**Marian R. Williams**, and **Jefferson E. Holcomb**. 2004. The interactive effects of victim race and gender on death sentence disparity findings. ***Homicide Studies*** 8, no. 4, (November 1): 350-376. **SAGE** (ISSN: 1088-7679) DOI: 10.1177/1088767903262445

Keywords: Capital punishment| Criminal sentences| Race| Gender| Victims of crime

# The Interactive Effects of Victim Race and Gender On Death Sentence Disparity Findings.

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## ABSTRACT

Several death penalty studies have examined whether victim race is associated with differential death sentencing outcomes; however, these studies tend to ignore the potential interaction of victim race and victim gender on decision-making outcomes. The present article examined the impact of the interaction of victim race and gender on death sentences in Ohio. When victim race and gender were considered, those homicides with white female victims were significantly more likely to result in a death sentence than homicides with other victim characteristics. This finding expands on previous research by identifying a specific victim gender-race combination, white female victim, as an extra- legal factor that may partially explain previously identified race of victim disparities in death sentencing.

## ARTICLE

Research on factors associated with particular sentencing outcomes is common in the social science literature. There has long been an interest in determining whether there is equitable distribution of punishment for similarly situated offenders. This research has varied from the consideration of different offenses, defendant characteristics, victim characteristics, and combinations of these factors (for reviews see Daly and Tonry, 1997; Kleck, 1981; Nagel and Hagan, 1983; Sampson & Lauritsen, 1997; Steffensmeier & Demuth, 2000; Zatz, 1984). Generally, research has sought to evaluate the quality of justice and determine whether extra- legal or impermissible factors such as race or gender of defendants are associated with more severe punishments and to what extent this may be an indication of unequal treatment under the law. Increasingly, research has identified the potential interactive impact of defendant characteristics such as defendant race and gender on sentencing outcomes (e.g. Spohn & Holleran, 2000; Steffensmeier,

Ulmer, & Kramer, 1998). We extend this approach to examine whether the joint effect of victim characteristics, in particular, victim race and ge nder, are associated with death sentences in Ohio.

Recent research on the death penalty has demonstrated that defendant race is only marginally related to whether a homicide results in a death sentence (for a notable exception see Baldus, Woodworth, Zuckerman, Weiner, & Broffitt, 1998). Despite this, the race of a homicide victim does appear to be a significant predictor of whether a homicide results in a death sentence. Death penalty research has found that even controlling for legally relevant factors, homicides involving white victims are more likely to result in a death sentence than homicides with black victims (e.g. Baldus, Woodworth, & Pulaski, 1990; Radelet & Pierce, 1991, Soreonsen and Walce, 1995; Williams & Holcomb, 2001). This is particularly interesting given the fact that blacks have a considerably higher rate of victimization than whites and make up the majority of homicide victims in many states (see Marvell and Moody, 1999). These and other studies have also found that a victim's gender is associated with different sentencing outcomes. Specifically, homicides with female victims are more likely to result in a death sentence than those with male victims. Little research, however, has been conducted on the interaction between victim race and victim gender and its association with the imposition of death sentences.

## Current Study

The present study explores the interaction of victim gender-race characteristics and its impact on the likelihood of a homicide resulting in a death sentence. We contend that the specification of victim characteristics may affect the previously noted independent relationships between victim race and victim gender and homicide case outcomes. After reviewing the prior research on victim characteristics and sentencing outcomes, we consider why future research should consider a more complete picture of victim characteristics when examining decision making in criminal cases. We specifically identify white female victims as theoretically important to the examination of victim race and gender disparities in death sentencing outcomes. An initial test of the proposed impact of victim characteristics on disparity research is then reported.

### Caveats and Limitations

The authors wish to note at the onset several limitations and caveats to the present study. There is no claim that the present analyses are conclusive or that we have considered every substantive issue that affects decision making in capital cases. While we have considerable confidence in the conceptua l and theoretical premise of this work, we are certainly more modest about the following test of those ideas. We would prefer to consider this study as a preliminary examination of a methodologically complex relationship.

In particular, the use of SHR data for analyzing homicides and sentencing outcomes, as we have done, has been criticized in the scholarly literature (Maxfield, 1989). Unlike recent research on sentencing outcomes in other jurisdictions, Ohio does not have a centralized sentencing guideline system that allows for accessible and standardized data for all cases (e.g. Mustard, 2001; Stefffensmeier et al., 1993;

Steffensmeier and Demuth, 2000). The tracking of all homicides over more than a decade would require resources that simply were not available (see Baldus et al., 1990, 1998, for exceptions). The present study was unable, therefore, to distinguish decision making at various stages of the legal process and could not determine if any observed disparities were the result of prosecutoria l discretion (e.g. Paternoster, 1984; Stanko, 1981-82) or at later decision making points in the legal process (e.g. Baldus et al, 1990, 1998). In addition, the researchers did not have access to the case files of each homicide. This limited the ability to control for several potentially relevant factors, especially the more "qualitative" aspects of a particular homicide (e.g. see Daly, 1994; Daly and Tonry, 1997) that may affect case outcomes. Therefore, the present analysis should be considered instructive but certainly not conclusive.

**Victim Characteristics and Sentencing Outcomes**

Research on sentencing outcomes has historically been interested in identifying those factors and variables closely associated with criminal justice decision-making. Several recent studies have emphasized the importance of three "focal concerns" that appear to influence decision-making (e.g. Steffensmeier, Ulmer, & Kramer, 1998; Steffensmeier & Demuth, 2000). These include the perceived blameworthiness of the defendant, concerns over the protection of the community, and the practical implications of the sentencing decision (see Steffensmeier et al., 1998; Steffensmeier & Demuth, 2000; see also Daly, 1994). For the most part, however, these have been incorporated into understanding the relationship between defendant behavior and characteristics and sentencing outcomes.

Recently, Baumer, Messner, and Felson (2000) applied the logic of these focal concerns in examining how victim characteristics may affect decision-making in homicide cases. In particular, they distinguish victim conduct from victim demographic characteristics. Victim conduct refers to actions that may have directly or indirectly contributed to victimization as well as behaviors that may affect the perceptio ns of the moral character of the victim. As such, victim conduct may affect perceptions of the blameworthiness of the offender. If the victim's behavior is perceived to a contributing factor in his/her victimization, decision- makers are likely to view the offender as less blameworthy and adjust decision- making accordingly. Victim conduct may also affect the considerations of the amount of harm done and the perceived threat to the community (Baumer et al., 2000). Finally, victim conduct has practical implications because of questions of credibility of the victim as a witness or in perceived role as "victim" (Stanko, 1981-82).

A distinct, though perhaps not unrelated, concern is whether victim demographic characteristics are associated with decision making (Baumer et al., 2000; Farrell & Swigart, 1986; Myers, 1979). As Baumer et al. (2000) note, the race, class, and gender of the victim may contribute to sentencing outcomes, especially if the perceived status of the victim influences the attribution of blameworthiness or the perceived harm and threat that

such victimizations represent1 (Kleck, 1981; see also Friedman, 1993). The race of the victim is often linked to sentencing disparity in two ways. First, homicides with black victims may be perceived as less harmful to society relative to crimes against whites (Baumer et al., 2000; Kleck, 1981). Given the historical marginalization and oppression of blacks in American society, black victim crimes may be considered unworthy of the most severe criminal justice response (Friedman, 1993). A second and perhaps related explanation relates to stereotypes about black conduct. As noted above, if decision makers perceive victim conduct as contributing to their victimization, then they typically assign less blame to the defendant. Stereotypes about the behavior of blacks that suggest they are more likely to engage in illegal or morally questionable behavior may affect the perceived blameworthiness of the defendant, the amount of harm done, and the credibility of the victim as a "victim" (Baumer et al., 2000; Myers, 1979).

Although the gender and sentencing literature tends to focus on the gender of the defendant (e.g. Daly, 1989; Daly & Bordt, 1995; Daly & Tonry, 1997; Kruttschnitt, 1981; Steffensmeier et al., 1993), the gender of the victim has also been considered as a factor in sentencing outcomes (e.g. Myers, 1979; Farrell & Swigert, 1986). To date, explanations of victim gender effects resemble explanations of defendant-based gender effects. One view of the impact of victim gender suggests that crimes with female victims are likely to be treated less severely than those with male victims. A gender conflict perspective maintains that the devalued role of women in American society marginalizes their status as victim and the perceived harm that has been done to the community (Baumer et al.,2000; Daly & Tonry, 1997). A contradictory perspective suggests that crime and, in particular, violence against females is viewed as more harmful than crimes against male victims (Baumer et al., 2000; Kleck, 1981). This may be mitigated or aggravated by decision makers' perceptions of the victim's familial role and responsibilities (see Daly, 1989, 1994). Furthermore, females are thought to engage in fewer behaviors that contribute to their victimization (Baumer et al., 2000; Hill and Crawford, 1990; Nagel and Hagan, 1983) and perceived to be more threatening to their victims (Gross and Mauro, 1989). As a consequence, female victims may be perceived as less blameworthy for their own victimization and decision makers will respond to such acts more severely. The resulting argument maintains that in general, cases with female victims will receive more punitive response from decision makers than those with male victims.

### *The victim in prior research*

Studies examining the relationship of race and/or gender on sentencing decisions have primarily focused on the defendant's characteristics rather than the victim's (e.g. Crawford, 2000; Crawford, Chiricos, and Kleck, 1998; Mustard, 2001; Spohn and Holleran, 2000; Steffensmeier et al., 1993; Steffensmeier et al., 1998). The relationship between victim characteristics and sentence outcome has not been researched as thoroughly. This is understandable considering that for many crimes such as drug law violations there is no readily identifiable "victim." The limited harm to or involvement of the victim makes identification for several types of crime such as property offenses

difficult with existing data. Furthermore, the conceptual links between property crime victim characteristics and their impact on sentence outcome is not as clear as with violent crime. This is not to concede that victim characteristics do not play a significant role in these sentencing decisions, merely that research on this question is extremely limited.

Research on the impact of victim characteristics on sentencing is predominantly found in research on homicide case outcomes and death penalty research (for notable exceptions see LaFree, 1989; Spohn and Spears, 1996; Walsh 1987). While recent death penalty research has not found a significant race of defendant bias (but see Baldus et al., 1998), both victim race and victim gender continue to be associated with differential sentencing outcomes (Paternoster, 1984; Baldus et al., 1990; Baumer et al., 2000; Gross & Mauro, 1989; Keil & Vito, 1992; Radelet & Pierce, 1991; Farrell & Swigert, 1986; Thomson, 1997; Williams & Holcomb, 2001). Numerous studies have found that those who kill whites are more likely to receive death sentences than those who kill blacks (for reviews see Government Accounting Office, 1990; Baldus et al., 1998). Furthermore, this same body of research generally reports that cases with female victims receive more severe sanctions than those with male victims (Baldus et al., 1990; Farrell & Swigert, 1986; Baumer et al., 2000). For example, Williams and Holcomb (2001) found that homicides with white victims and homicides with female victims were significantly more likely to result in a death sentence than those with black or male victims. Similar to other studies, however, the authors failed to specify victim gender-race combinations in their analyses. The Baldus et al. (1990) study, thought by many to be the most comprehensive examination of racial disparity and death sentencing practices, did not examine the potential interactive effects of victim race and gender on case outcomes even though both victim race and victim gender were significantly associated with sentencing outcomes. More recently, Baumer et al. (2000) examined the role of victim conduct and demographics on several decision making points in the disposition of homicide cases. In particular, the authors examined if victim conduct and victim demographics were associated with sentencing outcomes and how the interaction of these affected these relationships. Consistent with prior research, the authors found that even controlling for victim conduct, cases involving white victims and female victims were generally treated more severely than those with black victims and male victims (Baumer et al., 2000). If the prior research has consistently found a race of victim effect and a gender of victim effect, a relevant question is whether the joint effect of these characters could affect such findings and, if so, why.

**Interaction Effects of Victim Race and Gender**

Research is increasingly emphasizing the importance of potential interactive effects of race and gender on sentencing (e.g. Spohn, Gruhl & Welch, 1985; Daly, 1994; Steffensmeier et al., 1998). As Daly and Tonry (1997) noted, “the most interesting analytical and political questions center on the intersections of race and gender, not merely the separate categories of ‘black’, ‘white’, ‘male’, and ‘female’” (p. 208, italics in original). However, all of the above mentioned research is focused exclusively on the intersection of a defendant’s race and gender, not on the characteristics of the victim. As

the previous discussion indicated, victim characteristics can have both a direct and indirect impact on criminal justice decision making and sentencing outcomes. If defendant characteristics are best thought of as intersecting and not independent, then it seems reasonable that victim characteristics should be examined with a similar perspective.

Similar to comments on the intersection of defendant characteristics, it is unlikely that decision makers consider the race or gender of a victim independent of one another. If, as previous research suggests, perceptions of a victim's status and personal characteristics affect decision making, then researchers should more comprehensively consider the characteristics that may affect such attributions (see footnote 1; see also Lafree, 1989). By considering victim race and gender independently, research has likely overlooked meaningful differences among victims within these categories. The suggestion that white victims and female victim cases are treated more severely because of an elevated status of those victims may be premature.

Consistent with the view that attributions of victim status affect decision making, we posit that a "white female victim effect" will be observed in death penalty cases that may alter previous findings of general white and female victim disparity. There is considerable historical evidence of a heightened concern with the victimization of white females in the United States. The cultural and symbolic power of white females as a protected class has resulted in numerous social changes and legal responses when that group has been perceived as threatened. For example, the passage of anti-opium laws in California in the 19th century was accomplished, in part, by the portrayal of opium as making white women susceptible to immoral behavior and victimization (Morgan, 1978). The White Slavery Act (also known as the Mann Act), passed in the early 20th century, was partially a response to the perceived moral temptations of the urban areas and the victimization of innocent white females through forced and consensual prostitution (Langum, 1994). Finally, the imposition of capital punishment for rape, especially in the South, provides additional evidence of the differential response to white female victimization (Friedman, 1993; Wolfgang, 1974). Historically, the killing of persons suspected of rape was reserved primary for the rape of white females. The lynching of rapists was almost exclusively for blacks suspected of raping whites in the South (Friedman, 1993). Legal death sentences were rarely imposed in rape cases with nonwhite female victims and were disproportionately given in cases in involving black male offenders and white female vicitms[2] (Kleck, 1981; Wolfgang, 1974).

Research has demonstrated that legal decision making is strongly related to particular focal concerns of criminal justice actors (Daly, 1994; Steffensmeier et al., 1998). Furthermore, research on victims has noted that the perceived status of the victim affects decision making through the attribution of blame, the perceived threat to the community that a particular crime represents, and the practical concerns of those decision makers (e.g. Baumer, et al., 2000; Farrell and Swigert, 1986; LaFree, 1989; Stanko, 1981-82). In relation to these focal concerns, considerable research suggests that the victimization of whites and females are responded to differently than the victimization of blacks and males, respectively. In individual cases, however, decision makers must

consider the intersection of various victim characteristics rather than viewing the m as independent. Thus, the aggravating effect of one characteristics may be offset by the mitigating effect of another characteristic. Consistent with this more complex understanding of victim attributes, the previous discussion provides some evidence of a general cultural bias that considers the victimization of white females particularly problematic. As the discussion on the impact of victim demographics indicated, male victims are likely to be perceived as more responsible for their own victimization. The victimization of white males, therefore, may not represent the same threat or harm to the community as a victimization of females who are perceived as less able to defend themselves (Gross and Mauro, 1989). Drawing upon these findings, we hypothesize that those who kill white females are more likely to receive a death sentence than those who kill other victim race-gender combinations, even after controlling for other legally relevant factors. Furthermore, the independent effects of white and female victims may partially be a function of the severity with which white females victim cases are handled.

***Research on victim interaction effects***

The prior research on the interactive effects of victim characteristics on sentencing outcomes is quite limited. In fact, the available research on this topic comes from studies that report such joint effects as secondary to their primary analyses. For example, Paternoster's (1984) examination of prosecutorial decision- making in South Carolina found that prosecutors were significantly more likely to seek the death penalty in cases with white victims. While the focus of this study was race of victim disparities, in several analyses the author distinguished victims by race-gender combinations (Paternoster, 1984, Tables 5-8). The study found that prosecutors were generally more likely to seek the death penalty in homicides with either male or female white victims compared to those with black victims, with white female victim cases having the greatest likelihood and black male cases having the least. Radelet and Pierce (1991) found that Florida homicides with white victims and female victims were more likely to be sentenced to death. Furthermore, cases with white female victims were most likely to result in a death sentence and cases with black male victims were the least likely to result in a death sentence.

There are, however, some limitations to these studies. Radelet and Pierce (1991) only distinguished victim race and gender for cross-tabulation and did not include a joint interaction variable in their regression model. Conclusions from that unadjusted model are therefore merely suggestive (Baldus et al., 1998). The data from the Paternoster study were gathered over a smaller time period (1977-1981) and data from both the Paternoster (1984) and Radelet and Pierce (1991) studies were from a southern jurisdiction. Therefore, it is unclear whether those findings can be generalized to current sentencing practices, especially in non-southern jurisdictions (Gross & Mauro, 1989; Peterson & Hagan, 1984). Despite these limitations, the general pattern appears to be that homicides with white female victims tend to treated the most severely and homicides with black male victims tend to treated the least severely, eve n when controlling for legally relevant factors. This indicates that the interaction between victim race and

victim gender may be an important factor in examining sentencing outcomes in homicide cases.

## Methodology

### *Data Source*

The current study is an exa mination of the relationship between victim racegender and death sentences in Ohio. The methods used were adapted from Gross and Mauro (1989) and Radelet and Pierce (1991). Data on homicides in Ohio were taken from the Supplemental Homicide Reports (SHR), compiled by the FBI. Although some researchers (e.g., Maxfield, 1989) have indicated potential problems with SHR data, a number of studies have utilized SHR reports in death penalty research, including those investigating issues of deterrence (e.g., Peterson & Bailey, 1991; Cochran, Chamlin, & Seth, 1994; Bailey, 1998) and racial disparities in sentencing (e.g., Thomson, 1997; Sorensen & Wallace, 1996; Radelet & Pierce, 1991).

One limitation with SHR data, according to Maxfield (1989), is missing information routinely found in the data. However, according to Riedel and Rinehart (1996), missing data occur across a variety of murders and do not represent a systematic exclusion of particular variables. Another limitation is that information may be underreported or overreported. For example, Peterson and Bailey (1991) found that SHR data may report a lower number of homicide incidents than the Uniform Crime Reports because not all police departments participate in the SHR program. Despite this, their study found that UCR and SHR data were highly correlated (r=.89) for variables found in both the UCR and SHR (offense/offender/victim data), suggesting that SHR data "provide a reasonable indicator of…homicide patterns…" over the period analyzed (p. 373). Peterson and Bailey (1991) also used a control variable that took into account the difference between the UCR and the SHR. Conducting analyses both with and without the control variable, the authors found similar results (Peterson and Bailey, 1991). When the present UCR and SHR data were analyzed, a significant correlation between the UCR and SHR data (r=.96) was found for the same period for offender/offense/victim variables.

The SHR data used for the current study were for the years 1981 (the year Ohio reintroduced the death penalty into law) through 1994. SHR data included information on several variables for each homicide: offender's age, gender, race; victim's age, gender, race; circumstances surrounding the offense; weapon used; relationship between offender and victim; and county where the crime took place. As indicated above, the SHR contains missing data and those cases with missing data were excluded from analyses. In order to determine if the missing data represented a systematic bias in the results, a dummy variable was created for each variable that had missing data for more than 5% of the cases (offender gender, race, age; relationship; felony circumstances) and correlation statistics between the dummy variables and the other variables in the analysis were

conducted to test for significance. Results indicated that systematic bias did not result from exclusion of the missing data.

Data about homicides resulting in a death sentence were gathered from the Office of the Ohio Public Defender, the Office of the Ohio Attorney General and the Ohio Department of Rehabilitation and Correction. Death sentence data included the same information as that found in the SHR.

***Sample***

The SHR information and the death penalty information were merged into one database. To achieve this, each homicide that resulted in a death sentence was identified in the SHR data. We adopted the method for doing this from Gross and Mauro (1989) and Sorensen and Wallace (1995) matching each death penalty case with a homicide including identical information. The most important variables in the matching process, similar to Sorensen and Wallace (1995), were date of the offense and the race, sex, and age of the offender and victim. The authors were able to identify those death sentence cases in the SHR with missing offender data by matching relevant information in the SHR (victim, date of offense, weapon, relationship) with information for each offender from one of above government sources. The result was that the authors are confident that they have correctly identified each death sentence case with those in the SHR.

Information was coded regarding the number of death sentences imposed, not the number of individuals who received a death sentence. For instance, although only 185 individua l death row inmates were used in this study, the number of death sentences imposed was 271, reflecting those inmates who killed multiple victims and those homicides with multiple offenders. All death sentences were considered, including those that were eventually overturned and acquitted, overturned and resentenced to a lesser sentence, and overturned and resentenced to death. For the purpose of this study, a case refers to a single homicide victim. This allows us to compare differences across victim characteristics. Therefore, this coding of death sentences is different from Gross and Mauro (1989), who used homicide incidents as the unit of analysis and treated homicides with multiple victims (and multiple death sentences) as one incident. For example, Gross and Mauro (1989) treated multiple homicides with at least one black victim as a single "black victim homicide," thereby ignoring the racial characteristics of other victims in a multiple homicide. The present authors believe it is problematic to collapse multiple homicides into "one defendant-one victim" category as such a method could result in systematic bias in one direction or the other depending on how the such cases were coded. As part of the analysis we control for death sentences handed out for multiple victim incidents.

The SHR data contained information regarding incidents of murder and negligent and non-negligent manslaughter. The SHR data is coded in such a way to distinguish between "murder and non-negligent manslaughter" and "ne gligent manslaughter." Cases of negligent manslaughter were omitted from the analyses because the criminal nature of such acts is often in dispute and penalties are considerably less than those for other homicides. The SHR-death sentence database used in the analysis (1981-1994) consisted

of 6,443 cases. However, the usable sample was reduced by two factors. First, those cases in which there was no known information about the suspect were excluded from the analysis. Second, cases in which the offender was under the age of eighteen at the time of the offense were not included in the analysis since, under Ohio law, individuals under the age of eighteen are not eligible for the death penalty (Ohio Revised Code, 2929.023, 1999). A sample of 5320 cases was used in the final analyses. This includes 271 homicides for which a death sentence was imposed and excludes those cases in which missing data were found.

### *Variables*

The variables used in the study consisted of one dependent variable, whether a death sentence was imposed, and multiple independent variables. Since Ohio has only executed six (6) persons since 1981, death sentence data rather than execution data were used. Many SHR variables contained multiple values and therefore some of these variables were collapsed for the purpose of the current study. These variables are listed in Table 1. In order to determine whether victim race and gender played a role in determining who received a death sentence, the variables identified in Table 1 are included as control variables that could be associated with sentencing outcomes.

Prior record

Before addressing the results the authors believe it is important to discuss the omission of prior record as a control variable. While commentaries have been made about the importance of including information on prior record in research on the imposition of death sentences and executions (e.g. Kleck, 1981) the authors feel that there are three arguments that mitigate such criticism. The first issue is a pragmatic one. Although researchers should always seek the most complete, reliable and valid data available, the data on the prior record for over 5000 cases was simply not available to the researchers. This left the authors in the position of choosing between continuing on an important topic in a jurisdiction where little research had been conducted or abandoning the project in fear of the obvious criticism. Believing that the methodology had at least facial validity, the former was chosen.

Second, it was clear from prior research that race of the defendant was unlikely to be an independent predictor of whether a homicide resulted in a death sentence. Critics could contend that prior record has a significant role in who receives a death sentence in those jurisdictions where it is an aggravating factor, as in Ohio. Theoretically, this could mitigate disparities noted among the imposition of death sentences. However, if this were so, homicides with black victims, who are most likely to be killed by black offenders, should result in a substantial number of death sentences since black offenders are more likely to have serious prior arrests than white offenders (Donzinger, 1996). The present study found just the opposite. Homicides with black victims were less likely to result in a death sentence than those homicides with white victims. In particular, blacks killed by other blacks were consistently the racial combination least likely to result in a death sentence.

Third and most importantly, previous research has actually sho wn that prior record has little impact on the race of victim disparity (Gross & Mauro, 1989, p. 102). As Gross and Mauro (1989) pointed out, the Baldus et al. study (1990) was perhaps the most comprehensive analysis ever conducted on racial disparity and the death penalty. Baldus et al. (1990) included over 200 variables in their analysis including serious prior record. Their finding that homicides in Georgia with white victims were 4.3 times more likely to result in a death sentence was not mitigated whe n prior record was controlled (Baldus et al., 1990). Furthermore, the findings of the Baldus et al. (1990) study in Georgia reflected a pattern of racial disparity similar to that found in Gross and Mauro's (1989) examination of the same jurisdiction for roughly the same time period. This study replicated the methods used in Gross and Mauro (1989) and the authors are encouraged by the degree of reliability those studies suggest for the current research.

**Table 1: Variables in the Analysis**

| | |
|---|---|
| Was a death sentence imposed?<br>N = 6443 | 0=no (96%) (n=6172)<br>1=yes (4%) (n=271) |
| Was the victim female?<br>N = 6442 | 0=no (73%) (n=4691)<br>1=yes (27%) (n=1751) |
| Was the victim white?[a]<br>N = 6434 | 0=no (55%) (n=3521)<br>1=yes (45%) (n=2913) |
| Was the offender male?<br>N = 6437 | 0=no (15%) (n=973)<br>1=yes (85%) (n=5464) |
| Was the offender white?[a]<br>N = 6432 | 0=no (60%) (n=3860)<br>1=yes (40%) (n=2572) |
| Was a gun used?[b]<br>N = 6313 | 0=no (37%) (n=2329)<br>1=yes (63%) (n=3984) |
| Was it a stranger homicide?[c]<br>N = 6228 | 0=no (77%) (n=4786)<br>1=yes (23%) (n=1442) |
| Did homicide involve other felony?[d]<br>N = 5589 | 0=no (82%) (n=4595)<br>1=yes (18%) (n=994) |
| Was offense a multiple homicide?<br>N = 6443 | 0=no (91%) (n=5859)<br>1=yes (9%) (n=584) |
| Did homicide occur in urban area?<br>N = 6443 | 0=no (8%) (n=484)<br>1=yes (92%) (n=5959) |
| Was victim 12 or younger?<br>N = 6422 | 0=no (94%) (n=6011)<br>1=yes (6%) (n=411) |
| Was offender under 25?<br>N=6443 | 0=no (64%) (n=4121)<br>1=yes (36%) (n=2322) |
| Was victim a white male? | 0=no<br>1=yes (30%) (n=1925) |
| Was victim a black female? | 0=no<br>1=yes (12%) (n=762) |

| | |
|---|---|
| Was victim a black male? | 0=no<br>1=yes (44%) (n=2759) |

[a]SHR data coded race as "white, black, native American, Asian and islander, and other." For the current study, the race variable was collapsed, reflecting "white" (white, native American, Asian and islander) and "non-white" (black). This did not affect the results of the analysis, since few native Americans, Asians, and islanders appeared as offenders or victims. It should be noted that Hispanics are coded as "white" in the SHR reports.

[b]SHR data coded weapon as one of 17 possible choices, ranging from five different types of guns to poisoning, asphyxiation, etc. The current study combined all guns into one value and all non-guns into another.

[c]SHR data coded relationship as one of 29 possible choices, ranging from various "non-stranger" categories such as family members, friends, acquaintances, co-workers, etc. to a separate category of "stranger." The "non-stranger" categories were collapsed into one value and the "stranger" category was left as is. This is consistent with previous death penalty research such as Bailey (1998) and Sorensen and Wallace (1995).

[d]SHR data coded circumstances as one of 33 possible choices, ranging from various crimes committed during the course of the homicide to gang killing to lover's triangle, etc. All SHR values that involved a felony incident were collapsed into one value and all other values were treated as non-felony homicides.

## Results

Table 2 provides the descriptive statistics for the data under analysis. The majority of homicide victims are males with black males outnumbering white males. Blacks comprise about 55 percent of homicide victims while whites comprise about 45 percent of homicide victims. Females comprise 27 percent of homicide victims with white female victims slightly outnumbering black female victim homicides.

**Table 2: Characteristics of Ohio Homicides by Gender and Race of Offender (O) and Victim (V)**

| O-V | All Homicides[b] | No Death Sentence[b] | Death Sentence[b] |
|---|---|---|---|
| WM-WM[a] | 20% (1310) | 20% (1254) | 21% (56) |
| WM-WF | 12% (788) | 12% (715) | 28% (73) |
| WM-BM | 2% (146) | 2% (140) | 2% (6) |
| WM-BF | <1% (14) | <1% (12) | <1% (2) |
| BM-BM | 32% (2067) | 33% (2026) | 15% (41) |
| BM-BF | 10% (637) | 10% (605) | 12% (32) |
| BM-WM | 6% (361) | 5% (326) | 13% (35) |
| BM-WF | 2% (130) | 2% (110) | 8% (20) |
| WF-WF | 1% (58) | 1% (58) | N/A |
| WF-WM | 4% (231) | 4% (230) | <1% (1) |
| WF-BM | <1% (20) | <1% (20) | N/A |
| WF-BF | <1% (4) | <1% (4) | N/A |
| BF-BF | 2% (107) | 2% (106) | <1% (1) |
| BF-BM | 8% (526) | 8% (522) | 1% (4) |
| BF-WM | <1% (16) | <1% (16) | N/A |
| BF-WF | <1% (10) | <1% (10) | N/A |
| N = | 6425 | 6154 | 271 |

[a]W = White; B = Black; M = Male; F = Female

[b]Column percentages and numbers

While cases involving male victims comprise a slight majority of death sentences, female victim homicides are disproportionately represented in death sentences. Furthermore, although blacks comprise the majority of homicide victims, they are underrepresented in death penalty cases relative to their percentage in all homicide cases. When examining victim gender-race interaction and death sentences, further disparity exists. While white females comprise only 15 percent of homicide victims they comprise 35 percent of all death sentences. These initial results indicate that white victims and, in particular, white female victims, are disproportionately represented when it comes to the imposition of

death sentences. This is consistent with findings reported in previous studies (e.g., Gross & Mauro, 1989; Radelet & Pierce, 1991). Another important finding is that homicide in Ohio is predominantly an intra-racial phenomena (89%) and that the death sentences generally reflect that distribution (77%) though inter-racial homicides are overrepresented among homicides.

To test the hypothesized relationship that those who kill whites and those who kill females are more likely to receive a death sentence, logistic regression analysis was employed using the control variables found in Table 1. Findings from this analysis are reported in Table 3 and indicate that race and gender of the victim are significantly related to the imposition of a death sentence. In particular, homicides with female victims are more likely to result in a death sentence (2.34 odds ratio) and those with white victims are more likely to receive a death sentence (1.65 odds ratio).

**Table 3: Logistic Regression Analyses for Main Effects**

| Variable | B | Standard Error | Odds Ratio |
|---|---|---|---|
| Female victim | .8505 | .1602 | 2.341** |
| White victim | .5030 | .2032 | 1.654** |
| Male offender | 1.081 | .4545 | 2.947* |
| White offender | -.0681 | .1917 | .934 |
| Offender under 25 | -.8012 | .1640 | .449** |
| Gun used | -.0265 | .1654 | .974 |
| Stranger homicide | .575 | .1765 | 1.776** |
| Felony circumstances | 3.5820 | .2174 | 35.942** |
| Multiple victims | 1.9032 | .1749 | 6.707** |
| Urban area | -.3622 | .2511 | .696 |
| Victim 12 or under | .3787 | .2981 | 1.460 |
| CONSTANT | -10.458 | 1.257 | |

n=5320

-2 Log Likelihood = 1214.530

**p<.01

*p<.05

There was no observed relationship between the race of the defendant and sentence outcome, and gender of defendant (MALE) was significant only at a weaker alpha level (.05). These results are similar to findings in previous research on the imposition of death sentences (e.g. Baldus et al., 1990; Gross and Mauro, 1989; Radelet & Pierce, 1991).

To test the primary research hypothesis, dummy variables were created using different victim gender-race combinations and were analyzed as single predictors of death sentences ("black female", "white male", "black male" victims). Note that "white female" was omitted from the analysis as it was used as the reference variable in the analysis. This method of testing the interactive effects of race and gender of the victim was based on previous research by Steffensmeier, Ulmer, and Kramer (1998) and Spohn

and Holleran (2002). Similar to the present study, these authors suspected that analyses of main (or direct) effects of independent race and gender variables masked significant differences that could be revealed by examining the interactive effects of race and gender.

Table 4 reports findings of the logistic model incorporating a victim race-gender interaction variable. Consistent with our original hypothesis, homicides with victim race-gender combinations other than "white female" were significantly less likely to result in a death sentence compared to homicides with white female victims.

**Table 4: Logistic Regression Analysis with Race and Gender Interaction**

| Variable | B | Standard Error | Odds Ratio |
|---|---|---|---|
| White male victim | -1.074 | .1937 | .342** |
| Black female victim | - .978 | .3098 | .376** |
| Black male victim | -1.335 | .2508 | .263** |
| Male offender | 1.083 | .4528 | 2.952* |
| White offender | -.121 | .1940 | .886 |
| Offender under 25 | -.797 | .1640 | .451** |
| Gun used | -.046 | .1665 | .955 |
| Stranger homicide | .593 | .1769 | 1.809** |
| Felony circumstances | 3.600 | .2182 | 36.584** |
| Multiple victims | 1.946 | .1766 | 7.002** |
| Urban area | -.382 | .2519 | .682 |
| Victim 12 or under | .416 | .2983 | 1.516 |
| CONSTANT | -4.23 | 1.481 | |

n = 5320

-2 Log Likelihood = 1210.164

**p<.01

*p<.05

Homicides with black female victims were significantly less likely to receive death sentences than homicides involving white female victims (odds ratio .376). This suggests that the general female victim disparity previously found in Table 3 is primarily a function of white female victim homicides. Furthermore, we also found that homicides with white male victims were significantly less likely (.342 odds ratio) to result in a death sentence compared to those with white female victims. These findings suggest that the initial white victim and female victim disparity found (Table 3) is the product of a specific victim gender-race combination ("white female") rather than race or gender alone.

### *Additional Analyses*

The authors conducted two additional analyses of the data to increase confidence in the above findings. As previously noted, the SHR does not distinguish between murder and non- negligent manslaughter; therefore, cases of non-negligent manslaughter (which are not death-eligible) were likely included in the present analysis. To account for this, a separate logistic analysis was conducted on a subsample limited to those cases with felony circumstances, which is an aggravating circumstance under Ohio law. Felony circumstances were so strongly correlated with a death sentence (see Table 4), and the analysis of the felony circumstance-only subsample was viewed as a way of increasing the likelihood of obtaining a more death eligible sample of cases. This could be used to determine if there were differences between the sample as a whole and those cases with a greater likelihood of receiving a death sentence. Limiting the sample to homicides with felony circumstances reduced the sample to 994 homicides and 236 death sentences (thus omitting 35 death sentences). Findings from the logistic model on the felony circumstance subsample are reported in Table 5.

**Table 5: Logistic Regression Analysis with Race and Gender Interaction, Felony Circumstances Only**

| Variable | B | Standard Error | Odds Ratio |
|---|---|---|---|
| White male victim | -1.146 | .215 | .318** |
| Black female victim | - .976 | .337 | .377** |
| Black male victim | -1.496 | .279 | .224** |
| Male offender | .646 | .480 | 1.907 |
| White offender | -.258 | .205 | .772 |
| Offender under 25 | -.763 | .172 | .466** |
| Gun used | -.064 | .186 | .938 |
| Stranger homicide | .331 | .185 | 1.392* |
| Multiple victims | 1.693 | .187 | 5.438** |
| Urban area | -.815 | .285 | .443 |
| Victim 12 or under | .622 | .341 | 1.863 |
| CONSTANT | -.186 | .861 | |

n = 5320

-2 Log Likelihood = 893.011

**p<.01

*p<.05

The model included the same variables used in the original model on the entire sample in Table 4. The only substantive change is that gender of offender (MALE) is no longer significant and stranger homicides are only significant at the lower alpha level (.05). Most importantly, results indicate that the primary variable of interest (victim race-gender interaction) remained significant, in the same direction, and with a nearly exact same odds-ratio. In effect, significantly reducing the sample to a population that is more likely to be death eligible did not alter our original findings[2]. Homicides with white female victims continue to be more likely to result in a death sentence than other victim racegender combinations.

Second, there is the possibility that in addition to a victim interaction effect, the interaction of offender characteristics will be related to sentencing outcomes in particular cases. As previously noted, research has established that blacks who kill whites are

disproportionately represented among death sentences. In particular, black males who kill white females may partially explain the female, white, and/or white female victim effect noted in prior research and the current study. As a preliminary test of such an interaction, the authors created an "inter-racial" variable to control for interracial homicides. This could provide some initial insight into the impact inter-racial homicides have on present findings. The inter-racial variable was included a separate logistic regression model including the original variables of interest. Inter-racial homicides were not found to be significant even at a lo wer (.05) level and did not alter substantive findings from previous analyses. Even after controlling for inter-racial homicides, the victim interaction variables remained significant, in the predicted direction, and with nearly identical odds ratios[3].

**Implications and Future Research**

This study examined the relationship between victim gender and race on the imposition of death sentences in Ohio. Initially, it appeared that homicides with female victims and those with white victims were more likely to receive a death sentence than those with male or black victims. However, by examining the combined effect of the victim's gender and race, it was discovered that homicides with white females are significantly more likely to result in a death sentence than homicides with other victim gender-race combinations.

Similar to previous studies (e.g., Paternoster, 1984; Radelet & Pierce, 1991) the present study found that homicides with white female victims had the highest likelihood of resulting in a death sentence while homicides with black male victims had the lowest probability. However, results indicated that the correlation between white female victim homicides and death sentences was strong enough to create the appearance of a relationship between general white victim homicides and death sentences and general female victim homicides and death sentences. The present study suggests that the central factor in understanding existing racial disparity in death sentences may be the severity with which those who kill white females are treated relative to other gender-race victim combinations. This finding is consistent with the view that black female victims do not have the same status as white female victims (see Belknap, 2001; Zack, 1998), but challenges the argument that an elevated status extends to all white victims. It appears that potential gender victim and victim race effects on sentencing may be more specific than previously thought.

Numerous authors have argued that prior record is an essential control variable for sentencing research (Klein et al., 1990; Steffensmeier et al., 1993). We have argued that while such data could strengthen confidence in the present findings, there is little logical basis to expect that prior record would affect an observed relationship between sentences and victim characteristics. The methods used in the present study are a replication of Gross and Mauro's (1989) analysis of racial disparity in Georgia and other states. Their research examined the same jurisdiction during an overlapping time frame as the Baldus et al. (1990) study. The fact that Gross and Mauro (1989) found similar results as the

more rigorous Baldus et al. (1989) project adds to the validity of the methodology used by Gross and Mauro (1989) and the present study.

Given the preliminary nature of this study it would prudent to identify several unresolved questions and suggestions for future research. First, it is possible that homicides involving white female victims are more heinous or aggravated than homicides involving other victims (see Baldus et al., 1990). The inclusion of several mitigating and aggravating circumstances in the analyses, including use of "felony circumstances" as a control variable and an analysis of a subsample of cases involving only felony circumstances, reduces but does not eliminate this possibility. Future research should attempt to control for all potential aggravating circumstances and mitigating factors. Prior research has found that disparity is most likely to occur in less aggravated circumstances (Baldus et al., 1990; 1998; Baumer, 2000; see also Spohn and Cederblom, 1991). These studies provide support for the liberation hypothesis, suggesting that sentencing disparity may be the strongest for those cases that tend to draw the least public attention and in which decision makers are “freed” from statutory constraints (see Kalven & Zeisel, 1966). The consideration of interactive victim characteristics in models with more complete case information would determine whether in homicides with white females are more aggravated and thus partially explained the proposed relationship.

Future research should also consider whether homicides involving white females are different from those involving other victim race- gender categories in a manner that has not been quantitatively captured by the present study. As researchers have noted, the context and qualitative aspects of particular cases and settings can greatly alter decision making, yet escape the attention of quantitative studies (Daly, 1994). Such questions are more appropriately addressed with detailed analyses of case files and naturalistic observations over a considerable time period (e.g. Daly, 1994).

A significant limitation of the present study was its inability to analyze the different decision making points. This would have allowed researchers to examine when the observed disparities were produced. The consideration of the tremendous role prosecutorial discretion has on sentencing outcomes seems particularly important. Previous research has indicated that prosecutorial decision making can result in considerable disparities (Baldus et al, 1990; Peternoster, 1984). Such research would compliment our emphasis on how victim characteristics affect the focal concerns of decision makers. Research has demonstrated that the practical implications of decisions, especially the concern over outcome uncertainty, dramatically shapes prosecutorial decision making (Albonetti; 1987; Albonetti and Hepburn, 1996; Stanko, 1981-82). A more complete understanding of how perceptions of victim status affect these decisions would additional provide insight into the validity of the ideas presented here.

Though unique in the literature, the present study suffers from the obvious limitations of available data. We call upon interested scholars with access to more complete data to test our hypotheses and challenge our findings. A major question is whether previous research findings of a general victim race disparity are similarly explained by the white female victim effect. The authors suggest that researchers

consider re-examining existing data and previously published research to determine if findings of a white victim or female victim effect are partially explained by a specific victim race-gender combination. It is clear however, that in addition to continuing inquiries into defendant-based disparities, future researchers should consider examining the relationship between the intersections of victim race and victim gender on disparit y in capital and non-capital sentencing outcomes.

## Endnotes

1 Although the present study focuses on the role of victim race and gender, it should be noted that class could be an independent or a third interactive variable affecting sentencing outcomes. For example, Farrell & Swigart (1986) found that higher status victim cases and cases where lower status offenders victimized higher status pers ons were treated more severely. Unfortunately we were unable to control for class of offender or victim and the impact of those variables on the present findings is unknown.

2 We are not arguing that white females has actually had an elevated status in American society or that all white females are perceived as deserving social protection (see Belknap, 2001; Friedman, 1993; Zack, 1998; for discussions of the marginalization of women and women's victimization for many crimes). We are noting that the perceived of white females in American society has symbolic power in our cultural and that this may affect decision makers attributions of the status of a victim and what is considered an appropriate response in a given case.

3 The rationale for including all homicides in the original analyses was to maximize the number of death sentences in the logistic models. Limiting the sample to felony circumstances omitted 35 death sentence homicides that could have affected the observed relationships. Ultimately, the findings did not change so we decided to concentrate our discussion on the entire sample to be most inclusive of death sentences.

4 There are clearly limitations to this approach, and the authors do not consider this to be a conclusive test of the potential interactive effects of offender and victim combinations. However, the vast majority of all homicides in Ohio are intra-racial (89%) and a strong majority of death sentences (77%) are for intra-racial homicides as well. The relatively small number of inter-racial homicides that resulted in a death sentence (e.g. only 20 death sentences were given to black males for the murder of white females) makes additional statistical analyses questionable. More detailed information on these analyses are available from the authors. The authors encourage researchers with more heterogeneous data to consider examining the impact of such interactive effects.

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