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Homicide Studies 2006; 10; 98

DOI: 10.1177/1088767905285510

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The Interaction Between Victim Race and Gender on Sentencing Outcomes in Capital Murder Trials

A Further Exploration

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This study extends previous research on the interactive effects of victim race and gender on death sentence outcomes reported by Williams and Holcomb (2004). They report an interactive effect between victim race and victim gender on Ohio death sentencing outcomes, such that killers of White women are especially at risk of receiving death sentences. The study here seeks to determine if the Williams and Holcomb finding holds for a sample of murder cases in North Carolina for which the state sought the death penalty. Initial results of a descriptive analysis suggest a White female victim effect, but the introduction of control variables via logistic regression equations yields no gender or race interactions as predictors of sentencing outcomes. Reasons for the different outcomes are explored, and topics requiring further exploration are discussed.

Keywords: *capital punishment; race; gender*

One of the most persistent findings of studies concerning predictors of contemporary death sentencing in the United States has been a so-called “White victim” effect. In essence, research has shown the killers of Whites are at escalated risk of receiving death sentences, even when controlling for a host of other legal and extralegal variables that might influence the outcome. For an extensive review of this literature and a discussion of possible explanations for the effect, readers are referred to Baldus and Woodworth (2003).

In a 2004 article in *Homicide Studies*, Williams and Holcomb argue that the White victim effect may be more complex than has been recognized because previous literature has typically failed to take into account the possible interactive effects of race and gender. That is, although the murders of White victims are thought to evoke more public outrage and thus a heightened likelihood of a death sentence, a similar effect may exist for the murders of women, especially under conditions likely to generate a charge of capital murder. The results they present support this contention, showing that an apparent White victim effect in death sentencing found for murders in Ohio is actually a “White female victim” effect. In essence, the murders of White female victims are more likely to result in death sentences as compared to other race or gender combinations. In contrast, cases with male victims do not generate a racial disparity in sentencing outcomes.¹

The purpose of the research reported here is to determine whether Williams and Holcomb’s (2004) finding can be reproduced with data from North Carolina when restricted to a sample of cases in which the state actually sought the death penalty. It is important to note that because of differences in the data discussed below, we do not purport to replicate the Williams and Holcomb study. Instead, we seek to determine whether the dynamics discussed in their article similarly influence death sentencing in North Carolina.

The Williams and Holcomb (2004) Study

It is prudent to further discuss the Williams and Holcomb (2004) study before proceeding to a description of the present research. The essence of their argument is that race has been a special focus of capital sentencing outcomes in the era following *Gregg v. Georgia* (1976). Although evidence of a persistent race-of-offender effect across jurisdictions has been mixed, a more consistent finding has been that killers of White victims are more likely to receive a death sentence than the killers of victims from other races, even when controlling for legal, crime-specific, and other extralegal variables. One of the best known of these studies was that of Baldus, Woodworth, and Pulaski (1990) in which a (White) race-of-victim effect was shown to hold for a Georgia death sentencing, even when controlling for more than 200 other variables conceivably affecting such outcomes. However, Williams and Holcomb rightly note that a less discussed finding in much of this literature is a gender-of-victim effect that tilts death sentencing toward the murderers of female victims (for recent research that further supports this contention, see Curry, Lee, & Rodriguez, 2004). The practice has been to consider these as independent influences on sentencing outcomes, a practice that Williams and Holcomb believe may obscure interactive effects between these two variables. In particular, they believe that historical and cultural forces operate to view the murder of a White female being particularly egregious and deserving of severe

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sanction.² Similar forces contribute to a devaluation of Black males, resulting in their murders being perceived as the least threatening to the larger society and therefore less likely to warrant a severe sanction such as the death penalty. Thus, Williams and Holcomb believe that the apparent racial and gender influences in capital sentencing may be best understood in terms of their potentially interactive effects and may involve more complex interpretations than their independent effects would suggest.

To test their argument, Williams and Holcomb (2004) analyze cases of murder in Ohio as reported in the Federal Bureau of Investigation's Supplementary Homicide Reports (SHR) for the years 1981 through 1994.³ Excluding missing data, 5,320 cases were available for analysis, 271 of which were determined to result in a death sentence for the offender. Stressing that their study did not address the issue of case selection for capital prosecution, Williams and Holcomb sought to determine factors that distinguished the death sentence cases from those with other outcomes. Using logistic regression, 14 control variables, including 3 victim and race interactive terms (White male, Black male, Black female, with White female as the reference category) were used in several combinations. Across different equations with varying factors, a statistically significant effect was shown for cases having a White female victim, with a death sentence more likely to result. Although this effect was weak compared to other factors (e.g., the case involved multiple victims), it persisted across different sets of controls.

In a concluding comment, Williams and Holcomb (2004) wrote, "call on interested scholars with access to more complete data to test our hypotheses and challenge our findings" (p. 372). Intrigued by both the premise and results of their research, we do so here.

The Present Study

At the outset, we stress that the present study is not intended as a replication of Williams and Holcomb (2004). As detailed below, although pursuing the same research questions, there are two important differences in our studies.

First, the data for our study are from North Carolina rather than from Ohio. North Carolina is a particularly relevant state for death penalty research because it is an active state in terms of pursuing capital punishment; as of late 2005, North Carolina ranked 6th in the number of individuals awaiting execution, 7th in the number of executions carried out post-*Gregg*, 10th in the ratio of murders to death sentences, and 13th in state execution rates per 10,000 population (Death Penalty Information Center, 2005). Because it is a southern and former Confederate state where slavery was an established institution, it could be expected that the historical racial animus thought to condition perceptions of crime by and against people of color would be even more pronounced than in a midwestern state such as Ohio (see Corzine, Huff-Corzine, & Whitt, 1999). As well, historical traditions of chivalry that proscribe offenses against women—particularly White women—would be assumed to elevate sanctions against their offenders. Therefore, it could be speculated that an interactive race or gender-of-

victim effect in death sentencing could be even more pronounced in North Carolina than in Ohio.

A second difference is that although the Williams and Holcomb (2004) study traces eventual death sentences from a sample of all Ohio homicides during a specified time period, our study restricts analyses to a large sample of capital cases in North Carolina from the post-*Gregg* era. By capital cases, we mean those in which (a) a first-degree murder conviction was secured, (b) the state sought the death penalty, and (c) the trial advanced to a sentencing phase whereby the jury recommended either a life sentence or the death penalty for the defendant.

In adopting this focus, we recognize that restricting our analyses to capital trials excludes other segments of the criminal justice process in which racial and/or gender biases could influence decisions. Specifically, research has established that prosecutorial discretion in pursuing capital punishment can, at the outset, be characterized by forms of racial and gender bias (for an extensive discussion of this issue, see Baldus & Woodworth, 2003).⁴ We emphasize, therefore, that ours is a study of jury recommendations regarding sentencing in capital murder trials, not an analysis of the full system of capital punishment in North Carolina. Although this focus on jury decisions regarding punishment does not capture the entirety of the criminal justice process, we believe it to be a crucial stage involving corporate decisions among a variety of actors. The specific purpose of this study, then, is to expand, rather than replicate, the work of Williams and Holcomb (2004) by determining whether the dynamics of victims' gender and race—and the potentially interactive effects of these characteristics—can be identified as predictors of jury decisions in North Carolina capital sentencing.

Method

Capital Punishment in North Carolina

The system by which capital punishment is pursued in North Carolina is a complex one. Cases eligible for the death penalty are restricted to those that qualify as first-degree murders, the circumstances of which contain at least 1 of 11 statutorily defined aggravating factors (for a listing, see the appendix). The data analyzed here consist of cases in which defendants were convicted of, or pled guilty to, first-degree murder, the state elected to seek the death penalty, the trial judge found that aggravating factors submitted by the state justified a capital trial, the trial progressed to a sentencing phase whereby the jury heard evidence concerning aggravating factors, and the jury issued a binding recommendation for a sentence.

In making a sentencing recommendation, North Carolina capital juries have only two options: a death sentence or a sentence of life in prison, currently one without the possibility of parole except by executive clemency. Before making this recommendation, the jury must unanimously agree on four decision points: (a) that at least one aggravating circumstance exists, (b) that any aggravating circumstances found by the jury serve to justify imposition of the death penalty, (c) if progressing to the mitigation phase, that aggravating circumstances outweigh any mitigating evidence that is pre-

sented, and (d) that the final recommendation is for a life or death sentence. To re-emphasize, juries must agree unanimously on each of these four points of the decision process. If unanimity is not reached at any point, the proceedings cease and the defendant is automatically sentenced to life in prison.

Data: Sources for Case Reviews

The data are derived from reviews of capital murder trials in North Carolina gleaned from LexisNexis searches of the North Carolina Supreme Court and Court of Appeals cases, and subsequent information was derived from public record materials that accompany these decisions. The materials include defendant and state briefs that describe details of the crime and a form (*Issues and Recommendation as to Punishment*) completed by the jury that records their responses to aggravating and mitigating factors and concludes with the jury's sentencing recommendation. The term *recommendation* is a bit of a misnomer because the jury's decision is binding and can be overridden by the trial judge only on the basis of egregious procedural error.

Historically, these materials have been published in hard-copy form and placed in two university law libraries in North Carolina, whereas other locations have microfilm copies. Beginning with decisions returned from cases tried in 1999, hard copies of the appeals materials have not been made available but are accessible via an electronic data file (<http://www.ncappellatecourts.org>). In cases where data were available from these sources, trips were made to the Clerk of Superior Court offices in the counties to view the original documents, or copies of the documents were obtained by mail. When possible, case reviews of legal material were supplemented with information garnered from newspaper reports of the trials. This strategy was most successful for the larger metropolitan areas but excluded broad areas of the state where newspaper coverage is characterized by local, small-circulation publications.⁵

Data: Offender and Victim Information

Defendants' age, race, and sex were available from the North Carolina Department of Corrections Web site (<http://www.doc.state.nc.us/offenders>), even for those defendants who had been executed or already released from prison. Through 1996, victims' age, race, and sex were taken from a commercially available CD-ROM, *North Carolina Vita Records: Deaths 1968-1996*. For 1997-2002, victims' demographic information was provided by the North Carolina Medical Examiner's Office.

Sample

Information was collected for 1,074 sentences rendered during the period 1979 to 2002. The initial year for analysis begins with 1979 because it was the first year following the *Gregg* decision that death sentences in North Carolina tended to be sustained following appeal. The year 2002 represents the latest year for which appellate court decisions have been publicly available for a good number of cases tried during that year. To clarify, the unit of analysis is the sentence recommendation made by the

jury. Therefore, multiple offenders who have been sentenced for the murder of a single victim constitute separate cases in these data. Likewise, the cases for a single offender who was tried capitally for multiple victims are coded separately. The data include cases that were full retrials ($n = 22$) or resentencing hearings of death sentences ($n = 66$) that resulted from the postconviction appeals process. Full retrials impanel different juries (often years from the original trial and sometimes in different counties on changes of venue) that consider both the conviction and penalty phases. In contrast, resentencing trials involve only the penalty phase (i.e., the jury seated for this hearing did not return the guilty verdict). For this reason, all multivariate analyses reported here contain a control to capture any possible effect of this structurally different judicial hearing.⁶

Because there is no centralized source of information regarding capital murder trials in North Carolina, it is impossible to determine the number of all capital murder trials conducted during the period covered in the data. However, appeals of death sentences are automatically referred to the North Carolina Supreme Court. Also, virtually all defendants receiving a life sentence appeal their first-degree murder convictions to the Court of Appeals. If the Court of Appeals decision is not in their favor, defendants may appeal their convictions to the Supreme Court, but the higher court has the option of declining to hear the case.

There are two instances in which defendants are unlikely to appeal and therefore not be included in the data set. First, if they pled guilty and received a life sentence, there is little basis for appeal. Second, some defendants' convictions are upheld but their death sentences vacated. If they receive a life sentence following the retrial of the penalty phase, there is no basis for appeal. Both of these situations result in cases that are difficult to detect, especially if the trials were held in smaller rural counties without a major news outlet. Nevertheless, we are confident that the current sample approaches the population of capital trials during the period under study, containing approximately 95% of life sentence recommendations and 99% of death sentence recommendations.

Of the 1,074 known cases, 953 had complete information appropriate for the analyses. As described later in the text, 88 cases were eliminated because the victim was neither White nor Black. Of the remaining cases, the missing material ($n = 31$) is almost entirely because of information that could not be obtained from the *Issues and Recommendation for Punishment* sheet. In a number of cases, this form was not completed by the jury (all involving cases in which the jury deadlocked on the decision), or the record indicates that the form had been completed but was found to be missing from the file stored in the county's Clerk of Superior Court office. Because all 31 of these cases involved life sentences, the missing cases are disproportionately of this nature. However, analyses of major demographic and legal variables among the missing cases yielded no statistically significant differences when compared to those in the working data set.

Table 1
Frequencies of Variables Used in the Analyses ($n = 953$)

Variable	0 = No		1 = Yes	
	%	<i>n</i>	%	<i>n</i>
Williams and Holcomb (2004) variables				
Was death sentence imposed?	49	471	51	482
Was the victim female?	57	544	43	409
Was the victim White? ^a	34	327	66	626
Was the offender male?	4	38	96	915
Was the offender White? ^a	55	522	45	431
Was a gun used?	43	414	57	539
Was it a stranger homicide?	64	612	36	341
Was offense a multiple victim homicide?	67	636	33	317
Was the victim 12 or younger?	95	903	5	50
Was the offender under 25 years old?	59	566	41	387
Did the homicide occur in an urban area?	52	491	48	462
Did the homicide involve other felony?	48	457	52	496
Was the victim a White male?	61	582	39	371
Was the victim a Black female?	84	799	16	154
Was the victim a Black male?	82	780	18	173
Selected additional variables				
Did the offender have a public defender?	7	63	93	890
Did the offender have prior criminal history?	72	686	28	267
Was the homicide committed in course of a rape?	93	884	7	69
Was the victim involved in an illegal activity?	87	826	13	127
Was it a penalty phase retrial?	94	887	6	66

Note: The number of aggravating factors accepted: $M = 1.97$; Range = 0 to 9.

a. Race or ethnicity was originally coded as White, Black, American Indian, Asian, Hispanic, and Other. For the current study, cases were excluded from the analysis if they had victims coded as American Indian, Asian, Hispanic, and Other.

Variables in the Analyses

The variables of this study were selected to approximate those used by Williams and Holcomb (2004) and, when extending their analysis to a focus on capital murder trials, to represent other factors that are potentially important as predictors of death sentencing. These variables and their distributions are shown in Table 1, with the dependent variable being whether a death sentence was recommended by the jury. The items "Was the victim female?" through "Was the victim a Black male?" are the independent variables used by Williams and Holcomb in their study. Although most of these are straightforward in terms of measurement, we depart from Williams and Holcomb's measurement on three factors. First, using SHR codings, Williams and Holcomb elected to collapse all non-Black race or ethnicity codings into the single category of *White*. Given research by Demuth and Steffensmeier (2004) showing that the sentencing experiences of groups typically treated as *Other* may differ from both Whites and Blacks, we have opted to omit from consideration all cases ($n = 88$) in which the offender or victim was determined to be neither White nor Black. Although

the warning issue by Demuth and Steffensmeier pertains to defendants, we recognize that similar dynamics could operate in regard to victims. Consequently, seeking to ensure the clarity of any race-of-victim differences (and any interactive effects with gender), we restrict the analyses to cases with Black and White victims. Second, Williams and Holcomb glean from the SHR circumstance category whether or not the crime was committed in the course of another felony crime. Our measurement of this variable is whether the state submitted as an aggravating circumstance that the murder “was committed in the course of another felony crime” and/or that the murder “was committed for pecuniary gain” (see the appendix, numbers 5 and 6, for the exact wording of these aggravating factors). Third, Williams and Holcomb adopt the SHR designation of homicides occurring in urban or rural locations. Because county governments are ultimately responsible for capital trials, we designate urban or rural as the *county in which the capital trial was conducted*. Rural and urban county designations were determined from the North Carolina Rural Economic Development Center’s Web site (http://www.ncruralcenter.org/databank/rural_county_map.asp).

To provide an additional test of any effects that might emerge from the initial analyses, a set of variables was selected that (a) had been shown in previous research to be potentially important determinants of sentencing outcomes and (b) demonstrated statistically significant relationships when analyzed at the bivariate level. This procedure adds confidence to any findings because it maximizes the opportunity to detect suppressor effects (Conger & Jackson, 1972) that might obscure the statistical significance of variables in the previous models, especially the race and gender interaction effects on which we focus. As shown in the bottom segment of Table 1, the additional variables were the following:

- Public defender—indicates whether the individual had a public defender or an assigned attorney versus a privately retained defense counsel (or in very rare cases, engaged in self-representation). North Carolina capital defendants are provided with both a public defender (or in most rural counties, an assigned attorney) and an attorney with capital case experience to assist with the case. Individuals may waive this assignment and obtain their own counsel. Although evidence is more anecdotal than empirical (for an exception, see Beck & Shumsky, 1997), a widespread belief among abolitionist scholars is that capital defendants not represented by private attorneys are more likely to suffer inadequate representation at trial and therefore are at heightened risk of receiving a death sentence. For a comprehensive discussion on this issue, see Mello and Perkins (2003).
- Prior record—Although this variable was omitted from Williams and Holcomb (2004) for the pragmatic difficulty of having to track down the prior records of all suspects in their data set, it was more feasible for inclusion in our data because conviction of prior violent offenses can serve as an aggravator used to seek the death penalty. Therefore, we designated the defendant as having a prior record in those cases in which the state submitted as an aggravating circumstance that “the defendant has been previously convicted of a violent offense” and/or “the defendant has been previously convicted of a capital offense” (see the appendix, numbers 2 and 3, for the exact wording).
- Included rape—denotes cases in which circumstances of the murder included the rape of a victim, an emotionally charged factor that could have adverse ramifications for defendants, especially in female victim cases. Therefore, we designated those cases ($n = 69$) in

which rape of the victim was accepted as an aggravating circumstance by the jury (see the appendix, number 5). An interesting finding was that there was a similar number of cases ($n = 57$) in the data set in which rape of the victim was mentioned in the offense description but was not submitted as an aggravator. We opted to restrict this variable only to those cases with rape as an accepted aggravator because there is no clear indication in the other cases that the victim's sexual assault became part of the state's case at trial. As further information, there are no instances in which the rape of a male victim was submitted as an aggravator.

- Victim involved in illegal activities—Baumer, Messner, and Felson (2000) have reported that negatively perceived background characteristics of the victim may influence the processing of offenders throughout the criminal justice system (also see Sundby, 2003). Although this effect has not been tested to a great extent, the assumed impact is one of muting the severity of criminal sanction associated with the murder. In constructing our data set, a variable was created from appeals narratives or newspaper coverage to denote whether victims were mentioned as having been involved in illegal activities that contributed to their murders. The definition of *illegal activity* was treated rather broadly and included not only actions specific to the murder itself but also the victim's involvement in lifestyle activities that made them vulnerable targets. In either case, the assumption was that their involvement in crime could be seen as contributing to their demise, thus reducing the likelihood of a jury's assessing a death sentence. For example, an easily identifiable case is one in which the victim was a drug dealer killed in a shootout with rival dealers. Less obvious, but applicable to our definition, were cases involving the murders of drug dealers who were targeted because they were known to possess large stashes of cash and/or drugs. An interesting finding was that 13% of our sample met this definition, a surprising proportion in light of a common assumption that such cases would be filtered via prosecutorial discretion and never make it to capital trial. A likely explanation is that until July 1, 2001, North Carolina district attorneys were required by statute to seek the death penalty if there was reasonable evidence that an aggravating circumstance existed (Lu, 2001). Although capital punishment opponents in North Carolina were always skeptical that this requirement actually reduced prosecutorial discretion (see *State of North Carolina v. Harvey Lee Green, Jr.*, 1989, for an articulation of this argument), it may have reduced prosecutors' latitude in foregoing capital trials, even where they believed they had little chance of obtaining a death sentence because of characteristics of the victim (Frazier, 2001).
- Penalty phase retrial—As mentioned earlier, we include a control variable to ascertain whether there is any effect from the sentencing recommendation being returned in penalty phase-only hearings.

Aggravators accepted—although not shown in Table 1, we also control the total number of aggravators accepted by the jury. It could be assumed that murder cases with compounded aggravation would be viewed as more egregious by juries, therefore enhancing the likelihood of a death sentence. Although the typical thrust of death penalty research is to explore potential sources of extralegal bias, a consistent finding across a broad range of literature is that the level of aggravation is an extremely powerful predictor of death sentencing. We therefore consider this variable to be a particularly important addition to the control variables to be considered.⁷

Analytic Strategy and Method

As a procedural strategy, bivariate descriptive statistics are first used to determine whether victim race or victim gender is associated with jury decisions regarding sentencing in a sample of North Carolina capital murder trials. Multivariate regression models are then presented to determine whether any effects that emerge are sustained when the control variables approximated by Williams and Holcomb (2004) are introduced. A final model is used to introduce the other variables found to be predictors of death sentencing in the sample cases.

Because our multivariate analyses employ dichotomous dependent variables (0 = *jury recommendation of a life sentence*, 1 = *death sentence*) and continuous and categorical exogenous (control) variables, the statistical procedure used is logistic regression. Logistic regression models permit analyses of the relative effects of a set of explanatory variables on a noninterval scale dependent variable in a manner analogous to standard linear regression. This is accomplished without violating the conditions necessary to satisfy least-square estimation while meeting the need for the appropriate sigmoid functional form (Hanushek & Jackson, 1977; Menard, 1995). Standard output from logistic regression analyses includes indicators of model performance to aid in the interpretation of the results.

A key statistic presented in logistic regression is the odds ratio. The odds ratio for continuous-level variables may be interpreted as the effects of a one-unit change in the explanatory variable on the odds or likelihood that the dependent variable equals 1, or in this study, that a jury recommends a sentence of death. Therefore, an odds ratio of 2 indicates that with every one-unit increase in the independent variable, the odds of receiving a death sentence are twice as likely (i.e., the increase 100%). The odds ratio for a dichotomous variable (as are a number of variables in this study) compared the odds of a death sentence recommendation for the category of the independent variable coded 1 to the odds for the category coded 0. For example, an odds ratio of 1.8 for a male offender indicates that all other factors held constant, the odds of a male receiving a death sentence recommendation are 1.8 times higher than for a female offender (for further explanation, readers are referred to Tabachnick and Fidell, 1996, pp. 548-549).

Other statistics used in the logistic regression models to follow are B , the natural logs of the odds ratios, Wald's χ^2 statistic to determine the statistical significance of individual coefficients, Cox and Snell R^2 and Nagelkerke R^2 to provide estimates of the overall predictive quality of the model, and Model χ^2 statistics to ascertain the overall significance of the model displayed.

Results

As described above, the first step in our analyses was to determine the overall distribution of sentences based on victims' race, gender, and combinations of race and gender. These results are shown in Table 2 and reveal a prima facie case for considerable variation by victims' race and gender in sentencing practices. As can be seen in this

Table 2
Sentencing Outcomes by Demographic Characteristics of Offender and Victim
(*n* = 953)

Demographic Characteristics	No Death Sentence		Death Sentence	
	%	<i>n</i>	%	<i>n</i>
Victim gender				
Female	42.5	174	57.5	235
Male	54.6	297	45.4	247*
Victim race				
White	47.3	296	52.7	330
Black	53.5	175	46.5	152
Victim race and gender				
White female	41.2	105	58.8	150
White male	51.5	191	48.5	180**
Black female	44.8	69	55.2	85
Black male	61.3	106	38.7	67***
Offender gender				
Female	63.2	24	36.8	14
Male	48.9	447	51.1	468
Offender race				
White	48.7	210	51.3	221
Black	50.0	261	50.0	261

Note: Differences in proportions of death sentence recommendations among demographic categories are as follows:

* $p < .05$, difference between male and female victims.

** $p < .05$, difference between White males and White females.

*** $p < .05$, difference between Black males and all other race and gender categories.

table, cases with female victims are more likely to result in death sentences than are male victim cases (57.5% versus 42.5%), and cases with White victims are more likely than those with Black victims to have a death sentence imposed (52.2% versus 46.5%), although the latter difference is not statistically significant.

Shifting to Williams and Holcomb's (2004) focus, there is a greater proportion of death sentences returned in cases with White female victims (58.8%) than in any of the other race and gender combinations, a finding reflected in their Ohio data. However, the gender effect seems more prominent than the race effect in that Black female victim cases (55.2%) have a death sentence recommendation returned in higher proportions than for White male victims (48.5%). In keeping with the expectations articulated by Williams and Holcomb, the least likely cases to generate death sentence recommendations are those involving a Black male victim (38.7%), the proportions of which are significantly different from all other categories.

On the surface, then, it appears that the variation in race and gender patterns in death sentencing found by Williams and Holcomb (2004) for homicides in Ohio has some similarities but also some departures from capital trial sentencing in North

Table 3
Logistic Regression Analyses Testing for
Main Effects of Gender and Race

Variable	<i>B</i>	<i>SE</i>	Wald's χ^2	<i>p</i>	Odds Ratio
Female victim	.358	.150	5.719	.017*	1.430
White victim	.407	.181	5.050	.025*	1.502
Male offender	.887	.369	5.762	.016*	2.427
White offender	-.144	.166	.752	.386	.866
Offender less than 25 years old	-.680	.147	21.238	.000*	.507
Gun used	-.160	.155	1.067	.302	.852
Stranger homicide	-.158	.159	.992	.319	.853
Involve felony	.855	.147	33.772	.000*	2.352
Multiple victims	.707	.153	21.459	.000*	2.028
Urban area	-.179	.139	1.652	.199	.836
Victim 12 years old or younger	.690	.332	4.332	.037*	1.994
Penalty phase retrial	.773	.295	6.869	.009*	2.165
Constant	-1.441	.414	12.117	.000	.237
R^2 (Cox & Snell)		.110			
Corrected R^2 (Nagelkerke)		.146			
-2 log likelihood intercept		1210.468			
-2 log likelihood model		1099.924			
Model χ^2		110.544	(<i>df</i> = 12, <i>p</i> < .001)		
<i>n</i>		953			

**p* < .05.

Carolina. However, the next step is to determine whether these findings are altered when controlling for other variables that could mediate these patterns.

The results of the logistic regression analysis shown in Tables 3 and 4 approximate the analyses of Williams and Holcomb (2004) by employing additional demographic and sociolegal characteristics of the crime as control variables. A perusal of Table 3 reveals that both victim gender (female) and victim race (White) are statistically significant predictors of death sentencing as well as the offender's gender (male) and age (reduced risk for those under 25). Other statistically significant predictors of a death sentence recommendation included the murder being committed during the commission of other felony crime, the offender killing multiple victims, the victim being under the age of 12, and the case being a penalty phase retrial. In contrast, the offender's race was not a statistically significant predictor.

For our purposes, a more meaningful comparison is found in Table 4, in which the analysis includes interaction terms for race and gender. With White female victims serving as the reference category, the results show that controlling for a host of other included variables, the coefficient for cases involving Black male victims is statistically significant and indicates that those cases are only about half as likely (odds ratio = .464) to receive a death sentence. By accepting *p* = .052 as indicating statistical significance, White male victim cases are also shown to have a diminished chance of being recommended for a death sentence (odds ratio = .708). Although these findings also appear in the Williams and Holcomb (2004) study, a notable departure from their

Table 4
Logistic Regression Analyses Testing for Effects
of Race and Gender Interactions

Variable	<i>B</i>	<i>SE</i>	Wald's χ^2	<i>p</i>	Odds Ratio
White male victim	-.346	.178	3.768	.052*	.708
Black female victim	-.386	.250	2.391	.122	.680
Black male victim	-.768	.241	10.149	.001*	.464
Male offender	.888	.370	5.774	.016*	2.431
White offender	-.142	.167	.724	.395	.868
Offender less than 25 years	-.678	.148	21.003	.000*	.507
Gun used	-.158	.155	1.041	.308	.854
Stranger homicide	-.158	.159	.990	.320	.854
Involve felony	.855	.147	33.750	.000*	2.352
Multiple victims	.707	.153	21.452	.000*	2.028
Urban area	-.178	.139	1.630	.202	.837
Victim 12 years or younger	.689	.332	4.311	.038*	1.991
Penalty phase retrial	.772	.295	6.853	.009*	2.164
Constant	-.688	.435	2.510	.113	.502
R^2 (Cox & Snell)		.110			
Corrected R^2 (Nagelkerke)		.146			
-2 log likelihood intercept		1210.453			
-2 log likelihood model		1099.895			
Model χ^2		110.558	(<i>df</i> = 13; <i>p</i> < .001)		
<i>n</i>		953			

**p* < .05.

results is that statistically significant differences are not found between White female victims cases and those with Black female victims, emphasizing the dominance of a gender versus a racial effect in sentencing outcomes.

To determine if the inclusion of other variables in the equation alters these findings, the analyses were expanded to incorporate the additional factors discussed in the Method section. These results are presented in Table 5, in which a pronounced shift in the effect of race and gender interaction terms is shown. Notably, none of the race and gender interaction terms—including White females—emerges as a predictor of death sentence recommendations. Furthermore, the effect of offender's gender is negated, as is the effect of the victim being 12 years or younger. Among the earlier predictors, only the defendant's age being under 25 remains statistically significant, still indicating a reduced risk of death sentence recommendations.

In contrast, a number of the additional variables prove to be predictors of an increased risk of death sentence recommendations, including the murder involving a rape⁸, the defendant being represented by a public defender, the total number of aggravators submitted (especially), the victim not being involved in illegal activity, and the case being a penalty phase retrial. As well, the victim being a stranger to the offender emerged as statistically significant, suggesting that a suppressor effect was in operation in the earlier models, one that served to deflate the role of this factor as a death sentence predictor.

Table 5
Logistic Regression Analyses Testing for Effects of Previous and Selected
Additional Variables

Variable	<i>B</i>	<i>SE</i>	Wald's χ^2	<i>p</i>	Odds Ratio
White male victim	-.150	.196	.583	.445	.861
Black female victim	-.252	.271	.866	.352	.777
Black male victim	-.423	.263	2.588	.108	.655
Male offender	.606	.385	2.482	.115	1.833
White offender	.124	.181	.470	.493	1.132
Offender less than 25 years	-.647	.162	15.911	.000*	.524
Gun used	.045	.171	.070	.791	1.046
Stranger homicide	-.371	.173	4.597	.032*	.690
Involve felony	.014	.183	.006	.937	1.015
Multiple victims	.204	.176	1.350	.245	1.226
Urban area	-.156	.151	1.075	.300	.855
Victim 12 years or younger	.467	.352	1.759	.185	1.595
Penalty phase retrial	.841	.311	7.328	.007*	2.319
Previous criminal behavior	.181	.189	.918	.338	1.198
Involve rape	1.005	.414	5.904	.015*	2.731
Public defender	.768	.318	5.839	.016*	2.155
Victim illegal activity	-.540	.237	5.200	.023*	.583
Number of aggravators accepted	.763	.098	60.797	.000*	2.145
Constant	-2.360	.551	18.349	.000	.094
R^2 (Cox & Snell)		.223			
Corrected R^2 (Nagelkerke)		.297			
-2 log likelihood intercept		1081.010			
-2 log likelihood model		841.008			
Model χ^2		240.002 (<i>df</i> = 18; <i>p</i> < .001)			
<i>n</i>		953			

**p* < .05.

To determine if these findings held for other race and gender combinations, separate analyses were run with Black females, White males, and Black males as reference categories (results not shown). Counter to prima facie impressions, no race and gender interaction effects were found beyond those already reported; specifically, when controlling for the variables shown in Table 5, no particular race and gender combination yielded a statistically significant difference when compared to other race and gender combinations.

Discussion and Conclusion

The essence of our results is that despite superficial evidence to the contrary, the interaction of victim race and gender does not appear to be a major determinant of death sentencing in North Carolina capital trials. However, to reiterate a point emphasized earlier, this finding does not refute the results of a "White female victim" effect

reported by Williams and Holcomb (2004) in their study of Ohio murders. It is possible that the effect they find is indeed characteristic of capital sentencing in Ohio; conversely, it is possible that if restricted only to cases tried capitally, their results would be similar to ours.

Reviewing our results, we may likely find that female victim cases are disproportionately selected for capital prosecution in North Carolina because they fit the profile (such as it is) of a murder that evokes a particularly severe criminal justice reaction. Typically, these cases are likely to involve victims who were perceived as vulnerable, not involved in activities likely to be viewed as contributing to their deaths, and whose murders involved related activities (most notably rape) likely to provoke the outrage of jurors. As some evidence of this fact, female-victim cases were, as a group, more aggravated than male-victim cases (an average of 2.07 aggravators accepted versus 1.88); as can be seen in Table 5, the total number of aggravators accepted was, by far, the strongest predictor of death sentencing (Wald's $\chi^2 = 60.8$). However, the results of this larger model here indicate that when male-victim cases approached the general profile of a case likely to evoke a death sentence, what initially appeared to be a female-victim effect was negated.⁹

In providing some general comments on the North Carolina findings, we note that the results suggest a surprising absence of the discriminatory effects of victims' race as a predictor of capital sentencing. This finding runs counter to much of the empirical literature, including the qualitative efforts of the Capital Jury Project researchers who found racial dynamics, usually subtle, to be among the factors that influenced jurors' sentencing recommendations (e.g., Bowers, Steiner, & Sandys, 2001). We offer no ready explanation for this lack of effect in our results, but it is possible that racial influences were indeed present in many of the cases that comprise the data but were minimized by other competing factors to the extent that an aggregate effect was not apparent. Or there may have been offsetting factors in operation; although newspaper stories identified overt racial animosity toward Black defendants as characterizing some death sentences, there were a seemingly equal number of stories indicating that what could be argued as acts of jury nullification produced a life sentence for Black defendants. An interesting finding was that the latter situation is one receiving very little discussion in the literature despite its being a form of racial dynamic that influences sentencing outcomes.

Shifting to what did predict capital sentencing, a statistically significant effect ($p = .000$) for younger offenders (though not very young victims) is shown, probably reflecting the fact that age of the defendant is a statutory mitigating factor in North Carolina that juries are required to consider when making their sentence recommendations. Furthermore, the fact that life sentences are associated with the retention of private attorneys may well signal a proxy effect for defendants' social class, one that signals a form of discrimination suffered by defendants of lower socioeconomic status. Admittedly, this form of discrimination is difficult to characterize as a direct reflection of jury biases and involves any number of subtle effects that are difficult to quantify and include in an analytical framework. Last, and probably to little surprise, the proceedings being a retrial was a predictor of death sentencing. Recall that the retrial

effect coded here captured cases in which individuals' conviction had been upheld but their death sentence remanded for a retrial. It is a likely explanation that many of these cases were at high risk to a death penalty to begin with and that the juries selected for these cases go into the trial knowing that the individual has already been convicted and sentenced to death by another jury. How much of a fresh start the individual defendant enjoys in these cases is open to speculation. Although a downgrading of the sentence is possible (indeed, for the complete data set, 22 of 71 offenders [31%] received life sentences on retrial), there is little doubt that the defense bears an extra burden in arguing against a death sentence.

Shifting to another aspect of the data, we note that the corrected Nagelkerke R^2 shown in Table 5 suggests that the explanatory power of the overall model is rather modest, raising the specter that a considerable degree of capriciousness characterizes the sentencing decisions in our sample of cases. Given a coefficient of .297, just more than a quarter of the variation in sentencing could be accounted for by the 18 variables in the full equation. Hence, cases seeming to possess the profile of a likely death sentence were not assured of that outcome, nor could an atypical profile case be approached with confidence as a lock for a life sentence. We speculate that the inclusion of other variables, including levels of mitigation, the acceptance and rejection of specific aggravators other than those used here (especially those considered "cruel and heinous"), and specific characteristics of the crime might be employed to improve the overall predictability of the model. However, we have deferred from doing so to maintain the focus of the present; as well, the present equation contains key variables repeatedly appearing in the literature, and other analyses with these data suggest the likelihood of diminishing returns.

The disparities in sentencing that Williams and Holcomb (2004) report, but that we do not find, serve as a reminder of the complex models necessary to fully comprehend this form of decision making at various levels of the criminal justice system (Baldus & Woodworth, 2003). We commend Williams and Holcomb for demonstrating the potential benefits of this nuanced line of inquiry and join them in urging a reconsideration of past efforts and an incorporation of this approach in future studies of death—and life—sentencing in the United States.

Appendix

North Carolina Capital Punishment Statutes (G.S. 15A-2000): Aggravating Circumstances

1. The capital felony was committed by a person lawfully incarcerated.
2. The defendant had been previously convicted of another capital felony or had been previously adjudicated delinquent in a juvenile proceeding for committing an offense that would be a capital felony if committed by an adult.
3. The defendant had been previously convicted of a felony involving the use or threat of violence to the person or had been previously adjudicated delinquent in a juvenile proceeding for committing an offense that would be a Class A, B1, B2, C, D, or E felony involving the use or threat of violence to the person if the offense had been committed by an adult.

4. The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
5. The capital felony was committed while the defendant was engaged or was an aider or abettor in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any homicide, robbery, rape or other sex offense, arson, burglary, kidnapping, or aircraft piracy or the unlawful throwing, placing, or discharging of a destructive device or bomb.
6. The capital felony was committed for pecuniary gain.
7. The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
8. The capital felony was committed against a law enforcement officer, employee of the Department of Correction, jailer, fireman, judge or justice, former judge or justice, prosecutor or former prosecutor, juror or former juror, or witness or former witness against the defendant, while engaged in the performance of his official duties or because of the exercise of his official duty.
9. The capital felony was especially heinous, atrocious, or cruel.
10. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device that would normally be hazardous to the lives of more than one person.
11. The murder for which the defendant stands convicted was part of a course of conduct in which the defendant engaged and which included the commission by the defendant of other crimes of violence against another person or persons.

Source: Selected North Carolina Death Penalty Statutes, 2005.

Notes

1. A later article by Holcomb, Williams, and Demuth (2005) replicates this finding with a moderately expanded data set. However, because our study addresses specifically the *Homicide Studies* article, and because the findings of the Holcomb et al. publication are substantively similar, all references will be to the Williams and Holcomb (2004) work.

2. Williams and Holcomb (2004)—citing Baumer, Messner, and Felson (2000) and Daly and Tonry (1997)—mention a countervailing argument that the murders of females may result in minimal societal response, especially when the victim and offender relationship is that of intimate partner.

3. Williams and Holcomb (2004) acknowledge and discuss the possible limitations of their study because of the use of Supplementary Homicide Reports data.

4. Unah and Boger (2001), in an unpublished study of all murders in North Carolina during 1993 to 1997, report that a race-of-victim effect characterizes death sentence recommendations. However, a gender effect was not found, and victim race and gender effects were not explored. In reporting the race-of-victim effect, a .10 level of significance was employed.

5. The electronic newspaper databases provided by NewsBank and LexisNexis proved to be extremely helpful. However, the newspapers featured in these sources were from larger metropolitan areas, and only a few of these had coverage extending past the early 1990s.

6. To ensure that there were no effects of this form of retrial, analyses were initially conducted with separate controls for full and penalty-phase retrials. Only the latter were found to produce statistically significant effects.

7. North Carolina juries also consider mitigation factors submitted by the defendant. However, the manner in which juries respond to mitigation has changed with time. Since the early 1990s, North Carolina has operated under the mandate established in *McKoy v. North Carolina* (1990) that jury acceptance of mitigators does not have to be unanimous. For each mitigating factor submitted, the current form completed by a

North Carolina jury asks only whether “one or more” juror finds that mitigator to exist. For this reason, it is impossible to include mitigation factors as variables in analyses using the full range of years covered in the data. Therefore, we have not included some aspect of mitigation as a control factor because we have a much broader set of cases available than if we had restricted the data to the most recent procedure by which mitigation is considered. Results found in an unpublished study (Kremling, 2004) using this data set indicate that the inclusion of mitigation would only minimally alter the findings reported here.

Also, we acknowledge the desirability of another control factor suggested by a reviewer, that of race of the jury. Regrettably, that information is not part of the public record of capital trials in North Carolina and, despite considerable efforts to obtain it from other sources, has been determined for less than 20% of cases in the data.

8. Employing a strategy used by Holcomb et al. (2005), we tested whether the effect of a rape aggravator held for both White and Black females. Separate models were analyzed for cases with White female victims and Black female victims, revealing the rape aggravator to be a significant predictor of death sentencing in both. Hence, the escalation of risk of a death sentence recommendation via a “rape effect” was not restricted to White female victims.

9. An interesting finding was that the average number of aggravators accepted for White female victim cases was 2.09, whereas Black female victim cases showed an average of 2.05. For male victims, the corresponding averages were 1.93 for Whites and 1.78 for Blacks. Because of legal nuances, it cannot be determined whether these differences reflect actual differences in the circumstances of the cases or whether the differences are better explained by prosecutors selectively pursuing some cases more aggressively than others by presenting them as possessing higher levels of aggravation. Given some existing literature suggesting that race effects are most pronounced in midrange level of aggravation (Barnett, 1985; Heilbrun, Foster, & Golden, 1989), future research might consider whether gender or race and gender interactions show different effects at varying levels of aggravation.

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