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DEPARTMENT OF SOCIOLOGY AND CRIMINOLOGY

HOW THE RACE OF THE DEFENDANT, VICTIM, AND TYPE OF LEGAL
REPRESENTATION UTILIZED INFLUENCES THE LIKELIHOOD OF RECEIVING THE
DEATH PENALTY

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ABSTRACT

If the number of African Americans under the death sentence were proportional to their presence in the population of Pennsylvania, there would be approximately twenty Black individuals on death row. Instead, there are approximately ninety-two. Race and ethnicity have long been critical components of the criminal justice system, an area that has faced criticism regarding the prevalence of racial disparities in matters of sentencing and a contradiction of the constitutionality of the law. Present literature is abundant, examining the sentencing differences of defendants according to extralegal factors like that of one's gender and socioeconomic status; however, questions remain regarding the race of the victim, defendant, and the type of legal representation received by the accused. The present study examines multiple variables finding that the race/ethnicity of the victim as well as the type of legal representation received by the defendant heavily influences the defendant's likelihood of receiving the death penalty. Analyzing data of all death-eligible defendants in Pennsylvania and highlighting the disparities in pursuit of justice reform, this thesis seeks to further capital punishment research.

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Revolutionary political leader, Nelson Mandela once said, "It always seems impossible until it's done." At many times, this thesis felt impossible; however, my friends, advisors, and professors, assisted in the creation of what is now a completed project. First and foremost, I must thank Dr. Jeffrey Ulmer for serving as a stellar thesis advisor, mentor, and thought leader. This thesis would quite surely cease to exist without his assistance and willingness to serve as an academic resource. I am deeply appreciative of his willingness to offer guidance through the challenging quantitative section of this research, and most importantly, provide a welcoming office space that always smelled like freshly brewed coffee. Additionally, I am thankful for the guidance, kindness, and academic framework provided by Dr. Stacy Silver. Her availability and direction proved extremely helpful as I navigated through the beginning stages of this thesis. Her role as an honors advisor and facilitation of this paper's submission are greatly appreciated.

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Chapter 1

Introduction

Bonnie's Story

On June 12, 1984, Bonnie B. Erwin and several members of his family were arrested and charged with over 66 felony crimes encompassing conspiracy to distribute controlled substances, kidnapping, and first-degree murder. Despite entering a plea of not guilty, an all-white jury returned a guilty verdict on all charges, holding Bonnie responsible for various crimes and violations. Despite Bonnie's insistent claims of innocence and the utilization of a jury that failed to meet the standard of his peers, the judge rendered a sentence, ultimately placing Bonnie on death row.

Following the guilty verdict, Bonnie spent most of his time in the prison law library, determined to appeal for immediate release. In an attempt to appeal at the Circuit Court level, Bonnie's court appointed attorney, Louis Gohmert, submitted documents, notably including a murder confession of another person. This ultimately resulted in a complete reversal of the murder charge, something that Bonnie's family and friends believed to be a positive development in his case. This action, however, did not render a successful solution.

Sadly, the removal was not properly expunged from Bonnie's record, exposing a lack of constitutional due process of law and inadequate oversight from his attorney and members of the courtroom work group. Following the motion, Bonnie's family members were released while he remained wrongfully imprisoned.

Eventually, Bonnie was taken off of death row. Rather than release, his case was turned over to the Federal system where he now continues a sentence of life without the possibility of parole for a murder charge he did not commit. With time, Bonnie has continued to file for appeals and maintains his innocence. Despite persistent requests, Bonnie has yet to be afforded the opportunity to receive proper justice. Now 73 years old, he remains imprisoned, has lost family members and friends, and has acquired a variety of serious health issues. His case has been submitted for review for Presidential Pardon and continues to receive consideration form Honorable U.S. Attorneys. Sadly, there has been no recent development in the case.

Many consider the justice system to be flawed and broken beyond repair. Unfortunately, Bonnie's story isn't isolated, but sheds light on just one of the countless cases in which prosecutors, jury members, and others within the courtroom workgroup utilize extralegal factors (like that of one's race) in their decisions when deciding upon guilt or innocence.

Operating within the United States' current political structure, communities must be aware of the discrepancies, disenfranchisement, and racial disparities that entwine the backbone of our criminal justice system. Academic researchers, social scientists and concerned citizens must examine our vulnerable policies, raising awareness of the day to day injustices while promoting proper reform in pursuit of a greater and safer community.

Narrative provided by Bonnie's Brother, Belinda Morrow

Overview

 "To take a life when a life has been lost is revenge, not justice," said theologian and human rights activist, Desmond Tutu. Capital punishment, defined by the Bureau of Justice

Statistics as the "process of sentencing convicted offenders to death for the most serious of crimes and carrying out that sentence," has long been a part of humankind.[1] Confirming use as far back as the Eighteenth Century B.C.E., death as penalty found historic origin during the reign of King Hammurabi of Babylon and his creation of the "Hammurabi Code" (Tutuianu, 2014). Often credited with the phrase, "an eye for an eye and a tooth for a tooth," the written laws lay out rules of justice, many of which have transcended into current climate, contributing to disparities, disenfranchisement, and concern among aspects of the United States criminal justice system.

Relying upon academic research and historical accounts, the use and enforcement of capital punishment laws have undergone four phases, all of which were often questioned due to moral and ethical concerns. These phases include the genesis of the American death penalty as punishment during colonial times, the late nineteenth century, specifically during the Civil War, a 1960s reinterpretation of capital sentences as "cruel and unusual," and more recently, a reinstatement of death penalty laws among individual states across the nation.

Since the suspension of a ten-year moratorium on executions in 1976, exactly 1,465 individuals have been executed nationwide. Of the 50 states, 31 continue to enforce death penalty laws while 19 states and the District of Columbia have chosen to abolish such practices. To much concern, major disparities are seen when examining current statistics based on race and individual states. In a 2017 research study, the NAACP Legal Defense Fund found the makeup of those on death row to be 41% Black and 42% white. Compared to present population, concern

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[1] Capital punishment refers to the process of sentencing convicted offenders to death for the most serious crimes (capital crimes) and carrying out that sentence. The specific offenses and circumstances which determine if a crime (usually murder) is eligible for a death sentence are defined by statute and are prescribed by Congress or any state legislature.

arises — Black American citizens make-up 13.3% while white Americans comprise 76.9% of the overall population (United States Census Bureau, 2017). As of July 2017, there are 2,817 incarcerated individuals on death row, most of whom are imprisoned in California, Florida, and Texas. In 2017 alone, 23 individuals were legally executed with a demographic makeup of 35% Black and 13% white males (Death Penalty Information Center). These statistics, though unsettling, raise concern over racial disparities as well as the work of the prosecutors and attorneys assigned to their cases.

Figure 1. States with Executions[2]
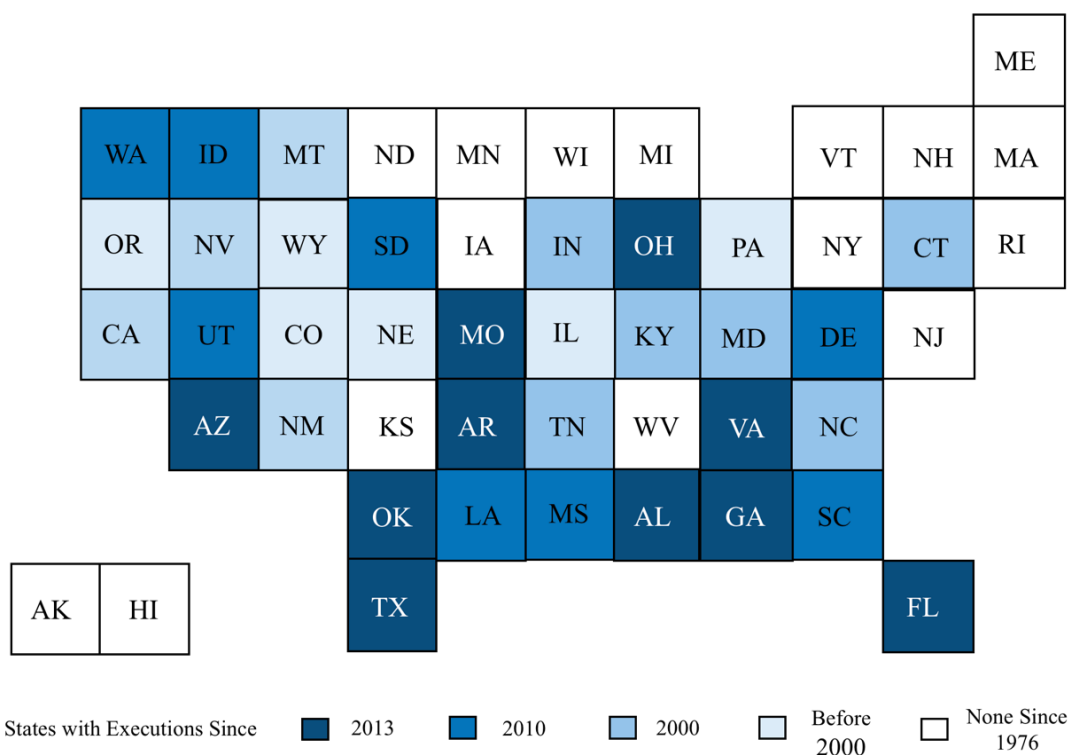
[2] Design of data obtained from *The Next to Die*, an internet site following nationwide executions with The Marshall Project (2018), Gabriel Dance

The Commonwealth of Pennsylvania, founded by Quakers with beliefs in a superior power, truth, and tolerance of dissent, is not immune to such pressing statistics. The death penalty represents the highest level of punishment one can receive in both the Commonwealth and the United States. The use of capital punishment, reinstated in Pennsylvania in 1978, has cost civilian taxpayers nearly $272 million per execution. As of 2002, a total of 1,043 men had been executed since 1963, making Pennsylvania the third highest executing state. Only allowing death sentences for crimes deemed the "most serious," capital punishment is applied when a defendant is found guilty of first-degree murder and requires a unanimous jury decision. Although the Commonwealth joins the list of death penalty states, current Governor, Tom Wolf, has placed a moratorium over death row inmates, citing the system as expensive, racially biased, and claiming of innocent lives (McKelvey, 2015).

Governor Tom Wolf and others' concerns open a pathway to the numerous avenues of disparities and disenfranchisement within the justice system. A majority of public concern stems from a perception of unqualified lawyers as well as the race of both the accused and their victim(s). In fact, capital punishment continues to attract media limelight with the multi-platform publisher, *The Atlantic* viewing death sentences as, "racially disparate" and what the *New York Times* has called a "process bogged down in bureaucracy and legalism." Members of human rights watch groups and representatives of the United Nations have often made mention of the dangers of death penalty cases, noting discretionary decisions of prosecutors, judges, and jurors. Although the number of death sentences per year has dropped dramatically since 1999, concern and conversation persist.

Literature Review and Theoretical Framework

Race and ethnicity have long been critical components of the modern Criminal Justice system for several decades, often accompanied by criticism, concern, and a myriad of academic research. The three fields of criminology: law enforcement, corrections, and the court system, have faced criticism regarding the prevalence of racial disparities in matters of sentencing and contradiction of the constitutional responsibility of equal protection of the law (Lyons, Lurigio, Roque, Rodriguez, 212; Levenson, Smith. Young, 2014). Present literature is abundant, examining the sentencing differences of defendants according to extralegal factors like that of one's gender and socioeconomic status; however, questions remain regarding the race and legal representation received by the accused (Steffensmeier, 1995). Despite existing research surrounding race and death penalty sentences, little focus is placed on the victim or the legal representation received by the defendant. This thesis seeks to further capital punishment research, highlighting racial disparities in pursuit of overall criminal justice reform.

If the number of African Americans under the death sentence were proportional to their presence in the population of Pennsylvania, there would be approximately twenty Black individuals on death row. Instead, there are approximately ninety-two (Kramer, Ulmer, Zajac, 2016). Relying on a comprehensive review of studies in 1990, the United States General Accounting Office concluded that despite reform, racial disparities in "the charging, sentencing, and imposition of the death penalty" exist (Cholbi, 2006). These results suggest both practical and theoretical importance, establishing a framework for new research and analysis.

Evaluating current peer reviewed journals and scholarly articles, much of the present research conducts study on the basis of uncertainty reduction theory. Examining prosecutorial discretion and decision making, researchers Ulmer, Kurlychek, and Kramer found mandatory

minimums[3] to be impacted by prior record, mode of conviction and gender. Relying on uncertainty reduction, they found mandatory minimums weren't mandatory, but used as substitutes for judicial discretion. Such theories are used in numerous studies, most of which highlight extralegal variables like that of gender, age, and racial identity. In 1986, Albonetti argued that information relevant to victims are often "brought to bear in deciding prosecutorial strategies of case processing," further proving the importance of one's race in sentencing outcomes.

As the criminal justice system has directed research initiatives toward capital punishment cases and legal killings of individuals convicted of crimes, an additional concept, the focal concerns theory, has been applied to a variety of cases. In 2014, University of South Florida researchers Jennings, Richards, Smith, Bjerregaard, and Fogel found its application useful when studying the effects of race on death penalty decision making. Primarily developed from qualitative research involving interviews with prosecutors, defense attorneys, and judges, focal concerns argue that both legal and extralegal considerations impact the sentencing fate of defendants (Steffensmeier et. al., 1998; Kramer and Ulmer, 2009).

This present study places emphasis on focal concerns theory, arguing that much concern is based on extralegal factors and legal representation, both of which are not typically controlled by the defendant.

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[3] Mandatory minimum sentencing laws require binding prison terms of particular lengths for individuals convicted of certain state and/or federal crimes

Hypotheses

Drawing from present research and the growing breadth of information provided in academia, I anticipate that cases involving Black defendants convicted of committing death eligible[4] crimes are more likely to receive a death sentence. Drawing from uncertainty reduction and focal concerns theory, factors are likely further influenced when the defendant receives and utilizes a public defender.

Race/Ethnicity of the victim. The study of race in relation to the victim is often viewed as a control variable. Past literature has suggested that these types of factors, such as victim race, age, and gender, play a significant role in capital punishment outcomes; however, there are few articles that include a separation of variables (Hans, et al, 2015). Unable to reach a definite answer, Ulmer, Kramer, and Zajac found that the race of the victim *might* influence focal concerns of blameworthiness but requires evidence about prosecutors and judges. In "Prosecutorial Discretion in Requesting the Death Penalty: A case of the victim based racial discrimination," Paternoster examined data from 300 cases involving aggravated felonies and the decision to seek the death penalty. His research revealed that Black killers of white victims were more likely than Black killers of Black victims to have the death penalty requested. In further breakdown, he found that difference in race and sentencing reflected a differing threshold of tolerance for white and Black murders, "Black victim homicides resulted in a death request only when they crossed a threshold of aggravation that was higher than that found for white deaths"

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[4] Death eligibility is determined by crimes of murder, murder of unborn child, murder of law enforcement officers, and additional statutes outlined in PA Statutes Title 19 Pa.C.S.A. §1102

(1984). The variation of research and differing results proves the need for continued research and conversation.

With growing academic interests in intersectionality, researcher Girgenti believed the victim's race and gender should be considered in death sentence outcomes. Finding the victim's gender didn't significantly predict receiving a death sentence, she did, however, find race as a "significant predictor."

Race/Ethnicity of the defendant. If one were to base information on news media and journalistic mediums, they may find statistics without basis in social science. According to Pennsylvania's Capital Cases, much of the first-degree murder victimization is largely intraracial. The majority of Black defendants have Black victims while the majority of white defendants have white victims (Kramer, Ulmer, Zajac). Utilizing findings from Philadelphia, Pennsylvania, Baldus, Woodworth, Zuckerman, Weiner, and Broffitt conducted an empirical legal overview finding apparent racial discrimination in the administration of death penalty, positing a link between discretion and discrimination. In contradiction, Petrie and Coverdill conducted a study in Texas finding cases involving Black offenders to have lower hazards of execution than cases in which offenders are white.

Most academic literature examines race and capital punishment in what has been deemed the Post-Furman era, the time following the historical Supreme Court Case, Furman v. Georgia.[5] During the case, Justice Stewart noted the possibility of discrimination in capital punishment,

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[5] Furman v. Georgia, Docket No. 69-5030, Citation 408 US 238 (1972). Does the imposition and carrying out the Death Penalty in cases constitute cruel and unusual punishment in violation of the eighth and fourteenth amendment? The court released a one-page per curiam opinion which held that the imposition of the death penalty in these cases constituted cruel and unusual punishment and violated the constitution. The court's decision forced states and national legislature to re-think their statutes for capital offenses to assure that the death penalty would not be administered in a capricious or discriminatory manner ("Furman v. Georgia." Oyez, 4 Jan. 2018).

indicating, "the death penalty as currently practiced" was unconstitutional because of the "capricious manner in which those who received the death penalty were selected." This statement was perhaps the initial force motivating researchers to examine the existence of racial discrimination in relation to capital punishment. This supreme court case also creates basis for this research project.

Legal Representation Received. Legal representation has long been a concern within the Criminal Justice System and is considered to be a research topic on the rise. In accordance with uncertainty reduction theory, prosecutors and attorneys play a major role in determining sentencing outcomes, often basing decisions on extralegal factors. Sadly, until recent years, legal representation, especially that received by the defendant has been strategically excluded from variables and sociological analysis. In "Prevailing Injustice in Applications of Death Penalty in Missouri," Lenza, Keys, and Guess, created a study to analyze public defenders, finding court appointed attorneys influenced the likelihood of receiving a death sentence (2005). Collecting data from Missouri Circuit Court Trial Judge Reports (TJR), the Missouri Office of the Public Defender, and the Federal Bureau of Investigation's Supplemental Homicide Reports (SHR), Lenza et al. found defendants with public defenders were 73% more likely to be sentenced to death in capital trials. Similarly, Unah's North Carolina study proved defendants with public defenders were more likely to be prosecuted for the death penalty than those with private, paid attorneys. These findings are consistent with Bright's 1994 research, positing that defendants with public defenders, most of whom are from lower socioeconomic classes, fail to receive equal protection or justice under the law.

Similar studies have resulted in different findings. In 2016, Kramer, Ulmer, and Zajac found public defenders to be less likely than private or court appointed attorneys to have the death penalty filed in their cases. In Philadelphia, prosecutors are more likely to seek the death penalty for cases, especially when accounting for the race of the victim. In 2009, researcher Phillips found private attorney representation, when compared to assigned counsel, dramatically impacted the likelihood of a negotiation plea, indicating defendants with private attorneys to be more likely to negotiate with the prosecutor.

In studying disparities in the implementation of the death penalty, this research project hopes to further conversation regarding race relations within the Criminal Justice System. Such information will assist in the discernment of whether the race and ethnicity of both the defendant and victim, alongside the legal representation received impacts the likelihood of receiving the death penalty.

Hypothesis one: The race/ethnicity of the victim will impact the likelihood of the defendant receiving the death penalty.

Hypothesis two: The race/ethnicity of the defendant will impact the likelihood of the defendant receiving the death penalty.

Hypothesis three: The type of legal representation received by the defendant, specifically the use of a public defender, will impact the likelihood of the defendant receiving the death penalty.

Chapter 2

Significant Terminology

In order to better understand the full scope of this present study, an understanding of the capital punishment process and legal terminology is required.

Aggravating Circumstances: refers to a fact or situation that increases the culpability for a criminal act. Such circumstances generally include evidence for future dangerousness, evidence relating to the circumstances of the crime, the defendant's prior criminal record, as well as evidence about the victim and the victim's family.[6]

Mitigating Circumstances: the evidence that the defense presents in the sentencing phase in order to provide reasons why the defendant should not receive the death sentence. These circumstances can reduce the degree of culpability of a criminal act. Mitigating factors include the lack of prior criminal record, mental health issues, and the defendant's showing of remorse. If the defense presents evidence as mitigating, such evidence is constitutionally required to be admitted.

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[6] Notice of Aggravating circumstances has been required by order of Pennsylvania Supreme Court beginning in 1989. There are currently eighteen aggravating circumstances in Pennsylvania outlined in Title 42 § 9711 a

Clemency: the power of a governor or an official in the executive branch to nullify a criminal conviction, reduce a his/her criminal sentence, or delay execution. In the Commonwealth of Pennsylvania, Governor Tom Wolfe has the power to grant clemency.

First Degree Murder: murder for which the death penalty may be imposed. In the Commonwealth of Pennsylvania, laws require proof of malice and a general intent to commit an unlawful act or achieve a harmful result. First degree murder is the highest degree of murder in Pennsylvania and generally results in the most severe punishments available under state law.

Second Degree Murder: criminal homicide constitutes murder of the second degree when it is committed while the defendant was engaged as a principal or an accomplice in the perpetration of a felony.

Third Degree Murder: any killing caused during the perpetration of a felony that is not otherwise listed in the Pennsylvania Crime Code, i.e. aggravated assault would be charged as Murder of the third degree.

Understanding Capital Punishment

The Pennsylvania Department of Corrections provides no formal position on the death penalty stating, "as an agency responsible for carrying out sentences imposed by the courts, it would be inappropriate to take sides on the issue of capital punishment." In the Commonwealth, capital punishment is, as with most states, reserved for serious murder charges and crimes.

The Pennsylvania death sentencing system consists of various courtroom actors including the prosecution, defense, and judicial decision-making bodies operating in the State's sixty-seven counties. The usual route to the death penalty typically follows ten steps and is taken from the Sentencing Authority Section of the Pennsylvania Crime Code:

1. Homicide occurs

2. Homicide recognized by authorities

3. Homicide suspect identified and arrested

4. Case investigated by law enforcement and facts are discovered

5. Prosecution charges first-degree murder

6. Prosecution indicts for first, second, or third-degree murder

7. If indicted for first degree murder, prosecution decides whether to seek death penalty

8. Prosecution and Defense unable to reach plea agreement

9. Defendant convicted of murder at trial by jury or judge

    a. *Procedure in jury trials:*

        i. After the verdict of first-degree murder is recorded, the court conducts a separate sentencing hearing where the jury determines a sentence of death or life imprisonment.

ii. In the sentencing hearing, evidence concerning the victim and the impact that the death of the victim has had on the family is considered admissible. Evidence may be presented however the court deems relevant and may include matters relating to aggravating or mitigating circumstances.

b. *Procedure in nonjury trials and guilty pleas:* if the defendant has waived a jury trial or plead guilty, the sentencing proceeding is heard by the trial judge. This judge hears the evidence and determines the penalty in the same manner as a jury would.

10. If convicted for first degree murder and if prosecution has filed a motion for the death penalty, sentence (jury or judge) must decide whether the defendant deserves the death penalty on basis of either finding

a. *Existence of aggravating circumstances and no mitigating circumstances*

b. *That aggravating circumstances outweigh mitigating circumstances*

As capital murder cases commence through the ten-step process, the number of individuals actually sentenced to death is a small fraction of the number of people who commit death-eligible homicides (Kramer, Ulmer, Zajac, 2017). For the purpose of this study, primary focus is placed on death eligible offenders who are prosecuted for first degree murder.

The current court system contains various points at which discretion, often at the hands of judges, juries, and prosecutors, have the ability to potentially exclude individual death eligible cases from the actual risk of a death sentence. This discretion is most commonly seen during the plea agreement process, in which prosecutors agree to reduce a first-degree murder indictment to

a lesser murder charge. There is also opportunity to waive the death penalty as part of the plea agreement, moving instead, toward a sentence of life in prison. Initially proposed and researched by Levinson in 2009, such discretion may be attributed to stereotypes, discrimination, and implicit biases. This research cannot address Levinson's hypothesis; however, it may pave the way for prosecutorial decision making. In this perspective, prosecutors are often in the driver's seat with power over who ultimately ends up on death row.

Though the decision to sentence a defendant to death occurs in the court system, the actual punishment is provided by the Department of Corrections. As of June 1997, all Pennsylvania executions are to take place within the execution complex at State Correctional Institution (SCI) Rockview in Centre County, Pennsylvania. The building is located on prison grounds and houses those convicted of capital cases for a short time prior to execution. All executions are performed by way of lethal injection, unless requested otherwise. The Pennsylvania Department of Corrections currently has no official position on the death penalty, "as an agency responsible for carrying out sentences imposed by the courts, it would be inappropriate to take sides on the issue of capital punishment" (DOC).

Having reviewed relevant literature and a contextual background on the disenfranchisement and disparities within the issuance of capital punishment sentencing in Pennsylvania, discussion of the data and methods of collection must take place to further understand the present study.

Chapter 3

Data and Methods

Dataset

This research was conducted using a dataset collected by researchers John Kramer, Jeffery Ulmer, and Gary Zajac for a report studying racial, ethnic, and other disparate impacts in capital punishment cases within Pennsylvania. Prepared for the Pennsylvania Interbranch Commission on Gender, Racial and Ethnic Fairness, the Pennsylvania Joint State Government Commission, and the Pennsylvania Senate Judiciary Committee, their project comprised a variety of field data ranging from years 2000 to 2010. Conducted for the primary purpose of examining and investigating the disproportionality in sentencing outcomes, Kramer, Ulmer, and Zajac determined a sample comprised of death eligible male defendants who received a death penalty sentence.

The quantitative dataset was derived from a variety of sources including: electronic dockets and additional information from the Administrative Office of Pennsylvania Courts (AOPC), Common Pleas Case Management System (CPCMS), the Department of Corrections (DOC), the Pennsylvania Commission on Sentencing (PCS) alongside a variety of case files from the district attorney's office, clerk of court, and public defender files. For disclosure purposes, the present study's author was granted access to the dataset by Penn State University researcher, Dr. Jeffery Ulmer.

It is important to note that the data for this study were limited to "death eligible" cases. In order to accomplish this, researchers included all homicide convictions initially charged under the general homicide statute (18 Pa. C.S. section 2502).[7] In order to verify such eligibility, they utilized AOPC samples which identified 4,274 criminal homicide cases. In terms of research questions, the race and other exclusive identifiers of the defendant can be found within the AOPC samples. Such identifiers include: employment status, criminal history, substance abuse, and other aggravating factors. Racial information regarding the victim was taken from the researcher's field data codebook with indications of their name, age, relation to the defendant, marital status, job description, and the location of the homicide. Finally, the type of legal representation received by the defendant is derived from pre-grouped research data.

Based on the researcher's review of the DOC and PCS information, Kramer, Ulmer, and Zajac estimated 60 offenders received the death penalty within the selected timeframe. The data needed to answer the proposed research questions requires extensive information on the defendant characteristics, victim characteristics and the legal representation received.

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[7] 18 Pa. CS §2502. Murder.

a. Murder of the first degree. – A criminal homicide constitutes murder of the first degree when it is committed by an intentional killing.
b. Murder of the second degree. – A criminal homicide constitutes murder of the second degree when it is committed while defendant was engaged as a principal or an accomplice in the perpetration of a felony
c. Murder of the third degree. – All other kinds of murder shall be murder of the third degree. Murder of the third degree is a felony of the first degree.

Dependent and Independent Variables

Figure 2. Conceptual Model, Independent and Dependent Variables

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┌─────────────────────────┐
│ Race/Ethnicity of Defendant │
└─────────────────────────┘
                                      ┌──────────────────────────┐
┌─────────────────────────┐           │ Likelihood of death penalty │
│ Race/Ethnicity of Victim │ ───────→ └──────────────────────────┘
└─────────────────────────┘

┌─────────────────────────┐
│ Type of Legal Representation │
│   Received by Defendant    │
└─────────────────────────┘
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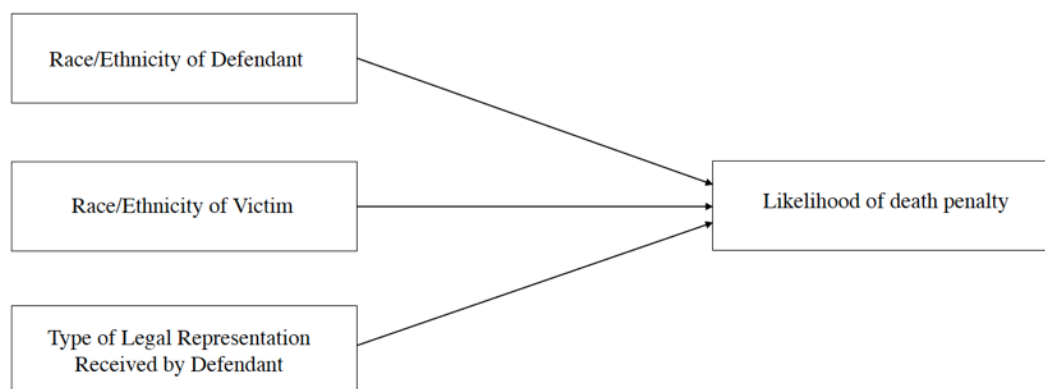
The singular dependent variable in this study is the likelihood of receiving the death penalty. This likelihood is indicated by the actual judge or jury sentence of capital punishment. Despite the current death penalty moratorium, the death penalty is still used as a form of punishment within Pennsylvania's criminal justice system.

The three independent variables (race/ethnicity of defendant, race/ethnicity of victim, type of legal representation received) in this study represent the extra-legal factors that may influence the likelihood of a defendant receiving the death penalty. While race and ethnicity share an ideology of common ancestry, they differ in a variety of ways. Race is considered unitary while one may claim multiple ethnic affiliations (Conley, 2003). The United States Bureau of Prisons indicates racial categories as: Asian, Black, Native American, and White; however, smaller courts, including the Commonwealth of Pennsylvania have begun to categorize Hispanic-white and Hispanic-Nonwhite as a data collecting identity. In order to avoid a potential for error, this present research focuses on Black and White victims and defendants.

According to this setup, one or all of the variables have the ability to impact the likelihood of a death sentence. The independent variables were obtained and are explicitly indicated in court records provided by the PCS and are subject to low amounts of record error. These variables were further coded into FD_white (white defendant) and FD_Black (Black defendant) and are considered binary.

Information regarding private attorneys, public defenders, and court appointed attorneys was obtained by casefiles from the district attorney's office, clerk of court, and public defenders offices. Made possible by the Supreme Court of the United States (SCOTUS) 1963 Gideon v. Wainwright decision, all persons should be afforded representation in the court system. [8]

A private attorney is a privately employed lawyer with little affiliation to government or other public work. Public Defenders are salaried government employees and court appointed attorneys that are typically hired by the state to represent indigent defendants. Most commonly found in urban jurisdictions with high caseloads, public defenders tend to represent defendants hailing from lower socioeconomic classes. Not all court appointed attorneys are public defenders, however. Other court appointed attorneys may operate within an organization of lawyers and have their own practice. In many cases, they take assignments to indigent defense that may have conflict with being represented by a public defender (Attorney Robinson, 2011). The tables displayed below provide descriptive statistics for all dependent and independent variables used within this research.

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[8] Gideon v. Wainwright, "lawyers in criminal courts are necessities, not luxuries." This important court ruling announced that no person could be imprisoned for any offense unless he or she was represented by counsel. The right to counsel applies to all critical stages of the criminal justice proses.

Table 1. Descriptive Statistics, Dependent Variables

		Frequency	**Percent**
Death Penalty Filed	Not Filed	567	64.4
	Filed	313	35.6
Death Penalty Retracted	Not Filed	734	83.4
	Filed	146	16.6
Death Penalty Sentence	Not Sentenced	829	94.2
	Sentenced	51	5.8
Total		880	100

Table 2. Descriptive Statistics, Independent Variables

	Binary	Frequency	Percent
Any White Victim	0	598	68.0
	1	282	32.0
Any Black Victim	0	364	41.4
	1	516	58.6
White Defendant	0	666	75.7
	1	214	24.3
Black Defendant	0	289	32.8
	1	591	67.2
Private Attorney	0	558	63.4
	1	322	36.6
Public Defender	0	595	67.6
	1	285	32.4
Court Appointed Attorney	0	611	69.4
	1	269	30.6
Total		880	100

Control Variables

In order to heed relevant results, control variables must be utilized. Control variables were retrieved and coded for a number of offender, victim, and case specific characteristics — all of which have been considered significant in past literature. This data includes variables of aggravating circumstances, mitigating factors, as well as characteristics of the victim and defendant. Importantly, and often left out in past death penalty research, this present study introduces offender intelligence quotients (IQ) as a significant control.

As reported by the National Alliance on Mental Illness, mental illness is a, "medical condition that disrupts a person's thinking, feeling, mood, ability to relate to others, and daily functioning." In *Atkins v. Virginia* (2002), the United States Supreme Court found the execution of mentally disabled defendants unconstitutional and left individual states to decide a defendant's mental capability. In response to past literature, the American Bar Association (ABA) passed resolutions exempting those with severe mental illness or disability from the death penalty; however, the ultimate decision still lies within individual states.[9]

Studying the mental retardation diagnosis in recent case law, researchers explained common IQ tests, finding the majority of people within the United States have IQs between 80-120 with 110 considered average. In order to be diagnosed as having mental retardation, one must have an IQ score below 71 (Dwyer, 2007). A defendant is considered to be borderline mentally disabled when their IQ ranges between 71 and 90 (Coded Field Data, 2016). The Offender intelligence quotient (IQ) was controlled for with the use of variables coded primarily

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[9] American Bar Association Resolution 122A. The American Bar Association, without taking a position supporting or opposing the death penalty, urges each jurisdiction that imposes capital punishment to implement varying policies and procedures.

from data contained within files of the Pennsylvania Commission on Sentencing (PCS) and the

Department of Corrections (DOC).

Additionally, the present study chose to control for aggravating factors and mitigating

circumstances. Significant aggravating factors included the defendant's creation of a grave risk

of death, the use of torture, tactics, and the defendant's prior record of conviction. Such variables

are considered aggravating in that they often increase the severity or culpability of the criminal

act. Mitigating factors, considered to be information or evidence that may result in reduced

charges, included the lack of a prior criminal record, the defendant's young age during the

commission of the crime, and significant impairment or ability to appreciate the crime

committed. Controlling for such circumstances eliminates the potential for error that could arise

when analyzing against prosecutorial decisions and estimated degrees of blameworthiness.

Descriptive statistics for all control variables are available in the tables below.

Table 3. Descriptive Statistics, Control Variables – Aggravating Factors

	Binary	Frequency	Percent
Victim was Prosecution Witness	0	835	94.9
	1	45	5.1
Murder committed in perpetration of felony	0	636	72.3
	1	244	27.7
Defendant knowingly created grave risk of death	0	612	69.5
	1	268	30.5
Victim was tortured	0	805	91.5
	1	75	8.5
Defendant convicted of other offense carrying life/death	0	783	89.0
	1	97	11.0
Defendant convicted of another murder	0	771	87.6
	1	109	12.4
Murder committed during felony	0	797	90.6
	1	83	9.4
Defendant associated with victim in drug trafficking	0	945	96.0
	1	35	4.0
Number of Aggravating Factors	0	329	37.4
	1	254	28.7
Total		880	100

Table 4. Descriptive Statistics, Control Variables - Mitigating Factors

	Binary	Frequency	Percent
No significant history of prior crime	0	829	94.2
	1	51	5.8
Extreme mental or emotional disturbance	0	845	96.0
	1	35	4.0
Substantially impaired capacity to appreciate criminality	0	845	96.0
	1	35	4.0
Youthful age of defendant at time of crime	0	815	92.6
	1	65	7.4
Number of mitigating factors presented by defense	0	818	93.0
	1	62	7.0
Total		880	100

Table 5. Descriptive Statistics, Control Variables - Victim and Defendant Characteristics

	Binary	Frequency	Percent
Victim was a family member	0	808	91.8
	1	72	8.2
Victim had children	0	640	72.7
	1	240	27.3
Victim killed with knife	0	775	88.1
	1	105	11.9
Victim killed with bare hands (reference: killed with gun)	0	810	92.0
	1	70	8.0
Victim didn't resist	0	877	99.3
	1	3	.3
Victim was killed in an especially brutal manner	0	878	99.8
	1	2	.2
Defendant tried to hide victim's body	0	875	99.4
	1	5	.6
Victim killed execution style	0	866	98.4
	1	14	1.6
Defendant ambushed victim	0	877	99.7
	1	3	.3
Total		880	100

Table 6. Descriptive Statistics, Control Variables - Mental Disability

		Frequency	**Percent**
IQ Below 71	Not below 71	837	95.1
	Below 71	43	4.9
IQ Between 71-90	Not Between 71-90	614	69.8
	Between 71-90	266	30.2
Total		880	100

Method of Analysis

In order to gain insight into the relationship between the race of the defendant, victim, and type of legal representation received, descriptive statistics, cross tabulations, and frequencies were utilized for each variable: white defendants, Black defendants, Private Attorney, Public Defender, Court Appointed Attorneys, white victims, and Black victims. These variables were calculated and coded using the software, Statistical Package for Social Sciences (SPSS), which reflected the coded field data collected by researchers Kramer, Ulmer, and Zajac.

Descriptive statistics were used to analyze and examine conviction outcomes based on race, additional characteristics of the crime, and the IQ of the defendant. This research then uses cross tabulations to examine multiple variables at once. The review of the crosstabs for each control variable are essential to exploring any possible trends in the data. The results and findings of the examinations are discussed below.

Chapter 4

Findings

Crosstabulation

In order to determine the statistical significance of the data, crosstabs and chi-squared

tests were performed for all dependent and independent variables. These tables help to further

summarize data from multiple sources into a concise format for further analysis. Some tests

rendered statistically significant results (with asymptotic significance and p values greater than

0.05) while others did not. A variety of information can be obtained from the tables below,

including but not limited to the number of cases and their percentages. They also present

crosstabs of case outcomes by the defendant and victim's race.

Overall, Black defendants make up disproportionately large percentages of those who are

exposed to and capable of receiving the death penalty as punishment. As seen in early descriptive

statistics in **Table 3** (in the data and methods chapter), a greater number of Black defendants are

charged with murder and ultimately exposed to the possibility of receiving a death penalty;

however, results differ when analyzing crosstabs within race and ethnic groups.

The data results in **Table 8** indicate Black defendants (33.3%) have the death penalty

filed in their cases slightly less than white defendants (35.5%). These percentage results mean

that *within race and ethnic groups*, there are nearly equal proportions of white and Black

defendants who have had the death penalty actually sought in their case. Similarly,

crosstabulation of death penalty retraction reveals a greater number of Black defendants have

their initial death penalty filing retracted. The findings in **Table 12** indicate a smaller percentage

(4.2%) of Black defendants actually get a death penalty sentence compared to their white

counterparts (8.9%). In summary, a greater proportion of the cases where the death penalty was

retracted have Black defendants and greater percentages of Black than white defendants have the

death penalty retracted by prosecutors. The crosstabs from which this data is derived are below:

Table 7. Crosstab White Defendant, Death Penalty Filed

Number of Cases and Column Percent

Death Penalty Filed	0	1	Total
0	429	138	567
	64.4%	64.5%	64.4%
1	237	76	313
	35.6%	35.5%	35.6%
Total	666	214	889
	100.0%	100.0%	100.0%

$X^2= .985$ $p= .000$

Table 8. Crosstab Black Defendant, Death Penalty Filed

Number of Cases and Column Percent

Death Penalty Filed	0	1	Total
0	173	394	567
	59.9%	66.7%	64.4%
1	116	197	313
	40.1%	33.3%	35.6%
Total	289	591	880
	100.0%	100.0%	100.0%

$X^2= .048$ $p= 3.922$

Table 9. Crosstab White Defendant, Death Penalty Retracted

Number of Cases and Column Percent

Death Penalty Retracted	0	1	Total
0	547	187	734
	82.1%	87.4%	83.4%
1	119	27	146
	17.9%	12.6%	16.6%
Total	666	214	880
	100.0%	100.0%	100.0%

$X^2 = .072$ $p = 3.227$

Table 10. Crosstab Black Defendant, Death Penalty Retracted

Number of Cases and Column Percent

Death Penalty Retracted	0	1	Total
0	240	494	734
	83.0%	83.6	83.4%
1	49	96	146
	17.9%	16.4%	16.6%
Total	289	591	880
	100.0%	100.0%	100.0%

$X^2 = .839$ $p = .041$

Table 11. Crosstab White Defendant, Sentence

Number of Cases and Column Percent

Death Penalty Retracted	0	1	Total
0	634	195	829
	95.2%	91.1%	94.2%
1	32	19	51
	4.8%	8.9%	5.8%
Total	666	214	880
	100.0%	100.0%	100.0%

$X^2= .027$ $p= 4.923$

Table 12. Crosstab Black Defendant, Sentence

Number of Cases and Column Percent

Death Penalty Retracted	0	1	Total
0	634	195	829
	95.2%	91.1%	94.2%
1	32	19	51
	4.8%	8.9%	5.8%
Total	666	214	880
	100.0%	100.0%	100.0%

$X^2= .004$ $p= 8.077$

Logistic Regression Models

Logistic regressions were used as a statistical method to analyze multiple variables at once. For the purpose of this study, all of the variables were run together to see which variable, if any, had the most effect on impacting the likelihood of receiving the death penalty. Control variables were predictors along with the independent variables. It should be noted that in order to perform logistic regressions with relevant results, a category must be left out for comparison purposes. In this study, white victims and white defendants were removed from the regression in order to create a proper baseline. In evaluating the results, some of the most significant findings included:

- More aggravating factors lead to more retractions.

- Cases with Black victims are less likely to have the death penalty filed.

- Court appointed attorneys, compared to public defenders and private attorneys, significantly influence the likelihood of receiving the death penalty.

Table 13. Logistic Regression Variables, Death Penalty Filed

Variables in the Equation	Significance	Odds
Black Victim	.147	.705
Black Defendant	.752	.926
Public Defender	.742	.927
Court Appointed Attorney	.007	1.855
Victim was Prosecution Witness	.630	1.247
Murder committed in perpetration of felony	.425	1.246
Created Grave Risk of Death	.247	.723

Victim was tortured	.630	.823
P_death3	.530	.764
Defendant convicted of another murder	.019	2.300
Committed during drug felony	.169	.619
Number of Aggravating Factors	.000	2.268
No significant history of prior crime	.165	2.583
Extreme disturbance	.050	10.556
Substantially impaired capacity to appreciate criminality	.887	1.174
Youthful age of Defendant at time of crime	.000	10.615
Sum of mitigating factors	.358	1.164
Victim was a family member	.657	.847
Victim had children	.220	.759
Victim killed with knife	.568	1.203
Victim killed with bare hands	.035	2.082
Victim did not resist	.605	.885
Killing was brutal	.335	1.321
Defendant tried to hide victim's body	.230	1.412
Killed execution style	.962	1.011
Victim was ambushed	.302	.775
IQ Below 71	.533	1.277
IQ Between 71-90	.785	.948
Constant	.000	.151

Table 14. Logistic Regression Variables, Death Penalty Retracted

Variables in the Equation	Significance	Odds
Black Victim	.436	1.250
Black Defendant	.107	.634
Public Defender	.832	1.061
Court Appointed Attorney	.003	2.193
Victim was Prosecution Witness	.092	.386
Murder committed in perpetration of felony	.163	1.545
Created Grave Risk of Death	.633	1.162
Victim was tortured	.965	.981
P_death3	.218	.585
Defendant convicted of another murder	.000	3.812
Committed during drug felony	.094	.503
Number of Aggravating Factors	.001	1.782
No significant history of prior crime	.997	.000
Extreme disturbance	.639	.642
Substantially impaired capacity to appreciate criminality	.261	.208
Youthful age of Defendant at time of crime	.001	.054
Sum of mitigating factors	.406	1.167
Victim was a family member	.728	.855
Victim had children	.074	.617
Victim killed with knife	.116	1.751
Victim killed with bare hands	.013	2.574

Victim did not resist	.988	.996
Killing was brutal	.158	1.560
Defendant tried to hide victim's body	.312	1.389
Killed execution style	.277	1.319
Victim was ambushed	.245	.707
IQ Below 71	.300	1.570
IQ Between 71-90	.717	.916
Constant	.000	.058

Table 15. Logistic Regression Variables, Death Penalty Sentence Given

Variables in the Equation	Significance	Odds
Black Victim	.004	.272
Black Defendant	.574	.789
Public Defender	.191	1.717
Court Appointed Attorney	.920	.952
Victim was Prosecution Witness	.722	.739
Murder committed in perpetration of felony	.182	.465
Created Grave Risk of Death	.806	1.156
Victim was tortured	.428	1.728
P_death3	.561	.674
Defendant convicted of another murder	.076	2.757
Committed during drug felony	.052	.069
Number of Aggravating Factors	.096	1.610
No significant history of prior crime	.424	1.519
Extreme disturbance	.010	4.666
Substantially impaired capacity to appreciate criminality	.884	1.097
Youthful age of Defendant at time of crime	.094	2.334
Sum of mitigating factors	.977	.996
Victim was a family member	.730	1.220
Victim had children	.820	.911
Victim killed with knife	.569	1.357
Victim killed with bare hands	.832	1.139

Victim did not resist	.487	.737
Killing was brutal	.466	.678
Defendant tried to hide victim's body	.795	.879
Killed execution style	.180	.534
Victim was ambushed	.922	1.046
IQ Below 71	.859	.816
IQ Between 71 and 90	.009	2.617
Constant	.000	.034

In examining regression data of the death penalty filed in **Table 13**, results indicate that 1.85 defendants with court appointed attorneys have the death penalty filed for every one other defendant. This means that court appointed attorneys are especially likely to defend clients with death penalty filings. Additionally, 2.08 defendants who killed their victims with their bare hands have the death penalty filed for every one other defendant. These among others, proved to be variables that contribute to a likely death sentence. Additional variables that proved to be significant in the logistic regression models include: the number of mitigating factors, victims as family members, brutal killings, and significant intellectual and developmental disabilities.

Alarmingly, 1.2 defendants with an IQ below 71 have the death penalty filed for every one "average" defendant. Concerning actual sentencing in **Table 15**, defendants with IQs between 71 and 90 (below the national average) were 2.6 times more likely to be sentenced to death and most defendants had a variety of aggravating factors used against their favor. Though the United States criminal justice system claims as morally wrong, the logistical regression results prove that mentally disabled defendants do in fact receive death sentences.

Chapter 5

Conclusion

This thesis was initially constructed to analyze and examine racial disparities and disenfranchisement within capital punishment cases, further seeking to answer the question, "how does the race and ethnicity of the victim, defendant, and the type of legal representation received impact the likelihood of the defendant receiving the death penalty?" With a disproportionate number of Black Americans sentenced to death, it is essential to determine where the racial disparity stems. Overall, the design of the study allowed for the examination of the likelihood of death eligible crimes and various influences contributing to the defendant receiving the death penalty. While a significant amount of research has been performed within the past few years, additional research is needed to fully understand the breadth of disenfranchisement within the justice system, especially when concerning capital punishment sentences.

This study went beyond traditional death penalty research by utilizing a dataset developed by Pennsylvania State University researchers, Ulmer, Kramer, and Zajac. The dataset included first degree murder convictions from 2000-2010 compiled in counties across the Commonwealth of Pennsylvania. Utilizing coded field data and varying files from the district attorney's office, public defenders, clerk of court, and court docket information, the present study made significant determinations in cases with a variety of findings. In depth analyses resulted in descriptive statistics and set the stage for the review of the hypothesis; however, the key findings below are important to developing a deeper understanding of the research:

- Black defendants are much more likely than whites to be charged with, and convicted of, murder.

- Overall, first degree murder victimization is largely intra-racial.

  - The majority of Black defendants have Black victims while the majority of white defendants have white victims.

- The large majority of first degree murder cases in Pennsylvania do not face the death penalty.

- In most cases, prosecutors choose not to seek the death penalty and if they do, they often retract their filing later.

- Cases in which the Death Penalty is retracted should not be viewed as acquittals, rather, these cases tend to enter a plea bargain phase, communing the defendant to imprisonment rather than death.

Review of Hypotheses

Race/ethnicity of victim. In the hypothesis section of the study, a citation to Baldus et al.'s Philadelphia research was discussed, contextualizing a central finding that prosecutors are more likely to seek the death penalty when cases involve a white victim (Baldus, 1998). Baldus' results are consistent with additional criminologist's finding Black defendants accused with the murder of white victims are "particularly vulnerable" to death penalty sentences; however, not all studies have supported the finding (Lenza, Keys and Guess, 2005). In contrast, researcher Unah conducted a similar study concluding that prosecutors are less likely or rarely influenced by race to seek the death penalty when the victim was white (Unah, 2011).

Focusing on the logistic regression models, cases with Black victims are less likely to lead to a death sentence. In fact, these cases are often retracted as the defendant tends to plead guilty and negotiate a deal. To expound, cases with white victims are 8% more likely to receive the death penalty, while cases with Black victims are -6% less likely to receive the death penalty.

Race/ethnicity of defendant. Much of the present literature on the death penalty within the criminal justice system suggests prosecutors as more likely to seek the death penalty in cases involving Black defendants. Though results confirmed the victim's race as impacting the defendant's likelihood of receiving the death penalty, this research does not indicate Black defendants to be at a greater risk of receiving a death sentence. Thus, the race of the defendant is not a statistically significant indicator of receiving a sentence of capital punishment. These findings reject Baldus et. al's 1998 study. Based on statistical calculations, there is no overall pattern of disparity to Black defendants in decisions of seeking, retracting, or sentencing an individual to death.

Type of Legal Representation Receive. A long-disputed avenue of research, many social scientists like Lenza (2005) have successfully predicted and found indigent defense to be a major influencer in death penalty cases. Contrary to Lenza's results, researcher Philips found private attorney representation to be a significant factor in death eligible crimes. Though the research found Public Defenders as less likely than court appointed and private attorneys to file the death penalty, there was no indication that their representation significantly affected the decision to retract death penalty motions.

The type of legal representation received by the defendant does impact the likelihood of receiving the death penalty. Defendants with private attorneys are 4% less likely to receive the death penalty. Most notably, white defendants tend to have more private attorneys compared to their Black counterparts with public defenders and court appointed attorneys. In the introduction of this study, the hypothesis predicted public defenders to have the greatest influence; however, frequency tables and crosstabs in **Table 15** reveal the fact that court appointed attorneys lead to a stronger likelihood of receiving capital punishment. This study's findings are consistent with Lenza et al.

Hypothesis one: The race/ethnicity of the victim will impact the likelihood of the defendant receiving the death penalty. **Supported.**

Hypothesis two: The race/ethnicity of the defendant will impact the likelihood of the defendant receiving the death penalty. **Not Supported.**

Hypothesis three: The type of legal representation received by the defendant, specifically the use of a public defender, will impact the likelihood of the defendant receiving the death penalty. **Partially Supported.** *Use of court appointed attorney impacts likelihood.*

Implications of Theory

As indicated by the logistic regressions above, the likelihood of receiving the death penalty is significantly influenced by the presence of aggravating circumstances. These factors are singlehandedly filed at the discretion of prosecutors, placing them in a significant position of authority. In review, focal concerns theory highlights three factors: blameworthiness, protection

of community, and practical constraints. In filing aggravated circumstances, prosecutors must adhere to the theory's concept of blameworthiness, seeking penalty as punishment and holding the defendant culpable. This study didn't concentrate on prosecutorial decision making; however, the blameworthy focal concern may be explained by the race of the victim having a significant impact on the likelihood of receiving the death penalty. Additionally, the theory promotes the idea that more experienced criminals and serious crimes lead to a perception of blameworthiness, a factor heavily supported in the findings of this research. As found in the logistical regression in **Table 13**, defendants who committed a previous felony were 1.2 times more likely to have the death penalty filed in their case.

The study's findings further indicated that court appointed attorneys are more likely to hold cases that ultimately result in a death penalty sentence. Perhaps this is explained when analyzing the protection of community clause of the three concerns. The general ideas are grounded in the philosophies of punishment associated with incapacitation and deterrence. Court appointed attorneys must predict the future of their clients, indicating possible threat and risk of re-offending. In reality, attorneys rarely have the full information; therefore, predicting their client's future has the potential to influence the overall decision. The focal concerns further explain the practical constraints and consequences of relying on extralegal factors.

Sample Generalizability

As mentioned in discussion of the dataset, the sample of data used to complete this research was inclusive of Pennsylvania defendants under the category of "death eligible" between the years of 2000 and 2010. The information was obtained from 18 (Allegheny, Berks,

Bucks, Chester, Dauphin, Delaware, Fayette, Lackawanna, Lancaster, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia, Washington, Westmoreland, York) of Pennsylvania's 67 counties, bringing forward 87% first-degree murders with over 40% taking place in the metropolitan areas surrounding Philadelphia and Pittsburgh.

As each state currently creates and enforces their own capital punishment rulings and procedures, there is great difficulty in relating present findings to other locations, especially when considering demographic makeup and population size. Generalizability of this sample to other states that currently utilize the death penalty as punishment is extremely limited; however, the procedures utilized and results obtained can be reframed to fit the needs of a similar study.

Dataset Limitations and Potential Sources of Error

The greatest limitation regarding data included the documents and resources from which the data was collected. In practice, court records are often operated manually and have a history of inconsistencies, often leading to missing data. Concerning present research, this is often related to information regarding the personal characteristics of offenders or the likelihood of incorrect data entered into the system. In addition, CPCMS data, a form of AOPC information, often has missing intel on important variables such as the defendant's race and specific conviction offense. Even when all necessary materials are available, there remains a likelihood to see inconsistencies of records between sources. This data was obtained and further coded by Pennsylvania State University researchers by hand. Due to this, documents may unknowingly indicate false values.

In further evaluating the limitations of this study, the consideration of the time period form which death eligible cases were selected was considered essential. Utilizing data collected by researchers Ulmer, Zajac, and Kramer, the coded values and variables used focus on the time period between 2000 and 2010. In doing so, the researchers hoped that the eleven-year timeframe would provide a large enough pool of death eligible offenders, leading to, "strong statistical analysis." Utilizing information from older capital punishment cases would prove less relevant to contemporary death penalty sentencing practices and current public opinion.

Areas for Further Research

The present research is exclusive to the Commonwealth of Pennsylvania; therefore, the results only speak to capital punishment on a state level, rather than the greater nation. As capital punishment cases continue to process differently based on geographical location, research on a state-by-state approach remains essential to receiving relevant results.

Undoubtedly, the results of this study add to a greater body of research; however, there remains room for the review of additional factors such as jury decisions and further analysis of how extra-legal factors contribute to prosecutorial decision making. Other avenues of updated research include studying the race and ethnicity of the prosecution in relation to their clients as well as evaluating the significance of the county in which the crime is committed and tried. In 2016, Ulmer, Kramer, and Zajac found that there, "may be differences connected to defense attorney type by race of defendant, but the results should be interpreted with caution due to small numbers of cases in those analyses." With increased field data and a greater sample size, such future information has the ability to heed informative results.

Moving Forward

With the uncertain future of the death penalty and its implications in the Commonwealth of Pennsylvania and the United States as a whole, understanding the variables and multi-layered implications of a death sentence are essential to creating reform. Some defendants are sentenced to death while others are permitted to live. Unfortunately, one's fate is often determined by racial characteristics, legal representation, and additional extralegal factors, all of which are out of the accused's control. Despite Governor Wolfe's death penalty moratorium, there remains 880 death eligible defendants with 175 on death row in Pennsylvania (Pennsylvania Department of Corrections, 2016). With over 2,817, persons on death row, the nationwide quotient is even larger. As of 2016, 57% of Black defendants have received death sentences compared to 20% of their white counterparts (Death Penalty Information Center, 2016). Of all death-eligible defendants, 30% are considered borderline mentally ill and unstable. These results open the door to discussion of what is and isn't cruel and unusual punishment while forcing the public to grapple with the question, "how much is too much?"

This study tells a partial story, highlighting disparity and disenfranchisement during death penalty decisions. Perhaps the problem isn't within the death penalty sentences, but the charges that lead to that point. By the time one gets to the stage of filing, sentencing, and retraction, they've already journeyed through an unjust system.

Death penalty statistics are likely vindictive of a greater, systemic issue in the larger realm of criminal justice concerning but not limited to, mass imprisonment, unfair trials, and flawed jury decision making. This basis level thesis has the potential to influence policy while highlighting the current flaws in the Pennsylvania justice system. It is with high hopes that the results of this study not only add to the larger body of research, but also bring about greater

awareness of the severity of disparities, increased disenfranchisement, and the need to move

toward positive race relations within the criminal justice system.

Appendix A

Field Data Codebook

Code	Field Data	Description
640	FD_white	White Defendant
641	FD_Black	Black Defendant
709	anywhite_v_dum	Any white Victim
712	anyblack_v_dum	Any Black Victim
650	private	Private Attorney
651	publicdef	Public Defender
652	courtappt	Court Appointed Attorney
322	dp_filed0	Death Penalty Field
323	dp_retracted0	Death Penalty Retracted
336	sentance0	Death Penalty Sentence
425	d_noconvict	No significant history of prior crime
426	d_distrubed	Extreme mental or emotional disturbance
427	d_impaired	Substantially impaired capacity to appreciate criminality
428	d_age	Youthful age of defendant at time of crime
674	sum_other_mit	Number of mitigating factors presented by defense
675	v_1family	Victim was a family member
678	v1hadkids	Victim had children
684	v1knife	Victim killed with knife
687	v1barehands	Victim killed with bare hands
515	v_1h_resis	victim didn't resist

518	v_1h_brutal	Victim killed in brutal manner
520	v_1h_execution	Victim killed execution style
521	v_1h_hide	Defendant tried to hide victim's body
522	v_1h_ambush	Defendant ambushed victim
598	p_v_witness3	Victim was Prosecution Witness
599	p_felony3	Murder Committed in Perpetration of Felony
600	p_d_risk3	Defendant Knowingly Created Grave Risk of Death
601	p_torture3	Victim was Tortured
602	p_d_felony3	Defendant Convicted of other Offense Carrying Life/Death
604	p_murder3	Defendant convicted of another murder
607	p_v_drug3	Murder Committed during Drug Felony
606	p_drug3	Defendant was associated with victim in drug trafficking
612	p_agg3	Number of aggravating factors
660	IQbelow71	Mental Disability
659	IQ71_90	Borderline Mental Disbility

Appendix B

SPSS Data Tables and Full Crosstabulation

anywhite_v_dum		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	598	68.0	68.0	68.0
	1	282	32.0	32.0	100.0
	Total	880	100.0	100.0	

anyblack_v_dum		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	364	41.4	41.4	41.4
	1	516	58.6	58.6	100.0
	Total	880	100.0	100.0	

FD_white		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	666	75.7	75.7	75.7
	1	214	24.3	24.3	100
	Total	880	100.0	100.0	

FD_Black		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	289	32.8	32.8	32.8
	1	591	67.2	67.2	100.0
	Total	880	100.0	100.0	

private

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	558	63.4	63.4	63.4
	1	322	36.3	67.2	100.0
	Total	880	100.0	100.0	

publicdef

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	595	67.6	67.6	67.7
	1	285	32.4	32.4	100.0
	Total	880	100.0	100.0	

courtappt

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	611	69.4	69.4	69.4
	1	269	30.6	30.6	100.0
	Total	880	100.0	100.0	

dp_field0

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	567	64.4	64.4	64.4
	1	285	32.4	32.4	100.0
	Total	880	100.0	100.0	

dp_retracted0		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	734	83.4	83.4	83.4
	1	146	16.6	16.6	100.0
	Total	880	100.0	100.0	

Sentence0		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	829	94.2	94.2	94.3
	1	51	5.1	5.8	100.0
	Total	880	100.0	100.0	

IQbelow71		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	837	95.1	95.1	95.1
	1	43	4.9	4.9	100.0
	Total	880	100.0	100.0	

IQ71_90		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0	614	69.8	69.8	69.8
	1	266	30.2	30.2	100.0
	Total	880	100.0	100.0	

Crosstabulation

FD_white

dp_filed0			0	1	Total
	0	Count	429	138	567
		% within FD_white	64.4%	64.5%	74.4%
	1	Count	237	76	313
		% within FD_white	35.6%	35.5%	35.6%
Total		Count	666	214	880
		% within FD_white	100.0%	100.0%	100.0%

FD_black

dp_filed0			0	1	Total
	0	Count	173	394	567
		% within FD_white	59.9%	66.7%	64.4%
	1	Count	116	197	313
		% within FD_white	40.1%	33.3%	35.6%
Total		Count	289	591	880
		% within FD_white	100.0%	100.0%	100.0%

FD_white

			0	1	Total
dp_retracted0	0	Count	547	187	734
		% within FD_white	82.1%	87.4%	83.4%
	1	Count	119	27	146
		% within FD_white	17.9%	12.6%	16.6%
Total		Count	666	214	880
		% within FD_white	100.0%	100.0%	100.0%

FD_white

			0	1	Total
Dp_retracted0	0	Count	240	494	734
		% within FD_white	83.0%	83.6%	83.4%
	1	Count	49	97	146
		% within FD_white	17.0%	16.4%	16.6%
Total		Count	289	591	880
		% within FD_white	100.0%	100.0%	100.0%

FD_white

			0	1	Total
sentence0	0	Count	634	195	829
		% within FD_white	95.2%	91.1%	94.2%
	1	Count	32	19	52
		% within FD_white	4.8%%	8.9%	5.8%
Total		Count	666	214	880
		% within FD_white	100.0%	100.0%	100.0%

FD_black

			0	1	Total
Dp_filed0	0	Count	263	566	829
		% within FD_white	91.0%	95.8%	94.2%
	1	Count	23	25	51
		% within FD_white	9.0%	4.2%	5.8%
Total		Count	289	591	880
		% within FD_white	100.0%	100.0%	100.0%

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Education

Bachelor of Arts in Criminology with Honors
Bachelor of Arts in Communication Arts and Sciences

Undergraduate Thesis

How the race of the victim, defendant, and type of legal representation utilized impacts the likelihood of receiving the death penalty, *Supervised by Dr. Jeffrey Ulmer, 2018*

Professional Experience

June 2016 – Present, Honors Intern
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August 2016 – May 2018, Strategic Communications Intern
Schreyer Honors College, University Park, PA

Notable Achievements and Awards

Dean's List all semesters attended
Criminology Student Marshal, Spring 2018 Commencement Ceremony
Richard B. Gregg Memorial Award for Scholarly Excellence in Communication Arts and Sciences
Inaugural "All in" Award for commitment to diversity and inclusion
Bunton-Waller Fellowship Recipient

Additional Activities and Current Memberships

The Presidential Leadership Academy
Phi Alpha Delta Law Fraternity, International
The Underground, Student Media Site (cofounder)
Schreyer Honors College Diversity Task Force
Social Justice Advocates

Academic Research

"You're Not Welcome Here" Examining post-riot rhetoric in Charlottesville, Virginia. *Supervised by Dr. Frank Stec, 2017*

Signed, Sealed, Delivered: An analysis of gender and ethnic identity within the prison industrial complex. *Supervised by Dr. Lecinda Yevchak, 2016*