Affidavit of Catherine Grosso and Barbara O'Brien

1. Our names are Catherine Grosso and Barbara O'Brien. We are both professors at the Michigan State University (MSU) College of Law. Together we have undertaken an extensive study of capital charging, sentencing, and jury selection in North Carolina between the years of 1990 and 2009. Our statistical consultant is University of Iowa Professor of Statistics and Actuarial Science George Woodworth.

2. I, Catherine Grosso, graduated from the University of Iowa College of Law in 2001 with high distinction and was admitted to the *Order of the Coif*. I am currently an Assistant Professor of Law at the MSU College of Law where I teach courses in criminal procedure and corrections law. Prior to joining the faculty at the Michigan State University College of Law, I was a Visiting Assistant Professor of Law at the University of Illinois College of Law where I taught courses in criminal procedure, constitutional law, evidence, and capital punishment law. In my professional career, I have been involved in conducting research and empirical studies on race and the death penalty. My publications on race and the death penalty include: David Baldus, George Woodworth, Neil Alan Weiner, David Zuckerman, & Catherine M. Grosso, *Empirical Studies of Race and Geographic Discrimination in the Administration of the Death Penalty: A Primer on Key Methodological Issues, in* THE FUTURE OF AMERICA'S DEATH PENALTY: AN AGENDA FOR THE NEXT GENERATION OF CAPITAL PUNISHMENT RESEARCH (Charles S. Lanier, William Bowers, and James Acker eds., 2009); David C. Baldus, George Woodworth, & Catherine M. Grosso, *Race and Proportionality Since McCleskey v. Kemp (1987): Different Actors with Mixed Strategies of Denial and Avoidance*, 39 COLUM. HUM. RTS. L. REV. 143 (2007); David C. Baldus, George Woodworth, Catherine M. Grosso, & Aaron M. Christ, *Arbitrariness and Discrimination in the Administration of the Death Penalty: A Legal and Empirical Analysis of the Nebraska Experience (1973-1999)*, 81 NEB. L. REV. 486 (2002).

3. I, Barbara O'Brien, am an Associate Professor of Law at the MSU College of Law where I teach courses in criminal law and criminal procedure. I received my J.D. from the University of Colorado School of Law and was admitted to the *Order of the Coif*. I received a Ph.D. in social psychology from the University of Michigan. My doctoral training involved advanced courses in research methods and statistics. I have published several articles applying empirical methodology to legal questions, such as identifying predictors of false capital convictions and understanding prosecutorial decision making. Some of my publications include: Barbara O'Brien, *A Recipe for Bias: An Empirical Look at the Interplay Between Institutional Incentives and Bounded Rationality in Prosecutorial Decision Making*, 74 MO. L. REV. 999 (2009); Barbara O'Brien, *Prime Suspect: An Examination of Factors that Aggravate and Counteract Confirmation Bias in Criminal Investigations*, 15 PSYCHOL. PUB. POL'Y & L. 315 (2009); Barbara O'Brien, Samuel Sommers, & Phoebe Ellsworth, *Ask and What Shall Ye Receive? A Guide for Using and Interpreting What Jurors Tell Us*, forthcoming in the *University of Pennsylvania Journal of Law & Social Change;* Barbara O'Brien & Daphna Oyserman, *It's Not Just What You Think, But How You Think about It: The Effect of Situationally-Primed Mindsets on Legal Judgments and Decision-making*, 92 MARQ. L. REV. 149 (2008); Samuel R. Gross & Barbara O'Brien, *Frequency and Predictors of False Conviction: Why We Know So Little, and New Data on Capital Cases*, 5 J. EMPIRICAL LEGAL STUD. 927 (2008).

4. This affidavit presents our initial findings. We began data collection for the study in the fall of 2009 and completed it in the spring of 2010. Because of the broad scope of the study and the large amount of data involved, we have had time to perform only some of the relevant analyses. While our analysis is ongoing, we are highly confident in the accuracy of the findings reported here.

SUMMARY OF METHODOLOGY

Peremptory Strike Study

5. This study documented racial disparities in the prosecutorial use of peremptory strikes in the cases between the years of 1990 and 2010 of persons currently on death row.[1] Of the 159 defendants on death row, we obtained data to analyze strike patterns by race in 173 proceedings. The number of proceedings is higher than the number of defendants because some defendants had multiple trials, and one defendant had separate juries for the guilt and penalty phases of the trial. Our database contains information about 7,421 venire members, of whom 7,400 were qualified to be struck by the state.

6. We analyzed the prosecutors' strike patterns of all "qualified" venire members. A venire member was considered "qualified" if he or she was present at the *voir dire* selection and was not excluded for cause. Data collection and coding was performed by law graduates (herein "coders"), under our direct supervision. The coders determined the prosecution's strike patterns based on the venire members the prosecution either passed to the defense or removed with a peremptory strike. We collected strike data about these jurors by reviewing *voir dire* transcripts, court files, and jury seating charts.

7. We then collected information regarding the race of each venire member. We first relied on venire members' self-reported race in jury questionnaires and transcripts. When such information was not available, the coders with assistance from law students used a protocol to search for venire members' race in public record databases, including voter registration, motor vehicle, and death records. Unless a coder was relying on a transcript for identifying information about venire member, all coders searched for race information without knowing the strike information.[2] We are missing race information for only 4 venire members out of all qualified venire members present at all jury selection proceedings for the 159 current death row inmates.

8. We documented racial disparities in prosecution strike rates of venire members statewide, by judicial division, by prosecutorial district, and by county.

[1] The study also analyzed peremptory strike data from one 1985 capital proceeding. The defendant involved in this proceeding is currently on death row. Moreover, for current death row inmates with vacated convictions or sentences, peremptory strikes in the vacated proceeding were considered if the trial occurred in 1990 or later.

[2] In order to ensure that the race coders were blind to the strike information we used separate data collection questionnaires for the strike and race data and in no case did the same person who coded a case for strikes also search for race information except in those cases where consulting the transcript was necessary.

Charging and Sentencing Study

9. In conducting the charging and sentencing study, we reviewed thousands of murder cases in North Carolina. Based on this review we estimated that 5,775 cases were eligible for the death penalty in North Carolina between the years of 1990 and 2009.[3] All of the case screening work was done by graduates with law degrees and supervised by a full-time project manager who is also a trained lawyer and a member of the North Carolina bar. Retired North Carolina Superior Court Judge Melzer A. Morgan, Jr., reviewed all cases in which the only potential basis for death eligibility was a fact-intensive aggravating circumstance, such as the crime being especially heinous, atrocious, or cruel. For these cases, Judge Morgan made final determinations as to death eligibility under North Carolina law.

10. The charging and sentencing study includes detailed information from every death eligible murder case that was brought to a penalty trial, a total of 691 cases. Our study also includes detailed information from 871 death eligible murder cases that did not advance to a capital trial. These 871 cases are a random sample of the universe of death eligible cases. Thus, our study includes detailed information for a total of 1,562 cases. For each case, we collected information on the race of the defendant and victim and over 200 factors, including the statutory aggravating and mitigating factors, as well as numerous other factors identified in the case law and previous research as potentially relevant. Our sources of data included:

a. Superior Court files;
b. Appellate Court opinions and records on appeal;
c. Official Crime Versions prepared by the Department of Correction, obtained with the cooperation of the Department of Correction and Attorney General;
d. Homicide victim data obtained from the Office of the Chief Medical Examiner;
e. Department of Correction website;
f. Media reports;
g. Lexis Nexis;
h. Archived issues of the Capital Update, published by the Center for Death Penalty Litigation; and
i. In limited circumstances, conversations with attorneys involved in the case.

11. We analyzed the statewide evidence of disparities based on race of the victim in three ways. First, we used cross-tabular procedures to calculate racial disparities in capital charging or sentencing practices, without considering the impact of other potential explanatory factors ("unadjusted disparities"). Second, we constructed a logistic multiple regression model that analyzed the relationship between race and charging and sentencing, after accounting for the statutory aggravating and mitigating factors ("statutory controls regression model"). Third, we constructed a regression model that analyzed the role of race in charging and sentencing, after analyzing the importance of and where appropriate controlling for over 200 potentially

[3] The charging and sentencing study collected data and analyzed cases between 1990 and 2009. The study includes two additional cases that resulted in a death sentence in 2010: Michael Ryan and Andrew Ramseur.

explanatory variables in addition to the statutory aggravating and mitigating circumstances that might impact the outcome of a capital case ("all meaningful controls regression model"). The regression models have been "adjusted" by the controls to take into account potentially explanatory variables.

12. We analyzed four individual or combined charging and sentencing decision points: (1) the combined impact of the charging and sentencing decisions in the issuance of death sentences; (2) the prosecutor's decisions to seek death at any point in the charging process; (3) the prosecutor's decision to advance the case to capital trial; and (4) the jury's penalty trial sentencing decision.

ANALYSIS AND RESULTS: PEREMPTORY STRIKES

Statewide Evidence, 1990-2010

13. Our analysis revealed that statewide, from 1990 to 2010, North Carolina prosecutors exercised peremptory challenges at a significantly higher rate against black venire members than against non-black venire members. Statewide, prosecutors struck 52.5% of qualified black venire members but only 25.8% of qualified non-black venire members. Thus, prosecutors were more than twice as likely to strike qualified venire members who were black. *See* Table 1.

14. We observed a similar disparity in strike rates when we compared statewide the prosecution's strikes of white venire members to strikes of racial minority venire members.[4] Statewide, prosecutors struck 50.6% of qualified racial minority venire members but only 25.6% of qualified white venire members.[5]

15. We also found significant disparities when we calculated the average of the strike rates of each individual case during this period statewide ("average strike rates").[6] Of the 166 cases that included qualified black venire members, prosecutors struck an average of 55.5% of qualified black venire members compared to only 24.8% of all other qualified venire members. *See* Table 2.[7]

[4] Throughout our study, we have defined the term "racial minority" to include black, Hispanic, Asian, Native American persons and persons of more than one race.

[5] Of 1,353 minority jurors, the prosecution struck 685. In contrast, of the 6,043 white jurors, the prosecution struck 1,544. This difference in strike rates is significant at the $p < .001$ level.

[6] In contrast, Table 1 reports prosecutorial strikes by race of venire member aggregated across all cases in the database.

[7] Similarly, we find that prosecutors struck qualified racial minority venire members at an average rate of 54.1 but struck qualified white venire members at an average rate of only 24.5. Thus, prosecutors were 2.2 times more likely to strike qualified racial minority venire members. This difference in strike levels is significant at the $p < .001$ level.

16. These disparities are even greater in cases involving black defendants. In cases with black defendants, the average strike rate is 59.9% against black venire members and 23.1% against other venire members. *See* Table 3. In contrast, in cases with defendants of other races, the average strike rate is 50.1% against black venire members and 26.9% against all other qualified venire members.[8] *Id.*

17. The probability of observing a statewide racial disparity of this magnitude in a race neutral peremptory strike system is less than .01.

18. Among the 173 cases analyzed, we found that, in 33 cases, all of the jurors who decided punishment were white.[9] *See* Fig. 1, below.

FIGURE 1
Current Death Row Inmates Sentenced to Death by All-White Juries
(by sentencing year and county)

Al-Bayyinah, Jathiyah	1999	Davie		LeGrande, Guy T	1996	Stanly
Augustine, Quintel	2002	Cumberland		Moseley, Carl S	1992	Forsyth
Blakeney, Roger M	1997	Union		Moseley, Carl S	1993	Stokes
Brown, Paul A	2000	Wayne		Polke, Alexander C	2005	Randolph
Burke, Rayford L	1993	Iredell		Prevatte, Ted A	1999	Stanly
Call, Eric L	1996	Ashe		Raines, William H	2005	Henderson
Call, Eric L	1999	Ashe		Ramseur, Andrew D	2010	Iredell
Cole, Wade L	1994	Camden		Richardson, Martin A	1993	Union
Davis, Phillip	1997	Buncombe		Rose, Clinton R	1991	Rockingham
East, Keith B	1995	Surry		Rouse, Kenneth B	1992	Randolph
Fletcher, Andre L	1999	Rutherford		Sidden, Tony M	1995	Wilkes
Goss, Christopher E	2005	Ashe		Strickland, Darrell E	1995	Union
Holmes, Mitchell D	2000	Johnston		Trull, Gary A	1996	Randolph
Hooks, Cerron T	2000	Forsyth		Tucker, Russell W	1996	Forsyth
Jaynes, James E	1999	Polk		Wilkerson, George T	2006	Randolph
Larry, Thomas M	1995	Forsyth		Williams, James E	1993	Randolph
Laws, Wayne A	1985	Davidson				

[8] Racial disparities in the State's use of peremptory strikes are also greater in cases involving other racial minority defendants. In cases with racial minority defendants, the average strike rate is 57.6% against racial minority venire members and 22.9% against other venire members. In contrast, in cases with white defendants, the average strike rate is 48.5% against racial minority venire members and 27.1% against white venire members. This difference in strike levels is significant at the $p < .02$ level.

[9] In five of the 33 cases with all-white juries, one non-white person was selected as an alternate juror. We have confirmed that none of those non-white alternates participated in sentencing deliberations.

19. Among the 173 cases analyzed, we found that 40 cases had only one non-white seated juror.[10] *See* Fig. 2, below.

FIGURE 2
Current Death Row Inmates Sentenced to Death by
Juries with Only One Non-White Juror
(by sentencing year and county)

Atkins, Randy L	1993	Buncombe		Gregory, William C	1996	Davie
Al-Bayyinah, Jathiyah	2003	Davie		Harden, Alden J	1994	Mecklenburg
Anderson, Billy R	1999	Craven		Haselden, Jim E	2001	Stokes
Badgett, John S	2004	Randolph		Hyatt, Terry A	2000	Buncombe
Bowie, Nathan & Bowie, William	1993	Catawba		Jaynes, James E	1992	Polk
Burr, John E	1993	Alamance		Jones, Marcus D	2000	Onslow
Campbell, James A	1993	Rowan		Mann, Leroy E	1997	Wake
Campbell, Terrance D	2002	Pender		Miller, Clifford R	2001	Onslow
Chambers, Frank J & Barnes, William	1994	Rowan		Morgan, James	1999	Buncombe
Cummings, Daniel, Jr.	1994	Brunswick		Morganherring, William	1995	Wake
Daughtry, Johnny R	1993	Johnston		Murrell, Jeremy D	2006	Forsyth
Davis, Edward E	1992	Buncombe		Neal, Kenneth	1996	Rockingham
Davis, James F	1996	Buncombe		Parker, Carlette E	1999	Wake
Decastro, Eugene T	1993	Johnston		Reeves, Michael M	1992	Craven
Elliot, John R	1994	Davidson		Watts, James H	2001	Davidson
Frogge, Danny D	1995	Forsyth		White, Melvin L	1996	Craven
Garcell, Ryan G	2006	Rutherford		Williams, John, Jr.	1998	Wake
Geddie, Malcolm, Jr.	1994	Johnston		Williams, Marvin, Jr.	1990	Wayne
Golphin, Tilmon C	1998	Cumberland		Woods, Darrell C	1995	Forsyth
Gregory, William C	1994	Davie		Wooten, Vincent M	1994	Pitt

[10] In seven of the 40 cases with one non-white seated juror, one non-white person was also selected as an alternate juror. We have confirmed that none of those non-white alternates participated in sentencing deliberations.

Statewide Evidence, Ten Year Periods

20. The disparities in prosecutors' use of peremptory strikes persist even if the patterns are examined over smaller time periods. When we examine the ten year period between 1990 and 1999, we find that prosecutors struck 52.1% of qualified black venire members at an average rate of 54.9% but struck 25.7% of qualified non-black venire members at an average rate of only 24.7%.[11] Thus, prosecutors were twice as likely to strike qualified venire members who were black. *See* Table 4.

21. When we examine the period between 2000 and 2010, we find that prosecutors struck 53.5% of qualified black venire members at an average rate of 56.9% but struck 25.8% of qualified non-black venire members at an average rate of only 25.1%.[12] Thus, prosecutors were more than twice as likely to strike qualified venire members who were black. *See* Table 5.

22. The probability of observing a statewide racial disparity of this magnitude in a race neutral peremptory strike system is less than .01.

Statewide Evidence, Five Year Periods

23. When we examine the five year period between 1990 and 1994, we find that prosecutors struck qualified black venire members at an average rate of 57.3% but struck qualified non-black venire members at an average rate of only 26.0.[13] Thus, prosecutors were 2.2 times more likely to strike qualified venire members who were black. *See* Table 6.

24. When we examine the five year period between 1995 and 1999, we find that prosecutors struck qualified black venire members at an average rate of 53.6% but struck qualified non-black venire members at an average rate of only 24.1%.[14] Thus, prosecutors were 2.2 times more likely to strike qualified venire members who were black. *See* Table 7.

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[11] Similarly, we find that prosecutors struck qualified racial minority venire members at an average rate of 53.7% but struck qualified white venire members at an average rate of only 24.3%. Thus, prosecutors were 2.2 times more likely to strike qualified racial minority venire members. This difference in strike levels is significant at the $p < .001$ level.

[12] Similarly, we find that prosecutors struck qualified racial minority venire members at an average rate of 54.9% but struck qualified white venire members at an average rate of only 25.0%. Thus, prosecutors were 2.2 times more likely to strike qualified racial minority venire members. This difference in strike levels is significant at the $p < .001$ level.

[13] Similarly, we find that prosecutors struck qualified racial minority venire members at an average rate of 56.2% but struck qualified white venire members at an average rate of only 26.0%. Thus, prosecutors were 2.2 times more likely to strike qualified racial minority venire members. This difference in strike levels is significant at the $p < .001$ level.

[14] Similarly, we find that prosecutors struck qualified racial minority venire members at an average rate of 52.5% but struck qualified white venire members at an average rate of only 23.4%.Thus, prosecutors were 2.2 times more likely to strike qualified racial minority venire members. This difference in strike levels is significant at the $p < .001$ level.

25. When we examine the five year period between 2000 and 2004, we find that prosecutors struck qualified black venire members at an average rate of 57.2% but struck qualified non-black venire members at an average rate of only 25.0%.[15] Thus, prosecutors were 2.3 times more likely to strike qualified venire members who were black. *See* Table 8.

26. When we examine the nearly six year period between 2005 and the present, we find that prosecutors struck qualified black venire members at an average rate of 56.4% but struck qualified non-black venire members at an average rate of only 25.4%.[16] Thus, prosecutors were 2.2 times more likely to strike qualified venire members who were black. *See* Table 9.

27. The probability of observing a statewide racial disparity of this magnitude in a race neutral peremptory strike system is less than .01.

Local Evidence

28. These disparities further persist across the jurisdictions implicated in individual death sentenced cases. Specifically, we observed significant racial disparities in the exercise of peremptory strikes by the prosecution at the judicial division, prosecutorial district, county, and individual case level.

29. **Former Judicial Division, 1990-1999.** In former Judicial Division 3,[17] from 1990 through 1999, prosecutors in 36 cases struck qualified black venire members at an average rate of 65.4% but struck qualified non-black venire members at an average rate of only 25.3%.[18] Thus, prosecutors were 2.6 times more likely to strike qualified venire members who were black. This difference in strike levels is significant at the $p < .001$ level.

30. **Current Judicial Division, 2000-present.** In current Judicial Division 5, from 2000 to 2010, prosecutors in 12 cases struck qualified black venire members at an average rate of

[15] Similarly, we find that prosecutors struck qualified racial minority venire members at an average rate of 53.3% but struck qualified white venire members at an average rate of only 24.9%. Thus, prosecutors were 2.1 times more likely to strike qualified racial minority venire members. This difference in strike levels is significant at the $p < .001$ level.

[16] Similarly, we find that prosecutors struck qualified racial minority venire members at an average rate of 57.9% but struck qualified white venire members at an average rate of only 25.0%. Thus, prosecutors were 2.3 times more likely to strike qualified racial minority venire members. This difference in strike levels is significant at the $p < .01$ level.

[17] This study refers to former and current judicial divisions because, on January 1, 2000, North Carolina's judicial divisions were reconstituted from four divisions statewide to eight divisions statewide.

[18] In former Judicial Division 3, prosecutors in 36 cases struck qualified racial minority venire members at an average rate of 65.3% but struck qualified white venire members at an average rate of only 25.2%. This difference in strike levels is significant at the $p < .001$ level.

47.3% but struck qualified non-black venire members at an average rate of only 28.1%.[19] Thus, prosecutors were 1.7 times more likely to strike qualified venire members who were black.

31. **Prosecutorial District.** In Prosecutorial District 19B, prosecutors in 9 cases struck qualified black venire members at an average rate of 69.4% but struck qualified non-black venire members at an average rate of only 29.0%.[20] Thus, prosecutors were 2.4 times more likely to strike qualified venire members who were black. This difference in strike levels is significant at the $p < .02$ level.

32. **County.** In Randolph County, the prosecutors in 7 cases struck qualified black venire members at an average rate of 77.4% but struck qualified non-black venire members at an average rate of only 27.8%.[21] Thus, prosecutors were 2.8 times more likely to strike qualified venire members who were black. This difference in strike levels is significant at the $p < .02$ level.

33. **Individual cases.** Average strike rates for individual cases in this district are reported below in Table 10.

ANALYSIS AND RESULTS: CHARGING AND SENTENCING

Statewide Evidence, 1990-2009

34. The statewide analysis of charging and sentencing in death eligible murder cases shows significant, strong, and consistent disparities based on the race of the victim. The statewide data analysis reveals that between 1990 and 2009 defendants in North Carolina were significantly more likely to be charged and sentenced to death if at least one of the victims was white.

35. **Combined Effect of Charging and Sentencing Decisions.** Statewide, from 1990 to 2009, 8.26% of death eligible cases with at least one white victim resulted in death sentences, while only 3.19% of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were 2.59 times more likely to result in a death sentence than all other cases. *See* Table 11.

36. We also measured race disparities in adjusted analyses that account for the impact of non-racial factors that bear on charging and sentencing outcomes. Even after controlling for

[19] In current Judicial Division 5, prosecutors in 13 cases struck qualified racial minority venire members at an average rate of 50.3% but struck qualified white venire members at an average rate of only 27.5%. This difference in strike rates is marginally statistically significant at the $p < .07$ level.

[20] In Prosecutorial District 19B, prosecutors in 10 cases struck qualified racial minority venire members at an average rate of 70.8% but struck qualified white venire members at an average rate of only 28.3%. This difference in strike rates is statistically significant at the $p < .01$ level.

[21] In Randolph County, prosecutors in 8 cases struck qualified racial minority venire members at an average rate of 77.4% but struck qualified white venire members at an average rate of only 27.4%. This difference in strike rates is statistically significant at the $p < .02$ level.

statutory aggravating and mitigating circumstances in the statutory controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 2.067 times higher than the odds faced by all other similarly situated defendants. *See* Table 12.

37. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 1.635 times higher than the odds faced by all other similarly situated defendants. *See* Table 13.

38. **Prosecutors' Decisions to Advance to Capital Trial.** Statewide, from 1990 to 2009, prosecutors brought 17.21% of death eligible cases with at least one white victim to a capital trial, but brought only 8.86%of those cases without at least one white victim to a capital trial. Thus, prosecutors were 1.94 times more likely to bring a case to a capital trial if the case involved at least one white victim. *See* Table 11.

39. These disparities also persisted in regression models that account for the impact of non-racial statutory aggravating and mitigating circumstances in the cases. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls model, death eligible defendants in cases with least one white victim faced odds of advancing to a capital trial that were 1.530 times higher than the odds faced by all other similarly situated defendants. *See* Table 14.

40. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls model, death eligible defendants in cases with at least one white victim faced odds of advancing to a capital trial that were 1.609 times higher than the odds faced by all other similarly situated defendants. *See* Table 15.

Statewide Evidence, 1990-1999

41. The statewide data analysis reveals significant disparities based on the race of the victim between 1990 and 1999.

42. **Combined Effect of Charging and Sentencing Decisions.** Statewide, from 1990 to 1999, 11.25% of death eligible cases with at least one white victim resulted in death sentences, while only 4.71% of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were 2.39 times more likely to result in a death sentence than all other cases. *See* Table 16.

43. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 1.481 times higher than the odds faced by all other similarly situated defendants. *See* Table 12.

44. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls regression model, death eligible defendants

in cases with at least one white victim faced odds of receiving a death sentence that were 1.708 times higher than the odds faced by all other similarly situated defendants. *See* Table 13.

45. **Prosecutors' Decisions to Advance to Capital Trial.** Statewide, for the time period between 1990 and 1999, prosecutors brought 22.44% of death eligible cases with at least one white victim to capital trials, but brought only 11.36% of those cases without white victims to capital trials. Thus, prosecutors were 1.98 times more likely to bring a case to a capital trial if there was at least one white victim. *See* Table 16.

46. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls model, death eligible defendants in cases with least one white victim faced odds of advancing to a capital trial that were 1.478 times higher than the odds faced by all other similarly situated defendants. *See* Table 14.

47. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls model, death eligible defendants in cases with at least one white victim faced odds of advancing to a capital trial that were 1.469 times higher than the odds faced by all other similarly situated defendants. *See* Table 15.

Statewide Evidence, 2000-2009

48. The statewide data analysis reveals significant disparities based on the race of the victim between 2000 and 2009.

49. **Combined Effect of Charging and Sentencing Decisions.** Statewide, from 2000 to 2009, 4.18% of death eligible cases with at least one white victim resulted in death sentences, while only 1.50% of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were 2.78 times more likely to result in a death sentence than all other cases. *See* Table 17.

50. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 2.647 times higher than the odds faced by all other similarly situated defendants. *See* Table 12.

51. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 2.158 times higher than the odds faced by all other similarly situated defendants. *See* Table 13.

52. **Prosecutors' Decisions to Advance to Capital Trial.** Statewide, for the time period between 2000 and 2009, prosecutors brought 10.11% of death eligible cases with at least one white victim to capital trials, but brought only 6.09% of those cases without white victims to capital trials. Thus, prosecutors were 1.66 times more likely to bring a case to a capital trial if there was at least one white victim. *See* Table 17.

53. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls model, death eligible defendants in cases with least one white victim faced odds of advancing to a capital trial that were 1.651 times higher than the odds faced by all other similarly situated defendants. *See* Table 14.

54. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls model, death eligible defendants in cases with at least one white victim faced odds of advancing to a capital trial that were 1.417 times higher than the odds faced by all other similarly situated defendants. *See* Table 15.

Statewide Evidence, 1990-1994

55. The statewide data analysis reveals significant disparities based on the race of the victim between 1990 and 1994.

56. **Combined Effect of Charging and Sentencing Decisions.** Statewide, from 1990 to 1994, 12.14% of death eligible cases with at least one white victim resulted in death sentences, while only 3.90% of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were 3.11 times more likely to result in a death sentence than all other cases. *See* Table 18.

57. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 1.742 times higher than the odds faced by all other similarly situated defendants. *See* Table 12.

58. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 1.255 times higher than the odds faced by all other similarly situated defendants. *See* Table 13.

59. **Prosecutors' Decisions to Advance to Capital Trial.** Statewide, for the time period between 1990 and 1994, prosecutors brought 24.01% of death eligible cases with at least one white victim to capital trials, but brought only 10.20% of those cases without white victims to capital trials. Thus, prosecutors were 2.35 times more likely to bring a case to a capital trial if there was at least one white victim. *See* Table 18.

60. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls model, death eligible defendants in cases with least one white victim faced odds of advancing to a capital trial that were 1.805 times higher than the odds faced by all other similarly situated defendants. *See* Table 14.

61. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls model, death eligible defendants in cases with at least one white victim faced odds of advancing to a capital trial that were 1.608 times higher than the odds faced by all other similarly situated defendants. *See* Table 15.

Statewide Evidence, 1995-1999

62. The statewide data analysis reveals significant disparities based on the race of the victim between 1995 and 1999.

63. **Combined Effect of Charging and Sentencing Decisions.** Statewide, from 1995 to 1999, 10.42% of death eligible cases with at least one white victim resulted in death sentences, while only 5.41% of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were 1.93 times more likely to result in a death sentence than all other cases. *See* Table 19.

64. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 1.389 times higher than the odds faced by all other similarly situated defendants. *See* Table 12.

65. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 2.150 times higher than the odds faced by all other similarly situated defendants. *See* Table 13.

66. **Prosecutors' Decisions to Advance to Capital Trial.** Statewide, for the time period between 1995 and 1999, prosecutors brought 20.98% of death eligible cases with at least one white victim to capital trials, but brought only 12.38% of those cases without white victims to capital trials. Thus, prosecutors were 1.70 times more likely to bring a case to a capital trial if there was at least one white victim. *See* Table 19.

67. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls model, death eligible defendants in cases with least one white victim faced odds of advancing to a capital trial that were 1.362 times higher than the odds faced by all other similarly situated defendants. *See* Table 14.

68. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls model, death eligible defendants in cases with at least one white victim faced odds of advancing to a capital trial that were 1.464 times higher than the odds faced by all other similarly situated defendants. *See* Table 15.

Statewide Evidence, 2000-2004

69. The statewide data analysis reveals significant disparities based on the race of the victim between 2000 and 2004.

70. **Combined Effect of Charging and Sentencing Decisions.** Statewide, from 2000 to 2004, 4.98% of death eligible cases with at least one white victim resulted in death sentences, while only 2.34% of death eligible cases without white victims resulted in death

sentences. Thus, death eligible cases with at least one white victim were 2.13 times more likely to result in a death sentence than all other cases. *See* Table 20.

71. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 2.173 times higher than the odds faced by all other similarly situated defendants. *See* Table 12.

72. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 1.324 times higher than the odds faced by all other similarly situated defendants. *See* Table 13.

73. **Prosecutors' Decisions to Advance to Capital Trial.** Statewide, for the time period between 2000 and 2004, prosecutors brought 10.89% of death eligible cases with at least one white victim to capital trials, but brought only 9.40% of those cases without white victims to capital trials. Thus, prosecutors were 1.16 times more likely to bring a case to a capital trial if there was at least one white victim. *See* Table 20.

74. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls model, death eligible defendants in cases with least one white victim faced odds of advancing to a capital trial that were 1.045 times higher than the odds faced by all other similarly situated defendants. *See* Table 14.

Statewide Evidence, 2005-2009

75. The statewide data analysis reveals significant disparities based on the race of the victim between 2005 and 2009.

76. **Combined Effect of Charging and Sentencing Decisions.** Statewide, from 2005 to 2009, 3.16% of death eligible cases with at least one white victim resulted in death sentences, while only 0.55% of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were 5.69 times more likely to result in a death sentence than all other cases. *See* Table 21.

77. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 10.681 times higher than the odds faced by all other similarly situated defendants. *See* Table 12.

78. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls regression model, death eligible defendants in cases with at least one white victim faced odds of receiving a death sentence that were 6.322 times higher than the odds faced by all other similarly situated defendants. *See* Table 13.

79. **Prosecutors' Decisions to Advance to Capital Trial.** Statewide, for the time period between 2005 and 2009, prosecutors brought 9.12% of death eligible cases with at least one white victim to capital trials, but brought only 2.36% of those cases without white victims to capital trials. Thus, prosecutors were 3.86 times more likely to bring a case to a capital trial if there was at least one white victim. *See* Table 21.

80. Even after controlling for statutory aggravating and mitigating circumstances in the statutory controls model, death eligible defendants in cases with least one white victim faced odds of advancing to a capital trial that were 5.404 times higher than the odds faced by all other similarly situated defendants. *See* Table 14.

81. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors in the all meaningful controls model, death eligible defendants in cases with at least one white victim faced odds of advancing to a capital trial that were 3.210 times higher than the odds faced by all other similarly situated defendants. *See* Table 15.

Statewide Evidence, Native American Defendant Disparities, 1990-2009

82. **Combined Effect of Charging and Sentencing Decisions.** Statewide, from 1990 to 2009, 10.58% (12/113)[22] of death eligible cases with Native American defendants resulted in death sentences, while only 5.32% (301/5662) of death eligible cases without Native American defendants resulted in death sentences. Thus, death eligible cases with Native American defendants were 1.99 times more likely to result in a death sentence than all other cases.

83. Even after controlling for statutory aggravating and mitigating circumstances, death eligible Native American defendants faced odds of receiving a death sentence that were 1.815 times higher than the odds faced by all other similarly situated defendants.

84. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors, death eligible Native American defendants faced odds of receiving a death sentence that were 1.198 times higher than the odds faced by all other similarly situated defendants.

85. **Prosecutors' Decisions to Seek Death at Any Point in the Charging.** Statewide, from 1990 to 2009, prosecutors sought the death penalty at some point in the charging process in 81.86% (93/113) of death eligible cases with Native American defendants. Prosecutors sought the death penalty at some point in the charging process in 60.45% (3391/5609) of death eligible cases without Native American defendants. Thus, prosecutors were 1.35 times more likely to seek the death penalty in cases with Native American defendants.

86. Even after controlling for statutory aggravating and mitigating circumstances, death eligible Native American defendants faced odds of being charged capitally at some point in

[22] From this point forward in the affidavit, we provide the numbers of cases used to calculate the selection rate in parentheses following the percentage. The numbers for the previous sections of the affidavit are available in the tables.

the charging process that were 2.883 times higher than the odds faced by all other similarly situated defendants.

87. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors, death eligible Native American defendants faced odds of being charged capitally at some point in the charging process that were 3.298 times higher than the odds faced by all other similarly situated defendants.

88. **Prosecutors' Decisions to Advance to Capital Trial.** Statewide, from 1990 to 2009, prosecutors brought 27.34% (31/113) of death eligible cases with Native American Defendants to capital trials, but brought only 12.24% (692/5657) of death eligible cases without Native American defendants to capital trials. Thus, prosecutors were 2.23 times more likely to bring a case to a capital trial if there was a Native American defendant.

89. Even after controlling for statutory aggravating and mitigating circumstances, death eligible Native American defendants faced odds of advancing to a capital trial that were 2.797 times higher than the odds faced by all other similarly situated defendants.

90. Even after analyzing the importance of and where appropriate controlling for over 200 additional factors, death eligible Native American defendants faced odds of advancing to a capital trial that were 2.258 times higher than the odds faced by all other similarly situated defendants.

Former Judicial Division 3, 1990-1999

91. Data analysis for former Judicial Division 3 reveals significant disparities based on race from 1990 to 1999.

White Victim Disparities

92. **Combined Effect of Charging and Sentencing Decisions.** In former Judicial Division 3, from 1990 to 1999, 11.13% (45/404) of death eligible cases with at least one white victim resulted in death sentences, while only 4.37% (17/389) of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were 2.55 times more likely to result in a death sentence.

93. **Prosecutors' Decisions to Advance to Capital Trial.** In former Judicial Division 3, from 1990 to 1999, prosecutors brought 20.28% (82/404) of death eligible cases with at least one white victim to capital trials, but brought only 10.28% (40/389) of death eligible cases without white victims to capital trials. Thus, prosecutors were 1.97 times more likely to bring a case to a capital trial if there was at least one white victim.

94. **Jury Sentencing Decisions.** In former Judicial Division 3, from 1990 to 1999, juries imposed death sentences in 54.88% (45/82) of all penalty phase trials with at least one white victim, but only 42.50% (17/40) of penalty phase trials without white victims. Thus, juries

were 1.29 times more likely to sentence a defendant to death if the case had at least one white victim.

Racial Minority Defendant/White Victim Disparities

95. **Jury Sentencing Decisions.** In former Judicial Division 3, from 1990 to 1999, juries imposed death sentences in 64.00% (16/25) of all penalty phase trials with racial minority defendants and at least one white victim, but only 47.42% (46/97) of all other penalty phase trials. Thus, juries were 1.35 times more likely to sentence a defendant to death if the case had a racial minority defendant and at least one white victim.

Current Judicial Division 5, 2000-2009

96. Data analysis for current Judicial Division 5 reveals significant disparities based on race from 1990 to 1999.

White Victim Disparities

97. **Combined Effect of Charging and Sentencing Decisions.** In current Judicial Division 5, from 2000 to 2009, 7.07% (14/98) of death eligible cases with at least one white victim resulted in death sentences, while only 1.71% (5/292) of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were 4.13 times more likely to result in a death sentence.

98. **Prosecutors' Decisions to Advance to Capital Trial.** In current Judicial Division 5, from 2000 to 2009, prosecutors brought 11.62% (23/198) of death eligible cases with at least one white victim to capital trials, but brought only 6.15% (18/292) of death eligible cases without white victims to capital trials. Thus, prosecutors were 1.89 times more likely to bring a case to a capital trial if there was at least one white victim.

99. **Jury Sentencing Decisions.** In current Judicial Division 5, from 2000 to 2009, juries imposed death sentences in 60.87% (14/23) of all penalty phase trials with at least one white victim, but only 27.78% (5/18) of penalty phase trials without white victims. Thus, juries were 2.19 times more likely to sentence a defendant to death if the case had at least one white victim.

Racial Minority Defendant Disparities

100. **Prosecutors' Decisions to Seek Death at Any Point in the Charging.** In current Judicial Division 5, from 2000 to 2009, prosecutors sought the death penalty at some point in the charging process in 89.63% (299/333) of death eligible cases with racial minority defendants. Prosecutors sought the death penalty at some point in the charging process in 71.53% (112/157) of death eligible cases with white defendants. Thus, prosecutors were 1.25 times more likely to seek the death penalty in cases with racial minority defendants.

Racial Minority Defendant/White Victim Disparities

101. **Prosecutors' Decisions to Advance to Capital Trial.** In current Judicial Division 5, from 2000 to 2009, prosecutors brought 15.62% (8/51) of death eligible cases with racial minority defendants and at least one white victim to capital trials, but brought only 7.51% (33/439) of all other death eligible cases to capital trials. Thus, prosecutors were 2.08 times more likely to bring a case to a capital trial if there was a racial minority defendant and at least one white victim.

Prosecutorial District 19B

102. Data analysis for Prosecutorial District 19B reveals significant disparities based on race from 1990 to 2009.

White Victim Disparities

103. **Combined Effect of Charging and Sentencing Decisions.** In Prosecutorial District 19B, from 1990 to 2009, 15.47% (11/71) of death eligible cases with at least one white victim resulted in death sentences, while only 2.47% (1/40) of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were 6.26 times more likely to result in a death sentence.

104. **Prosecutors' Decisions to Advance to Capital Trial.** In Prosecutorial District 19B, from 1990 to 2009, prosecutors brought 22.50% (16/71) of death eligible cases with at least one white victim to capital trials, but brought only 14.84% (6/40) of death eligible cases without white victims to capital trials. Thus, prosecutors were 1.52 times more likely to bring a case to a capital trial if there was at least one white victim.

105. **Jury Sentencing Decisions.** In Prosecutorial District 19B, from 1990 to 2009, juries imposed death sentences in 68.75% (11/16) of all penalty phase trials with at least one white victim, but only 16.67% (1/6) of penalty phase trials without white victims. Thus, juries were 4.13 times more likely to sentence a defendant to death if the case had at least one white victim.

Randolph County

106. Data analysis for Randolph County reveals significant disparities based on race from 1990 to 2009.

White Victim Disparities

107. **Combined Effect of Charging and Sentencing Decisions.** In Randolph County, from 1990 to 2009, 16.46% (10/61) of death eligible cases with at least one white victim resulted in death sentences, while only 0% (0/33) of death eligible cases without white victims resulted in death sentences. Thus, death eligible cases with at least one white victim were an infinite times more likely to result in a death sentence.

108. **Prosecutors' Decisions to Advance to Capital Trial.** In Randolph County, from 1990 to 2009, prosecutors brought 23.05% (14/61) of death eligible cases with at least one white victim to capital trials, but brought only 8.96% (3/33) of death eligible cases without white victims to capital trials. Thus, prosecutors were 2.57 times more likely to bring a case to a capital trial if there was at least one white victim.

109. **Jury Sentencing Decisions.** In Randolph County, from 1990 to 2009, juries imposed death sentences in 71.43% (10/14) of all penalty phase trials with at least one white victim, but only 0% (0/3) of penalty phase trials without white victims. Thus, juries were an infinite times more likely to sentence a defendant to death if the case had at least one white victim.

Catherine Grosso, J.D.
Assistant Professor of Law
Michigan State University College of Law

Barbara O'Brien, J.D., Ph.D.
Associate Professor of Law
Michigan State University College of Law

Sworn and subscribed to before me, a notary public for the County of Ingham, State of Michigan, on this the 30 day of July 2010.

NOTARY PUBLIC

BETH ANNE WEY
Notary Public, State of Michigan
County of Clinton
My Commission Expires Nov. 29, 2015
Acting in the County of Ingham

MY COMMISSION EXPIRES ON:

TABLE 1
Statewide Prosecutorial Peremptory Strike Patterns over Entire Study Period

		A Black Venire members	B All Other Venire members	C Unknown	D Total
1	**Passed**	572 (47.5%)	4595 (74.2%)	3 (75.0%)	5170 (69.9%)
2	**Struck**	631 (52.5%)*	1598 (25.8%)*	1 (25.0%)	2230 (30.1%)
3	**Total**	1203 (100.0%)	6193 (100.0%)	4 (100.0%)	7400 (100.0%)

*This difference in strike rates is significant at $p < .001$.

TABLE 2
Statewide Average Rates of State Strikes
By Entire Study Period

	A Average Strike Rate	B Number of Cases
1. **Strike Rates Against Black Qualified Venire Members**	55.5%	166
2. **Strike Rates Against All Other Qualified Venire Members**	24.8%	166

*This difference in strike rates is significant at $p < .001$.

TABLE 3
Disparities in Strike Patterns by Race of Defendant
Statewide Average Rates of State Strikes

	Race of Defendant	A Strikes Against	B Average Strike Rate	C Number of Cases
1.	**Black**	**Black Qualified Venire members**	59.9%	90
2.		**All Other Qualified Venire members**	23.1%	
3.	**Non-Black**	**Black Qualified Venire members**	50.1%	76
4.		**All Other Qualified Venire members**	26.9%	

*This difference between the disparity in strike rates by race of defendant is significant at $p < .02$.

TABLE 4
Statewide Average of Rates of State Strikes
From 1990 through 1999

	A Average Strike Rate	B Number of Cases
1. **Strike Rates Against Black Qualified Venire Members**	54.9%	122
2. **Strike Rates Against All Other Qualified Venire Members**	24.7%	122

*This difference in strike rates is significant at $p < .001$.

TABLE 5
Statewide Average of Rates of State Strikes
From 2000 through 2010

	A Average Strike Rate	B Number of Cases
1. **Strike Rates Against Black Qualified Venire Members**	56.9%	44
2. **Strike Rates Against All Other Qualified Venire Members**	25.1%	44

*This difference in strike rates is significant at $p < .001$.

TABLE 6
Statewide Average of Rates of State Strikes
From 1990 through 1994

	A Average Strike Rate	B Number of Cases
1. **Strike Rates Against Black Qualified Venire Members**	57.3%	42
2. **Strike Rates Against All Other Qualified Venire Members**	26.0%	42

*This difference in strike rates is significant at $p < .001$.

TABLE 7
Statewide Average of Rates of State Strikes
From 1995 through 1999

	A Average Strike Rate	B Number of Cases
1. **Strike Rates Against Black Qualified Venire Members**	53.6%	80
2. **Strike Rates Against All Other Qualified Venire Members**	24.1%	80

*This difference in strike rates is significant at $p < .001$.

TABLE 8
Statewide Average of Rates of State Strikes
From 2000 through 2004

	A Average Strike Rate	B Number of Cases
1. **Strike Rates Against Black Qualified Venire Members**	57.2%	29
2. **Strike Rates Against All Other Qualified Venire Members**	25.0%	29

*This difference in strike rates is significant at $p < .001$.

TABLE 9
Statewide Average of Rates of State Strikes
From 2005 through 2010

	A Average Strike Rate	B Number of Cases
1. **Strike Rates Against Black Qualified Venire Members**	56.4%	15
2. **Strike Rates Against All Other Qualified Venire Members**	25.4%	15

*This difference in strike rates is significant at $p < .01$.

TABLE 10
Rates of State Strikes for Cases in Prosecutorial District 19B
By Entire Study Period

Name of Defendant	Mean Strike Rate	
	Black Qualified Venire Members	**All Other Qualified Venire Members**
Scott Allen	33.3% (2/6)	32.4% (11/34)
John Badgett	66.7% (2/3)	25.0% (9/36)
Terrence Elliott	50.0% (3/6)	34.2% (14/41)
Jason Hurst	0.0% (0/3)	37.8% (17/45)
Jeffrey Kandies	75.0% (9/12)	17.7% (6/34)
Alexander Polke	--- (0/0)	24.3% (9/37)
Kenneth Rouse	100% (1/1)	34.1% (15/44)
Gary Trull	100% (2/2)	30.2% (13/43)
George Wilkerson	100% (1/1)	18.2% (6/33)
James Williams	100% (2/2)	31.8% (14/44)

TABLE 11
Statewide Unadjusted Racial Disparities: North Carolina, 1990-2009

	A	B **Racial Minority Defendant** (DefRM)	C **White Victim** (WhiteVic)	D **Minority Defendant/ White Victim** (RMWV)
1.	Combined Effect of Charging and Sentencing Decisions	Yes: 4.23% (175/4135) No : 8.42% (138/1640)	Yes: 8.26% (210/2544) No : 3.19% (103/3231)	Yes: 7.64% (82/1074) No : 4.91% (231/4701)
	(Death1=1) n = 1562 (weighted analysis) Overall Rate: 5.42%	Diff: -4.18 points Ratio: 0.50 ($p < 0.0001$)	Diff: 5.07 points Ratio: 2.59 ($p < 0.0001$)	Diff: 2.72 points Ratio: 1.55 ($p < 0.01$)
	Charging Decisions			
2.	Prosecutors' Decisions to Seek Death at Any Point in the Charging	Yes: 60.68% (2489/4102) No : 61.39% (995/1620)	Yes: 62.15% (1564/2516) No : 59.88% (1920/3206)	Yes: 62.23% (660/1060) No : 60.57% (2824/4662)
	(EverSeekDeath=1) n = 1549 (weighted analysis) Overall Rate: 60.88%	Diff: -0.71 points Ratio: 0.99 ($p = 0.85$)	Diff: 2.27 points Ratio: 1.04 ($p = 0.52$)	Diff: 1.66 points Ratio: 1.03 ($p = 0.72$)
3.	Prosecutors' Decisions to Advance to a Capital Guilt Trial	Yes: 10.48% (433/4135) No : 17.73% (290/1635)	Yes: 17.21% (437/2539) No : 8.86% (286/3231)	Yes: 16.39% (176/1074) No : 11.65% (547/4696)
	(CapTrial=1) n = 1561 (weighted analysis) Overall Rate: 12.53%	Diff: -7.25 points Ratio: 0.59 ($p < 0.0001$)	Diff: 8.35 points Ratio: 1.94 ($p < 0.0001$)	Diff: 4.74 points Ratio: 1.41 ($p = 0.005$)
	Sentencing Decisions			
4.	Jury Decision to Impose Death Sentence at Penalty Trial	Yes: 42.17% (175/415) No : 50.00% (138/276)	Yes: 49.65% (210/423) No : 38.43% (103/268)	Yes: 46.59% (82/176) No : 44.85% (231/515)
	(PTDeath=1) n = 691 (unweighted analysis) Overall Rate: 45.30%	Diff: -7.83 points Ratio: 0.84 ($p = 0.05$)	Diff: 11.21 points Ratio: 1.29 ($p < 0.01$)	Diff: 1.74 points Ratio: 1.04 ($p = 0.73$)

TABLE 12

Combined Effect of Charging and Sentencing Decisions (Death1): North Carolina, 1990-2009
Statutory Controls Regression Models, Twenty- (Col. B), Ten- (Cols. C-D), and Five-Year (Cols. E-H) Periods
(*Variable definitions are provided in Table 22*.)

	A	B		C		D		E		F		G		H	
		Full Study Period Twenty Years 1990-2009		**First Ten Years 1990-1999** (FiveYears = 1 or 2)		**Second Ten Years 2000-2009** (FiveYears = 3 or 4)		**First Five Years 1990-1994** (FiveYears=1)		**Second Five Years 1995-1999** (FiveYears=2)		**Third Five Years 2000-2004** (FiveYears=3)		**Fourth Five Years 2005-2009** (FiveYears=4)	
1.	# death sentences	313		245		68		117		128		49		19	
2.	n	1,562		1,042		520		492 (117)		550		349		171	
3.	weighted n	5,775		3,166		2,609		1,503 (117)		1,663		1,413		1196	
4.	R^2	0.22		0.36		0.19		0.43		0.32		0.14		0.19	
		Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio
5.	Intercept	-3.8966 *<.0001*		-4.1666 *<.0001*		-5.2539 *<.0001*		-4.4929 *<.0001*		-4.2219 *<.0001*		-4.5123 *<.0001*		-6.8322 *<.0001*	

6.	**DefRM**	-0.4019 *0.0477*	0.669	-0.7408 *0.0021*	0.477	0.2776 *0.5165*	1.320	-1.0616 *0.0008*	0.346	-.03871 *0.2597*	0.679	0.2568 *0.5405*	1.293	0.4297 *0.5116*	1.537
7.	**WhiteVic**	0.7261 *0.0002*	2.067	0.3929 *0.0877*	1.481	0.9736 *0.0123*	2.647	0.5552 *0.0984*	1.742	0.3283 *0.2873*	1.389	0.7759 *0.0385*	2.173	2.3685 *0.0039*	10.681
8.	**AggE2**	1.6087 *0.0093*	4.996												
9.	**AggE3**	1.0228 *<.0001*	2.781	1.5219 *<.0001*	4.581	1.1614 *0.0002*	3.195	1.7509 *<.0001*	5.760	1.3842 *<.0001*	3.992	1.1797 *0.0006*	3.254	1.2205 *0.0551*	3.389
10.	**AggE4**	1.4083 *<.0001*	4.089	1.3748 *0.0005*	3.954	1.8172 *0.0004*	6.155	1.4072 *0.0011*	4.084	1.3987 *0.0050*	4.050	2.0649 *<.0001*	7.885		
11.	**AggE5**							1.3367 *0.0003*	3.807						
12.	**AggE6**	0.5454 *0.0009*	1.725	0.9137 *<.0001*	2.493					0.6908 *0.0120*	1.995				
13.	**AggE8**	1.7449 *0.0002*	5.725												
14.	**AggE9**			1.9593 *<.0001*	7.094	0.9570 *0.0014*	2.604	2.2905 *<.0001*	9.880	1.7528 *<.0001*	5.771			1.5244 *0.0166*	4.592

15.	**AggE11**	0.4493 *0.0055*	1.567	0.8614 *<.0001*	2.366					1.0101 *0.0002*	2.746				
16.	**MitF4**	-2.5612 *<.0001*	0.077	-2.7634 *0.0002*	0.063	-1.7442 *0.0764*	0.175	-2.7737 *0.0147*	0.062	-2.3078 *0.0145*	0.099				

TABLE 13

Combined Effect of Charging and Sentencing Decisions (Death1): North Carolina, 1990-2009
All Meaningful Controls Regression Models, Twenty- (Col. B), Ten- (Cols. C-D), and Five-Year (Cols. E-H) Periods
(*Variable definitions are provided in Table 22*.)

	A	B		C		D		E		F		G		H	
		Full Study Period Twenty Years 1990-2009		**First Ten Years 1990-1999** (FiveYears = 1 or 2)		**Second Ten Years 2000-2009** (FiveYears = 3 or 4)		**First Five Years 1990-1994** (FiveYears=1)		**Second Five Years 1995-1999** (FiveYears=2)		**Third Five Years 2000-2004** (FiveYears=3)		**Fourth Five Years 2005-2009** (FiveYears=4)	
1.	# death sentences	313		245		68		117		128		49		19	
2.	n	1,562		1,042		520		492		550		349		171	
3.	weighted n	5,775		3,166		2,609		1,503		1,663		1,413		1,196	
4.	R^2	0.68		0.71		0.49		0.68		0.73		0.57		0.65	
		Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio
5.	Intercept	-4.8856 *<.0001*		-4.5854 *<.0001*		-5.6177 *<.0001*		-5.7754 *<.0001*		-5.0176 *<.0001*		-3.6447 *<.0001*		-2.6945 *0.0008*	
6.	**DefRM**	-0.4869 *0.0355*	0.615	-.03050 *0.2622*	0.737	-0.0713 *0.8628*	0.931	-0.5224 *0.1609*	0.593	-0.0479 *0.8902*	0.953	-0.5536 *0.3058*	0.575	-0.3120 *0.6665*	0.732
7.	**WhiteVic**	0.4918 *0.0317*	1.635	0.5355 *0.0409*	1.708	0.7690 *0.0480*	2.158	0.2274 *0.5498*	1.255	0.7657 *0.0503*	2.150	0.2809 *0.6111*	1.324	1.8441 *0.0139*	6.322
8.	**AggE3**	0.9582 *<.0001*	2.607	1.4261 *<.0001*	4.162			1.7937 *<.0001*	6.012						
9.	**AggE4**									1.5169 *0.0023*	4.558				
10.	**AggE6**			0.8951 *0.0004*	2.448			1.3255 *0.0002*	3.764						
11.	**AggE9**	0.7440 *0.0010*	2.104	0.9758 *0.0002*	2.653			1.6297 *<.0001*	5.102						
12.	**AggCirScale**	0.2092 *0.0064*	1.233			0.5835 *<.0001*	1.792			0.4623 *0.0012*	1.588	0.2840 *0.0483*	1.328		
13.	**AssaultGun**									1.9584 *0.0028*	7.088				
14.	**Disrobe**			0.8197 *0.0230*	2.270										
15.	**EvidType2**	0.7204 *0.0002*	2.055			1.2455 *0.0006*	3.475					1.8750 *<.0001*	6.521		
16.	**EvidType3**	1.2376 *0.0002*	3.447												

	A	B		C		D		E		F		G		H	
17.	**EvidType9**							1.1744 *0.0031*	3.236						
18.	**EvidType10**	0.8562 *<.0001*	2.354	0.9507 *<.0001*	2.587					1.8852 *<.0001*	6.588	1.6348 *<.0001*	5.129		
19.	**EvidType11**			1.2532 *<.0001*	3.502					1.1982 *0.0003*	3.314				
20.	**Execution**	0.5053 *0.0193*	1.657												
21.	**FemVic**	0.5707 *0.0068*	1.770	0.5472 *0.0283*	1.728			1.5406 *<.0001*	4.668						
22.	**GratuitousFelony**			1.2308 *0.0003*	3.424										
23.	**HeadWound**	0.7893 *0.0002*	2.202	0.7085 *0.0043*	2.031			1.3188 *0.0002*	3.739						
24.	**Killer**							1.3490 *0.0006*	3.853						
25.	**PleasureKill**					1.5200 *0.0020*	4.572								
26.	**PTDNDX_DTH1**													1.5850 *<.0001*	4.879
27.	**SeverePain**	0.9714 *<.0001*	2.642	0.8787 *0.0005*	2.408					2.0666 *<.0001*	7.898				
28.	**SpecialAgg2**							1.0551 *0.0073*	2.872						
29.	**Trauma**	1.6213 *<.0001*	5.060	1.3318 *0.0001*	3.788	1.9783 *<.0001*	7.231	1.7858 *0.0005*	5.965						
30.	**TwoVic**	0.7748 *0.0058*	2.170	1.5423 *<.0001*	4.675					1.6506 *0.0002*	5.210				
31.	**VStranger**	1.3186 *<.0001*	3.738			1.4054 *<.0001*	4.077					1.4337 *0.0053*	4.194	1.3840 *0.0605*	3.991
32.	**DefenseType15**	-1.4165 *<.0001*	0.243	-1.1568 *0.0051*	0.314							-3.6388 *0.0008*	0.026		
33.	**DRage**	-1.0233 *0.0006*	0.359												
34.	**DselfD**	-2.0764 *0.0046*	0.125												
35.	**MinorAcc2**	-2.0905 *<.0001*	0.124	-1.9885 *<.0001*	0.137					-3.1534 *<.0001*	0.043				
36.	**NoLongPlan**											-0.1437 *0.0048*	0.866		

	A	B		C		D		E		F		G		H	
37.	**ProvokeQ**			-1.5015 *0.0058*	0.223										
38.	**TookResp**	-2.4856 *<.0001*	0.083	-2.5294 *<.0001*	0.080	-2.7178 *<.0001*	0.066	-2.2360 *<.0001*	0.107	-3.1430 *<.0001*	0.043	-2.6564 *<.0001*	0.070		
39.	**YoungDef**			-0.9880 *0.0552*	0.372										

TABLE 14

Prosecutors' Decisions to Advance to a Capital Guilt Trial (CapTrial): North Carolina, 1990-2009
Statutory Controls Regression Models, Twenty- (Col. B), Ten- (Cols. C-D), and Five-Year (Cols. E-H) Periods
(*Variable definitions are provided in Table 22*.)

	A	B		C		D		E		F		G		H	
		Full Study Period Twenty Years 1990-2009		**First Ten Years 1990-1999** (FiveYears = 1 or 2)		**Second Ten Years 2000-2009** (FiveYears = 3 or 4)		**First Five Years 1990-1994** (FiveYears=1)		**Second Five Years 1995-1999** (FiveYears=2)		**Third Five Years 2000-2004** (FiveYears=3)		**Fourth Five Years 2005-2009** (FiveYears=4)	
1.	# capital trials	695		521		174		250		271		124		50	
2.	n	1,561[23]		1,041		520		491		550		349		171	
3.	# capital trials weighted	723		521		202		250		271		142		60	
4.	weighted n	5,770		3,161		2,609		1,498		1,663		1,413		1,196	
5.	R^2	0.22		0.31		0.14		0.31		0.23		0.16		0.31	
		Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio
6.	Intercept	-2.6157 *<.0001*		-2.5605 *<.0001*		-3.2582 *<.0001*		-2.5286 *<.0001*		-2.6312 *<.0001*		-3.0327 *<.0001*		-5.2368 *<.0001*	
7.	**DefRM**	-0.3875 *0.0347*	0.679	-0.6533 *0.0005*	0.520	-0.0402 *0.9059*	0.961	-0.8265 *0.0020*	0.438	-0.4819 *0.0612*	0.618	0.1993 *0.5948*	1.221	0.2116 *0.7345*	1.236
8.	**WhiteVic**	0.4253 *0.0097*	1.530	0.3905 *0.0346*	1.478	0.5014 *0.0836*	1.651	0.5903 *0.0254*	1.805	0.3088 *0.2000*	1.362	0.0438 *0.9000*	1.045	1.6872 *0.0014*	5.404
9.	**AggE3**	0.7503 *<.0001*	2.118	0.9719 *<.0001*	2.643	0.6549 *0.0148*	1.925	1.0059 *<.0001*	2.734	1.0113 *<.0001*	2.749	0.9394 *0.0005*	2.558		
10.	**AggE4**	0.9420 *0.0027*	2.565	1.7350 *<.0001*	5.669					1.4251 *0.0012*	4.158	1.6024 *0.0002*	4.965		
11.	**AggE5**							0.8063 *0.0061*	2.240					1.1412 *0.0506*	3.131
12.	**AggE6**	0.4455 *0.0027*	1.561	0.6753 *<.0001*	1.965					0.4342 *0.0335*	1.544				
13.	**AggE8**	2.0516 *<.0001*	7.780			1.9073 *0.0010*	6.735								
14.	**AggE9**	0.8104 *<.0001*	2.249	1.1270 *<.0001*	3.087	1.9073 *0.0020*	2.439	1.3156 *<.0001*	3.727	0.9174 *<.0001*	2.503	0.7285 *0.0104*	2.072	1.1944 *0.0433*	3.301
15.	**AggE11**			0.7358 *<.0001*	2.087					0.8468 *<.0001*	2.332				
16.	**MitF4**			-0.7472 *0.0214*	0.474			-1.2233 *0.0057*	0.294					-1.8037 *0.0465*	0.165
17.	**MitF8**	-0.7885 *0.0006*	0.455	-0.8127 *0.0062*	0.444										

[23] This model has one fewer case than the models in Tables 12 and 13 because it is not known whether one case went to a capital or non-capital trial. It did not result in a death sentence.

TABLE 15

Prosecutors' Decisions to Advance to a Capital Guilt Trial (CapTrial): North Carolina, 1990-2009
All Meaningful Controls Regression Models, Twenty- (Col. B), Ten- (Cols. C-D), and Five-Year (Cols. E-H) Periods
(*Variable definitions are provided in Table 22*.)

	A	B		C		D		E		F		G		H	
		Full Study Period Twenty Years 1990-2009		**First Ten Years 1990-1999** (FiveYears = 1 or 2)		**Second Ten Years 2000-2009** (FiveYears = 3 or 4)		**First Five Years 1990-1994** (FiveYears=1)		**Second Five Years 1995-1999** (FiveYears=2)		**Third Five Years 2000-2004** (FiveYears=3)		**Fourth Five Years 2005-2009** (FiveYears=4)	
18.	# capital trials	695		521		174		250		271		124		50	
19.	n	1,561		1,041		520		491		550		349		171	
20.	# capital trials weighted	723		521		202		250		271		142		60	
21.	weighted n	5,770		3,161		2,609		1,498		1,663		1,413		1,196	
22.	R^2	0.78		0.81		0.72		0.74		0.81		0.75		0.64	
		Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio	Coefficient *p-value*	Odds Ratio
23.	Intercept	-3.4175 *<.0001*		-2.4295 *<.0001*		-3.4456 *<.0001*		-1.8714 *<.0001*		-3.7178 *<.0001*		-5.3015 *<.0001*		-4.6543 *<.0001*	
24.	**DefRM**	-0.7704 *0.0004*	0.463	-0.7889 *0.0075*	0.454	-0.4545 *0.2349*	0.635	-0.6603 *0.0394*	0.517	-0.7227 *0.0339*	0.485	-0.6058 *0.2649*	0.546	0.0741 *0.8906*	1.077
25.	**WhiteVic**	0.4758 *0.0326*	1.609	0.3849 *0.1674*	1.469	0.3482 *0.3209*	1.417	0.4748 *0.1339*	1.608	0.3814 *0.2546*	1.464	-0.2392 *0.6022*	0.787	1.1662 *0.0284*	3.210
26.	**AggE3**	0.7792 *0.0009*	2.180	1.2621 *<.0001*	3.533					0.7321 *0.0177*	2.079				
27.	**AddCrime**	0.6813 *0.0035*	1.976												
28.	**AggCirScale**							0.3662 *0.0005*	1.442						
29.	**AggCirScale2**									0.7385 *0.0003*	2.093	0.5339 *0.0122*	1.706	1.1098 *0.0021*	3.034
30.	**EvidType1**	1.2811 *0.0004*	3.601												
31.	**EvidType2**	0.5200 *0.0075*	1.682							1.0887 *0.0004*	2.970				
32.	**EvidType3**	1.2975 *0.0002*	3.660	1.0258 *0.0361*	2.789	1.2130 *0.0224*	3.363								
33.	**EvidType4**											1.5445 *0.0001*	4.686		
34.	**EvidType8**	0.6386 *0.0019*	1.886	1.0646 *<.0001*	2.900										
35.	**EvidType9**							1.4493 *0.0005*	4.260						

	A	B		C		D		E		F		G		H	
36.	**EvidType10**	0.7424 *0.0002*	2.101	0.9582 *0.0002*	2.607	1.0138 *0.0016*	2.756								
37.	**EvidType11**			1.0857 *<.0001*	2.962					0.8098 *0.0112*	2.248				
38.	**FemVic**	0.8392 *<.0001*	2.315	0.9424 *0.0001*	2.566	1.1508 *0.0002*	3.161			1.6394 *<.0001*	5.152	1.6403 *<.0001*	5.157		
39.	**HeadWound**	0.7482 *<.0001*	2.113	0.7609 *0.0016*	2.140					0.9710 *0.0025*	2.640				
40.	**Indifferent**	0.6476 *0.0157*	1.911												
41.	**Killer**			0.7783 *0.0031*	2.178			1.0418 *0.0020*	2.834						
42.	**LowSES**					0.9484 *0.0036*	2.582					1.8288 *<.0001*	6.226		
43.	**ManyWound**							1.1059 *0.0012*	3.022						
44.	**PleasureKill**					1.2300 *0.0351*	3.421								
45.	**PreArmed**	0.5706 *0.0066*	1.769			1.0800 *0.0015*	2.945			1.0732 *0.0010*	2.925	1.7748 *<.0001*	5.899		
46.	**PriorThreat**	0.8185 *0.0004*	2.267							0.7872 *0.0263*	2.197				
47.	**RapeSodomy**							1.0087 *0.0260*	2.742					1.8348 *0.0046*	6.264
48.	**RobBurg**			0.6853 *0.0059*	1.984			0.5961 *0.0427*	1.815						
49.	**SeverePain**	1.0614 *<.0001*	2.890			1.8982 *<.0001*	6.674	0.7230 *0.0078*	2.061			1.7896 *<.0001*	5.987		
50.	**SilenceWitness**													1.6984 *0.0017*	5.465
51.	**SpecialAggHi**							1.3353 *0.0013*	3.801						
52.	**Suffering**			0.5447 *0.0155*	1.724										
53.	**TenPlusStab**	0.9877 *0.0190*	2.685	1.0302 *0.0426*	2.802										
54.	**TwoVic**	0.8596 *0.0042*	2.362	1.3770 *<.0001*	3.963	1.1123 *0.0066*	3.041								
55.	**Vhome**			0.8112 *0.0013*	2.251					1.1098 *0.0005*	3.034	0.9402 *0.0066*	2.561		
56.	**VStranger**	0.9451 *<.0001*	2.573	0.9555 *0.0006*	2.600	1.347 *0.0051*	3.110			0.9527 *0.0057*	2.593	1.4336 *0.0008*	4.194		
57.	**DefenseType5**	-1.2576 *0.0001*	0.284	-1.4691 *0.0002*	0.230					-1.9360 *0.0006*	0.144				
58.	**DefenseType14**	-1.6406 *<.0001*	0.194	-1.7221 *0.0013*	0.179					-2.8562 *0.0071*	0.057	-3.6484 *0.0108*	0.026		

	A	B		C		D		E		F		G		H	
59.	**DVHome**	-1.4151 *<.0001*	0.243			-1.7049 *0.0028*	0.182								
60.	**DRage**	-0.7602 *0.0034*	0.468	-0.9594 *0.0015*	0.383					-0.8761 *0.0533*	0.416				
61.	**MitType302**					-1.2209 *0.0046*	0.295							-2.7599 *<.0001*	0.063
62.	**NoLongPlan**	-0.0756 *0.0018*	0.927	-0.0985 *0.0003*	0.906	-0.1428 *0.0003*	0.867	-0.1086 *0.0016*	0.897			-0.1918 *<.0001*	0.825		
63.	**TookResp**	-2.7677 *<.0001*	0.063	-3.1282 *<.0001*	0.044	-2.0169 *<.0001*	0.133	-2.5154 *<.0001*	0.081	-3.6533 *<.0001*	0.026	-3.1852 *<.0001*	0.041		
64.	**YoungDef**							-1.4310 *0.0007*	0.239						

TABLE 16
Statewide Unadjusted Racial Disparities: North Carolina, 1990-1999
(FiveYears in (1 2))

	A	B **Racial Minority Defendant** (DefRM)	C **White Victim** (WhiteVic)	D **Minority Defendant/ White Victim** (RMWV)
1.	Combined Effect of Charging and Sentencing Decisions (Death1=1) n = 1042 (weighted analysis) Overall Rate: 7.74%	Yes: 5.88% (133/2262) No : 12.40% (112/903) Diff: -6.52 points Ratio: 0.47 (p < 0.0001)	Yes: 11.25% (165/1466) No : 4.71% (80/1699) Diff: 6.54 points Ratio: 2.39 (p < 0.0001)	Yes: 9.61% (62/645) No : 7.26% (183/2520) Diff: 2.35 points Ratio: 1.32 (p = 0.11)
	Charging Decisions			
2.	Prosecutors' Decisions To Seek Death at Any Point in the Charging (EverSeekDeath=1) n = 1031 (weighted analysis) Overall Rate: 56.77%	Yes: 53.67% (1201/2237) No : 64.62% (571/884) Diff: -10.95 points Ratio: 0.83 (p = 0.01)	Yes: 64.11% (922/1439) No : 50.49% (849/1683) Diff: 13.62 points Ratio: 1.27 (p < 0.01)	Yes: 63.66% (402/631) No : 55.02% (1370/2490) Diff: 8.64 points Ratio: 1.16 (p = 0.18)
3.	Prosecutors Decisions to Advance to a Capital Guilt Trial (CapTrial=1) n = 1041 (weighted analysis) Overall Rate: 16.48%	Yes: 13.17% (298/2262) No : 24.82% (223/899) Diff: -11.65 points Ratio: 0.53 (p < 0.0001)	Yes: 22.44% (328/1462) No : 11.36% (193/1699) Diff: 11.08 points Ratio: 1.98 (p < 0.0001)	Yes: 20.31% (131/645) No : 15.50% (390/2516) Diff: 4.80 points Ratio: 1.31 (p = 0.06)
	Sentencing Decisions			
4.	Death Sentence Imposed in a Penalty Trial (PTDeath=1) n = 521 (unweighted analysis) Overall Rate: 47.02%	Yes: 44.63% (133/298) No : 50.22% (112/223) Diff: -5.59 points Ratio: 0.89 (p = 0.21)	Yes: 50.30% (165/328) No : 41.45% (80/193) Diff: 8.85 points Ratio: 1.21 (p = 0.06)	Yes: 47.33% (62/131) No : 46.92% (183/390) Diff: 0.41 points Ratio: 1.01 (p = 1.00)

TABLE 17
Statewide Unadjusted Racial Disparities: North Carolina, 2000-2009
(FiveYears in (3 4))

	A	B **Racial Minority Defendant** (DefRM)	C **White Victim** (WhiteVic)	D **Minority Defendant/ White Victim** (RMWV)
1.	Combined Effect of Charging and Sentencing Decisions (Death1=1) n = 520 (weighted analysis) Overall Rate: 2.61%	Yes: 2.24% (42/1873) No : 3.53% (26/737) Diff: -1.29 points Ratio: 0.64 (p = 0.10)	Yes: 4.18% (45/1077) No : 1.50% (23/1532) Diff: 2.68 points Ratio: 2.78 (p < 0.001)	Yes: 4.66% (20/429) No : 2.20% (48/2181) Diff: 2.46 points Ratio: 2.12 (p = 0.01)
	Charging Decisions			
2.	Prosecutors' Decisions to Seek Death at Any Point in the Charging (EverSeekDeath=1) n = 518 (weighted analysis) Overall Rate: 65.81%	Yes: 69.09% (1288/1864) No : 57.51% (424/737) Diff: 11.57 points Ratio: 1.20 (p = 0.05)	Yes: 59.53% (641/1077) No : 70.25% (1070/1524) Diff: -10.72 points Ratio: 0.85 (p = 0.06)	Yes: 60.12% (258/429) No : 66.93% (1454/2172) Diff: -6.81 points Ratio: 0.90 (p = 0.31)
3.	Prosecutors' Decisions to Advance a to Capital Guilt Trial (CapTrial=1) n = 520 (weighted analysis) Overall Rate: 7.75%	Yes: 7.22% (135/1873) No : 9.08% (67/737) Diff: -1.86 points Ratio: 0.80 (p = 0.39)	Yes: 10.11% (109/1077) No : 6.09% (93/1532) Diff: 4.02 points Ratio: 1.66 (p = 0.03)	Yes: 10.50% (45/429) No : 7.21% (157/2181) Diff: 3.29 points Ratio: 1.46 (p = 0.11)
	Sentencing Decisions			
4.	Death Sentence Imposed in a Penalty Trial (PtDeath=1) n = 170 (unweighted analysis) Overall Rate: 40.00%	Yes: 35.90% (42/117) No : 49.06% (26/53) Diff: -13.16 points Ratio: 0.73 (p = 0.13)	Yes: 47.37% (45/95) No : 30.67% (23/75) Diff: 16.70 points Ratio: 1.54 (p = 0.03)	Yes: 44.44% (20/45) No : 38.40% (48/125) Diff: 6.04 points Ratio: 1.16 (p = 0.48)

TABLE 18
Statewide Unadjusted Racial Disparities: North Carolina, 1990-1994
(FiveYears = 1)

	A	B **Racial Minority Defendant** (DefRM)	C **White Victim** (WhiteVic)	D **Minority Defendant/ White Victim** (RMWV)
1.	Combined Effect of Charging and Sentencing Decisions (Death1=1) n = 492 (weighted analysis) Overall Rate: 7.79%	Yes: 4.91% (55/1120) No : 16.18% (62/383) Diff: -11.27 points Ratio: 0.30 (p < 0.0001)	Yes: 12.14% (86/709) No : 3.90% (31/794) Diff: 8.23 points Ratio: 3.11 (p < 0.0001)	Yes: 7.69% (28/364) No : 7.82% (89/1139) Diff: -0.12 points Ratio: 0.98 (p = 0.9501)
	Charging Decisions			
2.	Prosecutors' Decisions To Seek Death at Any Point in the Charging (EverSeekDeath=1) n = 485 (weighted analysis) Overall Rate: 47.80%	Yes: 43.35% (479/1104) No : 60.99% (227/373) Diff: -17.64 points Ratio: 0.71 (p = 0.0051)	Yes: 56.79% (395/695) No : 39.82% (311/782) Diff: 16.97 points Ratio: 1.43 (p = 0.0073)	Yes: 53.21% (189/355) No : 46.09% (517/1122) Diff: 7.11 points Ratio: 1.15 (p = 0.4023)
3.	Prosecutors' Decisions to Advance to a Capital Guilt Trial (CapTrial=1) n = 491 (weighted analysis) Overall Rate: 16.69%	Yes: 12.06% (135/1120) No : 30.39% (115/378) Diff: -18.33 points Ratio: 0.40 (p < 0.0001)	Yes: 24.01% (169/704) No : 10.20% (81/794) Diff: 13.81 points Ratio: 2.35 (p < 0.0001)	Yes: 18.13% (66/364) No : 16.23% (184/1134) Diff: 1.91 points Ratio: 1.12 (p = 0.5679)
	Sentencing Decisions			
4.	Death Sentence Imposed in a Penalty Trial (PTDeath=1) n = 250 (unweighted analysis) Overall Rate: 46.80%	Yes: 40.74% (55/135) No : 53.91% (62/115) Diff: -13.17 points Ratio: 0.76 (p = 0.0424)	Yes: 50.89% (86/169) No : 38.27% (31/81) Diff: 12.62 points Ratio: 1.33 (p = 0.0781)	Yes: 42.42% (28/66) No : 48.37% (89/184) Diff: -5.95 points Ratio: 0.88 (p = 0.4727)

TABLE 19
Statewide Unadjusted Racial Disparities: North Carolina, 1995-1999
(FiveYears = 2)

	A	B **Racial Minority Defendant** (DefRM)	C **White Victim** (WhiteVic)	D **Minority Defendant/ White Victim** (RMWV)
1	Combined Effect of Charging and Sentencing Decisions (Death1=1) n = 550 (weighted) Overall Rate: 7.70%	Yes: 6.83% (78/1143) No : 9.61% (50/520) Diff: -2.79 points Ratio: 0.71 (p = 0.08)	Yes: 10.42% (79/758) No : 5.41% (49/905) Diff: 5.01 points Ratio: 1.93 (p < 0.001)	Yes: 12.09% (34/281) No : 6.80% (94/1382) Diff: 5.29 points Ratio: 1.78 (p < 0.01)
	Charging Decisions			
2.	Prosecutors' Decisions to seek Death at Any Point in the Charging (EverSeekDeath=1) n = 546 (weighted analysis) Overall Rate: 64.82%	Yes: 63.72% (722/1133) No : 67.27% (344/511) Diff: -3.54 points Ratio: 0.95 (p = 0.53)	Yes: 70.97% (528/743) No : 59.75% (538/901) Diff: 11.21 points Ratio: 1.19 (p = 0.04)	Yes: 77.12% (213/276) No : 62.34% (853/1368) Diff: 14.77 points Ratio: 1.24 (p = 0.03)
3.	Prosecutors' Decisions To Advance to a Capital Guilt Trial (CapTrial=1) n = 550 (weighted) Overall Rate: 16.30%	Yes: 14.26% (163/1143) No : 20.76% (108/520) Diff: -6.50 points Ratio: 0.69 (p = 0.01)	Yes: 20.98% (159/758) No : 12.38% (112/905) Diff: 8.60 points Ratio: 1.70 (p < 0.001)	Yes: 23.12% (65/281) No : 14.91% (206/1382) Diff: 8.21 points Ratio: 1.55 (p < 0.01)
	Sentencing Decisions			
4.	Death Sentence Imposed In a Penalty Trial (PTDeath=1) n = 271 (unweighted) Overall Rate: 47.23%	Yes: 47.85% (78/163) No : 46.30% (50/108) Diff: 1.56 points Ratio: 1.03 (p = 0.80)	Yes: 49.69% (79/159) No : 43.75% (49/112) Diff: 5.94 points Ratio: 1.14 (p = 0.39)	Yes: 52.31% (34/65) No : 45.63% (94/206) Diff: 6.68 points Ratio: 1.15 (p = 0.39)

TABLE 20
Statewide Unadjusted Racial Disparities: North Carolina, 2000-2004
(FiveYears = 3)

	A	B **Racial Minority Defendant** (DefRM)	C **White Victim** (WhiteVic)	D **Minority Defendant / White Victim** (RMWV)
1.	Combined Effect of Charging and Sentencing Decisions (Death1=1) n = 349 (weighted analysis) Overall Rate: 3.47%	Yes: 3.13% (32/1022) No : 4.35% (17/391) Diff: -1.22 points Ratio: 0.72 (p = 0.30)	Yes: 4.98% (30/602) No : 2.34% (19/811) Diff: 2.64 points Ratio: 2.13 (p = 0.01)	Yes: 4.83% (13/269) No : 3.15% (36/1144) Diff: 1.68 points Ratio: 1.53 (p = 0.23)
	Charging Decisions			
2.	Prosecutors' Decisions to Seek Death at Any Point in the Charging (EverSeekDeath=1) n = 347 (weighted analysis) Overall Rate: 67.60%	Yes: 70.66% (716/1014) No : 59.65% (233/391) Diff: 11.01 points Ratio: 1.18 (p = 0.11)	Yes: 63.00% (379/602) No : 71.04% (570/803) Diff: -8.05 points Ratio: 0.89 (p = 0.16)	Yes: 64.05% (173/269) No : 68.44% (777/1135) Diff: -4.39 points Ratio: 0.94 (p = 0.56)
3.	Prosecutors' Decisions To Advance to a Capital Guilt Trial (CapTrial=1) n = 349 (weighted analysis) Overall Rate: 10.04%	Yes: 10.20% (104/1022) No : 9.60% (38/391) Diff: 0.60 points Ratio: 1.06 (p = 0.80)	Yes: 10.89% (66/602) No : 9.40% (76/811) Diff: 1.49 points Ratio: 1.16 (p = 0.51)	Yes: 11.14% (30/269) No : 9.78% (112/1144) Diff: 1.36 points Ratio: 1.14 (p = 0.63)
	Sentencing Decisions			
4.	Death Sentence Imposed in a Penalty Trial (PTDeath=1) n = 121 (unweighted analysis) Overall Rate: 40.50%	Yes: 37.21% (32/86) No : 48.57% (17/35) Diff: -11.36 points Ratio: 0.77 (p = 0.31)	Yes: 47.62% (30/63) No : 32.76% (19/58) Diff: 14.86 points Ratio: 1.45 (p = 0.14)	Yes: 43.33% (13/30) No : 39.56% (36/91) Diff: 3.77 points Ratio: 1.10 (p = 0.83)

TABLE 21
Statewide Unadjusted Racial Disparities: North Carolina, 2004-2009
(FiveYears = 4)

	A	B **Racial Minority Defendant** (DefRM)	C **White Victim** (WhiteVic)	D **Minority Defendant/ White Victim** (RMWV)
1.	Combined Effect of Charging and Sentencing Decisions (Death1=1) n = 171 (weighted analysis) Overall Rate: 1.59%	Yes: 1.18% (10/851) No : 2.60% (9/346) Diff: -1.43 points Ratio: 0.45 (p = 0.10)	Yes: 3.16% (15/475) No : 0.55% (4/721) Diff: 2.60 points Ratio: 5.69 (p < 0.01)	Yes: 4.39% (7/159) No : 1.16% (12/1037) Diff: 3.24 points Ratio: 3.80 (p < 0.01)
	Charging Decisions			
2.	Prosecutors' Decisions to Seek Death at Any Point in the Charging (EverSeekDeath=1) n = 171 (weighted analysis) Overall Rate: 63.71%	Yes: 67.21% (572/851) No : 55.10% (190/346) Diff: 12.11 points Ratio: 1.22 (p = 0.17)	Yes: 55.13% (262/475) No : 69.37% (500/721) Diff: -14.23 points Ratio: 0.79 (p = 0.09)	Yes: 53.48% (85/159) No : 65.28% (677/1037) Diff: -11.80 points Ratio: 0.82 (p = 0.28)
3.	Prosecutors' Decisions To Advance to a Capital Guilt Trial (CapTrial=1) n = 171 (weighted analysis) Overall Rate: 5.04%	Yes: 3.64% (31/851) No : 8.49% (29/346) Diff: -4.84 points Ratio: 0.43 (p = 0.08)	Yes: 9.12% (43/475) No : 2.36% (17/721) Diff: 6.76 points Ratio: 3.86 (p < 0.01)	Yes: 9.41% (15/159) No : 4.37% (45/1037) Diff: 5.04 points Ratio: 2.15 (p = 0.07)
	Sentencing Decisions			
4.	Death Sentence Imposed in a Penalty Trial (PTDeath=1) n = 49 (unweighted analysis) Overall Rate: 38.78%	Yes: 32.26% (10/31) No : 50.00% (9/18) Diff: -17.74 points Ratio: 0.65 (p = 0.24)	Yes: 46.88% (15/32) No : 23.53% (4/17) Diff: 23.35 points Ratio: 1.99 (p = 0.13)	Yes: 46.67% (7/15) No : 35.29% (12/34) Diff: 11.37 points Ratio: 1.32 (p = 0.53)

TABLE 22
Variable Definitions

	Variable Name	Explanation
1.	AggE3	Defendant previously convicted of a violent felony. 15A-2000(e)(3)
2.	AggE4	Murder committed to prevent arrest or to effect escape. 15A-2000(e)(4)
3.	AggE5	Felony aggravator. 15A-2000(e)(5)
4.	AggE6	Murder committed for pecuniary gain. 15A-2000(e)(6)
5.	AggE8	Murder committed against certain lines of public officers in the line of their duties. 15A-2000(e)(8)
6.	AggE9	Murder was especially heinous, atrocious, or cruel. 15A-2000(e)(9)
7.	AggE11	Murder was part of defendant's course of violent conduct toward another person or persons. 15A-2000(e)(11)
8.	AddCrime	Defendant charged with at least one additional crime.
9.	AggCirScale	Five-level scale based on number of aggravating circumstances in the case.
10.	AggCirScale2	Three-level scale based on number of aggravating circumstances in the case.
11.	AssaultGun	D shot V with an assault rifle.
12.	DefenseType5	Defendant played a less substantial role than competitor.
13.	DefenseType14	Insanity
14.	DefenseType15	Lack of mens rea because of mental illness or intoxication.
15.	DefRM	Defendant is a racial minority.
16.	Disrobe	Victim or a nondecedent victim was forced to disrobe or was disrobed by perpetrator (in whole or in part)
17.	DRage	Defendant acted in rage.
18.	DselfD	Defendant acted in perceived self-defense.
19.	DVHome	Homicide occurred in residence of V and D or co-D
20.	EvidType1	Pretrial identification of the defendant occurred
21.	EvidType2	Defendant identified by someone who knew him or her.
22.	EvidType3	Defendant identified by a police officer.
23.	EvidType4	Defendant identified by two or more witnesses.
24.	EvidType8	Weapon found linking defendant to murder.
25.	EvidType9	Scientific evidence linking defendant to murder (e.g. DNA, or fingerprint evidence).
26.	EvidType10	Physical evidence specifically linking defendant to murder.
27.	EvidType11	Testimony of primary witness was corroborated.
28.	Execution	Execution-style homicide (homicide against a subdued or passive victim)
29.	FemVic	At least one victim was female.
30.	Firearm	Firearm was used in the killing.
31.	FiveYears	Groups the cases in five year intervals based on the date of sentencing.
32.	GratuitousFelony	Case involved a contemporaneous felony and homicide that was unnecessary to complete the crime to the point of being gratuitous
33.	HeadWound	Victim received wounds to the head.
34.	Indifferent	Defendant motivated at least partly by complete indifference to the value of life (e.g. defendant acted without anger or frustration or other recognizable human emotion).
35.	Killer	Defendant was actual killer (if there were co-perpetrators).
36.	LowSES	The variable is a rough approximation of defendant socioeconomic status. It is made by combining education level data and appointment of counsel data.
37.	ManyWound	Victim suffered many wounds.
38.	MinorAcc2	Combines the coding in MitF4 ("Defendant was an accomplice in or accessory to a murder committed by another person and the defendant's participation was relatively minor"), MinorAcc ("Defendant was an accomplice to the crime committed by another and defendant's participation was relatively minor"), and DefenseType5 ("Defendant played a less substantial role than competitor").

	Variable Name	Explanation
39.	MitType302	Defendant showed remorse for the crime, or confessed to the crime, or otherwise took responsibility for the crime.
40.	NoLongPlan	Homicide was not planned for more than five minutes.
41.	PleasureKill	File at least suggests that defendant expressed pleasure with the homicide.
42.	PreArmed	Defendant or co-perpetrator came to the scene of the crime with the weapon ultimately used to kill the victim.
43.	PriorThreat	File at least suggests that defendant threatened victim in victim's presence to kill victim's family members or others who were close to victim, or announced in advance to a third person an intention to kill the victim.
44.	ProvokeQ	Other disputes and fights where it is unknown who provoked the altercations.
45.	PTDNDX_Dth1	A race-purged index variable constructed using the variables in the 20-year model presented in Table 13.
46.	RapeSodomy	Case involved sexual assault or attempted sexual assault.
47.	RobBurg	Case involved robbery or burglary.
48.	SeverePain	Victim suffered severe physical pain.
49.	SilenceWitness	Defendant motivated at least partly by the desire to silence a witness.
50.	SpecialAgg2	Offense reflects at least one of a list of aggravating feature that can be specifically attributed to the defendant.
51.	SpecialAggHi	Offense reflects at least four of a list of aggravating feature that can be specifically attributed to the defendant.
52.	Suffering	Victim suffered severe physical suffering immediately prior to death.
53.	TenPlusStab	Deceased victim suffered from ten or more stab wounds or shots, except when murder weapon was penknife or other small cutting instrument.
54.	TookResp	Defendant took responsibility for the offense (other than confession to capital murder).
55.	Trauma	Defendant suffered physical or psychological trauma, e.g., brain injuries or observing a parent be killed.
56.	TwoVic	Case involved more than one victim.
57.	Vhome	Homicide occurred in residence of V or V's close friend or relative.
58.	VStranger	Defendant did not know victim before the murder.
59.	WhiteVic	Case involved at least one white victim.
60.	YoungDef	Defendant is less than 20 years old.