

# Report to the New Jersey Supreme Court



## SYSTEMIC PROPORTIONALITY REVIEW PROJECT 2002-2003 TERM

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## **I. INTRODUCTION**

Our report this year will be relatively brief because few cases have been added to our database. Of the twenty-one new cases that qualified as death-eligible, only three advanced to penalty trial, and only one resulted in imposition of the death penalty. It is thus not remarkable that our findings this year mirror those described in prior reports. We emphasize that there has been a marked decline in capital prosecutions advancing to the penalty stage since 1989. Although our articulated objective is to determine whether administration of New Jersey's capital punishment laws is infected by considerations of race or ethnicity, the decline in capital prosecutions and the different rates in which county prosecutors pursue the death penalty are two highly prominent factors revealed in our studies and described in this report. Our findings can be summarized as follows:

(1) Although our bivariate studies disclose statistically significant evidence that White defendants advance to penalty trial and are sentenced to death at higher rates than African-American or Hispanic defendants, this race effect is not sustained when employing the multivariate regression approach. In terms of the penalty trial universe and the broader death-eligible universe, there is no solid evidence that the race of the defendant affects the outcome.

(2) There is no solid evidence that the race of the victim is an important factor in determining which defendants are sentenced to death. In terms of actual death verdicts, we do not find a consistent, statistically significant relationship between race of victim and death outcome.

(3) In contrast, our bivariate studies, multivariate regression runs and case-sorting techniques indicate that White victim cases are more likely to advance to penalty trial than African-American victim cases. We hasten to add that the White victim effect is not sustained when county variability is taken into account. County variability refers to the difference in rates that death-eligible cases are capitally prosecuted in the various vicinages. White victim cases are concentrated in counties in which a larger proportion of death-eligible cases advance to penalty trial. Minority victim cases are concentrated in counties in which a smaller proportion of death-eligible cases advance to penalty trial. Significantly, case-sorting techniques do not disclose intra-county disparity in the rates in which White victim cases and African-American victim cases are treated. In short, we find no consistent, reliable evidence that the race of the victim affects whether a death-eligible case proceeds to the penalty stage when county variability is taken into account.

(4) County variability continues to be a major concern in the administration of our death penalty laws. We have presented the Attorney General's Office with several screening models designed to ameliorate the geographic disparity in the rates in which death-eligible cases are prosecuted. As in other states, geographic variability is currently under study.

As we noted, our findings this year confirm those made in prior years. In our earlier reports, we found no statistically reliable evidence supporting the thesis that the race or ethnicity of the defendant affects whether or not his or her case advances to the penalty phase or whether or not a death sentence is returned. In a similar vein, the statistical evidence indicated that the race or ethnicity of the victim had no impact on whether or not the defendant was sentenced to death. While we found unsettling statistical evidence that cases involving killers of White victims were more likely to progress to penalty trial than cases involving African-American victims, our regression studies and case-sorting approaches convincingly established that this disparity was confounded with county variability.

It is significant that this year's findings confirm these conclusions. As we noted, comparatively few cases were added to our database, and we would be surprised if our findings would be significantly different than those in the past. This much conceded, the fact that our findings remain consistent year after year

reinforces our conclusions and provides very strong evidence that race or ethnicity do not play an important role in the administration of our capital punishment laws. Further supporting that conclusion is the fact that we have applied additional statistical and analytical methods each year, and yet our findings remain the same. We are extremely confident that New Jersey's capital punishment system is not infected by racial or ethnic prejudice.

## **II. METHODOLOGY**

We continue to utilize the multifaceted monitoring system adopted by our Supreme Court in In re Proportionality Review, 165 N.J. 206 (2000). This monitoring system consists of three components: (1) bivariate analyses, (2) regression studies, and (3) case-sorting techniques. The system rests on the thesis that no single method is sufficiently reliable to provide convincing evidence respecting whether or not racial or ethnic discrimination exists in death penalty prosecutions or sentencing. In New Jersey, we deal with a comparatively small data set. Wholly apart from the danger of statistical manipulation, special care must be taken to insure that a particular result is real and not a mere artifact. Thus, a defendant must relentlessly document the risk of racial or ethnic disparity in order to establish systemic disproportionality. The test requires a substantial converging of outcomes produced by the three different modes of analysis.

Our approach seeks to isolate and describe potential racial or ethnic discrimination at various critical stages in death penalty proceedings. All three modes of analysis--bivariate, regression and case-sorting--are applied to three decision points: (1) death verdicts at penalty trial, (2) death verdicts among all death-eligible cases, and (3) advancement of death-eligible cases to penalty trials. We consider possible disparities in terms of both the race or ethnicity of the defendant and the race or ethnicity of the victim. We examine three identifiable

groups: (1) African-Americans, (2) Whites, and (3) Hispanics. Because the number of cases involving Hispanic defendants or Hispanic victims is relatively few, we diverge from that approach when necessary to provide meaningful analyses.

Sound statistical analysis requires that the cases examined are independent one from the other. This assumption is seriously violated when the same murder case appears more than once in a single database, such as in instances in which verdicts have been overturned and the defendants retried. We seek to avoid this problem by including the case only once for the purpose of analysis. We could find no convincing logic for choosing one case over another. We have thus created two samples. The first sample, which we have denominated the “first case sample,” includes only the first case for each defendant who was tried multiple times for the same murder. The “last case sample” includes the last murder trial or case disposition for each of these defendants.

### **III. BIVARIATE ANALYSIS**

As in earlier reports, we first examine the raw numbers. In a bivariate analysis, there is only one independent variable. Because we are testing for the presence of racial or ethnic discrimination, each factor--race or ethnicity--is the independent variable in our analysis.

We begin by noting the limitations inherent in bivariate analysis. Statisticians uniformly stress that “[u]nadjusted gross racial disparities in death sentence rates are a highly suspect basis for inferring racial discrimination in the treatment of similarly situated defendants. . . .”<sup>1</sup> Nevertheless, raw numbers, percentages and fractions benefit from their transparency, and tell a tale that can easily be understood by laypersons. We thus consider bivariate analysis as an essential tool in our multifaceted system to detect the presence of racial or ethnic discrimination.

#### **A. PENALTY TRIAL UNIVERSE – RACE OF DEFENDANT**

There is no statistically significant relationship between race or ethnicity of defendant and the return of death penalty verdicts in penalty trials. This is true whether we examine the three main racial groups, only African-American and White defendants, or whether we examine the first or last case sample.

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<sup>1</sup> David C. Baldus et al., Racial Discrimination and the Death Penalty in the Post-Furman Era: An Empirical and Legal Overview, With Recent Findings from Philadelphia, 83 Cornell L. Rev. 1638, 1646 (1999); see also Peter J. Bickel et al., Sex Bias in Graduate Admissions: Data from Berkeley, in Statistics and Public Policy 13 (William B. Fairley & Frederick Mosteller eds., 1977).

In the first case sample, approximately thirty-three percent of African-American defendants were sentenced to death. A much smaller proportion of Hispanic defendants were sentenced to death, approximately twelve percent. Approximately thirty-five percent of White defendants were sentenced to death. The last case sample contains fewer cases, but the percentages are essentially the same. Approximately nineteen percent of African-American defendants were sentenced to death. Approximately six percent of Hispanic defendants were sentenced to death. Twenty-four percent of White defendants were sentenced to death. Under each of the alternative hypotheses examined, our bivariate analysis discloses no evidence that race of defendant plays a statistically significant role in determining whether a death sentence is returned.

**B. PENALTY TRIAL UNIVERSE – RACE OF VICTIM**

The race of the victim is not significantly related to imposition of the death penalty. This is true whether we examine the three main racial groups, only African-American and White defendants, or whether we consider the first or last case sample. The results are similar to those for race of defendant. White and African American victim cases have similar rates of death outcome. Hispanic victim cases have lower rates of death sentencing, but the number of cases examined is small. Our bivariate analyses do not disclose a statistically significant relationship between the race of the victim and the return of a death sentence.

**C. DEATH-ELIGIBLE UNIVERSE – RACE OF DEFENDANT**

Last year, we found a statistically significant relationship between race of defendant and imposition of the death sentence. A greater percentage of White defendants received the death sentence than African-American or Hispanic defendants in the first case sample. That finding is repeated this year. Approximately fifteen percent of White defendants were sentenced to death. About eight percent of African-American defendants received the death sentence. Four percent of Hispanic defendants were sentenced to death.

In the last case sample tables examined last year, we did not find a statistically significant relationship between the race of the defendant and the return of the death sentence. In contrast, our bivariate analysis this year discloses a statistically significant relationship between race of the defendant and imposition of the death sentence. A greater proportion of White defendants in the death-eligible universe were sentenced to death in the last case sample, and this is true whether we examine White, African-American and Hispanic defendants, or only White and African-American defendants. In all instances, a greater proportion of White defendants were sentenced to death than minority defendants.

In the case of race of defendant and advancement to penalty trial, we also find consistent and significant bivariate relationships. While forty-three percent of White defendants advanced to penalty trial in the first case sample, this was true

for only twenty-five percent of African-American defendants and thirty-one percent of Hispanic defendants. The White defendant effect is significant at the .001 level. These observations apply with equal force to the last case sample. White defendants were far more likely to face a penalty trial than African-American defendants. The results are statistically significant at the .001 level, and are sustained whether we examine the three main racial groups or only Whites and African-Americans.

**D. DEATH-ELIGIBLE UNIVERSE-RACE OF VICTIM**

We find no statistically significant bivariate relationship between race of victim and the return of death verdicts. This observation is true whether we examine first or last case samples, and whether we consider the three main groups - Whites, African-Americans and Hispanics - - or two racial groups - Whites and African-Americans. We note, however, that several of the first case sample comparisons approach statistical significance, White victim cases being more likely to result in death verdicts. That much conceded, we find no consistent evidence of a statistically significant race of victim effect on death verdicts in the death-eligible universe.

We now turn to the question of whether race of victim affects the progression of a death-eligible case to the penalty phase. Our findings this year mirror those described in prior reports. As in our 2001 and 2002 analyses, the

bivariate distribution between race of victim and advancement to penalty trial suggests strong and statistically significant relationships. Without extended discussion, the following percentages illustrate this point. In the first case sample, approximately forty-two percent of White victim cases advanced to penalty trial. In contrast, only twenty-one percent of African-American victim cases, and only twenty-seven percent of Hispanic victim cases progressed to the penalty stage. The result is statistically significant at the .001 level. The last case sample yields similar findings. These observations are sustained whether we compare White, African-American and Hispanic victim cases or only White and African-American victim cases.

We note here the similarity in statistical findings between White defendant cases advancing to the penalty phase and White victim cases advancing to the penalty phase. We will probe this relationship later in this report. We observe here, however, that White defendants generally kill White victims. In fact, since the reenactment of the death penalty, we have found only three death-eligible cases in which White defendants killed African-American victims. African-American defendants were most likely to have killed African-American victims, but they also killed White victims. The question of confounding will be explored in our regression and our case-sorting sections of this report, but we observe here that White defendants almost exclusively killed White victims and White defendant

cases progressed to the penalty stage at a far greater rate than African-American defendant cases.

The following synopsis details our bivariate findings.

## **I. RACE OF DEFENDANT - PENALTY TRIAL CASES**

### **A. (First Case Sample - 152 Cases)** **Cases Resulting in Death (48 Cases)**

1. <b><u>White Defendants:</u></b>	63 (41.5%)	22 (45.8%)
2. <b><u>African-American Defendants:</u></b>	72 (47.4%)	24 (50.0%)
3. <b><u>Hispanic Defendants:</u></b>	17 (11.2%)	2 (4.2%)

**34.9% (22/63)** of the White defendant cases resulted in the death penalty. **33.3% (24/72)** of the African-American defendant cases resulted in the death penalty. **11.8% (2/17)** of the Hispanic defendant cases resulted in the death penalty.

### **B. (Last Case Sample - 140 Cases)** **Cases Resulting in Death (27 Cases)**

1. <b><u>White Defendants:</u></b>	59 (42.1%)	14 (51.9%)
2. <b><u>African-American Defendants:</u></b>	64 (45.7%)	12 (44.4%)
3. <b><u>Hispanic Defendants:</u></b>	17 (12.1%)	1 (3.7%)

**23.7% (14/59)** of the White defendant cases resulted in the death penalty. **18.8% (12/64)** of the African-American defendant cases resulted in the death penalty. **5.9% (1/17)** of the Hispanic defendant cases resulted in the death penalty.

### **C. (First Case Sample - 135 Cases)** **Cases Resulting in Death (46 Cases)**

1. <b><u>White Defendants:</u></b>	63 (46.7%)	22 (47.8%)
2. <b><u>African-American Defendants:</u></b>	72 (53.3%)	24 (52.2%)

**34.9% (22/63)** of the White defendant cases resulted in the death penalty. **33.3% (24/72)** of the African-American defendant cases resulted in the death penalty.

### **D. (Last Case Sample - 123 Cases)** **Cases Resulting in Death (26 Cases)**

1. <b><u>White Defendants:</u></b>	59 (48.0%)	14 (53.9%)
2. <b><u>African-American Defendants:</u></b>	64 (52.0%)	12 (46.2%)

**23.7% (14/59)** of the White defendant cases resulted in the death penalty. **18.8% (12/64)** of the African-American defendant cases resulted in the death penalty.

## **II. RACE OF VICTIM - PENALTY TRIAL CASES**

### **A. (First Case Sample - 149 Cases)** **Cases Resulting in Death (47 Cases)**

1. <b><u>White Victims:</u></b>	92 (61.7%)	29 (61.7%)
2. <b><u>African-American Victims:</u></b>	41 (27.5%)	14 (29.8%)
3. <b><u>Hispanic Victims:</u></b>	16 (10.7%)	4 (8.5%)

31.5% (29/92) of the White victim cases resulted in the death penalty. 34.2% (14/41) of the African-American victim cases resulted in the death penalty. 25% (4/16) of the Hispanic victim cases resulted in the death penalty.

<b>B. <u>(Last Case Sample - 137 Cases)</u></b>	<b><u>Cases Resulting in Death (27 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	85 (62.0%)	17 (63.0%)
2. <b><u>African-American Victims:</u></b>	36 (26.3%)	7 (25.9%)
3. <b><u>Hispanic Victims:</u></b>	16 (11.7%)	3 (11.1%)

20.0% (17/85) of the White victim cases resulted in the death penalty. 19.4% (7/36) of the African-American victim cases resulted in the death penalty. 18.8% (3/16) of the Hispanic victim cases resulted in the death penalty.

<b>C. <u>(First Case Sample - 133 Cases)</u></b>	<b><u>Cases Resulting in Death (43 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	92 (69.2%)	29 (67.4%)
2. <b><u>African-American Victims:</u></b>	41 (30.8%)	14 (32.6%)

31.5% (29/92) of the White victim cases resulted in the death penalty. 34.2% (14/41) of the African-American victim cases resulted in the death penalty.

<b>D. <u>(Last Case Sample - 121 Cases)</u></b>	<b><u>Cases Resulting in Death (24 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	85 (70.3%)	17 (70.8%)
2. <b><u>African-American Victims:</u></b>	36 (29.8%)	7 (29.2%)

20.0% (17/85) of the White victim cases resulted in the death penalty. 19.4% (7/36) of the African-American victim cases resulted in the death penalty.

### **III. RACE OF DEFENDANT - DEATH-ELIGIBLE CASES**

<b>A. <u>(First Case Sample - 486 Cases)</u></b>	<b><u>Cases Resulting in Death (48 Cases)</u></b>	
1. <b><u>White Defendants:</u></b>	146 (30.0%)	22 (45.8%)
2. <b><u>African-American Defendants:</u></b>	285 (58.6%)	24 (50.0%)
3. <b><u>Hispanic Defendants:</u></b>	55 (11.3%)	2 (4.2%)

15.1% (22/146) of the White defendant cases resulted in the death penalty. 8.4% (24/285) of the African-American defendant cases resulted in the death penalty. 3.6% (2/55) of the Hispanic defendant cases resulted in the death penalty.

<b>B. <u>(Last Case Sample - 486 Cases)</u></b>	<b><u>Cases Resulting in Death (27 Cases)</u></b>	
1. <b><u>White Defendants:</u></b>	146 (30.0%)	14 (51.9%)

2. <b><u>African-American Defendants:</u></b>	285 (58.6%)	12 (44.4%)
3. <b><u>Hispanic Defendants:</u></b>	55 (11.3%)	1 (3.7%)

9.6% (14/146) of the White defendant cases resulted in the death penalty. 4.2% (12/285) of the African-American defendant cases resulted in the death penalty. 1.8% (1/55) of the Hispanic defendant cases resulted in the death penalty.

<b><u>C. (First Case Sample - 431 Cases)</u></b>	<b><u>Cases Resulting in Death (46 Cases)</u></b>	
1. <b><u>White Defendants:</u></b>	146 (33.9%)	22 (47.8%)
2. <b><u>African-American Defendants:</u></b>	285 (66.1%)	24 (52.2%)

15.1% (22/146) of the White defendant cases resulted in the death penalty. 8.4% (24/285) of the African-American defendant cases resulted in the death penalty.

<b><u>D. (Last Case Sample - 431 Cases)</u></b>	<b><u>Cases Resulting in Death (26 Cases)</u></b>	
1. <b><u>White Defendants:</u></b>	146 (33.9%)	14 (53.9%)
2. <b><u>African-American Defendants:</u></b>	285 (66.1%)	12 (46.2%)

9.6% (14/146) of the White defendant cases resulted in the death penalty. 4.2% (12/285) of the African-American defendant cases resulted in the death penalty.

#### **IV. RACE OF VICTIM - DEATH-ELIGIBLE CASES**

<b><u>A. (First Case Sample - 474 Cases)</u></b>	<b><u>Cases Resulting in Death (47 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	219 (46.2%)	29 (61.7%)
2. <b><u>African-American Victims:</u></b>	196 (41.4%)	14 (29.8%)
3. <b><u>Hispanic Victims:</u></b>	59 (12.5%)	4 (8.5%)

13.2% (29/219) of the White victim cases resulted in the death penalty. 7.1% (14/196) of the African-American victim cases resulted in the death penalty. 6.8% (4/59) of the Hispanic victim cases resulted in the death penalty.

<b><u>B. (Last Case Sample - 474 Cases)</u></b>	<b><u>Cases Resulting in Death (27 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	219 (46.2%)	17 (63.0%)
2. <b><u>African-American Victims:</u></b>	196 (41.4%)	7 (25.9%)
3. <b><u>Hispanic Victims:</u></b>	59 (12.5%)	3 (11.1%)

7.8% (17/219) of the White victim cases resulted in the death penalty. 3.6% (7/196) of the African-American victim cases resulted in the death penalty. 5.1% (3/59) of the Hispanic victim cases resulted in the death penalty.

<b>C. <u>(First Case Sample - 415 Cases)</u></b>	<b><u>Cases Resulting in Death (43 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	219 (52.8%)	29 (67.4%)
2. <b><u>African-American Victims:</u></b>	196 (47.2%)	14 (32.6%)

13.2% (29/219) of the White victim cases resulted in the death penalty. 7.1% (14/196) of the African-American victim cases resulted in the death penalty.

<b>D. <u>(Last Case Sample - 415 Cases)</u></b>	<b><u>Cases Resulting in Death (24 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	219 (52.8%)	17 (70.8%)
2. <b><u>African-American Victims:</u></b>	196 (47.2%)	7 (29.2%)

7.8% (17/219) of the White victim cases resulted in the death penalty. 3.6% (7/196) of the African-American victim cases resulted in the death penalty.

## **V. RACE OF DEFENDANT - ADVANCEMENT TO PENALTY TRIAL**

<b>A. <u>(First Case Sample - 486 Cases)</u></b>	<b><u>Cases Resulting in Pen. Trial (152 Cases)</u></b>	
1. <b><u>White Defendants:</u></b>	146 (30.0%)	63 (41.5%)
2. <b><u>African-American Defendants:</u></b>	285 (58.6%)	72 (47.4%)
3. <b><u>Hispanic Defendants:</u></b>	55 (11.3%)	17 (11.2%)

43.2% (63/146) of the White defendant cases advanced to penalty trial. 25.3% (72/285) of the African-American defendant cases advanced to penalty trial. 30.9% (17/55) of the Hispanic defendant cases advanced to penalty trial.

<b>B. <u>(Last Case Sample - 486 Cases)</u></b>	<b><u>Cases Resulting in Pen. Trial (140 Cases)</u></b>	
1. <b><u>White Defendants:</u></b>	146 (30.0%)	59 (42.1%)
2. <b><u>African-American Defendants:</u></b>	285 (58.6%)	64 (45.7%)
3. <b><u>Hispanic Defendants:</u></b>	55 (11.3%)	17 (12.1%)

40.4% (59/146) of the White defendant cases advanced to penalty trial. 22.5% (64/285) of the African-American defendant cases advanced to penalty trial. 30.9% (17/55) of the Hispanic defendant cases advanced to penalty trial.

<b>C. <u>(First Case Sample - 431 Cases)</u></b>	<b><u>Cases Resulting in Pen. Trial (135 Cases)</u></b>	
1. <b><u>White Defendants:</u></b>	146 (33.9%)	63 (46.7%)
2. <b><u>African-American Defendants:</u></b>	285 (66.1%)	72 (53.3%)

43.2% (63/146) of the White defendant cases advanced to penalty trial. 25.3% (72/285) of the African-American defendant cases advanced to penalty trial.

<b><u>D. (Last Case Sample - 431 Cases)</u></b>	<b><u>Cases Resulting in Pen. Trial (123 Cases)</u></b>	
1. <b><u>White Defendants:</u></b>	146 (33.9%)	59 (48.0%)
2. <b><u>African-American Defendants:</u></b>	285 (66.1%)	64 (52.0%)

**40.4% (59/146)** of the White defendant cases advanced to penalty trial. **22.5% (64/285)** of the African-American defendant cases advanced to penalty trial.

**VI. RACE OF VICTIM - ADVANCEMENT TO PENALTY TRIAL**

<b><u>A. (First Case Sample - 474 Cases)</u></b>	<b><u>Cases Resulting in Pen. Trial (149 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	219 (46.2%)	92 (61.7%)
2. <b><u>African-American Victims:</u></b>	196 (41.4%)	41 (27.5%)
3. <b><u>Hispanic Victims:</u></b>	59 (12.5%)	16 (10.7%)

**42.0% (92/219)** of the White victim cases advanced to penalty trial. **20.9% (41/196)** of the African-American victim cases advanced to penalty trial. **27.1% (16/59)** of the Hispanic victim cases advanced to penalty trial.

<b><u>B. (Last Case Sample - 474 Cases)</u></b>	<b><u>Cases Resulting in Pen. Trial (137 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	219 (46.2%)	85 (62.0%)
2. <b><u>African-American Victims:</u></b>	196 (41.4%)	36 (26.3%)
3. <b><u>Hispanic Victims:</u></b>	59 (12.5%)	16 (11.7%)

**38.8% (85/219)** of the White victim cases advanced to penalty trial. **18.4% (36/196)** of the African-American victim cases advanced to penalty trial. **27.1% (16/59)** of the Hispanic victim cases advanced to penalty trial.

<b><u>C. (First Case Sample - 415 Cases)</u></b>	<b><u>Cases Resulting in Pen. Trial (133 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	219 (52.8%)	92 (69.2%)
2. <b><u>African-American Victims:</u></b>	196 (47.2%)	41 (30.8%)

**42.0% (92/219)** of the White victim cases advanced to penalty trial. **20.9% (41/196)** of the African-American victim cases advanced to penalty trial.

<b><u>D. (Last Case Sample - 415 Cases)</u></b>	<b><u>Cases Resulting in Pen. Trial (121 Cases)</u></b>	
1. <b><u>White Victims:</u></b>	219 (52.8%)	85 (70.3%)
2. <b><u>African-American Victims:</u></b>	196 (47.2%)	36 (29.8%)

**38.8% (85/219)** of the White victim cases advanced to penalty trial. **18.4% (36/196)** of the African-American victim cases advanced to penalty trial.

#### **IV. MULTIVARIATE REGRESSION**

In earlier reports, we discussed at length the problems pertaining to the regression models developed by Professor Baldus. We noted that these regression models were created for the purpose of individual proportionality review, i.e., the index of outcomes test. They were not intended to detect the presence or absence of racial discrimination. Because the Professor's models were designed to measure culpability levels and compare a particular defendant's case with others, all relevant predictors had to be included in the regression models. However, multivariate regression requires variability in the measures examined "in order to disentangle the effects in a model."<sup>2</sup> As the relevant descriptive, independent variables increase, "the variability or split of scores in the dependent variable is divided up into smaller and smaller pieces."<sup>3</sup> It becomes increasingly difficult to determine the relationship between the independent and dependent variables.

In earlier reports, we explained that, although there is no hard and fast rule defining the number of independent variables that may be included, "models should be reviewed for instability when there are fewer than ten cases in the infrequent category (progression of a death-eligible case to penalty trial or death

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<sup>2</sup> David Weisburd, Good For What Purpose? Social Science, Race and Proportionality in New Jersey in Social Science, Social Police and the Law 268 (Patricia Eurick et. als. ed. 1999).

<sup>3</sup> Ibid.

sentence verdict) for each of the independent variables.”<sup>4</sup> The eminent statistician, Dr. John Tukey, suggested a rule of thumb “that requires at least five, and more conservatively ten, of the less frequent outcomes per independent variable.”<sup>5</sup> This is the principle of parsimony referred to by former Special Master Richard Cohen in his Report to the New Jersey Supreme Court 27 (1997).

Because New Jersey’s data base is relatively small (relatively few cases have advanced to penalty trial and relatively few cases have resulted in imposition of the death penalty), the number of independent variables that may be included in a regression model is limited. Professor Baldus was thus faced with an unsolvable problem. Since his regression models were designed to predict progression of a death-eligible case to penalty trial or return of a death verdict, the number of relevant variables (variables describing the offender and the circumstances of the offense) could not be reduced. However, New Jersey’s small data base required elimination of independent variables in order to meet the demands of parsimony.

We sought to alleviate the tension between these competing demands by more sharply focusing on the question to be answered. The basic premise upon which our methodology rests is that in assessing race effect, as contrasted to defining culpability levels for individual proportionality review, we do not have to

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<sup>4</sup> Ibid.

<sup>5</sup> Dr. John Tukey, Report to the Special Master 5 (1997).

account for all factors that influence death penalty sentencing. Rather, we need only to include in our models those factors that are related to the outcome variable (either advancement to a penalty trial or imposition of a death sentence) and the race or ethnicity variable examined. This is so because our effort is not to develop a reliable estimate of culpability level on the outcome measure, but only to control for potential confounding of the race or ethnicity variable.

Our thesis is that we need only identify and control such confounders in order to isolate and measure any race or ethnicity effect that may exist. Thus, where race or ethnicity is distributed equally, or in statistical terms where all else is equivalent, there is no need to take account of that variable in the model. But where there is variability in a parameter, *i.e.*, where race or ethnicity is unevenly distributed, that variable should be considered for its inclusion in the model.

The difference between the goal of gaining a reliable prediction of the outcome measure and that of controlling for confounding provides an opportunity to develop more parsimonious models than those that have been used in assessing death penalty sentencing. Variables must be theoretically related to the outcome measure examined (progression to penalty trial or imposition of the death penalty) and empirically related to the race or ethnicity variable being evaluated. This permits us to define a much smaller set of variables for inclusion in the regression model.

We described our methodology in earlier reports. We repeat that description here for two reasons. First, the composition of our Supreme Court has changed over the years, and a summary might be helpful to newly appointed Justices. Second, other jurisdictions, most notably Maryland, have adopted many of our procedures in conducting their multivariate regression studies. To the extent that other jurisdictions have used our methodology but have deviated from our approach in various particulars, we believe it wise to repeat our description of the steps we have taken. Our methodology consists of the following steps:

(1) Define a base set of variables thought to have an effect on the outcome measured. These variables were identified in a survey of judges having significant experience in trying capital punishment cases. In addition, all statutory factors were included in the base set of variables.

(2) Examine the bivariate relationship between the race variables and each of the variables included in the base set. The objective here is to determine which of the base set of variables are possible confounders.

(3) Exclude from the analysis any variable that does not reach a set threshold of statistical significance. Different thresholds of significance are to be used depending on the outcome measure

examined, because the size of the sample is an important component of statistical significance. All else being equal, larger samples will produce more significant findings. In dealing with questions relating to the larger death-eligible universe, a .05 significance threshold is to be applied. In dealing with questions relating to the smaller penalty trial universe, a less stringent criterion of .10 is to be applied.

(4) Estimate the regression model including only those variables that have reached the thresholds described, plus the race and ethnicity variables. This assumes that the number of variables is small enough to allow for the reliable estimation of regression equations. Using the guidelines on parsimony we have previously described, which require at least five cases in the infrequent category (progression to a penalty trial or imposition of the death penalty) for each of the independent variables, we arrive at a model containing a relatively small number of variables. Under our original proposal, we suggested that the significance criteria be raised if too many variables were identified as possible confounders. We altered our course in that respect. Because many of the variables

defined as theoretically relevant to death penalty sentencing by the judges did not have a high correlation with death outcome, we decided that a fairer approach was to examine the relationship between the selected variables and the outcome measure examined. Preference in this situation is given to variables that are both significantly related to the examined racial or ethnic criterion and to the outcome assessed.<sup>6</sup> This option conformed with the approach suggested by the Public Defender.

**A. PENALTY TRIAL UNIVERSE – RACE OF DEFENDANT**

Examining both the first case and last case samples, we find that neither African-American defendants nor Hispanic defendants differ significantly (at the .05 threshold) from White defendants in terms of death sentencing. Nor is race of defendant overall a significant factor in terms of imposition of a death sentence. The same results are found whether we compare Whites, African-American and Hispanic defendants or only White and African-American defendants.

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<sup>6</sup> In such cases, where race was not significantly related to outcome, it was still included in the regression models if the rule of parsimony allowed. Our decision was based on the centrality of race in our monitoring procedure and the very strong confounding between race of victim and race of defendant in these analyses. However, variables that were significantly related to race and outcome were given preference in the scenario in which the rule of parsimony did not allow for the inclusion of additional measures.

In short, our analyses reveal no statistically significant race of a defendant effect in terms of death sentencing within the penalty trial universe.

**B. PENALTY TRIAL UNIVERSE – RACE OF VICTIM**

Examining both the first case and last case samples, there is no statistically significant evidence that the race of the victim impacts upon the return of a death verdict. Neither White victim nor Hispanic victim cases are significantly different from African-American victim cases. The results are essentially the same whether we compare White, African-American and Hispanic victim cases or only White and African-American victim cases.

Our regression studies do not disclose statistically significant evidence that White victim cases are treated differently than African-American victim cases in terms of death sentencing within the penalty trial universe.

**C. DEATH-ELIGIBLE UNIVERSE – RACE OF DEFENDANT**

It will be recalled that in our bivariate analyses, White defendants were more likely to progress to penalty trial and to be sentenced to death than African-American or Hispanic defendants. This race of defendant effect was not sustained in our regression studies.

Examining both the first case and last case samples, race of defendant was not found to be related to death sentencing. There is no statistically significant evidence that the race of defendant affects death sentencing within the death-

eligible universe. This is true whether we compare White, African-American and Hispanic defendants or only White and African-American defendants.

We next consider whether the race or ethnicity of the defendant effects progression of cases to the penalty phase. Examining both the first and last case samples, we do not find evidence of a statistically significant relationship between the race of the defendant and progression to the penalty phase. This is true whether we compare White, African-American and Hispanic defendants or only White and African-American defendants.

#### **D. DEATH-ELIGIBLE UNIVERSE – RACE OF VICTIM**

We find no evidence of a statistically significant race of victim effect on death sentencing within the death-eligible universe. This is true both with respect to the first and last case samples. Essentially the same findings apply whether we compare White, African-American and Hispanic victim cases or only White and African-American victim cases.

In contrast, examining the first case sample we find that White victim cases differ significantly from African-American victim cases in terms of advancement to penalty trial. Hispanic victim cases are not found to differ significantly from African-American victim cases. White victim cases are more likely to progress to the penalty phase than African-American and Hispanic victim cases. This is true

whether we compare White, African-American and Hispanic victim cases or only White and African-American victim cases.

Our findings with respect to the last case sample are more equivocal. In earlier years, we found that White victim cases were more likely to advance to penalty trial. The White victim effect was statistically significant whether we compared White, African-American and Hispanic victim cases or only White and African-American victim cases. In this year's study, the White victim effect continued to achieve statistical significance when White and African-American victim cases were compared. However, the White victim effect failed to achieve statistical significance when the three main racial groups were compared. When White, African-American and Hispanic victim cases were compared, the White victim effect approached, but did not reach, the .05 conventional threshold.

In sum, the White victim effect was statistically significant in three of the four regression analyses of advancement to penalty trial.

**E. DEATH-ELIGIBLE UNIVERSE – WHITE VICTIM EFFECT AND COUNTY DISPARITY**

We have long suspected substantial county variability in the progression of cases to penalty trial. The point was first raised by Professor Baldus.<sup>7</sup> At a relatively early stage, the professor found that the penalty trial rates in several

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<sup>7</sup> See David C. Baldus, Death Penalty Proportionality Review Project: Final Report to the New Jersey Supreme Court, 22-23 (September 24, 1991).

counties were much higher than those in other counties.<sup>8</sup> The professor's studies disclosed a "sixty-eight percentage point spread, from the low county with a penalty trial rate of .32 (plus three others in the .30 range) to two counties in which all death-eligible cases advanced to a penalty trial."<sup>9</sup> Professor Baldus also found "higher penalty trial rates in the non-urban counties."<sup>10</sup>

We, too, noticed that penalty trial cases were unevenly distributed among the counties. A simple review of the cross-tabulations suggested a wide variability in rates at which cases advance to penalty trial in the individual counties. We thought it significant that counties having the lowest rates of cases progressing to the penalty phase had substantial minority populations, and counties having the highest rates of cases progressing to the penalty phase had substantial White populations. This issue is explored further in the section dealing with case-sorting techniques. In our last two reports, we tested the thesis that county variability may serve as a confounder in assessing race effects in terms of cases progressing to a penalty trial. We thus constructed additional regression models to control for county variability.

As we pointed out in earlier reports, this proved to be a complex task. We need not describe in detail the statistical strategies we used to consider the question of county variability. It suffices to note that including county variability controls

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<sup>8</sup> Id. at 24.

<sup>9</sup> Ibid.

<sup>10</sup> Id. at 23.

in the regression models had a substantial impact on our finding that there is a White victim effect in determining which death-eligible cases progress to the penalty phase. In our 2000-2001 report, we noted that, controlling for county variability, three of the four regression studies did not provide statistical evidence of a White victim effect in terms of cases advancing to penalty trial. In last year's report, we observed that in all four regression studies, the White victim effect on advancement to penalty trial was not sustained when the confounding factor of county variability was added.

Our findings this year essentially mirror those described in last year's report. Taking into account county variability in regression analyses of advancement to penalty trial, we find that the White victim effect is not sustained. This is true applying the alternative assumptions we have traditionally used. Whether considering the first or last case samples, and whether we compare the three main racial groups or only two racial groups, the White victim effect fails to achieve statistical significance. This important finding has added support because we conducted additional studies this year that corrected potential bias in controlling for county variability. We are entirely satisfied that there is no meaningful White victim effect on progression to penalty trial when county variability in capital prosecution rates is considered. As we will note later in this report, this finding is confirmed when we apply case-sorting methods.

## **V. THE CASE-SORTING APPROACH**

Our third approach to monitoring race or ethnicity effect is described as the case-sorting technique. We rely upon simple cross-tabulations of the data, examining sentencing rates by race or ethnicity, and breaking down the data by various combinations of statutory aggravating and mitigating factors. Various exploratory techniques are used to select the combinations that are examined. The analyst identifies factors that have a strong and statistically significant impact on the outcome measure (death sentence or advancement to penalty trial), and then measures how race or ethnicity is distributed within those categories.

The strength of this approach is that the numbers within the categories selected are clear and easy to understand. This approach thus has the benefit of "transparency." Moreover, the combinations provide categories which permit the analyst to engage in a type of precedent-seeking review. For example, where a race effect is found in a particular category, the cases within that category can be examined to determine whether there is any explanation other than race that produced the disparity. Its major weakness is that the relationships examined take into account only a few factors and do not control for other variables. Further, it is very difficult to look at all potential combinations. As the analyst sorts the data into smaller and smaller pieces, it becomes increasingly difficult to arrive at solid conclusions about the relationships observed.

The method we use relies on four steps. First, we divide the data into different groups of cases recognizing the complex nature of the samples that are examined. Second, we examine the overall relationship between race factors and the outcomes examined. Third, we identify statutory and non-statutory factors that are significantly related to the outcomes examined and that have enough data to allow for adequate sorting of the cases. Fourth, we examine how race or ethnicity factors are related to the different factors we have identified. In this approach, we look at different potential combinations in order to examine more carefully potential interactions in these data.

As we pointed out earlier, statistical analysis rests on the assumption that each case is independent. The overall data set consists of death-eligible cases. Within this data set, there is a group of defendants who have multiple dispositions, either because of retrials of cases involving a single victim or multiple killings. We have found that the outcomes of multiple cases involving the same defendant are related in complex ways. Some of these complexities are due to variables associated with a particular defendant or to aspects of the process. For example, it is reasonable to assume that a prosecutor's decision whether or not to seek the death penalty in a particular case may be affected by a prior reversal of the defendant's conviction. Earlier dispositions may impact on the plea bargaining positions of the State and the defense attorney. In a similar vein, in a case

involving multiple killings in a single incident, many variables pertaining to the defendant and the criminal event are the same.

To avoid these problems, we focus on the "first case sample," which is composed of 490 cases. We do not analyze the "last case sample" because it includes too few death outcomes. In examining the "first case sample," we focus on various subsets of cases. For example, in studying the outcome of penalty trials, we examine the 153 penalty phase verdicts within the 490 case data set.

Because of the myriad of combinations examined in our study, we report on only the most salient. The reader is referred to the Technical Appendix for further information. Our principal findings are: (1) the race of the defendant overall is not an important factor in determining whether the death penalty is imposed, (2) a greater percentage of White defendants than African-American defendants in the death-eligible universe advance to penalty trial and are sentenced to death. White and African-American defendants in the penalty trial universe are sentenced to death at essentially the same rate, (3) the race of the victim is a statistically significant factor in predicting whether the death penalty is to be imposed, when confounding factors are not considered and (4) a greater percentage of White victim cases than African-American victim cases advance to penalty trial, but this effect is confounded by county variability.

We stress that this year's findings essentially mirror the results reached in last year's report. As we noted earlier, this is to be expected because only twenty-one cases have been added to the death-eligible universe, only three cases progressed to the penalty phase, and only one defendant was sentenced to death.

**A. RACE OF DEFENDANT**

In terms of net impact, a smaller fraction of minority defendants are sentenced to death than White defendants. A smaller fraction of minority defendants advance to penalty trial than White defendants, and a slightly smaller fraction of minority defendants who progress to penalty trial are sentenced to death than White defendants. From this essentially bivariate analysis, it appears that a greater percentage of White defendants advance to penalty trial, and a greater percentage of White defendants receive a death verdict than African-American or Hispanic defendants. Table 1 illustrates this point.

**TABLE 1**

<b><u>Defendant's Race</u></b>	<b><u>White</u></b>	<b><u>African-American</u></b>	<b><u>Hispanic</u></b>	<b><u>Other</u></b>	<b><u>TOTAL</u></b>
<b>number of cases</b>	(146)	(285)	(55)	(4)	(490)
<b>fraction of cases that went to penalty trial</b>	63/146 0.43	72/285 0.25	17/55 0.31	1/4 0.25	153/490 0.32
<b>fraction of cases that received death sentence</b>	22/146 0.15	24/285 0.08	2/55 0.04	0/4 0	48/490 0.10
<b>fraction of penalty trial cases that received death sentence</b>	22/63 0.35	24/72 0.33	2/17 0.12	0/1 0	48/153 0.31

We next consider various combinations of aggravating and mitigating factors. Obviously, the permutations of aggravating and mitigating factors are substantial. We thus focus on factors that historically have had a strong association with death sentencing. Last year, we examined combinations of aggravating factor 4C (“the murder involved torture, depravity of mind, or an aggravated assault”) and mitigating factor 5D (“defendant’s capacity to appreciate the wrongfulness of his conduct to the requirements of the law was significantly impaired as the result of mental disease, mental defect or intoxication, but not to a degree sufficient to constitute a defense to prosecution”). We repeat that analysis here.

The following tables illustrate that there is no statistically significant evidence of discrimination against African-American or Hispanic defendants in terms of death verdicts (Table 2) and cases advancing to penalty trial (Table 3).

**TABLE 2**

<u>Defendant's Race</u>		<u>White</u>	<u>African-American</u>	<u>Hispanic</u>	<u>Other</u>	<u>TOTAL</u>
<b>Number of Cases</b>		(146)	(285)	(55)	(4)	(490)
Among defendants, with race and combination of factors 4C and 5D listed, the fraction that received at least one death sentence.						
<u>Combination</u>		<u>White</u>	<u>African-American</u>	<u>Hispanic</u>	<u>Other</u>	<u>TOTAL</u>
<u>4C</u>	<u>5D</u>					
<b>absent</b>	<b>present</b>	2/59 0.03	0/90 0	0/17 0	- -	2/166 0.01
<b>absent</b>	<b>absent</b>	13/52 0.25	11/146 0.08	1/29 0.03	0/3 0	25/230 0.11
<b>present</b>	<b>absent</b>	5/15 0.33	10/28 0.36	0/4 0	0/1 0	15/48 0.31
<b>present</b>	<b>present</b>	2/20 0.10	3/20 0.15	1/5 0.20	- -	6/45 0.13

**TABLE 3**

<u>Defendant's Race</u>		<u>White</u>	<u>African-American</u>	<u>Hispanic</u>	<u>Other</u>	<u>TOTAL</u>
<b>Number of Defendants</b>		(146)	(285)	(55)	(4)	(490)
<b>Fraction to Penalty Trial</b>		63/146 0.43	72/285 0.25	17/55 0.31	1/4 0.25	153/490 0.31
Among <b>first cases</b> , with race and combination of factors 4C and 5D listed, the fraction that went to penalty trial						
<u>Combination</u>		<u>White</u>	<u>African-American</u>	<u>Hispanic</u>	<u>Other</u>	<u>TOTAL</u>
<u>4C</u>	<u>5D</u>					
<b>absent</b>	<b>present</b>	18/59 0.31	21/90 0.23	2/17 0.12	0/0 -	41/166 0.25
<b>absent</b>	<b>absent</b>	25/52 0.48	28/146 0.19	9/29 0.31	1/3 0.33	63/230 0.27
<b>present</b>	<b>absent</b>	11/15 0.73	15/29 0.52	2/4 0.50	0/1 0	28/49 0.57
<b>present</b>	<b>present</b>	9/20 0.45	8/20 0.40	4/5 0.80	0/0 -	21/45 0.47

## **B. RACE OF VICTIM**

We begin this section by noting the two methods of coding the race or ethnicity of the victim. The first approach, that adopted by Professor Baldus, defines as a White victim case any case in which a White victim was killed by the offender, regardless of the race of other victims murdered by the offender in the same incident. For example, a case would be coded as a White victim case under this approach even if nine of the ten persons murdered by the offender in a single incident were African-American and one was White. A second approach, the “primary victim” approach, defines a case as a White victim case if the first person killed in a single incident was White. Here, the approach focuses upon the chronology of the killings. In our regression analyses, we use the first approach. In our case-sorting section, we use the approaches alternatively.

Table 4 presents an overall breakdown of the 490 death-eligible cases by the race of the primary victim.

**Table 4**

<b><u>Victim's Race</u></b>	<b><u>White</u></b>	<b><u>African-American</u></b>	<b><u>Hispanic</u></b>	<b><u>Other</u></b>	<b><u>TOTAL</u></b>
Number Of Cases	212	199	62	17	490
Fraction Of Cases That Went To Penalty Trial	91/212 0.43	41/199 0.21	17/62 0.27	4/17 0.24	153/490 0.31
Fraction Of Cases That Got Death Sentence	29/212 0.14	14/199 0.07	4/62 0.06	1/17 0.06	48/490 0.10
Fraction Of Penalty Trial Cases That Got Death Sentence	29/91 0.32	14/41 0.34	4/17 0.24	1/4 0.25	48/153 0.31

Of the 212 White victim cases, twenty-nine defendants were sentenced to death, approximately fourteen percent. Of the 199 African-American victim cases, fourteen defendants were sentenced to death, approximately seven percent. The difference is statistically significant.

Table 4 shows that of the ninety-one White victim cases that advanced to penalty trial, twenty-nine defendants were sentenced to death, approximately thirty-two percent. Of the forty-one African-American victim cases, fourteen defendants were sentenced to death, approximately thirty-four percent. This difference is not statistically significant.

Table 4 also shows the fractions of death-eligible cases that progressed to penalty trial. Forty-three percent of White victim cases advanced to the penalty stage. Twenty-one percent of African-American victim cases advanced to penalty trial. This difference is large and statistically significant. At least to some extent, it tends to explain the reason that a greater percentage of White victim cases than African-American victim cases resulted in death sentences.

If no other variables are taken into account, the difference in the rate that White and African-American victim cases advance to penalty trial would be of greater concern. However, when other relevant variables are considered, the difference in rates is not statistically significant. For example, part of the disparity is explained by the fact that White victim cases tend to be concentrated in

categories with high rates of progression to penalty trial. In five of the seven cases involving the killing of a law enforcement officer, the victim was White. This category of cases has historically been considered particularly heinous in the eyes of prosecutors and juries. It is the salient factor category having the highest progression to penalty trial and death sentencing rates.

As illustrated by our regression studies, an important variable that is confounded with penalty trial rates and race of victim is county disparity. This confounding factor is confirmed in our case-sorting analyses. Different counties have varying proportions of White, African-American and Hispanic victims in death-eligible cases. In a similar vein, several counties have much higher capital prosecution rates than others.

Table 5 clearly shows that White victim cases are concentrated in counties with historically high rates of cases progressing to the penalty stage, and that African-American victim cases are concentrated in counties with historically low rates of cases progressing to the penalty stage.

**Table 5**

<b>County</b>	<b>Number of Cases</b>	<b>Percent Going To Penalty Trial</b>	<b>Percent of White Victim Cases</b>
1. Atlantic	32	28%	59%
2. Bergen	22	45%	55%
3. Burlington	13	46%	92%
4. Camden	54	26%	26%
5. Cape May	12	25%	83%
6. Cumberland	11	9%	55%
7. Essex	112	17%	20%
8. Gloucester	13	54%	77%
9. Hudson	33	24%	48%
10. Hunterdon	2	50%	100%
11. Mercer	23	48%	39%
12. Middlesex	21	62%	62%
13. Monmouth	27	63%	74%
14. Morris	15	60%	80%
15. Ocean	13	46%	85%
16. Passaic	26	23%	19%
17. Salem	2	50%	100%
18. Somerset	4	0%	75%
19. Sussex	8	25%	100%
20. Union	41	17%	20%
21. Warren	6	50%	83%
<b>COMBINED</b>	<b>490</b>	<b>31%</b>	<b>45%</b>

For example, only seventeen percent of death-eligible cases in Essex County advanced to penalty trial. The same is true of Union County. In contrast, sixty-two percent of death-eligible cases progressed to the penalty stage in Middlesex

County. Sixty-three percent of death-eligible cases progressed to the penalty stage in Monmouth County. Sixty percent of death-eligible cases progressed to the penalty stage in Morris County.

Table 5 shows that the major proportion of death-eligible cases in Middlesex, Monmouth and Morris counties involved White victims. Sixty-two percent of death-eligible Middlesex County cases involved a White victim. Seventy-four percent of death-eligible Monmouth County cases involved a White victim. Eighty percent of death-eligible Morris County cases involved a White victim. Against these figures, we note that only twenty percent of death-eligible Essex or Union County cases involved a White victim.

We now turn to Table 6. We previously observed the declining rate that death-eligible cases are capitally prosecuted. Table 6 starkly reveals this decline:

**Table 6**

County	Number of Eligible Cases		Before 1988	After 1988
	Before 88	After 88	Percent To Penalty Trial	Percent To Penalty Trial
1. Atlantic	9	23	44%	22%
2. Bergen	6	16	67%	38%
3. Burlington	3	10	67%	40%
4. Camden	18	36	39%	19%
5. Cape May	3	9	33%	22%
6. Cumberland	0	11	--	9%
7. Essex	27	85	48%	7%
8. Gloucester	5	8	80%	38%
9. Hudson	11	22	45%	14%
10. Hunterdon	1	1	100%	0%
11. Mercer	4	19	75%	42%
12. Middlesex	2	19	100%	58%
13. Monmouth	11	16	73%	56%
14. Morris	4	11	75%	55%
15. Ocean	5	8	100%	12%
16. Passaic	10	16	60%	0%
17. Salem	0	2	--	50%
18. Somerset	1	3	0%	0%
19. Sussex	0	8	--	25%
20. Union	9	32	56%	6%
21. Warren	1	5	100%	40%
<b>Combined</b>	<b>130</b>	<b>360</b>	<b>57%</b>	<b>22%</b>

Overall, fifty-seven percent of death-eligible cases before 1988 advanced to penalty trial. After 1988, only twenty-two percent of death-eligible cases advanced to penalty trial. Every county experienced a marked decline in death-eligible cases advancing to penalty trial after 1988. However, the decline was most severe in those counties having large proportions of African-American victim cases. For example, Essex County's penalty trial rate went from forty-eight percent before 1988 to seven percent after 1988. Union County's penalty trial rate went from fifty-six percent before 1988 to six percent after 1988. The decline in penalty trial rates of Middlesex, Monmouth and Union counties was far less severe.

Returning to table 5, that chart provides greater detail in our analysis of the distribution of cases by race of primary victim broken down by counties. Specifically, that table again shows that a disproportionate number of African-American and Hispanic death-eligible cases are in counties with the lowest rates of cases progressing to the penalty stage. The three counties with the largest number of death-eligible cases - - Essex, Camden and Union - - have among the lowest rates of cases advancing to penalty trial. Essex County has 112 death-eligible cases, of which seventeen percent progressed to the penalty stage. Camden County has fifty-four death-eligible cases, of which twenty-six percent progressed to the penalty stage. Union County has forty-one death-eligible cases, of which seventeen percent progressed to the penalty stage. Relatively few of the cases in

those counties involved White victims. Only twenty-six percent of the death-eligible cases in Camden County involved a White victim. Only twenty percent of the death-eligible cases in Essex County involved a White victim, and only twenty percent of the death-eligible cases in Union County involved a White victim. These three counties account for a disproportionately small fraction of White victim cases.

Table 7 shows that Essex, Camden and Union counties – counties with very low penalty trial rates -- account for a disproportionately small fraction of White victim cases.

**Table 7**

County		White	African-American	Hispanic	Asian	Other	TOTAL
<b>ATLANTIC</b>	Count	18	13	0	1	0	32
	Row %	56.25	40.63	0.00	3.13	0.00	
	Col. %	8.49	6.53	0.00	12.50	0.00	
<b>BERGEN</b>	Count	11	4	3	2	2	22
	Row %	50.00	18.18	13.64	9.09	9.09	
	Col. %	5.19	2.01	4.84	25.00	22.22	
<b>BURLINGTON</b>	Count	12	1	0	0	0	13
	Row %	92.31	7.69	0.00	0.00	0.00	
	Col. %	5.66	0.50	0.00	0.00	0.00	
<b>CAMDEN</b>	Count	13	27	13	0	1	54
	Row %	24.07	50.00	24.07	0.00	1.85	
	Col. %	6.13	13.57	20.97	0.00	11.11	
<b>CAPE MAY</b>	Count	10	1	0	1	0	12
	Row %	83.33	8.33	0.00	8.33	0.00	
	Col. %	4.72	0.50	0.00	12.50	0.00	
<b>CUMBERLAND</b>	Count	6	2	3	0	0	11
	Row %	54.55	18.18	27.27	0.00	0.00	
	Col. %	2.83	1.01	4.84	0.00	0.00	
<b>ESSEX</b>	Count	20	78	13	0	1	112
	Row %	17.86	69.64	11.61	0.00	0.89	
	Col. %	9.43	39.20	20.97	0.00	11.11	
<b>GLOUCESTER</b>	Count	10	1	2	0	0	13
	Row %	76.92	7.69	15.38	0.00	0.00	
	Col. %	4.72	0.50	3.23	0.00	0.00	
<b>HUDSON</b>	Count	16	8	8	1	0	33
	Row %	48.48	24.24	24.24	3.03	0.00	
	Col. %	7.55	4.02	12.90	12.50	0.00	
<b>HUNTERDON</b>	Count	2	0	0	0	0	2
	Row %	100.00	0.00	0.00	0.00	0.00	
	Col. %	0.94	0.00	0.00	0.00	0.00	
<b>MERCER</b>	Count	8	15	0	0	0	23
	Row %	34.78	65.22	0.00	0.00	0.00	
	Col. %	3.77	7.54	0.00	0.00	0.00	
<b>MIDDLESEX</b>	Count	12	5	4	0	0	21
	Row %	57.14	23.81	19.05	0.00	0.00	
	Col. %	5.66	2.51	6.45	0.00	0.00	
<b>MONMOUTH</b>	Count	20	4	2	0	1	27
	Row %	74.07	14.81	7.41	0.00	3.70	
	Col. %	9.43	2.01	3.23	0.00	11.11	

County		White	African-American	Hispanic	Asian	Other	TOTAL
<b>MORRIS</b>	Count	12	1	0	1	1	15
	Row %	80.00	6.67	0.00	6.67	6.67	
	Col. %	5.66	0.50	0.00	12.50	11.11	
<b>OCEAN</b>	Count	11	0	1	0	1	13
	Row %	84.62	0.00	7.69	0.00	7.69	
	Col. %	5.19	0.00	1.61	0.00	11.11	
<b>PASSAIC</b>	Count	5	11	9	1	0	26
	Row %	19.23	42.31	34.62	3.85	0.00	
	Col. %	2.36	5.53	14.52	12.50	0.00	
<b>SALEM</b>	Count	2	0	0	0	0	2
	Row %	100.00	0.00	0.00	0.00	0.00	
	Col. %	0.94	0.00	0.00	0.00	0.00	
<b>SOMERSET</b>	Count	3	1	0	0	0	4
	Row %	75.00	25.00	0.00	0.00	0.00	
	Col. %	1.42	0.50	0.00	0.00	0.00	
<b>SUSSEX</b>	Count	8	0	0	0	0	8
	Row %	100.00	0.00	0.00	0.00	0.00	
	Col. %	3.77	0.00	0.00	0.00	0.00	
<b>UNION</b>	Count	8	26	4	1	2	41
	Row %	19.51	63.41	9.76	2.44	4.88	
	Col. %	3.77	13.07	6.45	12.50	22.22	
<b>WARREN</b>	Count	5	1	0	0	0	6
	Row %	83.33	16.67	0.00	0.00	0.00	
	Col. %	2.36	0.50	0.00	0.00	0.00	
<b>TOTAL</b>		<b>212</b>	<b>199</b>	<b>62</b>	<b>8</b>	<b>9</b>	<b>490</b>

These three counties, all of which have low penalty trial rates, contain sixty-six percent of death-eligible African-American victim cases and forty-eight percent of Hispanic victim cases, but only nineteen percent of the death-eligible White victim cases. In contrast, three counties with the highest penalty trial rates -- Gloucester with fifty-four percent of its death-eligible cases advancing to penalty trial, Middlesex with sixty-two percent of its death-eligible cases advancing to

penalty trial, and Monmouth with sixty-three percent of its death-eligible cases advancing to penalty trial, have small percentages of African-American and Hispanic victim cases, and much larger percentages of White victim cases.

We add one additional complicating factor. In most cases the race of defendant and race of victim were the same. The plain implication is that the lower rate at which African-American victim cases advance to penalty trial is confounded with the lower rate at which African-American defendant cases advance to penalty trial. Table 8 shows this relation between race of defendant and primary victim.

**Table 8**

<b>Defendant's Race</b>						
<b>Victim's Race</b>	<b>White</b>	<b>African-American</b>	<b>Hispanic</b>	<b>Asian</b>	<b>Other</b>	<b>TOTAL</b>
<b>White</b>	131	66	15	0	0	212
<b>African-American</b>	3	191	5	0	0	199
<b>Hispanic</b>	9	20	32	0	1	62
<b>Asian</b>	1	4	1	1	1	8
<b>Other</b>	2	4	2	0	1	9
<b>TOTAL</b>	146	285	55	1	3	490

Table 8 illustrates the phenomena we described earlier. White defendants generally kill White victims, and, to a lesser extent, African-American defendants usually kill African-American victims. Among 146 White defendants, 131 cases involved White victims. Only three White defendant cases involved African-

American victims. Stated another way, of the 199 cases involving an African-American victim, the defendant was also African-American in 191 of them.

This type of strong confounding leads to the question of whether African-American defendants who kill a White victim are more likely to advance to penalty trial than African-American defendants who kill African-American victims. Table 9 describes the relationship between race of defendant and race of victim.

**Table 9**

<b>Race of Primary Victim</b>			
	<b><u>White</u></b>	<b><u>African-American</u></b>	<b><u>TOTAL</u></b>
<b>Number of Cases</b>	66	191	257
<b>Fraction of Cases going to Penalty Trial</b>	29/66	40/191	69/257
<b>Percent</b>	44%	21%	27%
<b>Fraction of Cases that received death sentence</b>	10/66	14/191	24/257
<b>Percent</b>	15%	7%	9%

Of the 490 death-eligible cases, 257 involved an African-American defendant and a White or African-American victim. Of the sixty-six death-eligible cases that involved an African-American defendant and a White victim, forty-four percent advanced to penalty trial. Of the 191 death-eligible cases involving an African-American defendant and an African-American victim, twenty-one percent advanced to penalty trial. Thus, a greater proportion of cross-racial cases

proceeded to the penalty stage when African-American defendant was held fixed. However, this strong White victim effect disappears when confounding factors are taken into account.

We now focus on these confounding factors. Table 10 shows the distribution of African-American defendant cases among the counties.

**Table 10**

COUNTY	White (WHITVIC)	African-American(Not WHITVIC)
1. Atlantic	3/8 *(3/9)	1/13 (1/12)
2. Bergen	2/4	2/4
3. Burlington	3/5	1/1
4. Camden	0/1	7/25
5. Cape May	2/2	0/1
6. Cumberland	0/2	0/2
7. Essex	3/11 *(3/12)	10/76 (10/75)
8. Gloucester	2/3	0/1
9. Hudson	0/4	1/8
10. Hunterdon	--	--
11. Mercer	3/3 *(3/4)	6/15 (6/14)
12. Middlesex	3/6	1/4
13. Monmouth	4/6	3/4
14. Morris	1/1	1/1
15. Ocean	1/3	--
16. Passaic	1/2	3/9
17. Salem	--	--
18. Somerset	--	0/1
19. Sussex	--	--
20. Union	0/3	4/26
21. Warren	1/2	--

Both methods of coding the race or ethnicity of the victim are depicted.<sup>11</sup> The table indicates the fraction of cases proceeding to penalty phase for each county. Several of the counties have White victim cases with smaller or equal fractions than African-American victim cases. Others have observations for only White or African-American victims. In a few, a shift of one observation would change inequality to equality. The raw numbers are relatively small. Few, if any, reliable conclusions can be drawn from these small samples.

We thus pool or combine the intra-county differences using the Cochran-Mantel-Haenzel Test. This method is commonly used by statisticians to determine statistical significance. Table 11 reflects the results with one added measure designed to eradicate potential confounding. Specifically, 4H cases, those involving the killing of a police officer, are removed. As we noted earlier, 4H cases are highly related to progression to penalty trial and death verdict rates and are highly confounded with the White victim variable. Combining the intra-county differences results in a White victim effect of .2284, far below the .05 significance threshold usually applied by statisticians.

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<sup>11</sup> The fractions denoted by asterisks and enclosed in parentheses follow the approach devised by Professor Baldus, in which a White victim case is defined as any case in which a White victim was killed by the offender, regardless of the race of any other victims killed during the same incident.

**Table 11**

<b>RACE OF VICTIM</b>			
<b>Penalty Trial</b>	<b>Not WHITVIC</b>	<b>WHITVIC</b>	<b>TOTAL</b>
No	147 79%	40 60%	187
Yes	40 21%	27 40%	67
<b>Total</b>	187	76	254

In short, the White victim effect on progression to penalty trial, where African-American defendant is fixed, does not approach statistical significance.<sup>12</sup>

In conclusion, our case-sorting analyses show that there is not a statistically significant race of victim effect on progression to penalty trial once other factors such as county variability are considered. Although a higher percentage of White victim cases proceed to the penalty stage, this is explained by county variability and other confounding factors.

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<sup>12</sup> For the sake of completeness, we have analyzed whether there is a White victim effect on the return of death sentences when African-American defendant is fixed. A bivariate analysis yields a statistical significance level of .94. Utilizing the Cochran-Mantel-Haenzel test, the statistical significance level is .80. It is abundantly plain that the relationship between African-American defendant and White victim is not statistically significant. This comports with findings made in earlier reports.

## **VI. COUNTY VARIABILITY**

As noted, we had long suspected the existence of county variability in the progression of death-eligible cases to penalty trial. We noted earlier that this point was first raised by Professor Baldus in 1991.<sup>13</sup> It continues to be perhaps the most vexing problem New Jersey faces in the administration of its capital punishment laws. The county in which the murder occurs and the prosecution is initiated continues to be one of the most significant variables in terms of death sentencing. This is hardly remarkable. Different county prosecutors undoubtedly harbor individual views concerning the appropriate disposition of murder cases. Although New Jersey is one of the most densely populated states in the union, its population is diverse and heterogeneous. The composition of each county prosecutor's office undoubtedly reflects these differences, and law enforcement priorities and policies mirror them as well.

It is arguable that the county in which a death-eligible crime takes place should not influence whether a case is capitally prosecuted or whether a case ultimately progresses to the penalty phase. We offer no opinion on the subject because the issue goes well beyond the contours of this report. We hasten to add,

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<sup>13</sup> At a very early stage, Professor Baldus observed huge variations in the numbers of capital prosecutions initiated by the twenty-one county prosecutors. See David C Baldus, Death Penalty Proportionality Review Project: Final Report to the New Jersey Supreme Court 22, 23 (September 24, 1991).

however, that we in New Jersey are not alone. Geographic disparity in the prosecution of capital cases has been reported in Maryland and Pennsylvania.<sup>14</sup>

No one currently disputes the fact that the county prosecutor is the chief law enforcement officer in his or her jurisdiction and is thus vested with substantial discretion in allocating resources, developing policies and establishing priorities. The fact remains, however, that the Attorney General, as “chief law enforcement officer of the State,” under the Criminal Justice Act of 1970 (N.J.S.A. 52:17B-98), is statutorily obliged to “maintain a general supervision over...county prosecutors with a view to obtaining effective and uniform enforcement of the criminal laws.” In a plethora of areas, the Attorney General has performed this obligation admirably and consistently. For example, the Attorney General has issued guidelines in order to enhance uniformity in sentencing under the Comprehensive Drug Reform Act.<sup>15</sup> In a similar vein, the Attorney General has provided guidelines, adopting essentially a matrix approach, in an effort to assure uniformity in assigning tiers for sex offenders under Megan’s Law.<sup>16</sup>

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<sup>14</sup> Raymond Paternoster, An Empirical Analysis of Maryland’s Death Sentencing System (January 7, 2003); Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System (March 4, 2003).

<sup>15</sup> Attorney General’s Directive to Enhance Uniformity in Sentencing Under The Comprehensive Drug Reform Act (January 15, 1998).

<sup>16</sup> Attorney General’s Registrant Risk Assessment Scale Manual (October 3, 1995).

The same approach could be taken to resolve or ameliorate the problem of county variability. Steps have already been taken in that regard. The Attorney General and the County Prosecutors' Association have established a committee in each county prosecutor's office to review death-eligible cases. The committees essentially apply the statutory aggravating and mitigating factors to specific death-eligible cases in order to determine whether a capital prosecution is warranted. The goal is to promote similar treatment of similarly situated defendants. Perhaps this approach can be refined and improved.

We have consulted with representatives of the Attorney General. Several screening models have been discussed. The most simple would require the county prosecutor to inform the Attorney General, or his or her designate, of a decision to capitally prosecute. The Attorney General would be required to approve or disapprove of every county prosecutor decision to capitally prosecute. The problem with this model is that the Attorney General would not be advised of death-eligible cases in which the county prosecutor's decision was not to capitally prosecute. Consider, for example, a county prosecutor's decision to capitally prosecute a felony murder case. Without knowing the circumstances of cases in which county prosecutors have decided to forego capital prosecutions, the Attorney General would be hard pressed to assure that like cases are treated in a like manner.

We thus suggest that the Attorney General's screening model embrace each death-eligible case. An initial decision as to whether a case is death-eligible would be made by the county prosecutor and his or her committee. The Attorney General would be informed of the circumstances of the case and the County Prosecutor's initial decision whether or not to capitally prosecute the defendant. This is essentially the approach adopted by the United States Attorney General.<sup>17</sup>

Prosecutors cannot be expected to march in lock-step with respect to the decision whether or not to capitally prosecute. But the steps we have suggested would have a salutary effect on promoting uniformity. In any event, our discussions with the Attorney General (and the Public Defender) are ongoing, and we hope they will be productive.

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<sup>17</sup> See United State's Attorneys' Manual (USAM) § 9-10.000 et. seq. (2001); U.S. Department of Justice, Criminal Resource Manual §§ 70, 73 (1997).

## **VII. SUMMARY OF FINDINGS**

Our findings can be summarized as follows:

(1) The statistical evidence does not support the thesis that the race of the defendant affects the likelihood that he or she will receive the death penalty. The available statistical evidence discloses that minority defendants who commit death-eligible crimes are not more likely than White defendants to receive the death penalty.

Our bivariate studies disclose a racial disparity in terms of White and African-American defendants proceeding to a penalty trial and receiving a death sentence. A greater percentage of White defendants advance to penalty trial than African-American defendants. A greater percentage of White defendants are sentenced to death than African-American defendants. However, this finding is not sustained in our regression analyses or in our case-sorting studies. Overall, we are satisfied that the race of the defendant does not affect which cases progress to the penalty stage or which cases result in the return of a death verdict.

(2) The statistical evidence does not support the thesis that the race of the victim affects the likelihood that the defendant will receive the death penalty.

(3) Although some of the statistical evidence suggests that defendants who kill White victims are more likely to advance to a penalty trial than defendants who kill African-American victims, this inference is rebutted by confounding factors - primarily county variability in the rate that cases progress to the penalty stage. The counties in which a large number of African-American victim cases are concentrated have low rates of cases advancing to a penalty trial. Less urban counties with a high concentration of White victim cases have higher rates of capital prosecutions. This observation applies with equal force to cross-racial killings. While some of the statistical evidence suggests that African-American defendants who kill White victims are more likely to advance to penalty trial than African-American defendants who kill African-American victims, this inference is rebutted by the confounding factor of county variability.

Simply stated, we do not find consistent, statistically significant evidence of racial or ethnic bias in the administration of our capital punishment laws.

**Report to Special Master David Baime:  
Applying the Race Monitoring System to May, 2003 Proportionality  
Review Data**

July 7, 2003

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## I. Introduction

In our two previous reports (June 1, 2001 and June 14, 2002) to Special Master Judge David Baime, we described our findings in applying a monitoring system for assessing race effects in proportionality review. The monitoring system includes two distinct methods based on the assumption that there is no single statistical approach that is reliable enough to provide consistent evidence of a race effect in death penalty sentencing in New Jersey. In one, we use multiple regression methods that seek to isolate the effects of race variables at specific decision points. In the second we use a sorting method that examines cross tabulations illustrating the relationship between race and death outcomes within different combinations of the data. For both methods, we begin with a limited set of variables that were defined through statute and a judge survey.

In this report we follow the same methods used in our June 2001 and June 2002 reports. However, because of the importance of the findings regarding race of victim and advancement to penalty trial, we try to further refine our approach in controlling for county variability. We note specifically that these additional analyses, as well as our replication of the previous models of analysis, reinforce the conclusions we have reached in prior reports. The data available to us do not support the position that race of defendant or race of victim impacts significantly upon death outcomes in New Jersey or advancement to penalty trial once other confounding factors are taken into account. These findings are strong and consistent.

We note in our report that there is a strong confounding of county variability with race of defendant when examining advancement to penalty trial. However, we think it important to emphasize that the strong impact of county variability in our analyses should not be taken as

consistent evidence that county variability is in itself a strong and independent factor in explaining death penalty sentencing practices. In order to reach this conclusion with the level of confidence that we express in regard to race and death sentencing, we would need to apply a system of analysis that is appropriate for testing the effect of county variability itself. We recommend that such a study be carried out by the Special Master given the importance of the fair application of death penalty sentencing.

## II. Defining the Variables Included in the Analyses and the Appropriate Samples

In our June, 2001 report we detailed a series of decisions regarding the coding and definition of variables used in the monitoring system, and in the samples employed. To help the reader in understanding the present report, we summarize those decisions. However, we refer the reader to the June 1, 2001 and June 14, 2002 reports for details regarding the monitoring system.

### 1) The Coding of Race

In the original proportionality review analyses constructed by Special Master David Baldus, two measures of race were used. In the case of race of defendant, African American defendants were compared to all other defendants (BLACKD). In the case of race of victim, cases with any White victim were compared to all other cases (WHITVIC).<sup>1</sup> In response to

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<sup>1</sup>In this coding white victims are given preference over other racial categories. Thus, if a case includes an African American primary victim and a White victim (who is not listed as primary in the case) “WHITVIC” is coded as 1. African American victim cases in this scenario are coded as 0. We use Special Master Baldus’ approach in the regression method. For the sorting method, we use both this approach and an approach which simply examines the coded “primary” victim in a case.

Special Master Baime's concerns with race coding which did not examine separately Hispanic victims and defendants, the New Jersey Supreme Court in In Re Proportionality Review Project, 165 N.J. 206 (2000) requested that the proposed monitoring system take into account other racial categories.

In the monitoring system we distinguish between White, African American and Hispanic defendants and White, African American and Hispanic victims.<sup>2</sup> We also conduct analyses comparing White and African American defendants and White and African American victims only.

## 2) Identification of the Set of Relevant Variables

The procedure for selecting the base set of variables was defined by Special Master Baime after consulting with representatives of the Attorney General and the Public Defender. As a first step, the statutory aggravating and mitigating factors were included in the set of relevant factors to be considered in the statistical monitoring approaches. However, the Special Master sought to identify relevant non-statutory factors as well. To do this, the Special Master identified 16 experienced judges who were asked to rate whether non-statutory variables in the data base maintained by the AOC were important factors in predicting death sentencing outcomes.

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<sup>2</sup>Following Special Master Baldus' coding system, a case was coded White victim if there was any White victim; African American victim if there was not a White victim and there was any African American victim; and Hispanic victim if there was any Hispanic victim but not a White or African American victim in the case. We do not specifically examine the "Asian and other" race categories, as the number of cases remains relatively small. As in our previous analyses of June, 2001, there are only a handful of "Asian and other race defendants" (N=4), and 18 "Asian and other" race victims in the full data base.

Our report of June 1, 2001 details the procedures used to identify the relevant variables. Our approach led to the inclusion of 21 of the 94 variables that were provided to the judges for their assessment. In practice, 22 non-statutory variables were added to the 16 statutory aggravating and mitigating circumstances which led to a base set of 38 variables for analysis not including race of defendant and race of victim (see Appendix A).<sup>3</sup>

### 3) Defining the Appropriate Sample

In proportionality reviews, the AOC has used two separate samples in its analyses. The first sample is defined as the “penalty trial universe” and is intended to assess death penalty sentencing only among those individuals who have advanced to a penalty trial. The second sample is termed “the larger universe,” and includes all cases that are deemed “death eligible” by a series of rules initially developed by Special Master Baldus and over time adapted by the Administrative Office of the Courts. We define this latter sample as the “death eligible sample” in our discussion.

In our November 24, 1999 report we noted that specific decisions regarding the selection of cases for inclusion in analyses conducted upon each of these samples should be reconsidered in light of the statistical and substantive issues that they present. In particular we questioned the inclusion in both samples of the same individual multiple times. This occurs for two reasons. In the first case, some individuals were involved in more than one murder. There are now 15 such

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<sup>3</sup> One measure, the amount of planning in the homicide, was excluded from the regression analyses based on the large number of missing values. Prior record was examined in three different ways (see Appendix A). While in practice there are 20 statutory aggravating and mitigating circumstances, factors 4i, 4j, 4k and 4l were excluded from consideration. Their exclusion was based on the small number of cases where the factors were coded as present and the extremely large number of cases coded as missing (a result of the fact that the coding was begun only after the factors were statutorily defined).

multiple murder case defendants in the full data base. That is there are 15 defendants who account for 31 separate cases. More important in terms of the number of cases in the analysis are those individuals who were retried for the same murder. There are now 25 defendants who were retried for the same murder in the data base, and these 25 defendants account for 52 cases in the full data base.

We noted in our June, 2001 report that in the case of multiple defendants in different cases we think it reasonable to allow all the cases to be counted in a single statistical analysis. While such cases involve the same defendant, the victims and circumstances of the cases are different in each case.<sup>4</sup> We also noted in our June, 2001 report that we were much more concerned with the inclusion of the same murder case multiple times in a single sample or analysis. It does not make statistical or substantive sense to count the exact same case multiple times. This problem is exacerbated by the fact that in this situation one of the cases will by definition always be a death outcome (i.e. the first case). Many of the statistical tests employed in our analyses, as was the case with earlier statistical analyses conducted by the AOC, assume that the cases examined are independent one from another. This assumption is seriously violated when we include the same murder case tried multiple times in a single analysis.

While it is clear that we cannot use the same murder case more than once in a single analysis, in discussions with the Special Master and AOC staff, we could not find a convincing logic for choosing one case for inclusion in our analyses over another. The problem is that any method that selects a specific murder trial for the same case is by definition making substantive

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<sup>4</sup> We are still concerned with the lack of independence of the cases due to the involvement of the same offender, but the number of cases here is not very large and the substantive differences in other characteristics of the cases are substantial enough to convince us that the statistical analyses we conduct will not be strongly affected.

decisions regarding the sample of cases to be used in determining whether race differences exist. It might be argued in this regard that a particular sample presents a biased portrait of death penalty sentencing decisions.

In our November, 1999 report we noted that if a reasoned argument could not be found for the primacy of one sample over another, we would recommend that the analyses be conducted under several different assumptions. Based on our discussions with the Special Master, for the June, 2001 report, we asked the AOC to create two separate samples for each of the two data bases used in proportionality review (the penalty trial sample data base, and the death eligible sample data base). The first sample, which we termed the “first case sample,” includes only the first case for each defendant who was tried multiple times for the same murder. The “last case sample” includes the final disposition for each case for each of these defendants. We follow the same procedures for this report.

Table A lists the total number of cases in each sample in each year for the three studies that we have conducted so far. For our June, 2001 report the “first case sample” had 146 cases in the penalty trial sample, and 445 cases in the death eligible sample. In our June, 2002 report, the “first case” sample had 150 cases in the penalty trial sample and 469 cases in the death eligible sample. In the 2003 data bases, there are 153 cases in the penalty trial “first case” sample, and 490 cases in the death eligible sample. For the “last case sample,” there were 134 cases in total in the penalty trial sample and 445 cases for the death eligible sample in the 2001 report. In the 2002 report there were 138 cases in the penalty trial sample and 469 cases in the death eligible sample. In this report there are a total of 141 cases in the penalty trial “last case” sample, and 490 cases in the death eligible sample.

Table A: Number of Cases in Each Sample for Each Study

Year	Penalty Trial First Case Sample	Death Eligible First Case Sample	Penalty Trial Last Case Sample	Death Eligible Last Case Sample
2001	146	445	134	445
2002	150	469	138	469
2003	153	490	141	490

As is apparent there are only a small number of new cases in the penalty trial sample for this review. While there are 21 new cases in the death eligible sample, there is only 1 additional death outcome for both samples.<sup>5</sup> And of the 21 new cases added to this data base, only three advanced to penalty trial. More generally, as we have noted in previous reports, the likelihood of advancement to penalty trial has declined over time. This decline was most significant when comparing cases that were sentenced before 1989 to others. Table B1 and Table B2 present the rates for advancement to penalty trial for the first case and last cases samples divided into three periods: 1983-1988; 1989-1998; and 1999-2002. While 56% of the first case sample cases and 48% of the last sample cases went to penalty trial between 1983 and 1988, this was true for only 22% of the first case and 23% of the last case sample between 1989 and 1998. In the last period the decline continues, though the statistics year to year vary a good deal.<sup>6</sup>

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<sup>5</sup>In the last case sample, the number of death sentence cases remains at 27 despite the addition of one death outcome (Reddish). This is the case because a previously death sentenced case (Hightower 1b) was reversed on appeal and a retrial of the penalty phase resulted in a life sentence. The life sentence—Hightower 1c—replaces Hightower 1b in the last case sample.

<sup>6</sup>While we do not change the models in our analysis, we think this change over time is substantively important, and have tested the models estimated with such change included. The results do not vary in ways that would substantively change any of our main findings.

Table B1: Table of Sentencing Year by PTRIAL (First Case Sample)

Year	PTRIAL(CASE ADVANCED TO PENALTY TRIAL)		
Frequency,			
Percent ,			
Row Pct ,No			
Col Pct ,Advance ,Advance , Total			
1983-	68	85	153
1988	13.88	17.35	31.22
	44.44	55.56	
	20.18	55.56	
1989-	208	58	266
1998	42.45	11.84	54.29
	78.20	21.80	
	61.72	37.91	
1999-	61	10	71
2002	12.45	2.04	14.49
	85.92	14.08	
	18.10	6.54	
Total	337	153	490
	68.78	31.22	100.00

Table B2: Table of Sentencing Year by PTRIAL (Last Case Sample)

Year	PTRIAL(CASE ADVANCED TO PENALTY TRIAL)		
Frequency,			
Percent ,			
Row Pct ,No			
Col Pct ,Advance ,Advance , Total			
1983-	68	64	132
1988	13.88	13.06	26.94
	51.52	48.48	
	19.48	45.39	
1989-	220	65	285
1998	44.90	13.27	58.16
	77.19	22.81	
	63.04	46.10	
1999-	61	12	73
2002	12.45	2.45	14.90
	83.56	16.44	
	17.48	8.51	
Total	349	141	490
	71.22	28.78	100.00

### III. Application of the Race Monitoring System: The Regression Method

We apply the same methods employed in our June, 2002 report to the data bases provided by the AOC for this report. The regression method approach is applied below to each of the three decision points that have been defined as relevant by the New Jersey Supreme Court and the Special Master: 1) death outcomes at penalty trials; 2) death outcomes among all death eligible cases; and 3) advancement to penalty trial.

For each of these decision points, we examine the impact of race of victim and race of defendant separately. This is required by our approach, which seeks to isolate specific confounding variables for each of these race factors at each of the decision points defined. We also conduct four separate regression analyses within each of these categories. We conduct a separate analysis for race including the three racial categories separately (African American, White, and Hispanic), and one comparing only African Americans and Whites excluding Hispanics and other racial groups. Finally, we conduct these analyses both on the first case and last case samples. As noted in our previous reports, while there is thus a large set of studies conducted here, we think it is important that there is much consistency even when these different assumptions are applied to these data.

The first step in the regression approach was to identify a theoretically relevant set of variables that are defined as potential factors that influence death penalty sentencing. This process was described in our previous report and summarized earlier. It leads to the list of statutory and non-statutory variables provided in Appendix A. The next step requires that we examine the bivariate relationships between the race variable and each of the variables in the

relevant set of variables in order to identify which should be included in controlling for confounding of race effects.<sup>7</sup>

Following this system we excluded from the regression analyses any statutory or non-statutory measure that did not reach a set threshold of statistical significance defined as reasonable for the particular analysis examined.<sup>8</sup> A number of different criteria might have been used for defining a relationship between race and a variable that is sufficiently strong and reliable to be relevant to include as a factor in the proposed regression monitoring approach. We rely upon statistical significance because it is commonly used as a criterion for deciding whether a relationship is sufficiently consistent and strong in a sample that we can reasonably conclude that some type of relationship also exists in the population from which the sample is drawn.

However, we think that a different threshold of statistical significance should be used depending on the outcome measure examined. This is the case because sample size is an important component of statistical significance. All else being equal, larger samples will produce more significant findings. Ordinarily, a significance threshold of .05 is considered reasonable for statistical analysis in the social sciences. In the case of penalty trials, where the number of cases is relatively small we use a less stringent criterion of .10.

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<sup>7</sup> This relationship was generally examined through cross tabulations of measures in the relevant set of variables and the race measures. In the one case of an interval variable (prior convictions) such analysis was inappropriate. Here a logistic regression was used in which the dependent variable was a dichotomy comparing African American and White victims or defendants.

<sup>8</sup> For models examining race as a three category variable we used ChiSquare to gain these estimates. However, there were sometimes too few cases to allow for valid statistical tests. In such situations we relied upon the relationships evidenced in comparisons between only African Americans and Whites. In these cases, as well as analyses comparing only African Americans and Whites that relied upon two by two cross tabulations we used exact tests for assessing statistical significance. We note as well that we followed our earlier criterion for exclusion of variables which evidence little variability. Where a measure had fewer than ten cases in the less frequent category it was excluded from our analyses.

Having selected variables appropriate for controlling for confounding of the race variable, we then included these measures and the relevant race variables in logistic multiple regression analyses. We limit the number of potential independent variables in the models estimated based on the criterion suggested by Professor John Tukey that there be a minimum of five cases per less frequent category of the dependant variable (e.g. death outcome).<sup>9</sup> Where too many variables are identified under this criterion we examined the relationships between the selected variables and the outcome measure examined. Preference in this situation was given to measures that were both significantly related to the examined racial criterion and to the outcome assessed.

Even where the race control characteristic (e.g. race of victim in an analysis of race of defendant) was not significantly related to outcome it was still included in the regression models if the rule of parsimony allowed. Our decision was based on the centrality of race in our monitoring procedure and the very strong confounding between race of victim and race of defendant measures in these analyses. However, variables that were significantly related to race and outcome were given preference in the scenario in which the rule of parsimony did not allow for the inclusion of additional measures.

#### 1) Race of Defendant and Death Outcomes at Penalty Trial

The bivariate relationship between race of defendant and death sentences in penalty trials does not indicate a statistically significant relationship. This is the case whether we examine the three main racial groups, only African American defendants and White defendants, and in regard

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<sup>9</sup> As described in Professor Tukey's Report to the Special Master at 5, Report to the New Jersey Supreme Court 27 (1997).

to the first case and last case samples. As Table 1.1 illustrates, there is little difference between White and African American defendants in terms of outcomes in the “first case sample.” About 35% of White defendants and 33% of African American defendants gained death sentences. A much smaller proportion of Hispanic defendants are sentenced to death, about 12 percent, but there are only 17 Hispanic defendants in this analysis overall. The overall relationship between race and death outcome is not statistically significant at conventional levels. While the number of death sentences is much smaller in the “last case sample” (see Table 1.2) the relationships are similar. Again the results do not achieve statistical significance. Looking only at African American and White defendants (see Table 2.1 and Table 2.2) it is clear that the outcomes in the bivariate case are very similar for both groups.

Using the selection process described above which was developed to identify measures that may confound our identification of race effects, only two variables from the relevant set of variables met our threshold of statistical significance for the “first case sample” (as was the case for the June, 2002 report ): WHITVIC and HISPAVIC. Estimating the model with these variables included we can see that African Americans and Hispanic defendants do not differ significantly (at the .05 threshold) from White defendants (the excluded race category)<sup>10</sup> in terms of death outcomes (see Table 3.1).<sup>11</sup> Nor is race of defendant overall a significant factor in this

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<sup>10</sup> When multiple category nominal variables, like race of defendant, are included in a regression analysis the “excluded” or reference category serves as a basis for comparison of the included categories. Accordingly, the coefficients for BLACKD and HISPD in these analyses are compared to the excluded category, WHITED (white defendant).

<sup>11</sup> Other race defendant cases are defined as missing in this analysis. We do not exclude however, other race victim cases. This is because race of victim is only a control measure in our analysis. Nonetheless, in this analysis and each of the following analyses we estimated the equations with these cases excluded as well. In none of the analyses we ran did this decision have a meaningful effect on the outcomes examined. We note as well that sensitivity analyses

equation.<sup>12</sup> For the “last case sample,” we have only two measures that met our criterion for inclusion: WHITVIC and HISPAVIC (In our 2002 report one additional variable met our significance threshold for inclusion: V5FPTY). The results are very similar (see Table 3.2). There are no significant comparisons for the race of defendant measures, and the overall race effect is not statistically significant.<sup>13</sup>

Turning to an analysis involving only African American and White defendants, we gain similar results (see Table 4.1).<sup>14</sup> In this case, as in our 2002 report, only WHITVIC met our criterion for inclusion in the “first case sample.”<sup>15</sup> The effect of BLACKD in this analysis is very small and not statistically significant. In the “last case sample,” one additional variable met our threshold, V5FPTY (as was the case in last year’s analysis). Again, the race effect is small and is not statistically significant (see Table 4.2).

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and multicollinearity tests were performed for each of the regressions reported in this report. These analyses did not suggest significant problems in the models estimated.

<sup>12</sup>Because we include three race measures: Black defendant, Hispanic defendant and White defendant (which is the excluded comparison category for the regression) we can estimate not only the significance of each comparison but the overall statistical significance of the race variable. We calculated this coefficient using Proc Genmod in SAS specifying race as a class variable and using the logistic function. The observed significance level for the overall race variable is .1971.

<sup>13</sup> The observed significance level for the overall race effect is .2245. See note 12 for a description of the method used to gain this estimate.

<sup>14</sup>We remind the reader that Hispanic and other defendants are excluded from this analysis.

<sup>15</sup> In the case of analyses involving only African American and White victims or only African American and White defendants we do not include the Hispanic control racial characteristic unless it meets the screening criterion. Accordingly, even though the rule of parsimony we use would allow the inclusion of an additional control variable in this analysis, we do not include the control factor “HISPAVIC.”

**SUMMARY:** As in our June, 2001 and June 2002 reports, our analyses do not provide evidence of a statistically significant effect of race of defendant on death outcomes at the penalty trial stage.

## 2) Race of Victim and Death Outcomes at Penalty Trial

Table 5.1 presents the bivariate distribution of race of victim by death outcomes in penalty trials for the “first case sample.” Table 5.2 presents this distribution for the “last case sample.” The results here are similar to those for race of defendant. Race of victim overall, as reflected by the Chi-Square statistics, is not significantly related to death outcomes. White and African American victim cases have once again similar rates, though the number of death outcomes is smaller in the “last case sample.” Hispanic victim cases have lower rates of death sentencing, though the number of Hispanic victim cases examined here is small (16 cases overall). Overall, as reinforced in tables 6.1 (first sample cases) and 6.2 (last sample cases) there are not statistically significant differences when we examine White and African American victim cases separately.

Table 7.1 presents regression analyses for the “first case sample” including the three main race categories (with African American victims as the excluded comparison category). Four additional variables (not including race of victim or race of defendant measures) met the criterion for inclusion: RAGE, V4FPTY, V5CPTY and PRIORHOM.<sup>16</sup> In this equation neither White victim cases nor Hispanic victim cases are significantly different from the excluded African American victim category. Race of victim overall is also not statistically significant in this

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<sup>16</sup> PRIORHOM did not meet the inclusion criterion last year.

analysis.<sup>17</sup> In the “last case sample,” three additional measures met our criterion as was the case in our June 2002 report: BLACKD, V4FPTY, V5CPTY. Again there is no evidence of a statistically significant race effect in this analysis (see Table 7.2). The overall effect of race of victim is also not statistically significant.<sup>18</sup>

Turning to our analysis of only White and African American victim cases in Table 8.1 (“first case sample”), four additional measures met our criterion: BLACKD, VICPLEAD, RAGE V4FPTY.<sup>19</sup> Again the race effect is very small and not statistically significant. In the “last case sample,” as was the case in last year’s report, only one variable met our inclusion criterion: BLACKD. Again, the results are similar and do not indicate a statistically significant race of victim impact on death outcomes at penalty trials (see Table 8.2).

**SUMMARY:** These analyses follow closely those reported in our June 2001 and June 2002 reports. They do not provide evidence of a statistically significant race of victim effect on death outcomes at penalty trials.

### 3) Race of Defendant and Death Outcome for Death Eligible Cases

As noted earlier, in analyzing death eligible cases a somewhat larger number of new cases are included in our analyses (21 cases in total). This leads to some meaningful changes in the bivariate analyses and in the specific measures that meet our screening criteria. Despite these

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<sup>17</sup> The observed significance level for the overall race effect is .8588. See note 12 for a description of the method used to gain this estimate.

<sup>18</sup> The observed significance level for the overall race effect is .7437. See note 12 for a description of the method used to gain this estimate.

<sup>19</sup> The same variables met our criterion for inclusion in our 2002 report.

changes, our conclusions follow closely those reported in our June, 2002 report.

As in our June, 2002 report, we find a statistically significant relationship ( $p < .05$ ) between race of defendant and death outcome in the “first case sample” (see Table 9.1). However, this difference, as before, is not in the direction of discrimination against minority defendants. White defendants are found in this analysis to gain a death outcome at a higher rate than are African American or Hispanic defendants. About 15% of White defendants received a death sentence. This may be compared to 8% of African American defendants and 4% of Hispanic defendants. White defendants are also sentenced to death at higher rates in the other tables examined, and in these analyses (as contrasted with those in prior reports) the results are also statistically significant at the .05 threshold (see Tables 9.1, 10.1 and 10.2). The effect of race of defendant is not sustained for any of these comparisons when using the multivariate regression approach.

In Table 11.1 we present results from a regression analysis including the three category race of defendant measure for the “first case sample.” While in our initial screening 11 measures met the criterion set for inclusion,<sup>20</sup> only seven additional variables besides the race of defendant measures could be included in the equations based on the split of the death outcome measure (N of death outcomes is 45). Five of these measures met our secondary screening criterion of a significant relationship with the dependant variable: WHITVIC, VICPLEAD, V4BPRC, V4FPRC, and V5DPRC.<sup>21</sup> HISPAVIC was also added to the regression model estimated.<sup>22</sup> As

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<sup>20</sup> HISPAVIC, INTENT, VICPLEAD, DOTHKILS, WHITVIC, HIDEBODY, LONGATAK, V4BPRC, V4FPRC, V5DPRC, V5GPRC. In last year’s report only 9 measures met our screening criteria.

<sup>21</sup> In the June, 2002 study, only WHITVIC, VICPLEAD AND V5DPRC met the secondary screening criterion.

<sup>22</sup> As noted earlier, race control measures were included in the regressions when the rule

in our 2002 report, neither of the two race of defendant variables are significantly different from the excluded White defendant category. The overall effect of race is also not statistically significant.<sup>23</sup>

We were also required to reduce the number of measures in the “last case sample,” where only three additional variables (besides BLACKD and HISPD) could be included in the analysis (the split here is 27/459). Eleven measures met our initial screening criterion of a significant relationship with race of defendant.<sup>24</sup> Two of these measures met our secondary criterion of a statistically significant relationship with the outcome measure: V4FPRC and V5DPRC.<sup>25</sup> We also added WHITVIC to this analysis based on our rule that where parsimony allowed, the race control measure would be included. Again there is no evidence of a statistically significant race effect either looking at the specific comparisons for BLACKD and HISPD and the excluded White defendant category, or assessing the race variable overall (see Table 11.2).<sup>26</sup>

Examining only African American and White defendants the results are similar. For the “first case sample,” eight measures met our criterion for inclusion: WHITVIC, INTENT, VICPLEAD, DOTHKILS, HIDEBODY, LONGATAK, V4FPRC, V5DPRC.<sup>27</sup> Of these, four measures met our secondary criterion of a significant relationship with the outcome measure:

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of parsimony allowed.

<sup>23</sup>The observed significance level for the overall race effect is .4786. See note 12 for a description of the method used to gain this estimate.

<sup>24</sup> HISPAVIC, INTENT, VICPLEAD, DOTHKILS, WHITVIC, HIDEBODY, LONGATAK, V4BPRC, V4FPRC, V5DPRC, V5GPRC. In our 2002 study PRIORCON met this initial threshold, and V4BPRC, V4FPRC and V5GPRC did not.

<sup>25</sup>In our 2002 study, INTENT and V5DPRC met the final inclusion criterion.

<sup>26</sup>The observed significance level for the overall race effect is .1936. See note 12 for a description of the method used to gain these estimates.

<sup>27</sup>In our 2002 study, one additional measure met this criterion, PRIORCON.

WHITVIC, VICPLEAD, V4FPRC, V5DPRC. These were the same measures included in Table 12.1 of last year's report. The effect of race of defendant on death outcomes is once again small and statistically not significant (see Table 12.1). In the case of the "last case sample" there were once again too many variables that met our initial threshold of a statistical relationship to BLACKD.<sup>28</sup> Two variables met our second criterion: V4FPRC, V5DPRC.<sup>29</sup> We also added WHITVIC to our analysis. The effect of BLACKD is once again very small and statistically not significant (see Table 12.2).

**SUMMARY:** As in prior reports, we do not find evidence supporting a statistically significant race of defendant effect on death outcomes in the death eligible sample. While bivariate analyses of race of defendant suggested a statistically significant relationship between race and death outcome (with White defendants more likely to receive a death sentence) this effect was not sustained in multivariate analyses.

#### 4) Race of Victim and Death Outcomes for the Death Eligible Sample

We find no statistically significant bivariate relationship between race of victim and death outcome for death eligible cases at the conventional five percent significance threshold whether we look at the first or last case samples, or race of victim coded with three race categories or only as African Americans and Whites (see Tables 13.1, 13.2, 14.1, 14.2). Nonetheless, we note that in three of these analyses, the outcomes in the first case sample are close to this significance

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<sup>28</sup> The measures were: INTENT, VICPLEAD, DOTHKILS, WHITVIC, HIDEBODY, LONGATAK, V4CPRC, V4FPRC, V5DPRC. PRIORCON while included in the 2002 study did not meet the selection criterion for this year's study.

<sup>29</sup> We note that INTENT which was included in last year's study did not meet the secondary inclusion criterion this year.

threshold, with an observed significance level comparing the three racial groups of .080 in Table 13.1; .052 (using an exact test) in Table 14.1; and .091 (using an exact test) in Table 14.2.

Overall, White victim cases in the samples examined are more likely to gain death outcomes than are victims of other racial categories.

For analysis of the three category race measure in the “first case sample,” thirteen variables met our initial criterion for inclusion.<sup>30</sup> Five of these—BADPRIOR, V5DPRC, V4FPRC, V4BPRC, VICPLEAD--were also significantly related to the outcome measure.<sup>31</sup> Adding the race of defendant control measures, nine variables in total were included in the model estimated.<sup>32</sup> In this analysis we find no statistically significant effect of race of victim whether individual comparisons are made with the excluded category of African American victims (see Table 15.1) or whether we examine the overall impact of the race variable.<sup>33</sup>

In the “last case sample” Tukey’s rule of parsimony allowed the inclusion of only five measures overall. Fourteen measures met our first threshold for inclusion.<sup>34</sup> Only two of these were significantly related to the outcome measure. Our final set of variables included the race of

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<sup>30</sup>These were: PRIORCON, HISPD, BADPRIOR (which did not meet our criterion in the 2002 study), BLACKD, INTENT, VBEAT, VICPLEAD, RAGE, LONGATAK, V4BPRC, V4FPRC, V5DPRC, V5EPRC.

<sup>31</sup>This differs from last year’s study only in the inclusion of BADPRIOR.

<sup>32</sup>We note that in this regression we violate Tukey’s rule of parsimony by 1 case (we include nine variables, though 44 and not 45 cases are in the less frequent category of the dependent variable). Because of this we also ran this table excluding the race control measures, and including only eight measures, each time dropping one of the independent variables in the analysis. In none of these regressions did we find a statistically significant race of victim effect.

<sup>33</sup>The observed significance level for the overall race effect is .6287. See note 12 for a description of the method used to gain this estimate.

<sup>34</sup>PRIORCON, HISPD, BLACKD, BADPRIOR, INTENT, VBEAT, VICPLEAD, RAGE, LONGATAK, V4BPRC, V4CPRC, V4FPRC, V5DPRC, V5EPRC. BADPRIOR and V4CPRC did not meet our criterion for the 2002 study.

victim measures as well as V5DPRC and V4FPRC.<sup>35</sup> Again neither White victim nor Hispanic victim cases are significantly different from African American victim cases. The three category overall race measure is also not statistically significant in this analysis.<sup>36</sup>

Comparing only African American and White victim cases our findings are confirmed. In the “first case sample” we once again have a larger number of measures meeting our first threshold of a statistical relationship with race.<sup>37</sup> Using the second threshold of a statistical relationship with the dependant variable, six measures are added to the analysis as well as BLACKD: BADPRIOR, V5DPRC, V4FPRC, V4CPRC, V4BPRC, VICPLEAD.<sup>38</sup> We do not find a statistically significant effect of race of victim on death outcomes in this analysis at the .05 significance threshold (see Table 16.1). In the case of the “last case sample,” only two measures meet our two step selection process: V5DPRC and V4FPRC.<sup>39</sup> Once again the analysis including race of victim and race of defendant, does not show a statistically significant race of victim effect (see Table 16.2).

**SUMMARY:** As in our 2001 and 2002 reports, we find no evidence of a statistically significant race of victim effect on death outcomes for death eligible cases.

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<sup>35</sup> In last year’s study, INTENT also met the final screening criterion.

<sup>36</sup> The observed significance level for the overall race effect is .5359. See note 12 for a description of the method used to gain this estimate.

<sup>37</sup> These were: PRIORCON, HISPD, BLACKD, BADPRIOR, INTENT, STRANGLE, VBEAT, VICPLEAD, RAGE, LONGATAK, V4BPRC, V4CPRC, V4FPRC, V5DPRC, V5EPRC. STRANGLE did not meet this criterion in the 2002 study.

<sup>38</sup> BADPRIOR did not meet the final criterion for inclusion last year.

<sup>39</sup> For the first criterion, the measures that met the threshold were: PRIORCON, HISPD, BLACKD, BADPRIOR, INTENT, STRANGLE (which did not meet the threshold last year), VBEAT, VICPLEAD, RAGE, LONGATAK, V4BPRC, V4CPRC, V4FPRC, V5DPRC. In last year’s study, INTENT also met the final screening criterion.

## 5) Race of Defendant and Advancement to Penalty Trial

In the case of race of defendant and advancement to penalty trial we find consistent and significant bivariate relationships as was the case in our studies in prior years. The relationships again are not in the direction that would be predicted by a discrimination model of sentencing. While 43% of White defendants advance to penalty trial in the “first case sample,” this was true for only 25% of African American defendants and 31% of Hispanic defendants (see Table 17.1). The result is statistically significant at the .001 level. The results are similar in the last case sample, and are also statistically significant at the .001 threshold (see Table 17.2). The results also reach the .001 significance threshold when we compare only African American and White defendants both for the first case (see Table 18.1) and the last case samples (see Table 18.2). However, as documented below, when taking into account control variables in the regression models these effects are not sustained.

Eleven variables meet our selection criterion of a significant relationship with race of defendant (measured as a three category variable) for the “first case sample”: WHITVIC, HISPAVIC, INTENT, VICPLEAD, DOTHKILS, HIDEBODY, LONGATAK, V4BPRC, V4FPRC, V5DPRC and V5GPRC.<sup>40</sup> Taking into account these control variables, the comparisons both between African American defendants and White defendants, and Hispanic defendants and White defendants, are not statistically significant (see Table 19.1). The observed significance level for the overall race of defendant effect is .5028.<sup>41</sup> In the “last case sample,”

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<sup>40</sup> In last year’s study PRIORCON also met this criterion. V4BPRC, V4FPRC, and V5GPRC did not meet the inclusion criterion last year but did achieve this threshold this year.

<sup>41</sup> See note 12 for a description of the method used to gain this estimate.

the same measures meet our criterion for inclusion.<sup>42</sup> Again the effect of race of defendant is not statistically significant whether we compare the African American or Hispanic defendants to White defendants (see Table 19.2) or we examine the overall significance of the three category race of defendant measure.<sup>43</sup> We caution the reader not to draw conclusions from the statistical significance of the race of victim measure (WHITVIC) in these analyses (or in Tables 20.1 and Table 20.2). In these regressions we use race of victim only as a control variable. We examine this characteristic systematically using the regression monitoring approach in the next section.

Looking at only African American and White defendants we gain similar findings. For the “first case sample,” eight measures met our criterion for inclusion in the models: WHITVIC, INTENT, VICPLEAD, DOTHKILS, HIDEBODY, LONGATAK, V4FPRC, V5DPRC.<sup>44</sup> In this case BLACKD has a small and not statistically significant effect on advancement to penalty trials once these measures are taken into account (see Table 20.1). One additional variable, V4CPRC, met our criterion for the “last case sample” (as was the case in last year’s study). Again the results do not suggest a significant race of defendant effect on advancement to penalty trial (see Table 20.2).

**SUMMARY:** There is a strong and statistically significant bivariate relationship between race of defendant and advancement to penalty trial. However, as in our 2001 and 2002 studies, this relationship is not sustained when other control variables are included in the multivariate

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<sup>42</sup> In last year’s study the measures included here were also the same as those included for Table 19.1.

<sup>43</sup> The observed significance level for the overall race effect is .3222. See note 12 for a description of the method used to gain this estimate.

<sup>44</sup> In last year’s study one additional measure, PRIORCON, met this criterion for both the first case and last case samples.

regression monitoring method. Accordingly, we do not find sustained evidence of a race of defendant effect on advancement to penalty trial.

#### 6) Race of Victim and Advancement to Penalty Trial

As in our June, 2001 and June, 2002 analyses, the bivariate distributions between race of victim and advancement to penalty trial suggest strong and statistically significant relationships. In the case of the “first case sample,” about 42% of White victim cases advanced to penalty trial (see Table 21.1). This was true for only 21% of African American victim cases, and only 27% of Hispanic victim cases. The result is statistically significant at the .001 threshold. Similar results are reported in Table 21.2 for the “last case sample.” And these relationships are also strong and statistically significant when we compare only White victim and African American victim cases (see Tables 22.1 and 22.2). But as in our previous studies, we ask whether these relationships are sustained when we examine the effects of race of victim on advancement to penalty trial using the regression monitoring approach.

Table 23.1 presents the results for the “first case sample.” Thirteen variables now meet our criterion for inclusion: BLACKD, HISPD, V5EPRC, V5DPRC, V4FPRC, V4BPRC, LONGATAK, RAGE, VICPLEAD, VBEAT, INTENT, BADPRIOR, PRIORCON.<sup>45</sup> Even taking into account this large number of control variables, White victim cases are found to differ significantly ( $p < .05$ ) from African American victim cases (the excluded or reference category).

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<sup>45</sup> The measures are the same as those that met the inclusion criterion in 2002 with the exception of BADPRIOR which did not meet the criterion in last year’s study.

Hispanic victim cases are not found to differ significantly from African American victim cases. The overall race effect is also statistically significant ( $p < .05$ ).<sup>46</sup>

In the “last case sample” (see Table 23.2) 14 measures are added to the analysis: BLACKD, HISP, V5EPRC, V5DPRC, V4FPRC, V4CPRC, V4BPRC, LONGATAK, RAGE, VICPLEAD, VBEAT, INTENT, BADPRIOR, PRIORCON.<sup>47</sup> In contrast to our study in prior years, the race of victim effect fails to achieve statistical significance when comparing White victim cases to African American victim cases (though the observed significance level is close to our criterion level,  $p = .0666$ ), or when looking at the overall effect of race of victim.<sup>48</sup> Hispanic victim cases are again not significantly different from African American victim cases.

Comparing only African American and White victim cases our findings are somewhat stronger. For the “first case sample,” fifteen variables met our inclusion criterion: BLACKD, HISP, V5EPRC, V5DPRC, V4FPRC, V4CPRC, V4BPRC, LONGATAK, RAGE, VICPLEAD, VBEAT, STRANGLE, INTENT, BADPRIOR, PRIORCON.<sup>49</sup> In this case we find that White victim cases are about 2.5 times as likely to go to penalty trial as are African American victim cases (see odds ratio in Table 24.1) and this result is statistically significant at greater than the .01 threshold (see Table 24.1). Fifteen measures also meet our inclusion criterion

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<sup>46</sup> The observed significance level for the overall race effect is .0419. See note 12 for a description of the method used to gain this estimate.

<sup>47</sup> Two new measures meet the inclusion criterion in this year’s study: V4CPRC and BADPRIOR.

<sup>48</sup> The observed significance level for the overall race effect is .1485. See note 12 for a description of the method used to gain this estimate.

<sup>49</sup> The measures included this year are the same with the exception of STRANGLE, which did not meet the inclusion in the 2002 study.

for the “last case sample.”<sup>50</sup> The effect of WHITVIC is statistically significant at the .05 threshold (see Table 24.2). In this case the odds ratio is 2.35.

These findings overall are consistent with those presented in our previous reports, though in this case one of the four regression analyses did not yield a statistically significant effect of white victim on advancement to penalty trial (see Table 23.2). Again, as in our previous reports, we continue analysis taking into account county variability as recommended by Special Master Baime. A simple review of the cross tabulation of advancement to penalty trial and county (see Tables 25.1 and 25.2) continues to suggest that there is wide variability in rates at which cases advance to penalty trial in the individual counties.

The fact that there are a large number of counties represented in the AOC data base (N=21) and that they vary widely in the number of cases that they include (from 2 to 112) made the development of a county control variable complex. While the simplest solution would have been to assign a dummy variable for each county that would be included in the analysis—similar to the three category race measure employed in our analyses, the small number of cases in a number of the counties suggested that this might add significant instability to the regression models estimated.

In our June, 2001 report, we developed two overall approaches to overcome this difficulty. The first looked to create a score for each county based on a particular characteristic. Using this approach in our 2001 report, we created the variable “RATE” which assigns the overall proportion of cases in a defendant’s county advancing to penalty trial to each case. Thus

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<sup>50</sup>They are: HISP, BLACKD, PRIORCON, BADPRIOR, INTENT, STRANGLE, VBEAT, VICPLEAD, RAGE, LONGATAK, V4BPRC, V4CPRC, V4FPRC, V5DPRC and V5EPRC. As in the first case sample, the variables are the same with the exception of STRANGLE.

if a defendant was tried in county 1 he or she would receive a score of .28 for the “first case sample” for the rate variable corresponding with the overall rate of 28 percent of the cases that advanced to penalty trial in that county (see Table 25.1). While this measure has the advantage of taking into account county variation in a single variable, it confounds county variability with the rate of advancement to penalty trial. We noted this in our earlier reports, but our continued concern with this problem has led us to the development in this report of a second overall measure for county variability based on the total number of death eligible cases in that county. We call this measure VSIZE. For all cases in County 1 for example, VSIZE is coded as 32 reflecting the 32 death eligible cases in the county (see Table 25.1). Importantly, this measure does not confound county variability with the more general problem of rate of advancement to penalty trial. However, it does focus in on a particular characteristic of each county, the number of death eligible cases that are found there. The utility of this method was suggested by analyses we conducted in the sorting approach.

Our second approach follows the simple dummy variable method. However, in order to prevent model instability we had to collapse all counties with fewer than fifteen cases overall into an “other county” measure (OCOUNTY). It could be argued that the inclusion of this other county measure has created a good deal of “noise” in our analyses since it combines a large number of counties that might differ substantively one from another into one category. Because of this, we employ in this report a second dummy variable method that includes cases only from counties in which there were enough cases to include a separate county control variable. We chose as a criterion that there be at least 15 cases in a county for it to be included in our analysis. This was the case for only 10 of the 21 counties in the study.

Table 26.1 presents the regression results including the RATE measure and Table 26.1A presents the results including the VSIZE measure for the three category race variable for the “first case sample.”<sup>51</sup> Including the county RATE variable in the regression, neither White victim cases nor Hispanic victim cases are significantly different (at the .05 threshold) from African American victim cases (the excluded category in our analysis; see Table 26.1). The overall race measure is also not statistically significant.<sup>52</sup> Similar findings are gained using the size measure, VSIZE. Again there is not a statistically significant difference between White victim cases and African American victim cases, or Hispanic victim cases and African American victim cases (see Table 26.1A). The overall effect of race of victim is also not statistically significant.<sup>53</sup>

In Table 26.1.1 we present the dummy variables approach including the small counties coded as “OCOUNTY” for the three category race variable for the “first case sample.” Using this approach we find very similar results (see Table 26.1.1).<sup>54</sup> Neither White victim nor Hispanic victim cases are significantly different from African American victim cases, and overall the three category race measure is not significantly related to advancement to penalty trial.<sup>55</sup> We also find

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<sup>51</sup> We note as well that additional analyses examining the impact of inclusion of county variability on race of victim effects is carried out in the sorting approach that follows.

<sup>52</sup> The observed significance level for the overall race effect is .3516. See note 12 for a description of the method used to gain this estimate.

<sup>53</sup> The observed significance level for the overall race effect is .1850. See note 12 for a description of the method used to gain this estimate.

<sup>54</sup> County 7, which has the largest number of cases of any county, is defined as the reference or excluded category for analyses including the dummy variable County control. We also note that Tukey’s rule of parsimony was violated by two cases here. Given the relatively large number of cases advancing to penalty trial and the small violation relative to the number of cases and variables, we did not conduct a second stage for selecting measures.

<sup>55</sup> The observed significance level for the overall race effect is .3275. See note 12 for a description of the method used to gain this estimate.

no statistically significant effect of race when we use the dummy variable approach with only larger counties (see Table 26.1.1A). For this regression, given the smaller overall sample that was gained when selecting only counties with 15 or more cases we conducted a new procedure for selecting variables. Twelve measures met our criterion: V5GPRC, V5DPRC, V4FPRC, V4BPRC, RAGE, VICPLEAD, VBEAT, INTENT, BADPRIOR, PRIORCON, HISPD, and BLACKD. These added to the race of victim and county measures would lead us to violate our rule of parsimony substantially. Using the second criterion of a statistical relationship with the dependent variable, we included five additional measures besides the county control and race of defendant measures: V4FPRC, V4BPRC, VICPLEAD, INTENT, BADPRIOR. In this regression, White victim cases and Hispanic victim cases are again not significantly different from African American victim cases, and the overall race measure is also not statistically significant (see Table 26.1.1A).<sup>56</sup>

Similar findings are gained when we examine the three category race measure for the “last case sample.” Neither White victim cases nor Hispanic victim cases are significantly different from African American victim cases, irrespective of whether we use the county RATE or the VSIZE measure (see Tables 26.2 and 26.2A). Following our previous studies we also find that the overall relationship between race of victim and advancement to penalty trial is not statistically significant.<sup>57</sup>

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<sup>56</sup> The observed significance level for the overall race effect is .8077. See note 12 for a description of the method used to gain this estimate.

<sup>57</sup> The observed significance level for the overall race effect is .4051 for the RATE approach and .4286 for the VSIZE approach. See note 12 for a description of the method used to gain this estimate.

Using the dummy variable approach for the “last case” sample our findings are similar. Once again, we must employ a second screening criterion to reduce the number of potential independent variables for these models. For the full sample model, the following 6 measures as well as the race of defendant and county dummy variables were included: V5EPRC, V4FPRC, V4CPRC, V4BPRC, VICPLEAD and INTENT. Neither the individual race comparisons or the overall race of victim measure were found to be statistically significant controlling for county using this approach (see Table 26.2.1).<sup>58</sup> For the sample including only counties with 15 or more cases it was also necessary to employ the two step selection procedure. Using this procedure five measures were added to the race of defendant and county control variables: BADPRIOR, INTENT, VICPLEAD, V4BPRC and V4FPRC.<sup>59</sup> The final regression did not show a statistically significant white victim (or Hispanic victim) effect when compared with African American victims (see Table 26.2.1A). Nor was the overall race variable effect statistically significant in this model.<sup>60</sup>

The effect of race of victim on advancement to penalty trial is also not sustained when including county control variables and looking only at African American and White victim cases. Table 27.1 reports our findings for the first case sample using the RATE county variable. The result for White victim is not statistically significant at the conventional .05 level criterion (though the result does just achieve significance at the .10 criterion). Looking at the VSIZE

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<sup>58</sup> The observed significance level for the overall race effect is .5899. See note 12 for a description of the method used to gain this estimate.

<sup>59</sup> The following measures met the first stage criterion: PRIORCON, HISPD, BLACKD, BADPRIOR, INTENT, VBEAT, VICPLEAD, RAGE, V4BPRC, V4FPRC, V5DPRC, and V5GPRC.

<sup>60</sup> The observed significance level for the overall race effect is .9410. See note 12 for a description of the method used to gain this estimate.

county measure our findings are similar (see Table 27.1A). White victim is not statistically significant at the .05 level but it nears this threshold.

For the comparison of African American and White victims for the county dummy variable full sample approach for the first case sample, we once again used the second level screening criterion of a significant relationship with the dependent variable to reduce the number of measures included in the regression. Eight measures in addition to BLACKD and the dummy variable county control measures were included: V5EPRC, V4FPRC, V4CPRC, V4BPRC, LONGATAK, VICPLEAD, INTENT, BADPRIOR. Again, using the county control measures, White victim cases are not significantly different from African American victim cases (see Table 27.1.1). In examining the sample with only counties with 15 or more cases, similar results are gained. Five variables meet the second stage inclusion criterion as well as BLACKD and the county control variables: V4FPRC, V4BPRC, VICPLEAD, INTENT and BADPRIOR (see Table 27.1.1A).<sup>61</sup>

The findings are similar for the last case sample comparing African American and White victim cases in regard to advancement to penalty trial. White victim cases are not significantly different from African American cases when we include the RATE control measure (see Table 27.2). Nor is the statistically significant race of victim effect sustained when we employ the VSIZE county control variable though the observed significance level of .0676 is close to the .05 criterion we use in our report (see Table 27.2A).

Finally, we look at the findings employing the dummy variable control measures for the comparison of African American and White victims for the last case sample. Again we have to

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<sup>61</sup> The following measures met the first screening criterion: V5DPRC, V4FPRC, V4BPRC, RAGE, VICPLEAD, VBEAT, INTENT, BADPRIOR, HISPD, BLACKD, and PRIORCON.

limit the number of measures using the criterion of a significant relationship with the dependant variable. For the sample including all of the counties, five measures, besides BLACKD and the county control variables, met our criterion: V4FPRC, V4CPRC, V4BPRC, VICPLEAD, and INTENT. The effect of White victim in this table is not statistically significant (see Table 27.2.1). Six measures met our second criterion for the dummy variable control approach examining only counties with 15 or more cases: BLACKD, BADPRIOR, INTENT, VICPLEAD, V4BPRC and V4FPRC.<sup>62</sup> The effect of WHITVIC in this analysis is small and not statistically significant (see Table 27.2.1A).

**SUMMARY:** In this year's report, as in prior reports, a strong and statistically significant relationship is found between race of victim and advancement to penalty trial in bivariate analyses. This effect is supported in the regression monitoring approach using the relevant base set of variables defined by the judges and the statutory factors. However, as in last year's report, taking into account county variability in regression analyses of advancement to penalty trial we find that this effect is not sustained. We note in this regard, that we conducted additional studies this year that corrected potential bias in controlling for county variability. In none of the analyses conducted taking county variability into account did race of victim maintain statistical significance at the .05 threshold.

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<sup>62</sup>The variables that met the first selection criterion were: PRIORCON, HISPD, BLACKD, BADPRIOR, INTENT, VBEAT, VICPLEAD, RAGE, V4BPRC, V4FPRC, and V5DPRC.

#### IV. Application of the Race Monitoring System: The Sorting Approach

Our second approach for monitoring racial effects in death penalty sentencing is described in our previous reports as the “sorting method” because it sorts the cases according to specific characteristics relying on simple cross tabulations of the data. As we noted in our earlier reports, the advantage of this approach is that it is transparent, in that the numbers within the sorting of the data are clear and easy to understand. The disadvantage of this approach is that only a limited number of factors can be taken into account at one time. Nonetheless, as illustrated below, one can examine relationships here, especially those involving interaction, in a way that is difficult to examine using the regression approach given the size and nature of the data base.

The method we use relies on four steps. First, we divide the data into different groups of cases recognizing the complex nature of the samples that are examined. Second, we examine the overall relationship between race factors and the outcomes examined. Third, we identify statutory and non-statutory factors that are significantly related to the outcomes examined and that have enough data to allow for adequate sorting of the cases. Fourth, we examine how race factors are related to the different factors we have identified. In this approach, we look at different potential combinations in order to examine more carefully potential interactions in these data.

We concentrate most of our analyses on the set of 490 cases (the “first case sample”) selected for the regression models to avoid some types of overlap of multiple cases. In the course of the analyses we will focus on various subsets of cases. Some data sets are more appropriate for certain analyses than other sets, and our report focuses on these. For example, in studying the outcome of penalty trials, we will look at the 153 penalty trials among the 490 death

eligible cases (the “first case sample”). The results and conclusions of these analysis are consistent with those of the previous report.

As noted earlier in our report, 21 cases have been added to the “first case sample” since our last review; of these 21 cases, three went to penalty trial, and of these three cases, one case resulted in a death sentence. This is a continuation of a more general trend that we also noted in our previous report and which we will discuss in more detail later. Over time a smaller proportion of cases are going to penalty trial or receiving death sentences.

#### 1) Sorting Analysis of Race of Defendant

For an overall initial view, the approach begins by looking at the breakdown of the 490 first case death eligible cases at two key stages in the process, broken down by race. Table 28 gives the fraction of the 490 cases that go to penalty trials, and the fraction of the penalty trials that receive a death sentence, and the fraction of the 490 cases that receive a death sentence, broken down by race of defendant.<sup>63</sup> In terms of net impact, a smaller fraction of minority defendants receive death sentences than do White defendants. Looking at each of the two stages of the process, the same pattern occurs. A smaller fraction of minority death eligible defendants get to penalty trial than do death eligible White defendants. A smaller fraction of minority defendants who get to penalty trial receive death sentences than do White defendants who get to penalty trial (though as noted earlier the fractions for White and African American defendants are very close: 0.35 versus 0.33). Accordingly, there is no evidence, from this uncontrolled analysis of the advancement of race of defendant, of discrimination against either African

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<sup>63</sup> We note to the reader that this table includes information reported earlier in Tables 9.1 and 17.1. The marginal totals and percentages are the same, though percentages are reported at different levels of precision.

American or Hispanic or other minority defendants. The fractions in Table 28 are virtually identical to those of Table 28 in last year's report.

We had shown in the previous report how the analysis can be applied to take into account some other combinations of specific statutory aggravating and mitigating factors. We continue the approach of our previous report that focuses on statutory factors that are associated with death sentence and that also appear in adequate numbers of cases for further sorting and comparative analyses at various stages.

In our previous report we found that the combination of aggravating factor 4C and mitigating factor 5D had a strong association with sentencing. Aggravating factor 4C is "the murder involved torture, depravity of mind, or an aggravated assault." Mitigating factor 5D is "defendant's capacity to appreciate the wrongfulness of his conduct to the requirements of the law was significantly impaired as the result of mental disease, or defect or intoxication, but not to a degree sufficient to constitute a defense to prosecution." In Table 29 we break down the 490 cases in the first case data set by death sentence outcome and race of defendant for different combinations of statutory aggravating factor 4C and mitigating factor 5D. We see that when factor 4C is absent and 5D is present, only 1% (2/166) of cases receive death sentences; (The two cases out of 166 both involve White defendants). When 4C is present and 5D is absent, 33% of White defendant cases and 34% of African American defendant cases receive death sentences. When both 4C and 5D are present, 10% of White defendants and 15% of African American defendants receive death sentences. When both 4C and 5D are absent, 25% of White defendants receive death sentences as compared to 8% of African American defendants, and 3% of Hispanic defendants. For all the combinations in the table there is no statistically significant evidence that

minority defendant cases are more likely to gain a death sentence than White defendant cases. The patterns and conclusions are similar to those from the previous report.

Table 30 carries out a similar analysis in terms of defendants having a case go to penalty trial. We see that cases go to penalty trial at approximately double the rate when aggravating factor 4C is present than when it is not present. The highest rate of going to penalty trials in Table 30 occurs when 4C is present and mitigating factor 5D is absent. This pattern is consistent among all races of defendant groups. Overall, and within all 4C/5D combinations, there is no statistically significant evidence of discrimination against African American, Hispanic, or other minority defendants as compared to White defendants.

In terms of a monitoring system, it is useful to observe the pattern of the new data as well. Since our last report, there have been 21 additional cases in the “first case sample,” and of these additional cases, three went to penalty trial, and one of the three resulted in a death sentence. As noted earlier, this is a continuation of the trend over time of fewer cases going to penalty trial or receiving death sentences. Among the 490 first cases, 130 were 1988 or earlier, and 360 after 1988. 57% of the 130 cases of 1988 or earlier went to penalty trial, as compared to 22% of the 360 cases after 1988. Of the 21 cases added to the first case data set since the last report, there were four White defendants, fifteen African American defendants, and two Hispanic defendants. Three White defendants, no African American defendant, and no Hispanic defendant went to penalty trial. The one new case involving a death sentence was Charles Reddish. He was a White defendant who killed a White victim, and had a prior murder conviction.

**SUMMARY:** Using the sorting approach we find that there is no statistically significant evidence that either African American, or Hispanic, or other minority defendants go to penalty trials or

receive death sentences at a higher rate than White defendants. This is consistent with the results of the regression analyses and that of our earlier reports.

## 2) Sorting Analysis by Race of Victim

In this section we analyze whether there is a relationship between race of victim and outcome of death eligible cases. Among the death eligible cases there are some cases where there are multiple victims of different races. In applying the sorting approach we conduct analyses using two approaches. One follows that recommended by Special Master Baldus and is represented in the regression approach by the variable “WHITVIC.” Here, a White victim case is any case in which a White victim is present (whether the White victim was the primary victim or not, see note 1). The second approach we take is to analyze the data by victim’s race for the primary victim (first victim in time) associated with the case.

For an overall breakdown by race of victim, we look at the 490 first case death eligible cases at two key stages in the process. Table 31 gives the fraction of the 490 cases that go to penalty trials and the fraction of the penalty trials that go to death sentence broken down by race of primary victim. From Table 31, we see that among the cases that went to penalty trial, 32% of White victim cases received death sentence as compared to 34% of African American victim cases. This difference is not statistically significant, and does not support the hypothesis that penalty trial cases involving White victims are more likely to receive death sentences than cases involving African American victims. Our other analyses of this data both in this and the previous report suggest the same conclusion.

Table 31 also shows that 43% of White victim cases went to penalty trial as compared to 21% of African American victim cases and 27% of Hispanic victim cases. The difference

between the rates of going to penalty trial, 43% for White victim cases as compared to 21% for African American victim cases, is large, and statistically significant if no other explanatory variables are taken into account. Earlier in the report we investigated this large difference in rates (by race of victim) going to penalty trial for the 469 first case data set, and showed that when other explanatory variables were taken into account that the difference in rates was not significant. A comparison of Tables 32 of the previous report and Table 32 of the present report shows only a small change in the rates between the 469 and 490 first case data sets. Even though the changes in penalty trial rates since the last report is small, we go through an updated detailed analysis of penalty trial rates by victim's race for the 490 first case data set.

Applying the sorting approach, we show below that when one controls for variables also related to outcome then the race of victim is not statistically related to the case going to penalty trial. Some of these controlling variables include whether the defendant in the case committed another homicide, or whether the case was in a county which sent relatively few cases to penalty trial no matter what the race of victim, or the presence of aggravating factors such as 4C ("The murder was outrageously or wantonly vile, horrible or inhuman.."), or 4F ("The murder was committed for the purpose of escaping detection, apprehension, trial, punishment, or confinement for another offense committed by the defendant or another."), or 4H (murdering a "public servant"). For example, part of the disparity in rates is explained by the fact that killing a public servant, in the absence of extremely unusual circumstances, results in a penalty trial. In five of the seven cases involving killing a public servant the victim was White. Taking this and other factors into account there is no statistically significant evidence that any county treats white victim cases differently than minority victim cases.

As illustrated above using the regression approach, an important variable that is confounded with penalty trial and with race of victim and defendant is the county where the trial took place. The decision to go to penalty trial or to offer or to accept a plea bargain is made at the county level. Different counties have different proportions of White, African American and Hispanic victims. The counties also have quite different proportions of cases that go to penalty trial. Table 33 reports the percent of cases that went to penalty trial, and the percent of cases where the primary victim was White broken down by county.<sup>64</sup> For County 7 (Essex), 17% of its 112 cases went to penalty trial. For County 20 (Union), 17 % of its 41 cases went to penalty trial. For Counties 12 (Middlesex), 13 (Monmouth), and 14 (Morris), the percent of cases going to penalty trial were, respectively, 62%, 63 %, and 60%. Table 33 also shows that a major proportion of the cases in Middlesex, Monmouth, and Morris involve White victims (62%, 74%, and 80% respectively), whereas only 20% of the cases in Essex or Union counties involve White victims.

Table 33B shows the drop over time of the percent of cases going to penalty trial, varying by county. Overall, 57% of the cases 1988 or earlier went to penalty trial, as compared to 22% of the cases after 1988. Every county experienced a drop, though in different amounts. In Essex and Union Counties we see a very sharp drop. In Essex County the drop was from 48% 1988 or earlier, to 7% after 1988; For Union County the drop was from 56% 1988 or earlier, to 6% after 1988.

The difference we saw in Table 33 between Essex and Union versus Middlesex, Monmouth, and Morris is accentuated in the cases after 1988. For cases after 1988, only 7% of the cases in Essex County, and 6% of the cases in Union County went to Penalty trial, as

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<sup>64</sup> The first two columns of this table include the same data as were presented in Table 25.1.

compared to 58%, 56%, and 55% of the cases in Middlesex, Monmouth, and Morris Counties, respectively.

Table 34 shows in further detail the distribution of cases by race of primary victim broken down by counties. The first entry corresponding to a particular row and column (a cell) of the table is the count, or absolute number of cases; below the count is the row percent, and below that is the column percent. Thus, for the row County 1 (Atlantic County), and the column race of primary victim White there are 18 cases, which make up 56% (18/32) of the cases in Atlantic county, and 8% (18/212) of the White victim cases. From Tables 33, 33B and 34 we see that a disproportionate number of African American and Hispanic victim cases are in counties with the lowest rates of cases going to penalty trials. The three counties with the largest number of cases have among the lowest rates of cases going to penalty trial. In the subset of 490 cases, Camden County (4) has 54 cases of which 26% went to Penalty trial. Essex County (7) has 112 cases of which 17% went to penalty trial. Union County (20) has 41 cases of which 17% went to penalty trial. From the last column in Table 33 we see that relatively few of the cases in these counties involved White victims. Only 26% of the cases in Camden, 20% of the cases in Essex, and 20% of the cases in Union involved a White victim. These are small percentages relative to other counties.

Another way to put this is that Camden, Essex, and Union counties account for a disproportionately small fraction of the White victim cases. Adding the column percents for these three counties in Table 34 we see that these three low penalty rate counties contain 66 % of the African American victim cases, 48 % of the Hispanic victim cases, but only 19 % of the White victim cases. Three of the highest penalty rate counties, Gloucester County (8), Middlesex County (12), and Monmouth County (13), with respectively 54%, 62% and 63% of cases going to

penalty trials, contain 5% of the African American Victim cases, 13% of the Hispanic victim cases, but 20% of the White victim cases.

The fact that minority victim cases are concentrated within counties with low penalty trial rates could lead to varying overall penalty trial rates for the different victim race cases. This could happen, even if for every individual county the same proportion of White, African American, Hispanic and other race victim cases went to penalty trials. This is why it is important to analyze the penalty trial data by counties and to investigate whether and how the rates of going to penalty trial vary by race within the counties.

In most cases the race of defendant and race of victim were the same (see Table 35). This implies that the lower rate of going to penalty trial for African American victim cases is confounded with the lower rate going to penalty trial for African American defendant cases (see Table 28). Table 35 shows this relation between race of defendant and primary victim for the “first case data set” of 490 death eligible cases. Among the White defendant cases, 131 involved a White victim, only 3 involved an African American victim. From another view, there are 199 cases where the race of the victim is African American; in 191 of those cases the race of the defendant is African American. This type of strong confounding led us to focus on the following question. Are African American defendants who kill a White victim more likely to go to penalty trial, than similar African American defendants who kill African American victims? From Table 35 there are 257 African American defendant cases with a White or African American victim; in 66 of the cases the primary victim is White, and in the other 191 cases the victim is African American

Table 36 shows the 257 cases from the 490 first cases, that involve an African American defendant and an African American or White victim. Of 66 cases involving a White primary

victim, 44% went to penalty trial. Of 191 cases involving an African American primary victim, 21% went to penalty trial. It might be thought that holding the race of defendant fixed would control for the different racial composition of death eligible cases among counties. In our previous report we showed that this is not the case and that even for comparisons within African American defendant cases one must still take the county effect into consideration.

We now proceed to take into account other important variables in our sorting approach analysis to focus on the nature and possible reasons for the observed difference in rates of going to penalty trial. In this approach we focus on whether African American or White victims are found in a case, and not the primary victim as in our earlier analyses. Our coding here follows that used in the regression approach using the WHITVIC measure. For the 257 African American defendant cases involving an African American or White victim, Table 37 gives the fraction of cases going to penalty trial for a given county and race of victim. (Table 37 shows both methods of coding race: primary victim, and WHITVIC) Looking at Table 37, some of the counties have White victim cases with smaller or equal fractions than African American victim cases. Some counties have no observations for African American defendant/African American or White victim cases, and some have observations for just one race of victim. In a few others, a shift of just one observation will change inequality to equality. Several differences based on a small number of observations, together with the somewhat larger differences for Atlantic, Essex, and Mercer Counties, might combine to be significant.

One approach to test this is to block on counties (or control for county variability) using the Cochran-Mantel-Haenszel Test. Table 40 carries out this analysis for the 254 African American defendant cases. To separate out the 4H (Killing a public servant) effect we remove the three 4H cases in this analysis to remove the confounding due to the fact that killing a public

servant is very strongly related to going to penalty trial and to being a White victim. After controlling for county and 4H effects, the race of victim effect is not significant (Table 40 shows that the observed significance using the Cochran-Mantel-Haenszel test for race of victim is 0.23). Thus, county is an important confounding variable that explains much of the difference in rates for African American and White victims observed in Table 36.

The differences in Table 37 are not statistically significant, either by themselves, or when pooled together. In the previous report we explored further the differences observed in Table 37 for Atlantic, Essex and Mercer counties to see if there were other breakdowns that were significantly related to race of victim, or other variables such as multiple homicides, or prior convictions, that were associated with observed differences (even though the differences were not significant). We carried out the same exploration on the updated data, with the same conclusion of no statistically significant evidence of a race of victim effect for the differences in Table 37.

The analysis above investigated the differences in rates of going to penalty trial for White and African American victim cases within the same county. We did not find any statistically significant differences within counties. We noted above the need to test whether the combination of several non-significant differences might be significant. One approach to test this is to block on counties using the Cochran-Mantel-Haenszel Test. We also carried out this analysis on the 490 First case and Last case data sets. First we split the 490 cases into those that involve the statutory factor 4H (killing a police officer or other public official), and those that do not. We noted before that among the 490 death eligible cases there are 7 cases where 4H is present, and 6 of these cases went to penalty trial. The one case that did not go to penalty trial was unusual (the wrong people were originally arrested and one died in jail) and posed prosecutorial problems that

led to a plea bargain in this case. In looking at whether there is a race of victim effect (as distinct from the 4H effect), it is appropriate to separate out the 4H cases. This leaves 483 (non 4H) cases in the death eligible data base. Tables 38 and Table 39 summarize the data by race of victim for these cases, where a case is denoted a White victim case if at least one of the victims in the case is White (This is the WHITVIC coding used in the regression analyses). We find that the race of victim effect is close to statistically significant for the first case data set (observed level of significance 0.051; Table 38) and not significant for the last case data set (observed level of significance 0.095; Table 39). Recall, that when we look at all 490 data cases we are confounding effects of race of defendant and race of victim. This is why our analyses in Tables 37 and 40 focused on African American defendant cases.

**SUMMARY:** The above analyses show that there is not a consistent statistically significant relationship between race of victim and death sentencing when we apply the sorting method. The analyses show in particular that the higher observed proportions of White victim cases going to penalty trial can be explained in large part by the “county” variable. White victim cases are more heavily concentrated in counties that send a larger proportion of all cases to penalty trial, while the non-White victim cases are more heavily concentrated in counties that send a smaller proportion of all cases to penalty trial.

## V. Conclusions

In this report, we applied the race monitoring system developed and detailed in our June 2001 report to Special Master David Baime to May 2002 proportionality review data. Our findings follow very closely those of our June of 2001 and June of 2002 reports. Our methods

do not identify any statistically meaningful race of defendant or race of victim impacts on death outcomes once potential confounding variables have been taken into account. This was true whether we analyzed race by comparing African Americans and Whites, or whether we compared African American, White and Hispanic defendants or victims. The analyses were also consistent when we examined a sample involving the first case for multiple case defendants or the final case for multiple case defendants in the AOC data base. These results were consistent whether we used the regression or sorting methods.

We also did not find evidence of a relationship between race of defendant and advancement to penalty trial in analyzing these data. While strong and statistically significant relationships are found between race of defendant and advancement to penalty trial (with white defendants more likely to advance to penalty trial than others) in bivariate analyses, these were not sustained once other confounding variables were taken into account. The application of the regression and the sorting method using the set of variables defined by statute and by the judges led to a statistically non-significant outcome for race of defendant in all of the analyses we conducted.

For race of victim the regression monitoring approach and the sorting approach continued to show a statistically significant relationship between race of victim and advancement to penalty trial using the standard set of variables defined by statute and the judge study, as was the case in our June 2001 and June 2002 studies. However, as in the previous studies, the effect of race of victim was not sustained once county variability was taken into account. In this report, we included additional analyses of county variability in the regression approach which further reinforce our earlier finding that there is not a statistically significant impact of race of victim on advancement to penalty trial once our analyses are adjusted for county variability.

Overall, our study provides no evidence for a consistent race effect in death penalty sentencing, either in the outcomes of penalty trials, for death outcomes for all death eligible cases, or for analysis of advancement to penalty trials. As a control measure in our analysis of advancement to penalty trial, county variability was found to be an unusually strong confounding factor. We think it important to emphasize that this finding does not provide consistent support for the position that county variability itself has a strong and independent impact on advancement to penalty trial. In order to reach this conclusion with the level of confidence that we express in regard to race and death sentencing, we would need to apply a system of analysis that is appropriate for testing the effect of county variability directly. These preliminary findings regarding county variability suggest the importance of such a study.

Table 1.1: Race of Defendant By Death Outcome for Penalty Trials (First Case Sample)

Table of racedef by PTDEATH

racedef	PTDEATH(DEATH/LIFE SENT. AT A PEN. TRIAL)			Total
Frequency,	0,	1,		
Percent ,				
Row Pct ,				
Col Pct ,				
White	41	22		63
	26.97	14.47		41.45
	65.08	34.92		
	39.42	45.83		
African American	48	24		72
	31.58	15.79		47.37
	66.67	33.33		
	46.15	50.00		
Hispanic	15	2		17
	9.87	1.32		11.18
	88.24	11.76		
	14.42	4.17		
Total	104	48		152
	68.42	31.58		100.00

Frequency Missing = 1

Statistics for Table of racedef by PTDEATH

Statistic	DF	Value	Prob
Chi-Square	2	3.5172	0.1723
Likelihood Ratio Chi-Square	2	4.1017	0.1286
Mantel-Haenszel Chi-Square	1	2.0847	0.1488
Phi Coefficient		0.1521	
Contingency Coefficient		0.1504	
Cramer's V		0.1521	

Effective Sample Size = 152

Frequency Missing = 1

Table 1.2: Race of Defendant By Death Outcome for Penalty Trials (Last Case Sample)

Table of racedef by PTDEATH

racedef	PTDEATH(DEATH/LIFE SENT. AT A PEN. TRIAL)			Total
Frequency,	0,	1,		
Percent ,				
Row Pct ,				
Col Pct ,				
White	45	14		59
	32.14	10.00		42.14
	76.27	23.73		
	39.82	51.85		
African American	52	12		64
	37.14	8.57		45.71
	81.25	18.75		
	46.02	44.44		
Hispanic	16	1		17
	11.43	0.71		12.14
	94.12	5.88		
	14.16	3.70		
Total	113	27		140
	80.71	19.29		100.00

Frequency Missing = 1

Statistics for Table of racedef by PTDEATH

Statistic	DF	Value	Prob
Chi-Square	2	2.7220	0.2564
Likelihood Ratio Chi-Square	2	3.2625	0.1957
Mantel-Haenszel Chi-Square	1	2.4155	0.1201
Phi Coefficient		0.1394	
Contingency Coefficient		0.1381	
Cramer's V		0.1394	

Effective Sample Size = 140

Frequency Missing = 1

Table 2.1: African American/White Defendant By Death Outcome for Penalty Trials(First Case Sample)

Table of BLACKD by PTDEATH

BLACKD(BLACK DEFENDANT)		PTDEATH(DEATH/LIFE SENT. AT A PEN. TRIAL)		
Frequency	0	1	Total	
White	41	22	63	
	30.37	16.30	46.67	
	65.08	34.92		
	46.07	47.83		
African American	48	24	72	
	35.56	17.78	53.33	
	66.67	33.33		
	53.93	52.17		
Total	89	46	135	
	65.93	34.07	100.00	

Frequency Missing = 18

Statistics for Table of BLACKD by PTDEATH

Statistic	DF	Value	Prob
Chi-Square	1	0.0377	0.8461
Likelihood Ratio Chi-Square	1	0.0377	0.8461
Continuity Adj. Chi-Square	1	0.0001	0.9903
Mantel-Haenszel Chi-Square	1	0.0374	0.8466
Phi Coefficient		-0.0167	
Contingency Coefficient		0.0167	
Cramer's V		-0.0167	

Fisher's Exact Test

Cell (1,1) Frequency (F)	41
Left-sided Pr <= F	0.4946
Right-sided Pr >= F	0.6469

Table Probability (P)	0.1415
Two-sided Pr <= P	0.8577

Effective Sample Size = 135

Frequency Missing = 18

Table 2.2: African American/White Defendant By Death Outcome for Penalty Trials (Last Case Sample)

Table of BLACKD by PTDEATH

BLACKD(BLACK DEFENDANT)		PTDEATH(DEATH/LIFE SENT. AT A PEN. TRIAL)		
Frequency	0	1	Total	
White	45	14	59	
	36.59	11.38	47.97	
	76.27	23.73		
	46.39	53.85		
African American	52	12	64	
	42.28	9.76	52.03	
	81.25	18.75		
	53.61	46.15		
Total	97	26	123	
	78.86	21.14	100.00	

Frequency Missing = 18

Statistics for Table of BLACKD by PTDEATH

Statistic	DF	Value	Prob
Chi-Square	1	0.4565	0.4993
Likelihood Ratio Chi-Square	1	0.4563	0.4994
Continuity Adj. Chi-Square	1	0.2067	0.6494
Mantel-Haenszel Chi-Square	1	0.4528	0.5010
Phi Coefficient		-0.0609	
Contingency Coefficient		0.0608	
Cramer's V		-0.0609	

Fisher's Exact Test

Cell (1,1) Frequency (F)	45
Left-sided Pr <= F	0.3245
Right-sided Pr >= F	0.8150
Table Probability (P)	0.1395
Two-sided Pr <= P	0.5165

Effective Sample Size = 123

Table 3.1: Logistic Regression Death Sentence at Penalty Trial (Race of Defendant, First Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW	
Response Variable	PTDEATH	DEATH/LIFE SENT. AT A PEN. TRIAL
Number of Response Levels	2	
Number of Observations	152	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTDEATH	Total Frequency
1	1	48
2	0	104

Probability modeled is PTDEATH=1.

NOTE: 1 observation was deleted due to missing values for the response or explanatory variables.

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.5045	0.5304	0.9049	0.3415
BLACKD	1	-0.1367	0.4476	0.0933	0.7601
HISPD	1	-1.6562	0.9192	3.2466	0.0716
WHITVIC	1	-0.1540	0.4794	0.1032	0.7480
HISPAVIC	1	0.3103	0.8389	0.1368	0.7115

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
BLACKD	0.872	0.363	2.097
HISPD	0.191	0.032	1.156
WHITVIC	0.857	0.335	2.194
HISPAVIC	1.364	0.263	7.060

Table 3.2: Logistic Regression Death Sentence at Penalty Trial (Race of Defendant, Last Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW	
Response Variable	PTDEATH	DEATH/LIFE SENT. AT A PEN. TRIAL
Number of Response Levels	2	
Number of Observations	140	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTDEATH	Total Frequency
1	1	27
2	0	113

Probability modeled is PTDEATH=1.

NOTE: 1 observation was deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	139.295	143.126
SC	142.237	157.834
-2 Log L	137.295	133.126

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-1.2556	0.6579	3.6422	0.0563
BLACKD	1	-0.2528	0.5427	0.2170	0.6413
HISPD	1	-2.0763	1.2097	2.9460	0.0861
WHITVIC	1	0.0249	0.6079	0.0017	0.9673
HISPAVIC	1	0.8247	0.9557	0.7447	0.3882

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
BLACKD	0.777	0.268	2.250
HISPD	0.125	0.012	1.343
WHITVIC	1.025	0.311	3.375
HISPAVIC	2.281	0.350	14.847

Table 4.1: Logistic Regression Death Sentence at Penalty Trial (African American/White Defendant, First Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW
Response Variable	PTDEATH DEATH/LIFE SENT. AT A PEN. TRIAL
Number of Response Levels	2
Number of Observations	135
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	PTDEATH	Total Frequency
1	1	46
2	0	89

Probability modeled is PTDEATH=1.

NOTE: 18 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	175.212	179.110
SC	178.117	187.826
-2 Log L	173.212	173.110

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.5210	0.4796	1.1802	0.2773
BLACKD	1	-0.1274	0.4281	0.0886	0.7660
WHITVIC	1	-0.1124	0.4436	0.0642	0.7999

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits
BLACKD	0.880	0.380 2.037
WHITVIC	0.894	0.375 2.132

Table 4.2: Logistic Regression Death Sentence at Penalty Trial (African American/White Defendant, Last Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW
Response Variable	PTDEATH DEATH/LIFE SENT. AT A PEN. TRIAL
Number of Response Levels	2
Number of Observations	123
Model	binary logit
Optimization Technique	Fisher's scoring

Ordered Value	PTDEATH	Total Frequency
1	1	26
2	0	97

Probability modeled is PTDEATH=1.

NOTE: 18 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	128.882	132.271
SC	131.695	143.519
-2 Log L	126.882	124.271

The LOGISTIC Procedure

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.7270	0.6082	1.4287	0.2320
BLACKD	1	-0.5111	0.5299	0.9303	0.3348
WHITVIC	1	-0.1868	0.5469	0.1167	0.7326
V5FPTY	1	-0.7279	0.5220	1.9444	0.1632

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
BLACKD	0.600	0.212	1.695
WHITVIC	0.830	0.284	2.423
V5FPTY	0.483	0.174	1.343

Table 5.1: Race of Victim By Death Outcome for Penalty Trials (First Case Sample)

Table of racevic by PTDEATH

racevic	PTDEATH(DEATH/LIFE SENT. AT A PEN. TRIAL)			Total
Frequency	0	1		
White	63	29		92
	42.28	19.46		61.74
	68.48	31.52		
	61.76	61.70		
African American	27	14		41
	18.12	9.40		27.52
	65.85	34.15		
	26.47	29.79		
Hispanic	12	4		16
	8.05	2.68		10.74
	75.00	25.00		
	11.76	8.51		
Total	102	47		149
	68.46	31.54		100.00

Frequency Missing = 4

Statistics for Table of racevic by PTDEATH

Statistic	DF	Value	Prob
Chi-Square	2	0.4459	0.8001
Likelihood Ratio Chi-Square	2	0.4579	0.7954
Mantel-Haenszel Chi-Square	1	0.0701	0.7913
Phi Coefficient		0.0547	
Contingency Coefficient		0.0546	
Cramer's V		0.0547	

Effective Sample Size = 149

Frequency Missing = 4

Table 5.2: Race of Victim By Death Outcome for Penalty Trials (Last Case Sample)

Table of racevic by PTDEATH

racevic	PTDEATH(DEATH/LIFE SENT. AT A PEN. TRIAL)			Total
Frequency				
Percent				
Row Pct				
Col Pct	0,	1,		
White	68	17		85
	49.64	12.41		62.04
	80.00	20.00		
	61.82	62.96		
African American	29	7		36
	21.17	5.11		26.28
	80.56	19.44		
	26.36	25.93		
Hispanic	13	3		16
	9.49	2.19		11.68
	81.25	18.75		
	11.82	11.11		
Total	110	27		137
	80.29	19.71		100.00

Frequency Missing = 4

Statistics for Table of racevic by PTDEATH

Statistic	DF	Value	Prob
Chi-Square	2	0.0154	0.9923
Likelihood Ratio Chi-Square	2	0.0155	0.9923
Mantel-Haenszel Chi-Square	1	0.0153	0.9017
Phi Coefficient		0.0106	
Contingency Coefficient		0.0106	
Cramer's V		0.0106	

Effective Sample Size = 137

Frequency Missing = 4



Table 6.2: African American/White Victim By Death Outcome for Penalty Trials (Last Case Sample)

Table of WHITVIC by PTDEATH

WHITVIC(ONE OR MORE WHITE VICTIMS)		PTDEATH(DEATH/LIFE SENT. AT A PEN. TRIAL)		
Frequency				
Percent				
Row Pct				
Col Pct	0,	1,	Total	
African American	29	7	36	
	23.97	5.79	29.75	
	80.56	19.44		
	29.90	29.17		
White	68	17	85	
	56.20	14.05	70.25	
	80.00	20.00		
	70.10	70.83		
Total	97	24	121	
	80.17	19.83	100.00	

Frequency Missing = 20

Statistics for Table of WHITVIC by PTDEATH

Statistic	DF	Value	Prob
Chi-Square	1	0.0049	0.9441
Likelihood Ratio Chi-Square	1	0.0049	0.9441
Continuity Adj. Chi-Square	1	0.0000	1.0000
Mantel-Haenszel Chi-Square	1	0.0049	0.9444
Phi Coefficient		0.0064	
Contingency Coefficient		0.0064	
Cramer's V		0.0064	

Fisher's Exact Test

Cell (1,1) Frequency (F)	29
Left-sided Pr <= F	0.6178
Right-sided Pr >= F	0.5788
Table Probability (P)	0.1966
Two-sided Pr <= P	1.0000

Effective Sample Size = 121

Frequency Missing = 20

Table 7.1: Logistic Regression Death Sentence at Penalty Trial (Race of Victim, First Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW	
Response Variable	PTDEATH	DEATH/LIFE SENT. AT A PEN. TRIAL
Number of Response Levels	2	
Number of Observations	149	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTDEATH	Total Frequency
1	1	47
2	0	102

Probability modeled is PTDEATH=1.

NOTE: 4 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	187.768	172.580
SC	190.772	199.615
-2 Log L	185.768	154.580

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.8418	0.6773	1.5448	0.2139
WHITVIC	1	-0.3178	0.5790	0.3013	0.5831
HISPAVIC	1	-0.2964	1.0269	0.0833	0.7729
BLACKD	1	-0.1245	0.5134	0.0589	0.8083
HISPD	1	-1.4634	1.0670	1.8810	0.1702
PRIORHOM	1	1.5783	0.5732	7.5816	0.0059
RAGE	1	0.5876	0.5126	1.3138	0.2517
V4FPTY	1	1.2817	0.4553	7.9224	0.0049
V5CPTY	1	-1.2957	0.4962	6.8169	0.0090

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	0.728	0.234	2.264
HISPAVIC	0.744	0.099	5.564
BLACKD	0.883	0.323	2.415
HISPD	0.231	0.029	1.874
PRIORHOM	4.847	1.576	14.905
RAGE	1.800	0.659	4.915
V4FPTY	3.603	1.476	8.794
V5CPTY	0.274	0.103	0.724

Table 7.2: Logistic Regression Death Sentence at Penalty Trial (Race of Victim, Last case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW	
Response Variable	PTDEATH	DEATH/LIFE SENT. AT A PEN. TRIAL
Number of Response Levels	2	
Number of Observations	137	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTDEATH	Total Frequency
1	1	27
2	0	110

Probability modeled is PTDEATH=1.

NOTE: 4 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	137.994	140.125
SC	140.914	157.645
-2 Log L	135.994	128.125

The LOGISTIC Procedure

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.9941	0.7341	1.8339	0.1757
WHITVIC	1	-0.5050	0.6699	0.5684	0.4509
HISPAVIC	1	-0.5728	0.9546	0.3601	0.5485
BLACKD	1	-0.4357	0.5917	0.5422	0.4615
V5CPTY	1	-0.8496	0.5293	2.5765	0.1085
V4FPTY	1	1.1218	0.4747	5.5849	0.0181

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	0.603	0.162	2.243
HISPAVIC	0.564	0.087	3.663
BLACKD	0.647	0.203	2.063
V5CPTY	0.428	0.152	1.207
V4FPTY	3.070	1.211	7.784

Table 8.1: Logistic Regression Death Sentence at Penalty Trial (White/African American Victim, First Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW
Response Variable	PTDEATH DEATH/LIFE SENT. AT A PEN. TRIAL
Number of Response Levels	2
Number of Observations	122
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	PTDEATH	Total Frequency
1	1	41
2	0	81

Probability modeled is PTDEATH=1.

NOTE: 31 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	157.767	159.487
SC	160.571	176.311
-2 Log L	155.767	147.487

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-1.3934	0.6677	4.3553	0.0369
WHITVIC	1	-0.0657	0.5679	0.0134	0.9079
BLACKD	1	0.2677	0.5096	0.2759	0.5994
VICPLEAD	1	0.4595	0.4769	0.9285	0.3352
RAGE	1	0.4777	0.5169	0.8541	0.3554
V4FPTY	1	1.0828	0.4449	5.9219	0.0150

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits
WHITVIC	0.936	0.308 2.850
BLACKD	1.307	0.481 3.549
VICPLEAD	1.583	0.622 4.032
RAGE	1.612	0.585 4.440
V4FPTY	2.953	1.235 7.063

Table 8.2: Logistic Regression Death Sentence at Penalty Trial (White/African American Victim, Last Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW	
Response Variable	PTDEATH	DEATH/LIFE SENT. AT A PEN. TRIAL
Number of Response Levels	2	
Number of Observations	121	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTDEATH	Total Frequency
1	1	24
2	0	97

Probability modeled is PTDEATH=1.

NOTE: 20 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	122.541	126.536
SC	125.337	134.923
-2 Log L	120.541	120.536

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-1.4194	0.6988	4.1256	0.0422
WHITVIC	1	0.0337	0.6301	0.0029	0.9573
BLACKD	1	-0.00184	0.5737	0.0000	0.9974

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.034	0.301	3.556
BLACKD	0.998	0.324	3.073

Table 9.1: Race of Defendant By Death Outcome  
for Death Eligible Cases (First Case Sample)

The FREQ Procedure

Table of racedef by DEATH

racedef	DEATH(DEATH SENTENCE IMPOSED AMONG ALL CASES)			Total
Frequency	0	1		
Percent				
Row Pct				
Col Pct				
White	124	22	146	30.04
	25.51	4.53		
	84.93	15.07		
	28.31	45.83		
African American	261	24	285	58.64
	53.70	4.94		
	91.58	8.42		
	59.59	50.00		
Hispanic	53	2	55	11.32
	10.91	0.41		
	96.36	3.64		
	12.10	4.17		
Total	438	48	486	100.00
	90.12	9.88		

Frequency Missing = 4

Statistics for Table of racedef by DEATH

Statistic	DF	Value	Prob
Chi-Square	2	7.5059	0.0234
Likelihood Ratio Chi-Square	2	7.6826	0.0215
Mantel-Haenszel Chi-Square	1	7.3909	0.0066
Phi Coefficient		0.1243	
Contingency Coefficient		0.1233	
Cramer's V		0.1243	

Effective Sample Size = 486

Frequency Missing = 4

Table 9.2: Race of Defendant By Death Outcome  
for Death Eligible Cases (Last Case Sample)

Table of racedef by DEATH

racedef	DEATH(DEATH SENTENCE IMPOSED AMONG ALL CASES)			Total
Frequency				
Percent				
Row Pct				
Col Pct		0,	1,	
White	132	14		146
	27.16	2.88		30.04
	90.41	9.59		
	28.76	51.85		
African American	273	12		285
	56.17	2.47		58.64
	95.79	4.21		
	59.48	44.44		
Hispanic	54	1		55
	11.11	0.21		11.32
	98.18	1.82		
	11.76	3.70		
Total	459	27		486
	94.44	5.56		100.00

Frequency Missing = 4

Statistics for Table of racedef by DEATH

Statistic	DF	Value	Prob
Chi-Square	2	6.9738	0.0306
Likelihood Ratio Chi-Square	2	6.7858	0.0336
Mantel-Haenszel Chi-Square	1	6.5253	0.0106
Phi Coefficient		0.1198	
Contingency Coefficient		0.1189	
Cramer's V		0.1198	

Effective Sample Size = 486

Frequency Missing = 4

Table 10.1: African American/White Defendant By Death Outcome for Death Eligible Cases (First Case Sample)

Table of BLACKD by DEATH

BLACKD(BLACK DEFENDANT)		DEATH(DEATH SENTENCE IMPOSED AMONG ALL CASES)		
Frequency				
Percent				
Row Pct				
Col Pct		0,	1,	Total
White	124	22	146	
	28.77	5.10	33.87	
	84.93	15.07		
	32.21	47.83		
African American	261	24	285	
	60.56	5.57	66.13	
	91.58	8.42		
	67.79	52.17		
Total	385	46	431	
	89.33	10.67	100.00	

Frequency Missing = 59

Statistics for Table of BLACKD by DEATH

Statistic	DF	Value	Prob
Chi-Square	1	4.4747	0.0344
Likelihood Ratio Chi-Square	1	4.2828	0.0385
Continuity Adj. Chi-Square	1	3.8046	0.0511
Mantel-Haenszel Chi-Square	1	4.4643	0.0346
Phi Coefficient		-0.1019	
Contingency Coefficient		0.1014	
Cramer's V		-0.1019	

Fisher's Exact Test

Cell (1,1) Frequency (F)	124
Left-sided Pr <= F	0.0273
Right-sided Pr >= F	0.9874
Table Probability (P)	0.0147
Two-sided Pr <= P	0.0469

Effective Sample Size = 431

Frequency Missing = 59

Table 10.2: African American/White Defendant By Death Outcome for Death Eligible Cases (Last Case Sample)

Table of BLACKD by DEATH

BLACKD(BLACK DEFENDANT)		DEATH(DEATH SENTENCE IMPOSED AMONG ALL CASES)		
Frequency,				
Percent ,				
Row Pct ,				
Col Pct ,	0,	1,	Total	
<i>ffffffff^ffffffff^ffffffff^</i>				
White	132	14	146	
	30.63	3.25	33.87	
	90.41	9.59		
	32.59	53.85		
<i>ffffffff^ffffffff^ffffffff^</i>				
African American	273	12	285	
	63.34	2.78	66.13	
	95.79	4.21		
	67.41	46.15		
<i>ffffffff^ffffffff^ffffffff^</i>				
Total	405	26	431	
	93.97	6.03	100.00	

Frequency Missing = 59

Statistics for Table of BLACKD by DEATH

Statistic	DF	Value	Prob
<i>ff</i>			
Chi-Square	1	4.9269	0.0264
Likelihood Ratio Chi-Square	1	4.6463	0.0311
Continuity Adj. Chi-Square	1	4.0237	0.0449
Mantel-Haenszel Chi-Square	1	4.9154	0.0266
Phi Coefficient		-0.1069	
Contingency Coefficient		0.1063	
Cramer's V		-0.1069	

Fisher's Exact Test

<i>ff</i>	
Cell (1,1) Frequency (F)	132
Left-sided Pr <= F	0.0247
Right-sided Pr >= F	0.9912
Table Probability (P)	0.0159
Two-sided Pr <= P	0.0327

Effective Sample Size = 431

Frequency Missing = 59

Table 11.1: Logistic Regression Death Sentence for Death Eligible Cases (Race of Defendant, First Case Sample)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	DEATH DEATH SENTENCE IMPOSED AMONG ALL CASES
Number of Response Levels	2
Number of Observations	433
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	DEATH	Total Frequency
1	1	45
2	0	388

Probability modeled is DEATH=1.

NOTE: 57 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	290.919	259.499
SC	294.990	296.136
-2 Log L	288.919	241.499

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-2.0384	0.5348	14.5288	0.0001
BLACKD	1	-0.2950	0.4471	0.4353	0.5094
HISPD	1	-1.0264	0.8778	1.3673	0.2423
WHITVIC	1	0.4880	0.4725	1.0667	0.3017
HISPAVIC	1	0.1688	0.7522	0.0503	0.8225
VICPLEAD	1	0.9401	0.4117	5.2128	0.0224
V4BPRC	1	-1.0339	0.7580	1.8604	0.1726
V4FPRC	1	0.9722	0.3624	7.1962	0.0073
V5DPRC	1	-1.6445	0.4392	14.0201	0.0002

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits
BLACKD	0.745	0.310 1.788
HISPD	0.358	0.064 2.002
WHITVIC	1.629	0.645 4.113
HISPAVIC	1.184	0.271 5.171
VICPLEAD	2.560	1.142 5.738
V4BPRC	0.356	0.080 1.571
V4FPRC	2.644	1.299 5.379
V5DPRC	0.193	0.082 0.457

Table 11.2: Logistic Regression Death Sentence for Death Eligible Cases (Race of Defendant, Last Case Sample)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	DEATH DEATH SENTENCE IMPOSED AMONG ALL CASES
Number of Response Levels	2
Number of Observations	486
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	DEATH	Total Frequency
1	1	27
2	0	459

Probability modeled is DEATH=1.

NOTE: 4 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	210.551	188.549
SC	214.738	213.666
-2 Log L	208.551	176.549

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-2.2575	0.5804	15.1276	0.0001
BLACKD	1	-0.7637	0.5284	2.0887	0.1484
HISPD	1	-1.6349	1.0987	2.2140	0.1368
WHITVIC	1	0.3369	0.5495	0.3759	0.5398
V4FPRC	1	1.0217	0.4379	5.4438	0.0196
V5DPRC	1	-2.1215	0.6302	11.3326	0.0008

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
BLACKD	0.466	0.165	1.313
HISPD	0.195	0.023	1.680
WHITVIC	1.401	0.477	4.112
V4FPRC	2.778	1.178	6.553
V5DPRC	0.120	0.035	0.412

Table 12.1: Logistic Regression Death Sentence for Death Eligible Cases (African American/White Defendant, First Case Sample)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	DEATH DEATH SENTENCE IMPOSED AMONG ALL CASES
Number of Response Levels	2
Number of Observations	384
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	DEATH	Total Frequency
1	1	43
2	0	341

Probability modeled is DEATH=1.

NOTE: 106 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	271.286	237.294
SC	275.237	260.998
-2 Log L	269.286	225.294

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-2.2578	0.5141	19.2888	<.0001
BLACKD	1	-0.2242	0.4472	0.2513	0.6162
WHITVIC	1	0.6639	0.4636	2.0506	0.1521
VICPLEAD	1	0.8141	0.4244	3.6795	0.0551
V4FPRC	1	1.1226	0.3709	9.1589	0.0025
V5DPRC	1	-1.8068	0.4688	14.8559	0.0001

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits
BLACKD	0.799	0.333 1.920
WHITVIC	1.942	0.783 4.819
VICPLEAD	2.257	0.982 5.186
V4FPRC	3.073	1.485 6.357
V5DPRC	0.164	0.066 0.411

Table 12.2: Logistic Regression Death Sentence for Death Eligible Cases (African American/White Defendant, Last Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW	
Response Variable	DEATH	DEATH SENTENCE IMPOSED AMONG ALL CASES
Number of Response Levels	2	
Number of Observations	431	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	DEATH	Total Frequency
1	1	26
2	0	405

Probability modeled is DEATH=1.

NOTE: 59 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	198.416	176.677
SC	202.482	197.008
-2 Log L	196.416	166.677

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-2.3715	0.5956	15.8535	<.0001
BLACKD	1	-0.6992	0.5300	1.7404	0.1871
WHITVIC	1	0.4301	0.5669	0.5755	0.4481
V4FPRC	1	1.0678	0.4463	5.7259	0.0167
V5DPRC	1	-2.0931	0.6326	10.9487	0.0009

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
BLACKD	0.497	0.176	1.404
WHITVIC	1.537	0.506	4.670
V4FPRC	2.909	1.213	6.976
V5DPRC	0.123	0.036	0.426

Table 13.1: Race of Victim By Death Outcome for Death Eligible Cases (First Case Sample)

Table of racevic by DEATH

racevic	DEATH(DEATH SENTENCE IMPOSED AMONG ALL CASES)			Total
Frequency	0	1		
White	190	29		219
	40.08	6.12		46.20
	86.76	13.24		
	44.50	61.70		
African American	182	14		196
	38.40	2.95		41.35
	92.86	7.14		
	42.62	29.79		
Hispanic	55	4		59
	11.60	0.84		12.45
	93.22	6.78		
	12.88	8.51		
Total	427	47		474
	90.08	9.92		100.00

Frequency Missing = 16

Statistics for Table of racevic by DEATH

Statistic	DF	Value	Prob
Chi-Square	2	5.0494	0.0801
Likelihood Ratio Chi-Square	2	5.0547	0.0799
Mantel-Haenszel Chi-Square	1	4.1620	0.0413
Phi Coefficient		0.1032	
Contingency Coefficient		0.1027	
Cramer's V		0.1032	

Effective Sample Size = 474

Frequency Missing = 16

Table 13.2: Race of Victim By Death Outcome  
for Death Eligible Cases (Last Case Sample)

Table of racevic by DEATH

DEATH(DEATH SENTENCE IMPOSED AMONG ALL CASES)				
Frequency,				
Percent ,				
Row Pct ,				
Col Pct ,	0,	1,	Total	
<i>ffffffff^ffffffff^ffffffff^</i>				
1 ,	202 ,	17 ,	219	
	42.62 ,	3.59 ,	46.20	
	92.24 ,	7.76 ,		
	45.19 ,	62.96 ,		
<i>ffffffff^ffffffff^ffffffff^</i>				
2 ,	189 ,	7 ,	196	
	39.87 ,	1.48 ,	41.35	
	96.43 ,	3.57 ,		
	42.28 ,	25.93 ,		
<i>ffffffff^ffffffff^ffffffff^</i>				
3 ,	56 ,	3 ,	59	
	11.81 ,	0.63 ,	12.45	
	94.92 ,	5.08 ,		
	12.53 ,	11.11 ,		
<i>ffffffff^ffffffff^ffffffff^</i>				
Total	447	27	474	
	94.30	5.70	100.00	

Frequency Missing = 16

Statistics for Table of racevic by DEATH

Statistic	DF	Value	Prob
<i>ff</i>			
Chi-Square	2	3.4291	0.1800
Likelihood Ratio Chi-Square	2	3.5018	0.1736
Mantel-Haenszel Chi-Square	1	1.9800	0.1594
Phi Coefficient		0.0851	
Contingency Coefficient		0.0847	
Cramer's V		0.0851	

Effective Sample Size = 474

Frequency Missing = 16

Table 14.1: African American/White Victim By Death Outcome for Death Eligible Cases (First Case Sample)

Table of WHITVIC by DEATH

WHITVIC(ONE OR MORE WHITE VICTIMS)		DEATH(DEATH SENTENCE IMPOSED AMONG ALL CASES)		
Frequency				
Percent				
Row Pct				
Col Pct	0,	1,	Total	
African American	182	14	196	
	43.86	3.37	47.23	
	92.86	7.14		
	48.92	32.56		
White	190	29	219	
	45.78	6.99	52.77	
	86.76	13.24		
	51.08	67.44		
Total	372	43	415	
	89.64	10.36	100.00	

Frequency Missing = 75

Statistics for Table of WHITVIC by DEATH

Statistic	DF	Value	Prob
Chi-Square	1	4.1426	0.0418
Likelihood Ratio Chi-Square	1	4.2409	0.0395
Continuity Adj. Chi-Square	1	3.5120	0.0609
Mantel-Haenszel Chi-Square	1	4.1326	0.0421
Phi Coefficient		0.0999	
Contingency Coefficient		0.0994	
Cramer's V		0.0999	

Fisher's Exact Test

Cell (1,1) Frequency (F)	182
Left-sided Pr <= F	0.9868
Right-sided Pr >= F	0.0295
Table Probability (P)	0.0163
Two-sided Pr <= P	0.0523

Effective Sample Size = 415

Frequency Missing = 75

Table 14.2: African American/White Victim By Death Outcome for Death Eligible Cases (Last Case Sample)

Table of WHITVIC by DEATH

```

WHITVIC(ONE OR MORE WHITE VICTIMS)
DEATH(DEATH SENTENCE IMPOSED AMONG ALL CASES)
Frequency,
Percent ,
Row Pct ,
Col Pct ,      0,      1, Total
#####^#####^#####^
Black ,      189 ,      7 ,      196
      , 45.54 , 1.69 , 47.23
      , 96.43 , 3.57 ,
      , 48.34 , 29.17 ,
#####^#####^#####^
White ,      202 ,      17 ,      219
      , 48.67 , 4.10 , 52.77
      , 92.24 , 7.76 ,
      , 51.66 , 70.83 ,
#####^#####^#####^
Total      391      24      415
          94.22  5.78 100.00
    
```

Frequency Missing = 75

Statistics for Table of WHITVIC by DEATH

Statistic	DF	Value	Prob
Chi-Square	1	3.3344	0.0678
Likelihood Ratio Chi-Square	1	3.4534	0.0631
Continuity Adj. Chi-Square	1	2.6096	0.1062
Mantel-Haenszel Chi-Square	1	3.3264	0.0682
Phi Coefficient		0.0896	
Contingency Coefficient		0.0893	
Cramer's V		0.0896	

Fisher's Exact Test

```

#####^#####^#####^
Cell (1,1) Frequency (F)      189
Left-sided Pr <= F            0.9808
Right-sided Pr >= F           0.0516
    
```

```

Table Probability (P)          0.0324
Two-sided Pr <= P              0.0909
    
```

Effective Sample Size = 415

Frequency Missing = 75

Table 15.1: Logistic Regression Death Sentence for Death Eligible Cases (Race of Victim, First Case Sample)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	DEATH DEATH SENTENCE IMPOSED AMONG ALL CASES
Number of Response Levels	2
Number of Observations	425
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	DEATH	Total Frequency
1	1	44
2	0	381

Probability modeled is DEATH=1.

NOTE: 65 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	284.854	253.201
SC	288.906	293.722
-2 Log L	282.854	233.201

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-2.3830	0.5714	17.3957	<.0001
WHITVIC	1	0.4645	0.4915	0.8932	0.3446
HISPAVIC	1	0.1372	0.7708	0.0317	0.8588
BLACKD	1	-0.2339	0.4614	0.2570	0.6122
HISPD	1	-0.8866	0.8859	1.0016	0.3169
BADPRIOR	1	0.5865	0.3501	2.8058	0.0939
V5DPRC	1	-1.6230	0.4422	13.4684	0.0002
V4FPRC	1	1.0304	0.3690	7.7972	0.0052
V4BPRC	1	-0.9242	0.7623	1.4700	0.2253
VICPLEAD	1	1.0279	0.4175	6.0607	0.0138

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits
WHITVIC	1.591	0.607 4.170
HISPAVIC	1.147	0.253 5.196
BLACKD	0.791	0.320 1.955
HISPD	0.412	0.073 2.339
BADPRIOR	1.798	0.905 3.571
V5DPRC	0.197	0.083 0.469
V4FPRC	2.802	1.360 5.776
V4BPRC	0.397	0.089 1.768
VICPLEAD	2.795	1.233 6.336

Table 15.2: Logistic Regression Death Sentence for Death Eligible Cases (Race of Victim, Last case Sample)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	DEATH DEATH SENTENCE IMPOSED AMONG ALL CASES
Number of Response Levels	2
Number of Observations	474
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	DEATH	Total Frequency
1	1	27
2	0	447

Probability modeled is DEATH=1.

NOTE: 16 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept	Intercept and
	Only	Covariates
AIC	209.162	190.592
SC	213.323	215.559
-2 Log L	207.162	178.592

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-2.8229	0.6395	19.4874	<.0001
WHITVIC	1	0.6506	0.6102	1.1367	0.2864
HISPAVIC	1	0.2819	0.8189	0.1185	0.7306
BLACKD	1	-0.3347	0.5238	0.4083	0.5228
V5DPRC	1	-2.0892	0.6290	11.0337	0.0009
V4FPRC	1	1.0986	0.4406	6.2179	0.0126

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
	WHITVIC	1.917	0.580
HISPAVIC	1.326	0.266	6.599
BLACKD	0.716	0.256	1.998
V5DPRC	0.124	0.036	0.425
V4FPRC	3.000	1.265	7.114

Table 16.1: Logistic Regression Death Sentence for Death Eligible Cases (White/African American Victim, First Case Sample)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	DEATH      DEATH SENTENCE IMPOSED AMONG ALL CASES
Number of Response Levels	2
Number of Observations	370
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	DEATH	Total Frequency
1	1	41
2	0	329

Probability modeled is DEATH=1.

NOTE: 120 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	259.673	219.120
SC	263.587	254.342
-2 Log L	257.673	201.120

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-3.2007	0.6200	26.6537	<.0001
WHITVIC	1	0.6259	0.5052	1.5349	0.2154
BLACKD	1	0.1041	0.4757	0.0479	0.8268
V5DPRC	1	-1.7762	0.4849	13.4189	0.0002
V4FPRC	1	1.2675	0.4114	9.4920	0.0021
V4CPRC	1	1.5324	0.4199	13.3194	0.0003
V4BPRC	1	-0.3503	0.7886	0.1973	0.6569
VICPLEAD	1	0.5931	0.4448	1.7782	0.1824
BADPRIOR	1	0.6372	0.3805	2.8050	0.0940

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits
WHITVIC	1.870	0.695    5.033
BLACKD	1.110	0.437    2.819
V5DPRC	0.169	0.065    0.438
V4FPRC	3.552	1.586    7.955
V4CPRC	4.629	2.033    10.542
V4BPRC	0.704	0.150    3.305
VICPLEAD	1.810	0.757    4.327
BADPRIOR	1.891	0.897    3.986

Table 16.2: Logistic Regression for Death Sentence for Death Eligible Cases (White/African American Victim, Last Case Sample)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	DEATH DEATH SENTENCE IMPOSED AMONG ALL CASES
Number of Response Levels	2
Number of Observations	415
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	DEATH	Total Frequency
1	1	24
2	0	391

Probability modeled is DEATH=1.

NOTE: 75 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	185.395	169.093
SC	189.424	189.234
-2 Log L	183.395	159.093

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-2.9895	0.6587	20.5949	<.0001
WHITVIC	1	0.7876	0.6170	1.6295	0.2018
BLACKD	1	-0.1482	0.5480	0.0732	0.7868
V5DPRC	1	-1.9797	0.6361	9.6855	0.0019
V4FPRC	1	1.0212	0.4609	4.9092	0.0267

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	2.198	0.656	7.366
BLACKD	0.862	0.295	2.524
V5DPRC	0.138	0.040	0.480
V4FPRC	2.776	1.125	6.852

Table 17.1: Race of Defendant By Advance to Penalty Trial (First Case Sample)

Table of racedef by PTRIAL

racedef	PTRIAL(CASE ADVANCED TO PENALTY TRIAL)		
Frequency			
Percent			
Row Pct			
Col Pct	0	1	Total
White	83	63	146
	17.08	12.96	30.04
	56.85	43.15	
	24.85	41.45	
African American	213	72	285
	43.83	14.81	58.64
	74.74	25.26	
	63.77	47.37	
Hispanic	38	17	55
	7.82	3.50	11.32
	69.09	30.91	
	11.38	11.18	
Total	334	152	486
	68.72	31.28	100.00

Frequency Missing = 4

Statistics for Table of racedef by PTRIAL

Statistic	DF	Value	Prob
Chi-Square	2	14.3754	0.0008
Likelihood Ratio Chi-Square	2	14.0530	0.0009
Mantel-Haenszel Chi-Square	1	7.7638	0.0053
Phi Coefficient		0.1720	
Contingency Coefficient		0.1695	
Cramer's V		0.1720	

Effective Sample Size = 486

Frequency Missing = 4

Table 17.2: Race of Defendant by Advance to Penalty Trial (Last Case Sample)

Table of racedef by PTRIAL

racedef	PTRIAL(CASE ADVANCED TO PENALTY TRIAL)		
Frequency	0	1	Total
White	87	59	146
	17.90	12.14	30.04
	59.59	40.41	
	25.14	42.14	
African American	221	64	285
	45.47	13.17	58.64
	77.54	22.46	
	63.87	45.71	
Hispanic	38	17	55
	7.82	3.50	11.32
	69.09	30.91	
	10.98	12.14	
Total	346	140	486
	71.19	28.81	100.00

Frequency Missing = 4

Statistics for Table of racedef by PTRIAL

Statistic	DF	Value	Prob
Chi-Square	2	15.3095	0.0005
Likelihood Ratio Chi-Square	2	14.9888	0.0006
Mantel-Haenszel Chi-Square	1	6.5916	0.0102
Phi Coefficient		0.1775	
Contingency Coefficient		0.1748	
Cramer's V		0.1775	

Effective Sample Size = 486

Frequency Missing = 4

Table 18.1: African American/White Defendant By Advance to Penalty Trial (First Case Sample)

Table of BLACKD by PTRIAL

BLACKD(BLACK DEFENDANT)		PTRIAL(CASE ADVANCED TO PENALTY TRIAL)		
Frequency				
Percent				
Row Pct				
Col Pct	0,	1,	Total	
White	83	63	146	
	19.26	14.62	33.87	
	56.85	43.15		
	28.04	46.67		
African American	213	72	285	
	49.42	16.71	66.13	
	74.74	25.26		
	71.96	53.33		
Total	296	135	431	
	68.68	31.32	100.00	

Statistics for Table of BLACKD by PTRIAL

Statistic	DF	Value	Prob
Chi-Square	1	14.3599	0.0002
Likelihood Ratio Chi-Square	1	14.0491	0.0002
Continuity Adj. Chi-Square	1	13.5404	0.0002
Mantel-Haenszel Chi-Square	1	14.3265	0.0002
Phi Coefficient		-0.1825	
Contingency Coefficient		0.1796	
Cramer's V		-0.1825	

Fisher's Exact Test

Cell (1,1) Frequency (F)	83
Left-sided Pr <= F	1.346E-04
Right-sided Pr >= F	0.9999
Table Probability (P)	7.768E-05
Two-sided Pr <= P	1.896E-04

Effective Sample Size = 431

Frequency Missing = 59

Table 18.2: African American/White Defendant By Advance to Penalty Trial (Last Case Sample)

Table of BLACKD by PTRIAL

BLACKD(BLACK DEFENDANT)		PTRIAL(CASE ADVANCED TO PENALTY TRIAL)		
Frequency				
Percent				
Row Pct				
Col Pct	0	1	Total	
White	87	59	146	
	20.19	13.69	33.87	
	59.59	40.41		
	28.25	47.97		
African American	221	64	285	
	51.28	14.85	66.13	
	77.54	22.46		
	71.75	52.03		
Total	308	123	431	
	71.46	28.54	100.00	

Frequency Missing = 59

Statistics for Table of BLACKD by PTRIAL

Statistic	DF	Value	Prob
Chi-Square	1	15.2609	<.0001
Likelihood Ratio Chi-Square	1	14.8568	0.0001
Continuity Adj. Chi-Square	1	14.3932	0.0001
Mantel-Haenszel Chi-Square	1	15.2255	<.0001
Phi Coefficient		-0.1882	
Contingency Coefficient		0.1849	
Cramer's V		-0.1882	

Fisher's Exact Test

Cell (1,1) Frequency (F)	87
Left-sided Pr <= F	8.927E-05
Right-sided Pr >= F	1.0000
Table Probability (P)	5.307E-05
Two-sided Pr <= P	1.242E-04

Effective Sample Size = 431

Frequency Missing = 59

Table 19.1: Logistic Regression Advance to Penalty Trial (Race of Defendant, First Case Sample)

The LOGISTIC Procedure

Model Information

Data Set WORK.NEW  
 Response Variable PTRIAL CASE ADVANCED TO PENALTY TRIAL  
 Number of Response Levels 2  
 Number of Observations 431  
 Model binary logit  
 Optimization Technique Fisher's scoring

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	137
2	0	294

Probability modeled is PTRIAL=1.

NOTE: 59 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	540.965	509.683
SC	545.032	566.608
-2 Log L	538.965	481.683

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.2282	0.5065	0.2029	0.6524
BLACKD	1	-0.3394	0.3090	1.2066	0.2720
HISPD	1	-0.0421	0.4336	0.0094	0.9227
WHITVIC	1	0.8456	0.3106	7.4137	0.0065
HISPAVIC	1	0.3628	0.4210	0.7427	0.3888
INTENT	1	-0.4620	0.2144	4.6450	0.0311
VICPLEAD	1	0.7482	0.3243	5.3238	0.0210
DOTHKILS	1	0.2106	0.3693	0.3253	0.5685
HIDEBODY	1	-0.5335	0.3657	2.1283	0.1446
LONGATAK	1	0.2586	0.2634	0.9640	0.3262
V4BPRC	1	-0.7037	0.3745	3.5302	0.0603
V4FPRC	1	0.4499	0.2728	2.7205	0.0991
V5DPRC	1	-0.3051	0.2366	1.6628	0.1972
V5GPRC	1	-0.3625	0.5995	0.3657	0.5454

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
BLACKD	0.712	0.389	1.305
HISPD	0.959	0.410	2.243
WHITVIC	2.329	1.267	4.281
HISPAVIC	1.437	0.630	3.280
INTENT	0.630	0.414	0.959
VICPLEAD	2.113	1.119	3.990
D0THKILS	1.234	0.599	2.546
HIDEBODY	0.587	0.286	1.201
LONGATAK	1.295	0.773	2.170
V4BPRC	0.495	0.237	1.031
V4FPRC	1.568	0.919	2.676
V5DPRC	0.737	0.464	1.172
V5GPRC	0.696	0.215	2.253

Table 19.2: Logistic Regression Advance to Penalty Trial (Race of Defendant, Last Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	431	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	125
2	0	306

Probability modeled is PTRIAL=1.

NOTE: 59 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	521.073	499.612
SC	525.139	556.537
-2 Log L	519.073	471.612

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.3028	0.5156	0.3449	0.5570
BLACKD	1	-0.4317	0.3112	1.9241	0.1654
HISPD	1	-0.0282	0.4334	0.0042	0.9482
WHITVIC	1	0.7423	0.3148	5.5595	0.0184
HISPAVIC	1	0.4074	0.4250	0.9191	0.3377
INTENT	1	-0.5035	0.2180	5.3349	0.0209
VICPLEAD	1	0.5012	0.3255	2.3698	0.1237
DOCHKILS	1	0.2490	0.3723	0.4473	0.5036
HIDEBODY	1	-0.4332	0.3641	1.4153	0.2342
LONGATAK	1	0.0577	0.2685	0.0462	0.8298
V4BPRC	1	-0.5496	0.3756	2.1405	0.1435
V4FPRC	1	0.5181	0.2732	3.5959	0.0579
V5DPRC	1	-0.0463	0.2376	0.0379	0.8457
V5GPRC	1	0.0319	0.5647	0.0032	0.9550

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
BLACKD	0.649	0.353	1.195
HISPD	0.972	0.416	2.274
WHITVIC	2.101	1.133	3.893
HISPAVIC	1.503	0.653	3.457
INTENT	0.604	0.394	0.927
VICPLEAD	1.651	0.872	3.124
DOTHKILS	1.283	0.618	2.661
HIDEBODY	0.648	0.318	1.324
LONGATAK	1.059	0.626	1.793
V4BPRC	0.577	0.276	1.205
V4FPRC	1.679	0.983	2.868
V5DPRC	0.955	0.599	1.521
V5GPRC	1.032	0.341	3.123

Table 20.1: Logistic Regression Advance to Penalty Trial (African American/White Defendant, First Case Sample)

Model Information		
Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	382	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile			
Ordered Value	PTRIAL	Total Frequency	
1	1	121	
2	0	261	

Probability modeled is PTRIAL=1.

NOTE: 108 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics		
Criterion	Intercept Only	Intercept and Covariates
AIC	479.040	448.066
SC	482.986	487.520
-2 Log L	477.040	428.066

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.6252	0.5199	1.4459	0.2292
BLACKD	1	-0.3280	0.3097	1.1220	0.2895
WHITVIC	1	0.8549	0.3035	7.9322	0.0049
INTENT	1	-0.3236	0.2221	2.1241	0.1450
VICPLEAD	1	0.7359	0.3327	4.8927	0.0270
DOTHKILS	1	0.2359	0.3854	0.3746	0.5405
HIDEBODY	1	-0.3895	0.3803	1.0490	0.3057
LONGATAK	1	0.2564	0.2786	0.8470	0.3574
V4FPRC	1	0.6815	0.2856	5.6955	0.0170
V5DPRC	1	-0.2825	0.2503	1.2739	0.2590

Odds Ratio Estimates			
Effect	Point Estimate	95% Wald Confidence Limits	
BLACKD	0.720	0.393	1.322
WHITVIC	2.351	1.297	4.262
INTENT	0.724	0.468	1.118
VICPLEAD	2.087	1.087	4.007
DOTHKILS	1.266	0.595	2.694
HIDEBODY	0.677	0.321	1.427
LONGATAK	1.292	0.749	2.231
V4FPRC	1.977	1.130	3.460
V5DPRC	0.754	0.462	1.231

Table 20.2: Logistic Reg. Advance to Penalty Trial (African American/White Defendant, Last Case Sample)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	382	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	109
2	0	273

Probability modeled is PTRIAL=1.

NOTE: 108 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	458.816	433.942
SC	462.761	477.341
-2 Log L	456.816	411.942

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.7244	0.5372	1.8186	0.1775
BLACKD	1	-0.4535	0.3129	2.1003	0.1473
WHITVIC	1	0.7312	0.3072	5.6651	0.0173
INTENT	1	-0.3440	0.2292	2.2514	0.1335
VICPLEAD	1	0.2847	0.3481	0.6687	0.4135
DOTHKILS	1	0.2341	0.3931	0.3545	0.5516
HIDEBODY	1	-0.3148	0.3826	0.6771	0.4106
LONGATAK	1	-0.1721	0.3027	0.3232	0.5697
V4CPRC	1	0.6313	0.3286	3.6901	0.0547
V4FPRC	1	0.8328	0.2921	8.1302	0.0044
V5DPRC	1	-0.0271	0.2537	0.0114	0.9148

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
BLACKD	0.635	0.344	1.173
WHITVIC	2.078	1.138	3.794
INTENT	0.709	0.452	1.111
VICPLEAD	1.329	0.672	2.630
DOTHKILS	1.264	0.585	2.731
HIDEBODY	0.730	0.345	1.545
LONGATAK	0.842	0.465	1.524
V4CPRC	1.880	0.987	3.580
V4FPRC	2.300	1.297	4.076
V5DPRC	0.973	0.592	1.600

Table 21.1: Race of Victim By Advance to Penalty Trial (First Case Sample)

Table of racevic by PTRIAL

racevic	PTRIAL(CASE ADVANCED TO PENALTY TRIAL)			Total
Frequency				
Percent				
Row Pct				
Col Pct		0,	1,	
White	127	92		219
	26.79	19.41		46.20
	57.99	42.01		
	39.08	61.74		
African American	155	41		196
	32.70	8.65		41.35
	79.08	20.92		
	47.69	27.52		
Hispanic	43	16		59
	9.07	3.38		12.45
	72.88	27.12		
	13.23	10.74		
Total	325	149		474
	68.57	31.43		100.00

Frequency Missing = 16

Statistics for Table of racevic by PTRIAL

Statistic	DF	Value	Prob
Chi-Square	2	21.9288	<.0001
Likelihood Ratio Chi-Square	2	22.1718	<.0001
Mantel-Haenszel Chi-Square	1	13.6572	0.0002
Phi Coefficient		0.2151	
Contingency Coefficient		0.2103	
Cramer's V		0.2151	

Effective Sample Size = 474

Frequency Missing = 16

Table 21.2: Race of Victim By Advance to Penalty Trials (Last Case Sample)

Table of racevic by PTRIAL

racevic	PTRIAL(CASE ADVANCED TO PENALTY TRIAL)			Total
Frequency				
Percent				
Row Pct				
Col Pct	0	1		
~~~~~^~~~~~^~~~~~^				
White	134	85		219
	28.27	17.93		46.20
	61.19	38.81		
	39.76	62.04		
~~~~~^~~~~~^~~~~~^				
African American	160	36		196
	33.76	7.59		41.35
	81.63	18.37		
	47.48	26.28		
~~~~~^~~~~~^~~~~~^				
Hispanic	43	16		59
	9.07	3.38		12.45
	72.88	27.12		
	12.76	11.68		
~~~~~^~~~~~^~~~~~^				
Total	337	137		474
	71.10	28.90		100.00

Frequency Missing = 16

Statistics for Table of racevic by PTRIAL

Statistic	DF	Value	Prob
~~~~~^~~~~~^~~~~~^			
Chi-Square	2	21.1447	<.0001
Likelihood Ratio Chi-Square	2	21.5569	<.0001
Mantel-Haenszel Chi-Square	1	11.2259	0.0008
Phi Coefficient		0.2112	
Contingency Coefficient		0.2066	
Cramer's V		0.2112	

Effective Sample Size = 474

Frequency Missing = 16

Table 22.1: White/African American Victim  
By Advance to Penalty Trials (First Case Sample)

Table of WHITVIC by PTRIAL

WHITVIC(ONE OR MORE WHITE VICTIMS)		PTRIAL(CASE ADVANCED TO PENALTY TRIAL)		
Frequency				
Percent				
Row Pct				
Col Pct		0,	1,	Total
African American	155	41		196
	37.35	9.88		47.23
	79.08	20.92		
	54.96	30.83		
White	127	92		219
	30.60	22.17		52.77
	57.99	42.01		
	45.04	69.17		
Total	282	133		415
	67.95	32.05		100.00

Frequency Missing = 75

Statistics for Table of WHITVIC by PTRIAL

Statistic	DF	Value	Prob
Chi-Square	1	21.1267	<.0001
Likelihood Ratio Chi-Square	1	21.5757	<.0001
Continuity Adj. Chi-Square	1	20.1694	<.0001
Mantel-Haenszel Chi-Square	1	21.0758	<.0001
Phi Coefficient		0.2256	
Contingency Coefficient		0.2201	
Cramer's V		0.2256	

Fisher's Exact Test

Cell (1,1) Frequency (F)	155
Left-sided Pr <= F	1.0000
Right-sided Pr >= F	2.889E-06
Table Probability (P)	1.878E-06
Two-sided Pr <= P	5.162E-06

Effective Sample Size = 415

Frequency Missing = 75

Table 22.2: African American/White Victim By Advance to Penalty Trial (Last Case Sample)

Table of WHITVIC by PTRIAL

WHITVIC(ONE OR MORE WHITE VICTIMS)		PTRIAL(CASE ADVANCED TO PENALTY TRIAL)		
Frequency		0,	1,	Total
African American	160	36		196
	38.55	8.67		47.23
	81.63	18.37		
	54.42	29.75		
White	134	85		219
	32.29	20.48		52.77
	61.19	38.81		
	45.58	70.25		
Total	294	121		415
	70.84	29.16		100.00

Frequency Missing = 75

Statistics for Table of WHITVIC by PTRIAL

Statistic	DF	Value	Prob
Chi-Square	1	20.9319	<.0001
Likelihood Ratio Chi-Square	1	21.4514	<.0001
Continuity Adj. Chi-Square	1	19.9538	<.0001
Mantel-Haenszel Chi-Square	1	20.8815	<.0001
Phi Coefficient		0.2246	
Contingency Coefficient		0.2191	
Cramer's V		0.2246	

Fisher's Exact Test

Cell (1,1) Frequency (F)	160
Left-sided Pr <= F	1.0000
Right-sided Pr >= F	3.134E-06

Table Probability (P)	2.070E-06
Two-sided Pr <= P	4.893E-06

Effective Sample Size = 415

Frequency Missing = 75

Table 23.1: Logistic Regression Advance to Penalty Trial (Race of Victim, First Case Sample)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	PTRIAL CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2
Number of Observations	414
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile		
Ordered Value	PTRIAL	Total Frequency
1	1	128
2	0	286

Probability modeled is PTRIAL=1.

NOTE: 76 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	514.070	481.569
SC	518.096	545.983
-2 Log L	512.070	449.569

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.5450	0.5282	1.0643	0.3022
WHITVIC	1	0.7907	0.3377	5.4817	0.0192
HISPAVIC	1	0.1053	0.4602	0.0524	0.8190
BLACKD	1	-0.3828	0.3252	1.3859	0.2391
HISPD	1	-0.2681	0.4608	0.3385	0.5607
V5EPRC	1	1.0998	0.6179	3.1676	0.0751
V5DPRC	1	-0.2842	0.2459	1.3362	0.2477
V4FPRC	1	0.5293	0.2800	3.5753	0.0586
V4BPRC	1	-0.6329	0.3958	2.5565	0.1098
LONGATAK	1	0.0914	0.2864	0.1019	0.7495
RAGE	1	0.0160	0.3059	0.0027	0.9583
VICPLEAD	1	0.7801	0.3429	5.1761	0.0229
VBEAT	1	-0.1932	0.2716	0.5060	0.4769
INTENT	1	-0.3389	0.2171	2.4371	0.1185
BADPRIOR	1	0.6928	0.2771	6.2506	0.0124
PRIORCON	1	-0.0405	0.0268	2.2819	0.1309

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	2.205	1.137	4.274
HISPAVIC	1.111	0.451	2.738
BLACKD	0.682	0.361	1.290
HISPD	0.765	0.310	1.887
V5EPRC	3.004	0.895	10.084
V5DPRC	0.753	0.465	1.219
V4FPRC	1.698	0.981	2.939
V4BPRC	0.531	0.244	1.154
LONGATAK	1.096	0.625	1.921
RAGE	1.016	0.558	1.851
VICPLEAD	2.182	1.114	4.272
VBEAT	0.824	0.484	1.404
INTENT	0.713	0.466	1.090
BADPRIOR	1.999	1.161	3.442
PRIORCON	0.960	0.911	1.012

Table 23.2: Logistic Regression Advance to Penalty Trial (Race of Victim, Last Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	415	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	118
2	0	297

Probability modeled is PTRIAL=1.

NOTE: 75 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	497.513	471.488
SC	501.541	539.969
-2 Log L	495.513	437.488

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.6159	0.5456	1.2742	0.2590
WHITVIC	1	0.6265	0.3415	3.3657	0.0666
HISPAVIC	1	0.1136	0.4680	0.0590	0.8081
BLACKD	1	-0.4967	0.3285	2.2867	0.1305
HISPD	1	-0.2306	0.4642	0.2467	0.6194
V5EPRC	1	1.2026	0.6388	3.5442	0.0598
V5DPRC	1	-0.1113	0.2487	0.2004	0.6544
V4FPRC	1	0.7262	0.2915	6.2064	0.0127
V4BPRC	1	-0.4225	0.3989	1.1219	0.2895
V4CPRC	1	0.9088	0.3447	6.9510	0.0084
LONGATAK	1	-0.1782	0.2998	0.3532	0.5523
RAGE	1	-0.1694	0.3205	0.2795	0.5970
VICPLEAD	1	0.3362	0.3535	0.9044	0.3416
VBEAT	1	-0.4171	0.2896	2.0742	0.1498
BADPRIOR	1	0.7058	0.2876	6.0202	0.0141
INTENT	1	-0.3438	0.2248	2.3384	0.1262
PRIORCON	1	-0.0417	0.0275	2.3042	0.1290

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.871	0.958	3.654
HISPAVIC	1.120	0.448	2.803
BLACKD	0.609	0.320	1.158
HISPD	0.794	0.320	1.972
V5EPRC	3.329	0.952	11.643
V5DPRC	0.895	0.549	1.457
V4FPRC	2.067	1.168	3.660
V4BPRC	0.655	0.300	1.432
V4CPRC	2.481	1.263	4.877
LONGATAK	0.837	0.465	1.506
RAGE	0.844	0.450	1.582
VICPLEAD	1.400	0.700	2.798
VBEAT	0.659	0.374	1.162
BADPRIOR	2.025	1.153	3.559
INTENT	0.709	0.456	1.102
PRIORCON	0.959	0.909	1.012

Table 24.1: Logistic Regression Advance to Penalty Trial (White/African American Victim, First Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW
Response Variable	PTRIAL      CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2
Number of Observations	363
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	116
2	0	247

Probability modeled is PTRIAL=1.

NOTE: 127 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	456.866	423.635
SC	460.760	489.840
-2 Log L	454.866	389.635

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-1.1313	0.5729	3.8990	0.0483
WHITVIC	1	0.9334	0.3568	6.8436	0.0089
BLACKD	1	-0.2905	0.3494	0.6915	0.4057
HISPD	1	-0.5864	0.5969	0.9650	0.3259
V5EPRC	1	0.2284	0.7171	0.1014	0.7501
V5DPRC	1	-0.3348	0.2678	1.5629	0.2112
V4FPRC	1	0.6977	0.3032	5.2967	0.0214
V4CPRC	1	1.1859	0.3502	11.4665	0.0007
V4BPRC	1	-0.3060	0.4124	0.5507	0.4580
LONGATAK	1	-0.0732	0.3373	0.0470	0.8283
RAGE	1	0.0157	0.3286	0.0023	0.9619
VICPLEAD	1	0.5062	0.3655	1.9182	0.1661
VBEAT	1	-0.3352	0.3042	1.2137	0.2706
STRANGLE	1	-0.00245	0.4710	0.0000	0.9959
INTENT	1	-0.1647	0.2324	0.5020	0.4786
BADPRIOR	1	0.8493	0.3008	7.9717	0.0048
PRIORCON	1	-0.0528	0.0285	3.4254	0.0642

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	2.543	1.264	5.118
BLACKD	0.748	0.377	1.483
HISPD	0.556	0.173	1.792
V5EPRC	1.257	0.308	5.124
V5DPRC	0.715	0.423	1.209
V4FPRC	2.009	1.109	3.640
V4CPRC	3.274	1.648	6.503
V4BPRC	0.736	0.328	1.652
LONGATAK	0.929	0.480	1.800
RAGE	1.016	0.534	1.934
VICPLEAD	1.659	0.810	3.396
VBEAT	0.715	0.394	1.298
STRANGLE	0.998	0.396	2.511
INTENT	0.848	0.538	1.338
BADPRIOR	2.338	1.297	4.216
PRIORCON	0.949	0.897	1.003

Table 24.2: Logistic Regression Advance to Penalty Trial (White/African American Victim, Last Case Sample)

The LOGISTIC Procedure

Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	364	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	106
2	0	258

Probability modeled is PTRIAL=1.

NOTE: 126 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	441.152	425.085
SC	445.049	491.336
-2 Log L	439.152	391.085

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-1.1845	0.5864	4.0803	0.0434
WHITVIC	1	0.8544	0.3500	5.9589	0.0146
BLACKD	1	-0.3544	0.3444	1.0588	0.3035
HISPD	1	-0.5424	0.5933	0.8359	0.3606
V5DPRC	1	-0.1639	0.2657	0.3803	0.5374
V5CPRC	1	0.3519	0.2693	1.7080	0.1912
V4FPRC	1	0.6901	0.3019	5.2251	0.0223
V4CPRC	1	0.8274	0.3652	5.1338	0.0235
V4BPRC	1	-0.1933	0.4093	0.2229	0.6368
LONGATAK	1	-0.0626	0.3332	0.0353	0.8509
RAGE	1	-0.1077	0.3355	0.1030	0.7483
VICPLEAD	1	0.2177	0.3627	0.3602	0.5484
VBEAT	1	-0.2345	0.2997	0.6120	0.4340
STRANGLE	1	-0.0501	0.4717	0.0113	0.9154
INTENT	1	-0.2061	0.2344	0.7731	0.3793
BADPRIOR	1	0.7411	0.3039	5.9468	0.0147
PRIORCON	1	-0.0445	0.0289	2.3721	0.1235

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	2.350	1.183	4.666
BLACKD	0.702	0.357	1.378
HISPD	0.581	0.182	1.860
V5DPRC	0.849	0.504	1.429
V5CPRC	1.422	0.839	2.410
V4FPRC	1.994	1.103	3.603
V4CPRC	2.287	1.118	4.679
V4BPRC	0.824	0.370	1.839
LONGATAK	0.939	0.489	1.805
RAGE	0.898	0.465	1.733
VICPLEAD	1.243	0.611	2.531
VBEAT	0.791	0.440	1.423
STRANGLE	0.951	0.377	2.397
INTENT	0.814	0.514	1.288
BADPRIOR	2.098	1.157	3.807
PRIORCON	0.956	0.904	1.012

Table 25.1: County by Advance to Penalty Trial  
(First Case Sample)

Table of COUNTY by PTRIAL

COUNTY(COUNTY OF CONVICTION)  
PTRIAL(CASE ADVANCED TO PENALTY TRIAL)

Frequency,	Percent ,	Row Pct ,	Col Pct ,	0,	1,	Total
1	23	9	32	4.69	1.84	6.53
	71.88	28.13		6.82	5.88	
2	12	10	22	2.45	2.04	4.49
	54.55	45.45		3.56	6.54	
3	7	6	13	1.43	1.22	2.65
	53.85	46.15		2.08	3.92	
4	40	14	54	8.16	2.86	11.02
	74.07	25.93		11.87	9.15	
5	9	3	12	1.84	0.61	2.45
	75.00	25.00		2.67	1.96	
6	10	1	11	2.04	0.20	2.24
	90.91	9.09		2.97	0.65	
7	93	19	112	18.98	3.88	22.86
	83.04	16.96		27.60	12.42	
Total	337	153	490	68.78	31.22	100.00

(Continued)

Table 25.1: County by Advance to Penalty Trial  
(First Case Sample): Continued

Table of COUNTY by PTRIAL

COUNTY(COUNTY OF CONVICTION)	PTRIAL(CASE ADVANCED TO PENALTY TRIAL)		
Frequency,			
Percent ,			
Row Pct ,			
Col Pct ,	0,	1,	Total
8	6	7	13
	1.22	1.43	2.65
	46.15	53.85	
	1.78	4.58	
9	25	8	33
	5.10	1.63	6.73
	75.76	24.24	
	7.42	5.23	
10	1	1	2
	0.20	0.20	0.41
	50.00	50.00	
	0.30	0.65	
11	12	11	23
	2.45	2.24	4.69
	52.17	47.83	
	3.56	7.19	
12	8	13	21
	1.63	2.65	4.29
	38.10	61.90	
	2.37	8.50	
13	10	17	27
	2.04	3.47	5.51
	37.04	62.96	
	2.97	11.11	
14	6	9	15
	1.22	1.84	3.06
	40.00	60.00	
	1.78	5.88	
Total	337	153	490
	68.78	31.22	100.00

(Continued)

Table 25.1: County by Advance to Penalty Trial  
(First Case Sample): Continued

Table of COUNTY by PTRIAL

COUNTY (COUNTY OF CONVICTION)	PTRIAL (CASE ADVANCED TO PENALTY TRIAL)		Total
Frequency,	0,	1,	
Percent ,			
Row Pct ,			
Col Pct ,			
15	7	6	13
, 1.43 ,	, 1.22 ,		2.65
, 53.85 ,	, 46.15 ,		
, 2.08 ,	, 3.92 ,		
16	20	6	26
, 4.08 ,	, 1.22 ,		5.31
, 76.92 ,	, 23.08 ,		
, 5.93 ,	, 3.92 ,		
17	1	1	2
, 0.20 ,	, 0.20 ,		0.41
, 50.00 ,	, 50.00 ,		
, 0.30 ,	, 0.65 ,		
18	4	0	4
, 0.82 ,	, 0.00 ,		0.82
, 100.00 ,	, 0.00 ,		
, 1.19 ,	, 0.00 ,		
19	6	2	8
, 1.22 ,	, 0.41 ,		1.63
, 75.00 ,	, 25.00 ,		
, 1.78 ,	, 1.31 ,		
20	34	7	41
, 6.94 ,	, 1.43 ,		8.37
, 82.93 ,	, 17.07 ,		
, 10.09 ,	, 4.58 ,		
21	3	3	6
, 0.61 ,	, 0.61 ,		1.22
, 50.00 ,	, 50.00 ,		
, 0.89 ,	, 1.96 ,		
Total	337	153	490
	68.78	31.22	100.00

Table 25.2: County by Advance to Penalty Trial  
(Last Case Sample)

Table of COUNTY by PTRIAL

COUNTY(COUNTY OF CONVICTION)  
PTRIAL(CASE ADVANCED TO PENALTY TRIAL)

Frequency,	Percent	Row Pct	Col Pct	0,	1,	Total
1	25	7	32	5.10	1.43	6.53
	78.13	21.88		7.16	4.96	
2	13	9	22	2.65	1.84	4.49
	59.09	40.91		3.72	6.38	
3	7	6	13	1.43	1.22	2.65
	53.85	46.15		2.01	4.26	
4	43	11	54	8.78	2.24	11.02
	79.63	20.37		12.32	7.80	
5	9	3	12	1.84	0.61	2.45
	75.00	25.00		2.58	2.13	
6	10	1	11	2.04	0.20	2.24
	90.91	9.09		2.87	0.71	
7	94	18	112	19.18	3.67	22.86
	83.93	16.07		26.93	12.77	
Total	349	141	490	71.22	28.78	100.00

(Continued)

Table 25.2: County by Advance to Penalty Trial  
(Last Case Sample): Continued

Table of COUNTY by PTRIAL

COUNTY(COUNTY OF CONVICTION)  
PTRIAL(CASE ADVANCED TO PENALTY TRIAL)

Frequency,			Total
Percent ,			
Row Pct ,			
Col Pct ,	0,	1,	
8	7	6	13
, 1.43	, 1.22	, 2.65	
, 53.85	, 46.15		
, 2.01	, 4.26		
9	25	8	33
, 5.10	, 1.63	, 6.73	
, 75.76	, 24.24		
, 7.16	, 5.67		
10	1	1	2
, 0.20	, 0.20	, 0.41	
, 50.00	, 50.00		
, 0.29	, 0.71		
11	14	9	23
, 2.86	, 1.84	, 4.69	
, 60.87	, 39.13		
, 4.01	, 6.38		
12	9	12	21
, 1.84	, 2.45	, 4.29	
, 42.86	, 57.14		
, 2.58	, 8.51		
13	10	17	27
, 2.04	, 3.47	, 5.51	
, 37.04	, 62.96		
, 2.87	, 12.06		
14	6	9	15
, 1.22	, 1.84	, 3.06	
, 40.00	, 60.00		
, 1.72	, 6.38		
Total	349	141	490
	71.22	28.78	100.00

(Continued)

Table 25.2: County by Advance to Penalty Trial  
(Last Case Sample): Continued

Table of COUNTY by PTRIAL

COUNTY (COUNTY OF CONVICTION)	PTRIAL (CASE ADVANCED TO PENALTY TRIAL)		Total
Frequency,	0,	1,	
Percent ,			
Row Pct ,			
Col Pct ,			
15	7	6	13
, 1.43	, 1.22	, 2.65	
, 53.85	, 46.15		
, 2.01	, 4.26		
16	20	6	26
, 4.08	, 1.22	, 5.31	
, 76.92	, 23.08		
, 5.73	, 4.26		
17	1	1	2
, 0.20	, 0.20	, 0.41	
, 50.00	, 50.00		
, 0.29	, 0.71		
18	4	0	4
, 0.82	, 0.00	, 0.82	
, 100.00	, 0.00		
, 1.15	, 0.00		
19	6	2	8
, 1.22	, 0.41	, 1.63	
, 75.00	, 25.00		
, 1.72	, 1.42		
20	34	7	41
, 6.94	, 1.43	, 8.37	
, 82.93	, 17.07		
, 9.74	, 4.96		
21	4	2	6
, 0.82	, 0.41	, 1.22	
, 66.67	, 33.33		
, 1.15	, 1.42		
Total	349	141	490
	71.22	28.78	100.00

Table 26.1: Logistic Regression Advance to Penalty Trial (Race of Victim, First Case Sample) With County Rate Control

The LOGISTIC Procedure

Model Information	
Data Set	WORK.NEW
Response Variable	PTRIAL CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2
Number of Observations	414
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile		
Ordered Value	PTRIAL	Total Frequency
1	1	128
2	0	286

Probability modeled is PTRIAL=1.

NOTE: 76 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	514.070	454.202
SC	518.096	522.642
-2 Log L	512.070	420.202

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-1.9105	0.6177	9.5661	0.0020
WHITVIC	1	0.4790	0.3572	1.7980	0.1800
HISPAVIC	1	0.0506	0.4810	0.0111	0.9162
BLACKD	1	-0.1618	0.3448	0.2203	0.6388
HISPD	1	0.00338	0.4875	0.0000	0.9945
V5EPRC	1	0.8798	0.6369	1.9082	0.1672
V5DPRC	1	-0.2157	0.2565	0.7070	0.4004
V4FPRC	1	0.4342	0.2946	2.1722	0.1405
V4BPRC	1	-0.5483	0.4042	1.8405	0.1749
LONGATAK	1	0.1353	0.2998	0.2039	0.6516
RAGE	1	-0.0359	0.3198	0.0126	0.9105
VICPLEAD	1	0.7954	0.3572	4.9593	0.0260
VBEAT	1	-0.3867	0.2904	1.7736	0.1829
INTENT	1	-0.3039	0.2310	1.7315	0.1882
BADPRIOR	1	0.7398	0.2901	6.5012	0.0108
PRIORCON	1	-0.0408	0.0282	2.0828	0.1490
rate	1	4.1037	0.7733	28.1607	<.0001

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.614	0.802	3.252
HISPAVIC	1.052	0.410	2.700
BLACKD	0.851	0.433	1.672
HISPD	1.003	0.386	2.609
V5EPRC	2.410	0.692	8.399
V5DPRC	0.806	0.488	1.332
V4FPRC	1.544	0.867	2.750
V4BPRC	0.578	0.262	1.276
LONGATAK	1.145	0.636	2.060
RAGE	0.965	0.515	1.805
VICPLEAD	2.215	1.100	4.461
VBEAT	0.679	0.384	1.200
INTENT	0.738	0.469	1.160
BADPRIOR	2.095	1.187	3.700
PRIORCON	0.960	0.908	1.015
rate	60.566	13.304	275.725

Table 26.1A: Logistic Regression Advance to Penalty Trial (Race of Victim, First Case Sample) With County Size Control

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	PTRIAL                   CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2
Number of Observations	414
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	128
2	0	286

Probability modeled is PTRIAL=1.

NOTE: 76 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	514.070	474.027
SC	518.096	542.467
-2 Log L	512.070	440.027

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	0.0339	0.5628	0.0036	0.9519
WHITVIC	1	0.5676	0.3477	2.6652	0.1026
HISPAVIC	1	-0.00642	0.4649	0.0002	0.9890
BLACKD	1	-0.2049	0.3329	0.3788	0.5382
HISPD	1	-0.1291	0.4681	0.0761	0.7827
V5EPRC	1	0.9366	0.6183	2.2948	0.1298
V5DPRC	1	-0.3050	0.2477	1.5164	0.2182
V4FPRC	1	0.4873	0.2818	2.9907	0.0837
V4BPRC	1	-0.5983	0.3982	2.2572	0.1330
LONGATAK	1	0.0726	0.2889	0.0631	0.8017
RAGE	1	-0.0482	0.3105	0.0241	0.8767
VICPLEAD	1	0.8305	0.3460	5.7624	0.0164
VBEAT	1	-0.3242	0.2777	1.3630	0.2430
INTENT	1	-0.3315	0.2174	2.3242	0.1274
BADPRIOR	1	0.7164	0.2831	6.4021	0.0114
PRIORCON	1	-0.0391	0.0277	2.0012	0.1572
vsize	1	-0.0120	0.00403	8.8808	0.0029

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.764	0.892	3.487
HISPAVIC	0.994	0.400	2.471
BLACKD	0.815	0.424	1.565
HISPD	0.879	0.351	2.200
V5EPRC	2.551	0.759	8.571
V5DPRC	0.737	0.454	1.198
V4FPRC	1.628	0.937	2.828
V4BPRC	0.550	0.252	1.200
LONGATAK	1.075	0.610	1.894
RAGE	0.953	0.519	1.751
VICPLEAD	2.295	1.165	4.521
VBEAT	0.723	0.420	1.246
INTENT	0.718	0.469	1.099
BADPRIOR	2.047	1.175	3.565
PRIORCON	0.962	0.911	1.015
vsize	0.988	0.980	0.996

Table 26.1.1: Logistic Regression Advance to Penalty Trial (Race of Victim, First Case Sample) With Dummy Variable County Control

The LOGISTIC Procedure  
 Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	414	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	128
2	0	286

Probability modeled is PTRIAL=1.

NOTE: 76 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	514.070	476.498
SC	518.096	585.197
-2 Log L	512.070	422.498

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Chi-Square	Pr > ChiSq
Intercept	1	-1.3206	0.6442	4.2019	0.0404
WHITVIC	1	0.4829	0.3698	1.7056	0.1916
HISPAVIC	1	-0.0569	0.4898	0.0135	0.9075
BLACKD	1	-0.2532	0.3545	0.5100	0.4751
HISPD	1	-0.1798	0.5019	0.1284	0.7201
V5DPRC	1	-0.2642	0.2574	1.0537	0.3046
V5EPRC	1	1.1515	0.6423	3.2135	0.0730
V4FPRC	1	0.4872	0.2938	2.7505	0.0972
V4BPRC	1	-0.5144	0.4063	1.6033	0.2054
LONGATAK	1	0.1043	0.3025	0.1189	0.7303
RAGE	1	-0.1337	0.3240	0.1703	0.6799
VICPLEAD	1	0.8683	0.3567	5.9268	0.0149
VBEAT	1	-0.4144	0.2935	1.9931	0.1580
BADPRIOR	1	0.7760	0.2941	6.9600	0.0083
INTENT	1	-0.3120	0.2321	1.8076	0.1788
PRIORCON	1	-0.0454	0.0293	2.4049	0.1210
ocounty	1	0.9144	0.4699	3.7862	0.0517
county1	1	0.6887	0.5814	1.4033	0.2362
county2	1	1.9514	0.6466	9.1078	0.0025
county4	1	0.7544	0.4755	2.5167	0.1126
county9	1	0.5047	0.5993	0.7091	0.3997
county11	1	1.4093	0.5998	5.5206	0.0188
county12	1	2.0372	0.6402	10.1252	0.0015
county13	1	2.2292	0.5784	14.8557	0.0001
county14	1	0.7864	0.7910	0.9884	0.3201
county16	1	0.8566	0.5972	2.0574	0.1515
county20	1	0.5376	0.5490	0.9586	0.3275

Effect	Odds Ratio Estimates		
	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.621	0.785	3.346
HISPAVIC	0.945	0.362	2.467
BLACKD	0.776	0.387	1.555
HISPD	0.835	0.312	2.234
V5DPRC	0.768	0.464	1.272
V5EPRC	3.163	0.898	11.139
V4FPRC	1.628	0.915	2.895
V4BPRC	0.598	0.270	1.326
LONGATAK	1.110	0.614	2.008
RAGE	0.875	0.464	1.651
VICPLEAD	2.383	1.184	4.794
VBEAT	0.661	0.372	1.175
BADPRIOR	2.173	1.221	3.867
INTENT	0.732	0.464	1.154
PRIORCON	0.956	0.902	1.012
ocounty	2.495	0.993	6.268
county1	1.991	0.637	6.223
county2	7.039	1.982	24.998
county4	2.126	0.837	5.400
county9	1.656	0.512	5.362
county11	4.093	1.263	13.262
county12	7.669	2.187	26.898
county13	9.293	2.991	28.871
county14	2.196	0.466	10.348
county16	2.355	0.731	7.593
county20	1.712	0.584	5.021

Table 26.1.1A: Logistic Regression Advance to Penalty Trial (Race of Victim, First Case Sample) With Dummy Variable County Control (For Counties With N>14 Cases)

The LOGISTIC Procedure  
Model Information

Data Set WORK.NEW  
 Response Variable PTRIAL CASE ADVANCED TO PENALTY TRIAL  
 Number of Response Levels 2  
 Number of Observations 358  
 Model binary logit  
 Optimization Technique Fisher's scoring

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	109
2	0	249

Probability modeled is PTRIAL=1.

NOTE: 132 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept	Intercept and Covariates
	Only	
AIC	442.056	403.208
SC	445.937	480.819
-2 Log L	440.056	363.208

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Chi-Square	Pr > ChiSq
Intercept	1	-0.8772	0.6691	1.7188	0.1899
WHITVIC	1	0.0869	0.3797	0.0524	0.8190
HISPAVIC	1	-0.2362	0.5045	0.2192	0.6396
BLACKD	1	-0.5123	0.3991	1.6477	0.1993
HISPD	1	0.1990	0.5362	0.1378	0.7105
V4FPRC	1	0.5273	0.3215	2.6892	0.1010
V4BPRC	1	-0.7819	0.4390	3.1721	0.0749
VICPLEAD	1	0.9424	0.3657	6.6423	0.0100
INTENT	1	-0.4117	0.2596	2.5139	0.1128
BADPRIOR	1	0.6403	0.2729	5.5059	0.0190
county1	1	0.5352	0.5623	0.9061	0.3411
county2	1	1.6079	0.6019	7.1370	0.0076
county4	1	0.5885	0.4533	1.6858	0.1942
county9	1	0.3716	0.5555	0.4475	0.5035
county11	1	0.9295	0.5555	2.8000	0.0943
county12	1	1.7880	0.6103	8.5822	0.0034
county13	1	1.9755	0.5631	12.3086	0.0005
county14	1	0.6785	0.7871	0.7429	0.3887
county16	1	0.5050	0.5770	0.7661	0.3814
county20	1	0.2212	0.5313	0.1733	0.6772

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.091	0.518	2.296
HISPAVIC	0.790	0.294	2.122
BLACKD	0.599	0.274	1.310
HISPD	1.220	0.427	3.490
V4FPRC	1.694	0.902	3.182
V4BPRC	0.458	0.194	1.082
VICPLEAD	2.566	1.253	5.254
INTENT	0.663	0.398	1.102
BADPRIOR	1.897	1.111	3.238
county1	1.708	0.567	5.141
county2	4.992	1.535	16.241
county4	1.801	0.741	4.379
county9	1.450	0.488	4.308
county11	2.533	0.853	7.525
county12	5.977	1.807	19.771
county13	7.210	2.391	21.739
county14	1.971	0.421	9.219

Table 26.2: Logistic Regression Advance to Penalty Trial (Race of Victim, Last Case Sample) With Rate County Control

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	PTRIAL                   CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2
Number of Observations	415
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile			
Ordered Value		PTRIAL	Total Frequency
1		1	118
2		0	297

Probability modeled is PTRIAL=1.

NOTE: 75 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	497.513	447.447
SC	501.541	519.956
-2 Log L	495.513	411.447

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-1.8639	0.6271	8.8344	0.0030
WHITVIC	1	0.2768	0.3625	0.5833	0.4450
HISPAVIC	1	0.0134	0.4907	0.0007	0.9782
BLACKD	1	-0.2896	0.3479	0.6931	0.4051
HISPD	1	0.0348	0.4926	0.0050	0.9436
V5EPRC	1	1.0684	0.6523	2.6830	0.1014
V5DPRC	1	-0.0796	0.2593	0.0941	0.7590
V4FPRC	1	0.6591	0.3042	4.6931	0.0303
V4BPRC	1	-0.3732	0.4094	0.8309	0.3620
V4CPRC	1	0.9204	0.3561	6.6806	0.0097
LONGATAK	1	-0.1450	0.3129	0.2146	0.6432
RAGE	1	-0.1931	0.3291	0.3443	0.5574
VICPLEAD	1	0.3713	0.3644	1.0377	0.3083
VBEAT	1	-0.5637	0.3051	3.4129	0.0647
BADPRIOR	1	0.7439	0.2999	6.1523	0.0131
INTENT	1	-0.2951	0.2366	1.5556	0.2123
PRIORCON	1	-0.0396	0.0288	1.8910	0.1691
rate	1	4.0249	0.8021	25.1778	<.0001

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.319	0.648	2.684
HISPAVIC	1.014	0.387	2.652
BLACKD	0.749	0.379	1.480
HISPD	1.035	0.394	2.719
V5EPRC	2.911	0.811	10.452
V5DPRC	0.924	0.556	1.535
V4FPRC	1.933	1.065	3.509
V4BPRC	0.689	0.309	1.536
V4CPRC	2.510	1.249	5.044
LONGATAK	0.865	0.468	1.597
RAGE	0.824	0.433	1.571
VICPLEAD	1.450	0.710	2.961
VBEAT	0.569	0.313	1.035
BADPRIOR	2.104	1.169	3.788
INTENT	0.744	0.468	1.184
PRIORCON	0.961	0.908	1.017
rate	55.977	11.620	269.643

Table 26.2A: Logistic Regression Advance to Penalty Trial (Race of Victim, Last Case Sample) With County Size Control

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW
Response Variable	PTRIAL                   CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2
Number of Observations	415
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	118
2	0	297

Probability modeled is PTRIAL=1.

NOTE: 75 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	497.513	466.236
SC	501.541	538.745
-2 Log L	495.513	430.236

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.0908	0.5797	0.0245	0.8756
WHITVIC	1	0.4055	0.3521	1.3262	0.2495
HISPAVIC	1	-0.00541	0.4723	0.0001	0.9909
BLACKD	1	-0.3475	0.3350	1.0759	0.2996
HISPD	1	-0.1076	0.4713	0.0521	0.8195
V5EPRC	1	1.0650	0.6365	2.7993	0.0943
V5DPRC	1	-0.1199	0.2503	0.2295	0.6319
V4FPRC	1	0.6827	0.2931	5.4257	0.0198
V4BPRC	1	-0.4073	0.4009	1.0321	0.3097
V4CPRC	1	0.9198	0.3465	7.0468	0.0079
LONGATAK	1	-0.2019	0.3015	0.4487	0.5030
RAGE	1	-0.2349	0.3247	0.5234	0.4694
VICPLEAD	1	0.3879	0.3541	1.2000	0.2733
VBEAT	1	-0.5225	0.2938	3.1627	0.0753
BADPRIOR	1	0.7248	0.2935	6.0990	0.0135
INTENT	1	-0.3346	0.2246	2.2202	0.1362
PRIORCON	1	-0.0409	0.0283	2.0972	0.1476
vsize	1	-0.0106	0.00405	6.8030	0.0091

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.500	0.752	2.991
HISPAVIC	0.995	0.394	2.510
BLACKD	0.706	0.366	1.362
HISPD	0.898	0.357	2.262
V5EPRC	2.901	0.833	10.101
V5DPRC	0.887	0.543	1.449
V4FPRC	1.979	1.114	3.515
V4BPRC	0.665	0.303	1.460
V4CPRC	2.509	1.272	4.948
LONGATAK	0.817	0.453	1.475
RAGE	0.791	0.418	1.494
VICPLEAD	1.474	0.736	2.950
VBEAT	0.593	0.333	1.055
BADPRIOR	2.064	1.161	3.669
INTENT	0.716	0.461	1.111
PRIORCON	0.960	0.908	1.015
vsize	0.989	0.982	0.997

Table 26.2.1: Logistic Regression Advance to Penalty Trial (Race of Victim, Last Case Sample) With Dummy Variable County Control

The LOGISTIC Procedure  
 Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	425	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	125
2	0	300

Probability modeled is PTRIAL=1.

NOTE: 65 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept and Covariates	
	Intercept Only	
AIC	516.928	488.200
SC	520.980	577.345
-2 Log L	514.928	444.200

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Chi-Square	Pr > ChiSq
Intercept	1	-1.1151	0.6132	3.3071	0.0690
WHITVIC	1	0.3607	0.3513	1.0540	0.3046
HISPAVIC	1	0.1902	0.4625	0.1692	0.6808
BLACKD	1	-0.2158	0.3350	0.4149	0.5195
HISPD	1	0.0907	0.4719	0.0369	0.8476
V5EPRC	1	1.1431	0.6254	3.3411	0.0676
V4FPRC	1	0.6115	0.2867	4.5508	0.0329
V4CPRC	1	0.4988	0.3110	2.5721	0.1088
V4BPRC	1	-0.2808	0.3714	0.5716	0.4496
VICPLEAD	1	0.4356	0.3462	1.5827	0.2084
INTENT	1	-0.4112	0.2247	3.3496	0.0672
county1	1	0.0810	0.6006	0.0182	0.8927
county2	1	1.1512	0.5941	3.7556	0.0526
county4	1	0.2511	0.4663	0.2900	0.5902
county9	1	0.3458	0.5479	0.3983	0.5280
county11	1	0.7178	0.5582	1.6532	0.1985
county12	1	1.5086	0.5901	6.5344	0.0106
county13	1	2.0170	0.5540	13.2575	0.0003
county14	1	0.6800	0.7702	0.7796	0.3773
county16	1	0.5338	0.5804	0.8460	0.3577
county20	1	0.1853	0.5220	0.1259	0.7227
ocounty	1	0.6213	0.4384	2.0082	0.1564

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.434	0.720	2.855
HISPAVIC	1.210	0.489	2.994
BLACKD	0.806	0.418	1.554
HISPD	1.095	0.434	2.761
V5EPRC	3.137	0.921	10.685
V4FPRC	1.843	1.051	3.233
V4CPRC	1.647	0.895	3.030
V4BPRC	0.755	0.365	1.564
VICPLEAD	1.546	0.784	3.047
INTENT	0.663	0.427	1.030
county1	1.084	0.334	3.519
county2	3.162	0.987	10.131
county4	1.285	0.515	3.206
county9	1.413	0.483	4.136
county11	2.050	0.686	6.122
county12	4.520	1.422	14.371
county13	7.516	2.538	22.259
county14	1.974	0.436	8.931
county16	1.705	0.547	5.319
county20	1.204	0.433	3.348
ocounty	1.861	0.788	4.396

Table 26.2.1A: Logistic Regression Advance to Penalty Trial (Race of Victim, Last Case Sample) With Dummy Variable Control (For Counties With N>14 Cases)

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	358	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	99
2	0	259

Probability modeled is PTRIAL=1.

NOTE: 132 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	424.191	392.547
SC	428.071	470.158
-2 Log L	422.191	352.547

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.7076	0.6857	1.0647	0.3022
WHITVIC	1	0.0687	0.3876	0.0314	0.8593
HISPAVIC	1	-0.1028	0.5107	0.0405	0.8405
BLACKD	1	-0.5805	0.4041	2.0639	0.1508
HISPD	1	0.1740	0.5390	0.1042	0.7468
V4FPRC	1	0.7320	0.3238	5.1108	0.0238
V4BPRC	1	-0.5554	0.4410	1.5859	0.2079
VICPLEAD	1	0.5189	0.3703	1.9635	0.1611
INTENT	1	-0.5166	0.2657	3.7816	0.0518
BADPRIOR	1	0.5823	0.2778	4.3936	0.0361
county1	1	0.1448	0.6095	0.0565	0.8122
county2	1	1.3748	0.6002	5.2466	0.0220
county4	1	0.2812	0.4744	0.3515	0.5533
county9	1	0.3949	0.5571	0.5025	0.4784
county11	1	0.6144	0.5709	1.1580	0.2819
county12	1	1.4794	0.6068	5.9432	0.0148
county13	1	1.9975	0.5646	12.5161	0.0004
county14	1	0.7594	0.7865	0.9322	0.3343
county16	1	0.4999	0.5785	0.7467	0.3875
county20	1	0.2645	0.5327	0.2466	0.6195

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.071	0.501	2.290
HISPAVIC	0.902	0.332	2.455
BLACKD	0.560	0.253	1.236
HISPD	1.190	0.414	3.423
V4FPRC	2.079	1.102	3.922
V4BPRC	0.574	0.242	1.362
VICPLEAD	1.680	0.813	3.472
INTENT	0.597	0.354	1.004
BADPRIOR	1.790	1.039	3.086
county1	1.156	0.350	3.817
county2	3.954	1.219	12.822
county4	1.325	0.523	3.357
county9	1.484	0.498	4.423
county11	1.848	0.604	5.659
county12	4.390	1.336	14.422
county13	7.371	2.437	22.290
county14	2.137	0.457	9.983
county16	1.649	0.530	5.123
county20	1.303	0.459	3.701

Table 27.1: Logistic Regression Advance to Penalty Trial (White/African American Victim, First Case Sample) With County Rate Control

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	363	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	116
2	0	247

Probability modeled is PTRIAL=1.

NOTE: 127 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	456.866	404.899
SC	460.760	474.998
-2 Log L	454.866	368.899

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-2.3236	0.6618	12.3254	0.0004
WHITVIC	1	0.6351	0.3749	2.8696	0.0903
BLACKD	1	-0.1086	0.3673	0.0875	0.7674
HISPD	1	-0.2231	0.6299	0.1255	0.7231
V5EPRC	1	0.0550	0.7321	0.0056	0.9401
V5DPRC	1	-0.3243	0.2787	1.3543	0.2445
V4FPRC	1	0.6420	0.3159	4.1315	0.0421
V4CPRC	1	1.1647	0.3629	10.3015	0.0013
V4BPRC	1	-0.2754	0.4217	0.4263	0.5138
LONGATAK	1	-0.0323	0.3486	0.0086	0.9262
RAGE	1	-0.0358	0.3367	0.0113	0.9154
VICPLEAD	1	0.5197	0.3759	1.9117	0.1668
VBEAT	1	-0.4986	0.3188	2.4466	0.1178
INTENT	1	-0.1181	0.2447	0.2330	0.6293
STRANGLE	1	0.00896	0.4833	0.0003	0.9852
BADPRIOR	1	0.8621	0.3118	7.6444	0.0057
PRIORCON	1	-0.0500	0.0298	2.8154	0.0934
rate	1	3.6249	0.8084	20.1055	<.0001

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.887	0.905	3.935
BLACKD	0.897	0.437	1.843
HISPD	0.800	0.233	2.749
V5EPRC	1.057	0.252	4.436
V5DPRC	0.723	0.419	1.248
V4FPRC	1.900	1.023	3.529
V4CPRC	3.205	1.574	6.526
V4BPRC	0.759	0.332	1.735
LONGATAK	0.968	0.489	1.917
RAGE	0.965	0.499	1.867
VICPLEAD	1.681	0.805	3.513
VBEAT	0.607	0.325	1.134
INTENT	0.889	0.550	1.436
STRANGLE	1.009	0.391	2.602
BADPRIOR	2.368	1.285	4.363
PRIORCON	0.951	0.897	1.008
rate	37.521	7.694	182.982

Table 27.1A: Logistic Regression Advance to Penalty Trial (White/African American Victim, First Case Sample) With County Size Control Variable

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	363	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	116
2	0	247

Probability modeled is PTRIAL=1.

NOTE: 127 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	456.866	418.969
SC	460.760	489.069
-2 Log L	454.866	382.969

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.6140	0.6067	1.0242	0.3115
WHITVIC	1	0.7169	0.3672	3.8113	0.0509
BLACKD	1	-0.1280	0.3583	0.1276	0.7209
HISPD	1	-0.4620	0.6023	0.5883	0.4431
V5EPRC	1	0.1056	0.7169	0.0217	0.8829
V5DPRC	1	-0.3465	0.2690	1.6587	0.1978
V4FPRC	1	0.6741	0.3039	4.9216	0.0265
V4CPRC	1	1.2201	0.3542	11.8693	0.0006
V4BPRC	1	-0.3190	0.4155	0.5895	0.4426
LONGATAK	1	-0.0747	0.3395	0.0484	0.8259
RAGE	1	-0.0349	0.3329	0.0110	0.9164
VICPLEAD	1	0.5504	0.3671	2.2479	0.1338
VBEAT	1	-0.4742	0.3104	2.3344	0.1265
INTENT	1	-0.1547	0.2327	0.4421	0.5061
STRANGLE	1	0.00788	0.4719	0.0003	0.9867
BADPRIOR	1	0.8494	0.3063	7.6901	0.0056
PRIORCON	1	-0.0508	0.0294	2.9819	0.0842
vsize	1	-0.0106	0.00420	6.3420	0.0118

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	2.048	0.997	4.207
BLACKD	0.880	0.436	1.776
HISPD	0.630	0.194	2.051
V5EPRC	1.111	0.273	4.530
V5DPRC	0.707	0.417	1.198
V4FPRC	1.962	1.082	3.560
V4CPRC	3.388	1.692	6.782
V4BPRC	0.727	0.322	1.641
LONGATAK	0.928	0.477	1.805
RAGE	0.966	0.503	1.855
VICPLEAD	1.734	0.844	3.560
VBEAT	0.622	0.339	1.144
INTENT	0.857	0.543	1.352
STRANGLE	1.008	0.400	2.541
BADPRIOR	2.338	1.283	4.262
PRIORCON	0.950	0.897	1.007
vsize	0.989	0.981	0.998

Table 27.1.1: Logistic Regression Advance to Penalty Trial (White/African American Victim, First Case Sample) With Dummy Variable County Control

The LOGISTIC Procedure  
 Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	367	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	120
2	0	247

Probability modeled is PTRIAL=1.

NOTE: 123 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept and Covariates	
	Intercept Only	Intercept and Covariates
AIC	465.900	429.712
SC	469.805	515.630
-2 Log L	463.900	385.712

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Chi-Square	Pr > ChiSq
Intercept	1	-1.9025	0.6583	8.3535	0.0038
WHITVIC	1	0.4939	0.3664	1.8172	0.1776
BLACKD	1	-0.0853	0.3516	0.0588	0.8084
V5EPRC	1	0.4380	0.7352	0.3549	0.5513
V4FPRC	1	0.7503	0.3009	6.2188	0.0126
V4CPRC	1	1.1920	0.3398	12.3070	0.0005
V4BPRC	1	-0.2631	0.4167	0.3986	0.5278
LONGATAK	1	-0.1831	0.3218	0.3240	0.5692
VICPLEAD	1	0.5966	0.3606	2.7381	0.0980
INTENT	1	-0.2121	0.2375	0.7973	0.3719
BADPRIOR	1	0.4885	0.2643	3.4158	0.0646
county1	1	0.4740	0.5752	0.6790	0.4099
county2	1	1.5827	0.6780	5.4485	0.0196
county4	1	0.6558	0.4994	1.7249	0.1891
county9	1	0.4739	0.6333	0.5600	0.4543
county11	1	1.0423	0.5727	3.3119	0.0688
county12	1	1.1976	0.6541	3.3523	0.0671
county13	1	2.0332	0.5947	11.6880	0.0006
County14	1	0.7324	0.7967	0.8453	0.3579
county16	1	0.9477	0.6847	1.9158	0.1663
county20	1	0.2340	0.5472	0.1828	0.6689
ocounty	1	0.6062	0.4686	1.6736	0.1958

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.639	0.799	3.360
BLACKD	0.918	0.461	1.829
V5EPRC	1.550	0.367	6.547
V4FPRC	2.118	1.174	3.819
V4CPRC	3.294	1.692	6.410
V4BPRC	0.769	0.340	1.740
LONGATAK	0.833	0.443	1.564
VICPLEAD	1.816	0.896	3.682
INTENT	0.809	0.508	1.288
BADPRIOR	1.630	0.971	2.736
county1	1.606	0.520	4.960
county2	4.868	1.289	18.386
county4	1.927	0.724	5.127
county9	1.606	0.464	5.557
county11	2.836	0.923	8.712
county12	3.312	0.919	11.936
county13	7.639	2.381	24.505
County14	2.080	0.436	9.913
county16	2.580	0.674	9.871
county20	1.264	0.432	3.693
ocounty	1.833	0.732	4.593

Table 27.1.1A: Logistic Regression Advance to Penalty Trial (White/African American Victim, First Case Sample) With Dummy Variable Control (For Counties With N>14 Cases)

```

The LOGISTIC Procedure
  Model Information
Data Set          WORK.NEW
Response Variable PTRIAL          CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels 2
Number of Observations 307
Model            binary logit
Optimization Technique Fisher's scoring
  
```

```

Response Profile
Ordered Value      PTRIAL      Total Frequency
1                1                96
2                0                211
  
```

Probability modeled is PTRIAL=1.

NOTE: 183 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept and Covariates	
	Intercept Only	Intercept and Covariates
AIC	383.446	352.694
SC	387.172	419.778
-2 Log L	381.446	316.694

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Chi-Square	Pr > ChiSq
Intercept	1	-1.4483	0.6983	4.3017	0.0381
WHITVIC	1	0.2172	0.3908	0.3088	0.5784
BLACKD	1	-0.3599	0.4013	0.8044	0.3698
V4FPRC	1	0.6205	0.3307	3.5203	0.0606
V4BPRC	1	-0.7026	0.4696	2.2386	0.1346
VICPLEAD	1	0.8917	0.3792	5.5291	0.0187
INTENT	1	-0.1913	0.2774	0.4756	0.4904
BADPRIOR	1	0.6783	0.2926	5.3733	0.0204
county1	1	0.4816	0.5694	0.7155	0.3976
county2	1	1.3934	0.6546	4.5305	0.0333
county4	1	0.6472	0.4969	1.6960	0.1928
county9	1	0.3740	0.6316	0.3506	0.5537
county11	1	0.9800	0.5591	3.0725	0.0796
county12	1	1.6306	0.6285	6.7303	0.0095
county13	1	2.0387	0.5934	11.8018	0.0006
County14	1	0.8005	0.7854	1.0387	0.3081
county16	1	0.6472	0.6874	0.8864	0.3465
county20	1	0.3612	0.5413	0.4453	0.5046

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.243	0.578	2.673
BLACKD	0.698	0.318	1.532
V4FPRC	1.860	0.973	3.556
V4BPRC	0.495	0.197	1.243
VICPLEAD	2.439	1.160	5.129
INTENT	0.826	0.480	1.422
BADPRIOR	1.971	1.110	3.497
county1	1.619	0.530	4.941
county2	4.028	1.117	14.533
county4	1.910	0.721	5.059
county9	1.454	0.422	5.012
county11	2.664	0.891	7.971
county12	5.107	1.490	17.504
county13	7.681	2.400	24.578
County14	2.227	0.478	10.380
county16	1.910	0.497	7.348
county20	1.435	0.497	4.146

Table 27.2: Logistic Regression Advance to Penalty Trial (White/African American Victim, Last Case Sample) With County Rate Control

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	364	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	106
2	0	258

Probability modeled is PTRIAL=1.

NOTE: 126 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept and Covariates	
	Intercept Only	
AIC	441.152	407.158
SC	445.049	477.307
-2 Log L	439.152	371.158

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-2.3396	0.6700	12.1949	0.0005
WHITVIC	1	0.5134	0.3675	1.9524	0.1623
BLACKD	1	-0.1842	0.3613	0.2599	0.6102
HISPD	1	-0.1807	0.6244	0.0837	0.7723
V5DPRC	1	-0.1540	0.2756	0.3123	0.5763
V5CPRC	1	0.3770	0.2806	1.8049	0.1791
V4FPRC	1	0.6610	0.3143	4.4235	0.0354
V4CPRC	1	0.8344	0.3778	4.8772	0.0272
V4BPRC	1	-0.1486	0.4169	0.1270	0.7216
LONGATAK	1	-0.00628	0.3446	0.0003	0.9855
RAGE	1	-0.1484	0.3436	0.1865	0.6659
VICPLEAD	1	0.2280	0.3735	0.3725	0.5417
VBEAT	1	-0.3807	0.3141	1.4688	0.2255
STRANGLE	1	-0.0368	0.4827	0.0058	0.9391
INTENT	1	-0.1389	0.2458	0.3196	0.5719
BADPRIOR	1	0.7462	0.3151	5.6099	0.0179
PRIORCON	1	-0.0414	0.0301	1.8880	0.1694
rate	1	3.6811	0.8372	19.3324	<.0001

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.671	0.813	3.434
BLACKD	0.832	0.410	1.689
HISPD	0.835	0.245	2.838
V5DPRC	0.857	0.500	1.471
V5CPRC	1.458	0.841	2.527
V4FPRC	1.937	1.046	3.586
V4CPRC	2.303	1.098	4.830
V4BPRC	0.862	0.381	1.951
LONGATAK	0.994	0.506	1.952
RAGE	0.862	0.440	1.691
VICPLEAD	1.256	0.604	2.612
VBEAT	0.683	0.369	1.265
STRANGLE	0.964	0.374	2.482
INTENT	0.870	0.538	1.409
BADPRIOR	2.109	1.137	3.911
PRIORCON	0.959	0.905	1.018
rate	39.690	7.692	204.791

Table 27.2A: Logistic Regression Advance to Penalty Trial (White/African American Victim, Last Case Sample) With County Size Control

The LOGISTIC Procedure  
 Model Information

Data Set	WORK.NEW
Response Variable	PTRIAL                    CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2
Number of Observations	364
Model	binary logit
Optimization Technique	Fisher's scoring

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	106
2	0	258

Probability modeled is PTRIAL=1.

NOTE: 126 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	441.152	423.005
SC	445.049	493.154
-2 Log L	439.152	387.005

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-0.7462	0.6208	1.4448	0.2294
WHITVIC	1	0.6606	0.3614	3.3410	0.0676
BLACKD	1	-0.2336	0.3508	0.4435	0.5054
HISPD	1	-0.4475	0.5990	0.5580	0.4551
V5DPRC	1	-0.1626	0.2661	0.3735	0.5411
V5CPRC	1	0.3267	0.2704	1.4591	0.2271
V4FPRC	1	0.6622	0.3028	4.7835	0.0287
V4CPRC	1	0.8419	0.3672	5.2580	0.0218
V4BPRC	1	-0.2042	0.4107	0.2472	0.6190
LONGATAK	1	-0.0686	0.3340	0.0422	0.8373
RAGE	1	-0.1631	0.3388	0.2317	0.6303
VICPLEAD	1	0.2609	0.3646	0.5123	0.4742
VBEAT	1	-0.3408	0.3046	1.2522	0.2631
STRANGLE	1	-0.0383	0.4716	0.0066	0.9353
INTENT	1	-0.1977	0.2340	0.7139	0.3982
BADPRIOR	1	0.7318	0.3074	5.6686	0.0173
PRIORCON	1	-0.0433	0.0296	2.1430	0.1432
vsize	1	-0.00831	0.00420	3.9146	0.0479

## Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.936	0.953	3.931
BLACKD	0.792	0.398	1.575
HISPD	0.639	0.198	2.068
V5DPRC	0.850	0.505	1.432
V5CPRC	1.386	0.816	2.355
V4FPRC	1.939	1.071	3.510
V4CPRC	2.321	1.130	4.766
V4BPRC	0.815	0.365	1.823
LONGATAK	0.934	0.485	1.797
RAGE	0.850	0.437	1.650
VICPLEAD	1.298	0.635	2.652
VBEAT	0.711	0.392	1.292
STRANGLE	0.962	0.382	2.425
INTENT	0.821	0.519	1.298
BADPRIOR	2.079	1.138	3.797
PRIORCON	0.958	0.904	1.015
vsize	0.992	0.984	1.000

Table 27.2.1: Logistic Regression Advance to Penalty Trial (White/African American Victim, Last Case Sample) With Dummy Variable County Control

The LOGISTIC Procedure  
Model Information

Data Set	WORK.NEW	
Response Variable	PTRIAL	CASE ADVANCED TO PENALTY TRIAL
Number of Response Levels	2	
Number of Observations	370	
Model	binary logit	
Optimization Technique	Fisher's scoring	

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	110
2	0	260

Probability modeled is PTRIAL=1.

NOTE: 120 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	452.332	430.270
SC	456.246	504.627
-2 Log L	450.332	392.270

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Chi-Square	Pr > ChiSq
Intercept	1	-1.6292	0.6442	6.3963	0.0114
WHITVIC	1	0.5822	0.3593	2.6256	0.1052
BLACKD	1	-0.00844	0.3379	0.0006	0.9801
V4FPRC	1	0.6803	0.2961	5.2802	0.0216
V4CPRC	1	0.5343	0.3269	2.6710	0.1022
V4BPRC	1	-0.1509	0.3920	0.1482	0.7002
VICPLEAD	1	0.3490	0.3590	0.9450	0.3310
INTENT	1	-0.2599	0.2357	1.2151	0.2703
ocounty	1	0.6508	0.4556	2.0406	0.1531
county1	1	-0.00022	0.6092	0.0000	0.9997
county2	1	1.0298	0.6462	2.5399	0.1110
county4	1	0.2382	0.5192	0.2104	0.6464
county9	1	0.3963	0.6233	0.4042	0.5249
county11	1	0.7564	0.5651	1.7918	0.1807
county12	1	1.3860	0.6110	5.1461	0.0233
county13	1	2.0694	0.5853	12.5022	0.0004
county14	1	0.8861	0.7658	1.3388	0.2472
county16	1	0.8928	0.6843	1.7023	0.1920
county20	1	0.3145	0.5338	0.3470	0.5558

## Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.790	0.885	3.620
BLACKD	0.992	0.511	1.923
V4FPRC	1.975	1.105	3.528
V4CPRC	1.706	0.899	3.238
V4BPRC	0.860	0.399	1.854
VICPLEAD	1.418	0.701	2.865
INTENT	0.771	0.486	1.224
ocounty	1.917	0.785	4.682
county1	1.000	0.303	3.299
county2	2.801	0.789	9.937
county4	1.269	0.459	3.511
county9	1.486	0.438	5.042
county11	2.131	0.704	6.449
county12	3.999	1.207	13.243
county13	7.920	2.515	24.941
county14	2.426	0.541	10.882
county16	2.442	0.639	9.336
county20	1.370	0.481	3.899

Table 27.2.1A: Logistic Regression Advance to Penalty Trial (White/African American Victim, Last Case Sample) With Dummy Variable Control (For Counties With N>14 Cases)

The LOGISTIC Procedure  
Model Information

Data Set WORK.NEW  
 Response Variable PTRIAL CASE ADVANCED TO PENALTY TRIAL  
 Number of Response Levels 2  
 Number of Observations 307  
 Model binary logit  
 Optimization Technique Fisher's scoring

Response Profile

Ordered Value	PTRIAL	Total Frequency
1	1	86
2	0	221

Probability modeled is PTRIAL=1.

NOTE: 183 observations were deleted due to missing values for the response or explanatory variables.

Model Fit Statistics

Criterion	Intercept Only	Intercept and Covariates
AIC	366.149	340.814
SC	369.876	407.898
-2 Log L	364.149	304.814

Analysis of Maximum Likelihood Estimates

Parameter	DF	Estimate	Standard Error	Wald Chi-Square	Pr > ChiSq
Intercept	1	-1.2395	0.7187	2.9748	0.0846
WHITVIC	1	0.1891	0.3993	0.2241	0.6359
BLACKD	1	-0.4567	0.4063	1.2630	0.2611
V4FPRC	1	0.8505	0.3334	6.5069	0.0107
V4BPRC	1	-0.4379	0.4719	0.8608	0.3535
VICPLEAD	1	0.4234	0.3869	1.1976	0.2738
INTENT	1	-0.2994	0.2855	1.1002	0.2942
BADPRIOR	1	0.6146	0.2996	4.2098	0.0402
county1	1	0.0856	0.6160	0.0193	0.8894
county2	1	1.1428	0.6614	2.9848	0.0840
county4	1	0.2419	0.5316	0.2071	0.6491
county9	1	0.4130	0.6341	0.4243	0.5148
county11	1	0.6665	0.5769	1.3345	0.2480
county12	1	1.3522	0.6244	4.6901	0.0303
county13	1	2.0685	0.5957	12.0569	0.0005
county14	1	0.8659	0.7858	1.2143	0.2705
county16	1	0.6888	0.6879	1.0027	0.3167
county20	1	0.4010	0.5428	0.5458	0.4601

Odds Ratio Estimates

Effect	Point Estimate	95% Wald Confidence Limits	
WHITVIC	1.208	0.552	2.643
BLACKD	0.633	0.286	1.405
V4FPRC	2.341	1.218	4.500
V4BPRC	0.645	0.256	1.628
VICPLEAD	1.527	0.715	3.260
INTENT	0.741	0.424	1.297
BADPRIOR	1.849	1.028	3.326
county1	1.089	0.326	3.644
county2	3.135	0.858	11.463
county4	1.274	0.449	3.610
county9	1.511	0.436	5.237
county11	1.947	0.629	6.033
county12	3.866	1.137	13.145
county13	7.913	2.462	25.434
county14	2.377	0.510	11.090
county16	1.991	0.517	7.668
county20	1.493	0.515	4.327

**Table 28: Breakdown of Selected 490 Death Eligible Cases (First Case Sample; by Outcome and Race of Defendant).**  
(2003 Report)

Defendant's Race	White	Black	Hispanic	Other	TOTAL
number of cases	(146)	(285)	(55)	(4)	(490)
fraction of cases that went to Penalty Trial	63/146 0.43	72/285 0.25	17/55 0.31	1/4 0.25	153/490 0.31
Fraction of cases that received death sentence	22/146 0.15	24/285 0.08	2/55 0.04	0/4 0	48/490 0.10
fraction of penalty trial cases that received death sentence	22/63 0.35	24/72 0.33	2/17 0.12	0/1 0	48/153 0.31

**Table 29: Breakdown of 490 First Case Death Eligible Cases by Death Sentence Outcome and Race of Defendant (by combinations of presence or absence of statutory mitigating factor 5D and aggravating factor 4C)**  
(2003 Report)

Defendant's Race		White	Black	Hispanic	Other	TOTAL
number of cases		(146)	(285)	(55)	(4)	(490)
Among defendants with race and combination listed of factors 4C and 5D the fraction that received at least one death sentence						
Combination 4C 5D						
absent	present	2/59 0.03	0/90 0	0/17 0	- -	2/166 0.01
absent	absent	13/52 0.25	11/146 0.08	1/29 0.03	0/3 0	25/230 0.11
present	absent	5/15 0.33	10/29 0.34	0/4 0	0/1 0	15/49 0.31
present	present	2/20 0.10	3/20 0.15	1/5 0.20	- -	6/45 0.13

**Table 30: Breakdown of 490 *First Case* Death Eligible cases by Penalty Trial Outcome and Race of Defendant (by combinations of presence or absence of statutory factors 5D and 4C)**

(2003 Report)

Defendant's Race	White	African American	Hispanic	Other	TOTAL
number of defendants	(146)	(285)	(55)	(4)	(490)
fraction to penalty trial	63/146 0.43	72/285 0.25	17/55 0.31	1/4 0.25	153/490 0.31
Among <i>first cases</i> with race and combination listed of factors 4C and 5D the fraction that went to penalty trial					
Combination 4C 5D					
absent present	18/59 0.31	21/90 0.23	2/17 0.12	0/0 -	41/166 0.25
absent absent	25/52 0.48	28/146 0.19	9/29 0.31	1/3 0.33	63/230 0.27
present absent	11/15 0.73	15/29 0.52	2/4 0.50	0/1 0	28/49 0.57
present present	9/20 0.45	8/20 0.40	4/5 0.80	0/0 -	21/45 0.47

**Table 31: Breakdown of 490 *First Case* Death Eligible Cases (by outcome and race of primary victim)**  
(2003 Report)

<u>Victim's Race</u>	<u>White</u>	<u>African American</u>	<u>Hispanic</u>	<u>Other</u>	<u>Total</u>
Number of cases	212	199	62	17	490
Fraction of Cases that Went to penalty trial	91/212 0.43	41/199 0.21	17/62 0.27	4/17 0.24	153/490 0.31
Fraction of Cases that Got death sentence	29/212 0.14	14/199 0.07	4/62 0.06	1/17 0.06	48/490 0.10
Fraction of penalty Trial cases that Got death sentence	29/91 0.32	14/41 0.34	4/17 0.24	1/4 0.25	48/153 0.31

**Table 32: For 490 First Cases, Fraction going to Penalty trial  
(by race of primary victim)**

(2003 Report)

	<u>White</u>	<u>African American</u>	<u>Hispanic</u>	<u>other</u>	<u>total</u>
number	212	199	62	17	490
fraction going to penalty trial	91/212 0.43	41/199 0.21	17/62 0.27	4/17 0.24	153/490 0.31

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**Table 33: For 490 First cases: Percent of cases that went to penalty trial and percent of cases where at least one victim was White, broken down by county**

(2003 Report)

<u>county</u>	<u>number of cases</u>	<u>Percent going to penalty trial</u>	<u>Percent of White Victim Cases</u>
1 Atlantic	32	28%	59%
2 Bergen	22	45%	55%
3 Burlington	13	46%	92%
4 Camden	54	26%	26%
5 Cape May	12	25%	83%
6 Cumberland	11	9%	55%
7 Essex	112	17%	20%
8 Gloucester	13	54%	77%
9 Hudson	33	24%	48%
10 Hunterdon	2	50%	100%
11 Mercer	23	48%	39%
12 Middlesex	21	62%	62%
13 Monmouth	27	63%	74%
14 Morris	15	60%	80%
15 Ocean	13	46%	85%
16 Passaic	26	23%	19%
17 Salem	2	50%	100%
18 Somerset	4	0%	75%
19 Sussex	8	25%	100%
20 Union	41	17%	20%
21 Warren	6	50%	83%
combined	490	31%	45%

**Table 33B: For 490 First cases: Percent of cases that went to penalty trial before and after 1988, broken down by county**

(2003 Report)

county	<u>number of Eligible cases</u>		<u>Before 1988</u>	<u>After 1988</u>
	Before 88	After 88	Percent to penalty trial	Percent to penalty trial
1 Atlantic	9	23	44%	22%
2 Bergen	6	16	67%	38%
3 Burlington	3	10	67%	40%
4 Camden	18	36	39%	19%
5 Cape May	3	9	33%	22%
6 Cumberland	0	11	-	9%
7 Essex	27	85	48%	7%
8 Gloucester	5	8	80%	38%
9 Hudson	11	22	45%	14%
10 Hunterdon	1	1	100%	0%
11 Mercer	4	19	75%	42%
12 Middlesex	2	19	100%	58%
13 Monmouth	11	16	73%	56%
14 Morris	4	11	75%	55%
15 Ocean	5	8	100%	12%
16 Passaic	10	16	60%	0%
17 Salem	0	2	-	50%
18 Somerset	1	3	0%	0%
19 Sussex	0	8	-	25%
20 Union	9	32	56%	6 %
21 Warren	1	5	100%	40%
combined	130	360	57%	22%

**Table 34: Breakdown of Race of Primary Victim by County (2003 Report)**

County	Race of Primary Victim					Total	
	White	African American	Hispanic	Asian	Other		
1	count	18	13	0	1	0	32
	Row %	56.25	40.63	0.00	3.13	0.00	
	Col %	8.49	6.53	0.00	12.50	0.00	
2		11	4	3	2	2	22
		50.00	18.18	13.64	9.09	9.09	
		5.19	2.01	4.84	25.00	22.22	
3		12	1	0	0	0	13
		92.31	7.69	0.00	0.00	0.00	
		5.66	0.50	0.00	0.00	0.00	
4		13	27	13	0	1	54
		24.07	50.00	24.07	0.00	1.85	
		6.13	13.57	20.97	0.00	11.11	
5		10	1	0	1	0	12
		83.33	8.33	0.00	8.33	0.00	
		4.72	0.50	0.00	12.50	0.00	
6		6	2	3	0	0	11
		54.55	18.18	27.27	0.00	0.00	
		2.83	1.01	4.84	0.00	0.00	
7		20	78	13	0	1	112
		17.86	69.64	11.61	0.00	0.89	
		9.43	39.20	20.97	0.00	11.11	
8		10	1	2	0	0	13
		76.92	7.69	15.38	0.00	0.00	
		4.72	0.50	3.23	0.00	0.00	
9		16	8	8	1	0	33
		48.48	24.24	24.24	3.03	0.00	
		7.55	4.02	12.90	12.50	0.00	
10		2	0	0	0	0	2
		100.00	0.00	0.00	0.00	0.00	
		0.94	0.00	0.00	0.00	0.00	
11		8	15	0	0	0	23
		34.78	65.22	0.00	0.00	0.00	
		3.77	7.54	0.00	0.00	0.00	

Table 34: (Continued) For set469f, a breakdown of Race of Primary Victim by County (2003 Report)

County	<u>Race of Primary Victim</u>					Total	
	White	African American	Hispanic	Asian	Other		
12	count	12	5	4	0	0	21
	Row %	57.14	23.81	19.05	0.00	0.00	
	Col %	5.66	2.51	6.45	0.00	0.00	
13		20	4	2	0	1	27
		74.07	14.81	7.41	0.00	3.70	
		9.43	2.01	3.23	0.00	11.11	
14		12	1	0	1	1	15
		80.00	6.67	0.00	6.67	6.67	
		5.66	0.50	0.00	12.50	11.11	
15		11	0	1	0	1	13
		84.62	0.00	7.69	0.00	7.69	
		5.19	0.00	1.61	0.00	11.11	
16		5	11	9	1	0	26
		19.23	42.31	34.62	3.85	0.00	
		2.36	5.53	14.52	12.50	0.00	
17		2	0	0	0	0	2
		100.00	0.00	0.00	0.00	0.00	
		0.94	0.00	0.00	0.00	0.00	
18		3	1	0	0	0	4
		75.00	25.00	0.00	0.00	0.00	
		1.42	0.50	0.00	0.00	0.00	
19		8	0	0	0	0	8
		100.00	0.00	0.00	0.00	0.00	
		3.77	0.00	0.00	0.00	0.00	
20		8	26	4	1	2	41
		19.51	63.41	9.76	2.44	4.88	
		3.77	13.07	6.45	12.50	22.22	
21		5	1	0	0	0	6
		83.33	16.67	0.00	0.00	0.00	
		2.36	0.50	0.00	0.00	0.00	
total		212	199	62	8	9	490

**Table 35: Race of Primary Victim by Race of Defendant (490 Cases in First Case Sample)**

(2003 Report)

Victim's Race	<u>defendant's race</u>					total
	White	African American	Hispanic	Asian	Other	
White	131	66	15	0	0	212
African American	3	191	5	0	0	199
Hispanic	9	20	32	0	1	62
Asian	1	4	1	1	1	8
Other	2	4	2	0	1	9
Total	146	285	55	1	3	490

**Table 36: For 257 African American Defendant cases, in First Case Sample, where race of victim is White or African American. Fraction going to Penalty Trial by race of Primary victim**

(2003 Report)

	race of primary victim		Total
	White	African American	
number of cases	66	191	257
fraction of cases going to penalty trial	29/66	40/191	69/257
percent	44 %	21 %	27 %
fraction of cases that received death sentence	10/66	14/191	24/257
percent	15 %	7 %	9 %

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**Table 37: For 257 First cases involving African American defendant and White or African American primary victims, fraction going to penalty trial by race of primary victim and county (\*In parentheses for race of victim where the victim assignment of multiple-race-victim cases is white if at least one of victims is white: WHITVIC) (2003 Report)**

<u>county</u>	<u>race of victim</u>	
	<u>White (WHITVIC)</u>	<u>African American (Not WHITVIC)</u>
1 Atlantic	3/8 *(3/9)	1/13 (1/12)
2 Bergen	2/4	2/4
3 Burlington	3/5	1/1
4 Camden	0/1	7/25
5 Cape May	2/2	0/1
6 Cumberland	0/2	0/2
7 Essex	3/11 *(3/12)	10/76 (10/75)
8 Gloucester	2/3	0/1
9 Hudson	0/4	1/8
10 Hunterdon	-	-
11 Mercer	3/3 *(3/4)	6/15 (6/14)
12 Middlesex	3/6	1/4
13 Monmouth	4/6	3/4
14 Morris	1/1	1/1
15 Ocean	1/3	-
16 Passaic	1/2	3/9
17 Salem	-	-
18 Somerset	-	0/1
19 Sussex	-	-
20 Union	0/3	4/26
21 Warren	1/2	-

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**Table 38: White Victim (Coded as WHITVIC) by Penalty Trial for 490 First Case Death Eligible Cases (with 7 statutory factor 4H (killing a public official) removed. Race of victim of a case is white if at least one victim in case is white.)**

(2003 Report)

<u>Penalty trial</u>	<u>WHITVIC</u>		<u>total</u>
	<u>Not WHITVIC</u>	<u>WHITVIC</u>	
No	209 78%	127 59%	336
Yes	60 22%	87 41%	147
total	269	214	483

**Cochran-Mantel-Haenszel Tests**

Stratified by county (counties with only 1 race of victim removed from data. Then removed county 18 which sent no cases to Penalty trial. This left 467 cases.)

CMH Test	Chi-Square	DF	Prob>Chisq
Correlation of Scores	3.8028	1	0.0512

**Table 39: White Victim (Coded as WHITVIC) by Penalty Trial for 490 Last Case Death Eligible Cases (with 7 statutory factor 4H (killing a public official) removed. Race of victim of a case is white if at least one victim in case is white.)**

(2003 Report)

<u>Penalty trial</u>	<u>WHITVIC</u>		<u>total</u>
	<u>Not WHITVIC</u>	<u>WHITVIC</u>	
No	214 80%	134 63%	348
Yes	55 20%	80 37%	135
total	269	214	483

Cochran-Mantel-Haenszel Tests

Stratified by county (counties with only 1 race of victim removed from data.

This left 471 cases.)

CMH Test	Chi-Square	DF	Prob>Chisq
Correlation of Scores	2.7904	1	0.0948

**Table 40: White Victim (WHITVIC) by Penalty Trial for 254 First Case Death Eligible Cases, African American defendant, African American & White Victims (Race of victim of a case is WHITVIC if at least one victim in case is white.) Three statutory factor 4H (killing a public servant) removed.**

(2003 Report)

<u>Penalty trial</u>	<u>Race of Victim</u>		<u>total</u>
	<u>Not WHITVIC</u>	<u>WHITVIC</u>	
No	147 79%	40 60%	187
Yes	40 21%	27 40%	67
total	187	67	254

Cochran-Mantel-Haenszel Tests

Stratified by county (counties with only 1 race of victim or all cases having same PT result. removed from data. This left 242 cases).

CMH Test	Chi-Square	DF	Prob>Chisq
Correlation of Scores	1.4509	1	0.2284

Note: A case's race of victim is WHITVIC if at least one victim is white; and is Not WHITVIC, if there is no white victim. For this table, Not WHITVIC implies that there is at least one African American victim and no white victim.

For consistency with previous tables we started with the same data subset of First cases with an African American defendant, and an African American or White Primary victim. Had we instead started with African American defendant First cases with either an African American victim or at least one White victim, and eliminated the three 4H cases, we would have ended up with the identical Table 40. This is because in all of the 3 African American Defendant First cases where the primary victim is not White, but there is at least one White victim, the primary victim is African American. The three cases (involving Daryl Lee James, John Lee Allen, and Clarence Reaves) are all included in Table 40.

## Appendix A

### List of Non-Statutory Factors Included From the Judge Survey

1. DINTENDS - D intended to cause V or 3rd party suffering
2. MULSTAB - V suffered multiple stab wounds
3. STRANGLE - V experienced severe suffering as a result of being strangled
4. EXECUTON - Execution-style homicide
5. VBEAT - V beaten before the killing, or beaten to death
6. VICPLEAD - V pleaded for his/her life
7. PLACEWND - V experienced severe suffering as a result of the location of his/her wounds
8. MULWOUND - V experienced severe suffering as a result of the number of his/her wounds
9. DATKDIEV - D continued/resumed a painful attack when it was apparent V was dying
10. VATTACK - V physically attacked D at time of homicide
11. INTENT - D's intent in committing the murder
12. RAGE - motive for homicide was (provoked) rage or frustration
13. AMBUSH - D lured or ambushed the victim, or lied in wait
14. DTHRUIT - D interfered w/ judicial process by threatening witnesses or jurors, or by suborning perjury
15. DOTHKILS - D implicated in other killings, even though not convicted of them
16. DPREVTRY - D previously attempted to kill the victim
17. HIDEBODY - D hid/moved dying victim, reducing chance that someone would come to V's aid
18. VATKOTHR - At time of homicide, V attacked, threatened, or abused a person D cared about
19. LONGATAK - V experienced severe suffering as a result of the duration of the attack
20. PRIORCON- Number of D's prior convictions.
21. PRIORHOM- Number of D's prior homicide convictions.
22. BADPRIOR-Number of D's prior violent felony convictions.