98.4%	97.3%	97.8%
Death	N	106	8	1	115
	%	2.2%	1.69%	2.7%	2.2%
Total	N	4783	490	37	5310
	%	100.0%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	.765	2	.682
Continuity correction	.821	2	.663
Number of Cases	(5310)		

Table 19. Death Sentence by Prior Other Serious Murder Conviction

Sentence		<u>Prior Other Serious Murder Conviction</u>				
		None	One	Two +	Total	
Other	N	5069	116	10	5195	
	%	97.9%	95.1%	90.9%	97.8%	
Death	N	108	6	1	115	
	%	2.1%	4.9%	9.1%	2.2%	
Total	N	5177	122	11	5310	
	%	100.0%	100.0%	100.0%	100.0%	
				Value	df	Sign.
				Pearson Chi-Square	7.006	2 .030
				Continuity correction	4.779	2 .092
				Number of Cases	(5310)	

Table 20. Death Sentence by Prior Class X Offenses

Sentence		<u>Prior Class X Offenses</u>				
		None	One	Two +	Total	
Other	N	4739	320	136	5195	
	%	98.2%	94.7%	92.5%	97.8%	
Death	N	86	18	11	115	
	%	1.8%	5.3%	7.5	2.2%	
Total	N	4825	338	147	5310	
	%	100.0%	100.0%	100.0%	100.0%	
				Value	df	Sign.
				Pearson Chi-Square	38.888	2 .000
				Continuity correction	27.016	2 .000
				Number of Cases	(5310)	

Table 21. Death Sentence by Prior Class 1 Offenses

Sentence		<u>Prior Class 1 Offenses</u>			Total	
		None	One	Two +		
Other	N	4890	261	44	5195	
	%	97.9%	97.4%	95.7%	97.8%	
Death	N	106	7	2	115	
	%	2.1%	2.6%	4.3%	2.2%	
Total	N	4996	268	46	5310	
	%	100.0%	100.0%	100.0%	100.0%	
				Value	df	Sign.
				Pearson Chi-Square	1.331	2 .514
				Continuity correction	1.085	2 .581
				Number of Cases	(5310)	

Table 22. Death Sentence by Prior Class 2 Offenses

Sentence		<u>Prior Class 2 Offenses</u>			Total	
		None	One	Two +		
Other	N	4600	361	234	5195	
	%	98.2%	95.8%	94.7%	97.8%	
Death	N	86	16	13	115	
	%	1.8%	4.2%	5.3%	2.2%	
Total	N	4686	377	247	5310	
	%	100.0%	100.0%	100.0%	100.0%	
				Value	df	Sign.
				Pearson Chi-Square	21.285	2 .000
				Continuity correction	16.602	2 .000
				Number of Cases	(5310)	

Table 23. Death Sentence by Prior Class 3 Offenses

Sentence		<u>Prior Class 3 Offenses</u>			Total	
		None	One	Two +		
Other	N	4962	172	61	5195	
	%	98.2%	93.0%	87.1%	97.8%	
Death	N	93	13	9	115	
	%	1.8%	7.0%	12.9	2.2%	
Total	N	5055	185	70	5310	
	%	100.0%	100.0%	100.0%	100.0%	
				Value	df	Sign.
				Pearson Chi-Square	60.933	2 .000
				Continuity correction	33.681	2 .000
				Number of Cases	(5310)	

Table 24. Death Sentence by Prior Class 4 Offenses

Sentence		<u>Prior Class 4 Offenses</u>			Total	
		None	One	Two +		
Other	N	4899	244	52	5195	
	%	97.9%	96.4%	96.3%	97.8%	
Death	N	104	9	2	115	
	%	2.1%	3.6%	3.7	2.2%	
Total	N	5003	253	54	5310	
	%	100.0%	100.0%	100.0%	100.0%	
				Value	df	Sign.
				Pearson Chi-Square	3.094	2 .213
				Continuity correction	2.621	2 .270
				Number of Cases	(5310)	

Table 25. Death Sentence by Region

Sentence		Trial Court Region				Total
		Cook County	Collar Counties	Urban Counties	Rural Counties	
Other	N	3948	348	659	230	5185
	%	98.5%	96.7%	96.6%	91.6%	97.8%
Death	N	59	12	23	21	115
	%	1.5%	3.3%	3.4%	8.4%	2.2%
Total	N	4007	360	682	251	5300
	%	100.0%	100.0%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	61.528	3	.000
Continuity correction	42.877	3	.000
Number of Cases	(5300)		

Table 26. Death Sentence by Sex of Victim

Sentence		Sex of Victim is Female		Total
		No Females	One + Females	
Other	N	3235	973	4208
	%	98.8%	95.7%	98.1%
Death	N	38	44	82
	%	1.2%	4.3%	1.9%
Total	N	3273	1017	4290
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	41.467	1	.000
Continuity correction	39.796	1	.000
Number of Cases	(4290)		

Table 27. Death Sentence by Race of Victim

Sentence		Race of Victim					Total
		Only White	Only Black	Only Hisp.	Only Other	One + races	
Other	N	996	2656	464	33	24	4173
	%	96.2%	98.9%	98.5%	94.3%	96.0%	98.1%
Death	N	39	30	7	2	1	79
	%	3.8%	1.1%	1.5%	5.7%	4.0%	1.9%
Total	N	1035	2686	471	35	25	4252
	%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	36.640	4	.000
Continuity correction	28.131	4	.000
Number of Cases	(4252)		

Table 28. Death Sentence by Sex of Offender

Sentence		Sex of Offender		
		Male	Female	Total
Other	N	4896	299	5195
	%	97.8%	98.7%	97.8%
Death	N	111	4	115
	%	2.2%	1.3%	2.2%
Total	N	5007	303	5310
	%	100.0%	100.0%	100.0%

	Value	df	Sign.
Pearson Chi-Square	1.084	1	.298
Continuity correction	.702	1	.402
Number of Cases	(5310)		

Table 29. Death Sentence by Race of Offender

Sentence		Race of Offender				Total
		White	Black	Hisp.	Asian/Am Indian	
Other	N	883	3604	683	23	5193
	%	95.5%	98.2%	99.3%	100.0%	97.9%
Death	N	42	67	5		114
	%	4.5%	1.8%	.7%		2.1%
Total	N	925	3671	688	23	5307
	%	100.0%	100.0%	100.0%	100.0%	100.0%
				Value	df	Sign.
				Pearson Chi-Square	34.128	3 .000
				Continuity correction	30.935	3 .000
				Number of Cases	(5307)	

Table 30. Death Sentence by Race of Victim/Offender Combination for Whites and Blacks

Sentence		White Black Victim Offender Combination				Total
		Black kills White	White kills White	Black kills Black	White kills Black	
Other	N	363	458	2526	59	3406
	%	95.5%	95.2%	98.9%	95.2%	98.0%
Death	N	17	23	27	3	70
	%	4.5%	4.8%	1.1%	4.8%	2.0%
Total	N	380	481	2553	62	3476
	%	100.0%	100.0%	100.0%	100.0%	100.0%
				Value	df	Sign.
				Pearson Chi-Square	44.665	3 .000
				Continuity correction	38.304	3 .000
				Number of Cases	(3476)	

Table 31a. Logistic Regression of Legally Relevant and Extra-legal Indicators with Death Sentence

	<u>B</u>	<u>S.E.</u>	<u>Wald</u>	<u>Sig.</u>	<u>Exp(B)</u>
MPMFM1	1.954	.391	25.031	.000	7.059
MCMFACTR	2.918	1.390	4.406	.036	18.498
MCGRPA1	-.018	.384	.002	.963	.983
MCGRPB1	1.193	.522	5.214	.022	3.297
MCGRPC1	1.351	.487	7.687	.006	3.862
MCGRPD1	2.669	.531	25.264	.000	14.429
MCGRPE1	.917	.629	2.123	.145	2.501
MCGRPF1	-1.766	1.337	1.744	.187	.171
MCBFCTR1	.360	1.144	.099	.753	1.433
MCGRP3BR	1.435	.737	3.790	.052	4.200
MCGRP3CR	1.452	1.585	.840	.359	4.273
MCGRP3DR	2.101	1.352	2.417	.120	8.176
VICCNTT4	1.636	.232	49.733	.000	5.136
VICGT59D	.338	.423	.636	.425	1.402
VICLT12D	.037	.547	.005	.946	1.038
MCSM2	-1.034	.640	2.608	.106	.356
MPSM2	.043	.674	.004	.949	1.044
MPCLAS12	-1.040	.478	4.733	.030	.353
MPCLAS22	.531	.242	4.793	.029	1.700
MPCLAS32	.703	.311	5.121	.024	2.020
MPCLAS42	-.002	.409	.000	.997	.998
MPCLASX2	.504	.298	2.863	.091	1.655
COOKOTH	-1.808	.413	19.136	.000	.164
CNTYCOUR	-.805	.426	3.563	.059	.447
VICSEX_D	.368	.310	1.411	.235	1.445
MI_RSEX	-1.002	1.046	.918	.338	.367
VICBLK_D	-.907	.348	6.778	.009	.404
OFFBLACK	.191	.348	.302	.582	1.211
Constant	-4.137	1.194	12.010	.001	.016

Table 31b. Omnibus Tests and Model Summary for Logistic Regression of Legally Relevant and Extra-legal Indicators with Death Sentence

Case Processing Summary

	N	Percent
Selected Cases*	4182	78.8%
Missing Cases	1128	21.2%
Total	5310	100.0%

*The number of cases selected is that set of cases for which there is valid data for all 27 of the variables included in the logistic regression analysis.

<u>Omnibus Tests of Model Coefficients</u>			
	Chi-square	df	Sig.
Model	255.036	28	.000

Model Summary

-2 Log likelihood	Cox & Snell R Square	Nagelkerke R Square
504.762	.059	.356

Classification Table (The cut value is .500)

	Predicted			Percentage Correct
	<u>Death Sentence</u>			
Observed	.00	1.00		
Death Sentence	.00	4099	7	99.8
	1.00	63	13	17.1
Overall Percentage				98.3

**Appendix IV:
Acknowledgements**

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