HOW THE DEATH PENALTY LIVES: AN EMPIRICAL ANALYSIS
OF DISCRIMINATION IN CAPITAL PUNISHMENT
IN TEXAS FROM 2012 TO 2018

by

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ABSTRACT

The death penalty remains one of the most controversial and highly debated topics both in and out of the realm of politics. Though existing since colonial times, the 1960s raised questions of the legitimacy of capital punishment, resulting in the United States Supreme Court striking down all death sentences in 1972. Despite being reinstated in 1976, suggestions that capital punishment stands at the forefront of a discriminatory criminal justice system are as constant as ever before. Researchers point to the disproportionate makeup of death row inmates on levels such as race, sex, socioeconomic status, and geographic location. However, what lacks amongst prior findings is a consensus on what singular factor explains the disparity in who receives the death penalty and who does not. Thus, this work examines some of the most commonly researched variables associated with discrimination in the application of the death penalty. Specifically, it conducts a large-n study of the sentences of defendants who were convicted of capital murder in Texas from 2012 to 2018, amounting to 233 cases. As a result, it forces the explanations offered by previous academics to “compete” against one another.

The findings show that the most statistically significant variable affecting whether or not a defendant receives the death penalty, or a lesser sentence is geographic location. More precisely, defendants who commit capital crimes in rural counties are more likely to receive the death penalty than those in urban counties. Thus, this suggests scrutiny of the justness and legality of the practice of capital punishment. However, as many variables, most significantly, race, fail to produce statistically significant results, it is recommended that future research is done with a larger sample size to both re-evaluate the importance of certain factors, as well as offer a more conclusive answer to the root of the discrimination present in capital punishment.
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I wrote this thesis for those who do not have the opportunity to do so. To all who have fallen victim to a system of impropriety and inequity, I will continue to fight for your freedom in the hopes that one day, we live in a world where we do no longer punish death with death.

"Returning violence for violence multiplies violence, adding deeper darkness to a night already devoid of stars."

– Martin Luther King, Jr.
**TABLE OF CONTENTS**

I: INTRODUCTION .............................................................................................................. 7

II: LITERATURE REVIEW ................................................................................................. 8
   A: Sex .......................................................................................................................... 9
   B: Race ....................................................................................................................... 12
   C: Socioeconomic Class ............................................................................................ 15
   D: Prior Convictions ................................................................................................. 18
   E: Geography ............................................................................................................. 19
   F: Framework ............................................................................................................. 21

III: RESEARCH DESIGN ................................................................................................. 22
   A: Variables ................................................................................................................. 23
   B: Hypotheses ............................................................................................................. 24
   C: Methods for Analysis ............................................................................................ 26

IV: DATA SOURCES & MEASURES ................................................................................. 26
   A: County ................................................................................................................... 27
   B: Priors ..................................................................................................................... 27
   C: Socioeconomic Class ............................................................................................ 28
   D: Aggravating Circumstances .................................................................................. 29
   E: Number of Victims ............................................................................................... 30
   F: Defendant & Victim Age ...................................................................................... 31
   G: Co-Defendants ...................................................................................................... 32
   H: Remaining Variables ............................................................................................ 33
   I: Equation .................................................................................................................. 33

V: EXPECTED RESULTS ................................................................................................. 34

VI: FINDINGS .................................................................................................................. 34
   A: County ................................................................................................................... 35
   B: Victim Age Under 20 ............................................................................................ 36
   C: Defendant Age ...................................................................................................... 37
   D: Aggravating Circumstance—Murder of a Peace Officer ....................................... 39
   E: More Than One Aggravating Circumstance ......................................................... 39
   F: Appointed Counsel ............................................................................................... 40
G: Statistically & Substantively Insignificant Variables .................................. 41
H: Predicted Probabilities .................................................................................. 46

VII: CONCLUSION .............................................................................................. 47
A: Discussion ....................................................................................................... 47
B: Limitations ..................................................................................................... 52
C: Future Research .............................................................................................. 52
D: Implications ................................................................................................... 53

VIII: APPENDICES ............................................................................................ 55
A: Urban County List ........................................................................................... 55
B: Texas Aggravating Circumstances ................................................................. 56
C: Descriptive Statistics ...................................................................................... 58
D: Table Results: Effects of Various Factors on the Likelihood of Receiving the Death Penalty .......................................................... 59
E: Predicted Probabilities .................................................................................... 60

IX: REFERENCES ................................................................................................ 61
I: INTRODUCTION

For centuries, our criminal justice system has been closely intertwined with issues of discrimination. At the highest level of punishment, however, these problems become heightened. Although the number of death sentences and executions are declining, the grim reality is that capital punishment propagates injustice. The demographic profile of death row populations in America is fairly consistent. Death row inmates are disproportionately male, are more likely to be members of an ethnic minority group in proportion to the population, have white victims, belong to a low socioeconomic class, have prior convictions, and the majority can be found in the south. Supreme Court Justice Stephen Breyer notes that, “individuals who are executed are not the ‘worst of the worst,’ but, rather, are individuals chosen at random, on the basis, perhaps of geography, perhaps of the views of individual prosecutors, or still worse on the basis of race” (Oppel, 2018). Prior statistics and research similarly maintain that capital punishment is often administered in a discriminatory manner—but what are the most pertinent factors that allow such injustice in our criminal justice system to persist? Furthermore, what are the greater implications of such discrimination?

The examination of previous research provides me with a foundation of which factors have been analyzed in the past and have been deemed the most relevant by academic scholars. Then, I examined my own data to determine which factors have the most significant impact on the apparent discrimination in the application of the death penalty. Moreover, I stood to unveil what factor(s)—outside of what is necessary and expected when determining the conviction and sentencing of a defendant—most greatly determine who lives or dies. Specifically, I studied jury charges and sentences in capital cases in Texas from 2012 to 2018 in order to narrow my analysis. My conclusion points to the claims, hypotheses, and theories that the death penalty is
applied in a discriminatory manner by revealing what variables carry the most weight in the determining whether or not an individual will be executed. Furthermore, it offers summative thoughts about prior work as well as my own, including contextualizing my theory and findings within a broader normative conversation.

The question of inequity in the administration of the death penalty in the America offers insight into various areas of discrimination inherent in our criminal justice system. This study serves an important purpose because while there is a great deal of research analyzing various discriminatory factors relevant among capital punishment, there is a lack of concurrence as to what the main ones are. Further, it carries huge, practical significance as it serves as a tool to question and assess the justness of our criminal justice system as well as potentially providing justification for policy amendment or development. Finally, this data differs from previous studies as it uses some of the most recent capital cases that we have data on and subsequently displays that the issue so many researches have pointed to over decades is still prevalent in today’s judicial system.

II: LITERATURE REVIEW

The death penalty is a controversial policy, in part due to its severity and irrevocability. Numerous scholars have examined various aspects of its application, which also coincide with its most commonly debated issues including its usefulness as a deterrent, history of implementation, morality, Constitutionality, economic cost, and discriminatory facets. Extensive analysis of the death penalty reveals that it is more likely to be applied to certain Americans than others. Specifically, researchers point to various factors that play into the inequality inherent in the death penalty. Prior academics have set up an instructive basis for understanding the history of the injustice in the administration, but as will become apparent, they have also failed to collectively
and unanimously identify exactly the most significant factors driving this inequity. The most commonly discussed elements of discrimination in the delivery of the death penalty in prior research are the sex and race of both the defendant and victim, the socioeconomic class of the defendant, the presence of prior convictions for the defendant, and the geographic region of the crime.

A: SEX

Since the reinstatement of the death penalty in 1976, only 16 women have been executed out of 1,493 total executions (Death Penalty Fact Sheet, 2019). Women account for 1/50 death sentences, 1/67 people on death row, and 1/100 people whose executions are actually completed. Further, since 1973, 184 female offenders have been sentenced to death, constituting only 2% of all death sentences (Women and the Death Penalty, 2018). The gender inequity in the administration of the death penalty is seemingly easy to dissect according to quantitative data, but there is also research that indicates capital punishment equates to sex discrimination, as will later become apparent. In the simplest terms, more males than females commit violent crimes; thus, more males receive capital sentences than females. The Bureau of Justice Statistics’ 2017 report, the most recent data available, offers straightforward numbers. In a comparison of all violent crimes committed in 2017, 75.8% of offenders were male compared to only 20.2% female offenders (Morgan & Truman, 2018). Therefore, as there is an obvious disparity in the number of violent crimes committed by males and females, this difference leads to a much higher likelihood that males will receive the death penalty than females.

The sex of the offender is not the only factor worth examining when discussing the application of the death penalty; arguably more significant is the sex of the victim when evaluating whether or not discrimination is prevalent with regards to the application of the death
penalty and sex. For example, in comparing cases seeking the death penalty in South Carolina from 1993 to 1997, among cases with similar levels of statutory aggravation, cases involving female victims were 2.5 times more likely to result in capital prosecutions than those with male victims. Another case looking at defendants convicted of first-degree murder in Illinois, researchers found that 4.3% of the offenders who were convicted of killing one or more females received the death penalty, compared to 1.2% of the offenders who only killed males. Finally, a study in Ohio examined homicides in which an additional felony was charged between 1981 and 1997. Out of 5,976 cases, 324 defendants received a death sentence. Researchers used fifteen predictor variables including crime severity, demographics of both the offender and victim, finding that an offender was 2.617 times more likely to receive a capital sentence if the case involved a female victim than if the case involved a male victim (Eisenberg, Blume, Hans, Hritz, Johnson, Royer, & Wells, 2014).

Aside from the difference in quantitative data for crimes committed by males and females as well as the sex of the victim, there are two major factors that contribute to the low number of women who get capital punishment: the nature of the crime and how juries and society view women in general. The death penalty is often used for offenders who also commit other felonies such as robbery or rape. However, women often commit murders of people they are related to; these crimes of passion are often viewed by juries as one-time offenses. Furthermore, because of the high rate of domestic violence against women, juries do not give men the same benefit of the doubt. Conversely, hiring someone else to do the dirty work for them can be what lands a woman on death row (Sterbenz, 2013).

The other factor, the jury’s perception of the “fragile” female psyche, shows that the gender gap in the application of the death penalty has roots in chivalry. Female victims are often
perceived as more vulnerable by prosecutors, judges, and juries. Thus, many argue that these perceptions lead to a chivalrous criminal justice system to protect women by giving harsher punishments to defendants with female victims (Eisenberg, Blume, Hans, Hritz, Johnson, Royer, & Wells, 2014). Furthermore, these perceptions can overpower aggravating factors. Law Professor, Victor Streib, says, "It's just easier to convince a jury that women suffer emotional distress or other emotional problems more than men" (Sterbenz, 2013).

Supporting this theory, in a study examining 1,300 murder cases in California in 2003 and 2005, researchers first confirmed the already widely held notions that the death penalty is imposed on women relatively infrequently and is disproportionately imposed for female homicide victims. However, the death penalty in California also appeared to be applied in agreement with stereotypes about women’s innate abilities, roles in society, and capacity to be violent. Capital punishment in California, which is arguably a larger representation of the entire United States, allows prejudices and stereotypes about violence and gender to determine who lives and dies. Women are stereotyped as weak, passive, and in need of male protection; prosecutors and juries subsequently seem reluctant to impose the death penalty on them. Here, in cases where the victim was a woman, the death sentence rate was seven times the rate than when men were victims (Shatz & Shatz, 2011).

Conclusively, researchers point to the fact that more men than women are likely to be executed and it is more common for an individual to be executed if their victim is a female rather than a male. Furthermore, the societal perception of women as less dangerous, weak, and vulnerable in society perpetuates each of these commonalities. I sought to examine exactly to what extent the sex of both defendants and their victims matters in determining the likelihood of whether or not an individual will receive the death penalty and subsequently be executed. My
study differs from existing research because I evaluated this statistic in comparison to other factors determining the sentencing outcome in a capital case in order to see which is the most significant.

B: RACE

Racial discrimination has been perhaps the most studied factor contributing to inequity and injustice in the application of the death penalty. Scholars, politicians, and citizens have all pointed to the fact that racial bias affects the criminal justice system at every stage: arrest, prosecution, jury selection, conviction, sentencing, appellate review, and clemency (Goodman, 2007). For an opposing view, former Mayor of New York City, Edward Koch says, “the reason for the discrepancy in the execution rate between blacks and whites is that juries deciding whether to impose the death penalty have concluded in more cases involving black defendants that there were extenuating circumstances militating in favor of a lesser penalty…” (Top 10 Pro & Con Arguments: Should the death penalty be allowed?, 2016). Returning to the original stance, perhaps more significant is that such bias stems from the top of the system. Leigh Bienen says, “the system is controlled and dominated by whites, though the individuals punished are disproportionately black. The death penalty is a symbol of white control over blacks” (as cited in McAdams, 1998, p. 154).

There are two types of discrimination that plague our capital punishment system, according to previous analysis. The first is a capital sentence influenced by the defendant’s race—race-of-defendant discrimination—and second, a death sentence impacted by the victim’s race—race-of-the-victim discrimination. The former concerns racial bias by a judge, jury or prosecutor against the defendant, making it more likely that they will be sentenced to death, while the latter usually involves racial bias by a judge, jury, or prosecutor, making it more likely
that the defendant will be receive the death penalty because they are a minority and the victim is white (Goodman, 2007).

In theory, capital punishment is only applicable to the worst offenders guilty of the most heinous crimes, regardless of the race of both the defendant and the victim. If a black defendant and a white defendant are both guilty of homicides with similar circumstances, the likelihood that they will be sentenced to death should not differ, and the same should apply if the race of the defendants and victims were swapped (Goodman, 2007). However, according to statistics, this is not supported. Analysis of defendants’ races in death penalty is simple. Since 1976, 55.7% of defendants executed have been white, 34.2% black, 8.5% Hispanic, and 1.6% other. Though, as of July 2018, 42% of death row inmates were black and 42% white (Death Penalty Fact Sheet, 2019). This is especially noteworthy when understood in light of the fact that only 13% of the population is black (Pariona 2019).

Also, worth noting, is the distribution of crime for black and white offenders. In 2017, 54.2% of offenders were black and 43.1% were white. For murder victims in the same year, 51.9% were black and 43.5% were white (FBI, 2017). Some of the most interesting data compares the percentage of black defendants among all death eligible cases, 78%, with their percentage among all defendants given a death sentence in a jury trial, 85%. This shows that black defendants are given harsher treatment than other defendants (Baldus, Woodworth, Zuckerman, Weiner & Broffitt, 1998). Furthermore, in 1994, half of the inmates on death row represented minority populations that only made up 20% of the population. Black individuals were represented on death row at a rate that was three and a half times their proportion in the population (Dieter, 1994). Finally, as of April 2019, 44% of Texas’ death row inmates are black, in comparison to 12% of the state’s residents (McCullough & Hasson, 2016). Therefore, it is
clear that the proportion of black and white offenders who are on death row and have been executed in comparison to their proportion in the population is disparate. Assuming similar circumstances, evidence supports the race-of-the-defendant discrimination claims.

The form of racial discrimination which is arguably more directly applicable to the death penalty concerns the race of victims. Empirical research demonstrates that a defendant who kills a white person is far more likely to receive the death penalty than a defendant who kills a person of color. Furthermore, black-on-white crime is the most likely to result in a death sentence (Race and the Death Penalty, n.d.). When looking at the race of victims in all death penalty cases since 1976, 76% have been white and only 15% black. Furthermore, over 75% of the murder victims in cases resulting in an execution were white, even though nationally only 50% of murder victims generally are white (Death Penalty Fact Sheet, 2019). A particular example of race-of-the-victim discrimination is highlighted by a 28-year study in North Carolina. Researchers found that those suspected of killing whites were over three times more likely to be sentenced to death than those who were suspected of killing blacks: 1.2% of those accused of killing blacks were given death sentences in comparison to 3.9% of those accused of killing whites. Additionally, for white victims, black suspects were twice as likely to receive a death sentence as white suspects, but for black victims this effect is reversed (Radelet & Pierce, 2011). Perhaps the most astonishing are the data for persons executed for interracial murders in the U.S. since 1976 when the death penalty was reinstated. 290 black defendants have been executed for the murder of a white victim, in contrast to only 20 white defendants that have been executed for the murder of a black victim. This is where race-of-the-victim discrimination is apparent (National Statistics on the Death Penalty and Race 2019).
Finally, some research has found that sentencing patterns are influenced by the intersectionality between the victim’s race and sex. Studies show that in cases where the murder victim is a white female, the offender has the greatest risk of receiving the death penalty. This victim effect, more specifically known as a white female victim effect, is consistent with a historical culture of heightened punishments for crimes involving white female victims in America, especially committed by non-white offenders (Eisenberg, Blume, Hans, Hritz, Johnson, Royer, & Wells, 2014).

Conclusively, racial bias is a dominating topic surrounding the conversation about the unequal treatment of defendants when analyzing the administration of the death penalty. Researchers point to both race-of-the-defendant and race-of-the-victim discrimination to showcase the inequity apparent within the criminal justice system. Thus, I examined how both the race-of-the-defendant and the victim effect the delivery of a death sentence, if at all.

C: SOCIOECONOMIC CLASS

Another pertinent factor affecting inequity in capital punishment is socioeconomic class. Researchers describe that individuals belonging to lower socioeconomic classes face innumerable disadvantages in the criminal justice system, especially within the delivery of a capital sentence. Further, they claim that capital punishment is disproportionately applied to the poor. Stemming from a societal, preferential treatment of the wealthy over the poor, most defendants who are prosecuted for capital murder are not afforded the legal resources needed to sufficiently support their defense. Subsequently, they are subjected to harsher sentences than those belonging to a higher socioeconomic class. Additionally, these individuals often have a low level of education, further subjecting them to a weak defense. Even individuals who are not indigent and are able to afford private counsel are at a disadvantage because it is unlikely that
they will be able to maintain their representation due to the lengthy and costly process of capital cases. Consequently, many capital defendants are forced to rely on court-appointed counsel. Therefore, many death row inmates have never experienced the luxury of private defense counsel, and probably never will (Tilley, 2014). It is important to note that is not necessarily that public defenders are under skilled attorneys; rather, it is that publicly provided counsel lags in the resources granted to them by the state when compared to large private firms. Furthermore, public defender dockets overburden their staff in a way that attorneys in the private sector do not often experience, which is where the funding comes in.

Accordingly, it is clear that the justice system is biased against those without the money to hire adequate legal defense. Poor indigent representation stems from the fact that many states do not have a functioning adversary system. Public defender programs have either never been established or have not been properly funded in several jurisdictions (Bright, 1994). If it true that the death penalty is, in fact, disproportionately applied to poor Americans, this failure of the courts to ensure economic equality conveys the injustice inherent in the criminal justice system (Johnson & Johnson, 2001).

While the issue of socioeconomic discrimination in terms of legitimate economic means is not disputed, social class goes deeper than just the sheer ability to afford legal counsel to avoid the death penalty. Similar to a point made in regards to race, the judgement of lower class individuals in capital cases are hardly judgements made by a jury, but rather by people from higher classes who consider themselves to be socially and morally superior, and most importantly, by people who work in the criminal justice system. Preconceived notions about the worthiness of both victims and offenders influence the attitudes of attorneys, judges, and jurors (Tilley, 2014).
This also raises the discussion of how jury selection plays into the sentence in a capital case in a broader sense. Both the prosecution and defense always try to select jurors they believe will lean toward their side, no matter the crime; however, this holds much more weight when the people they choose will ultimately decide whether or not an individual lives or dies. Jury selection, therefore, is a crucial part of the legal process in capital cases. Few are aware of the unique jury selection procedure for capital cases known as “death qualification.” Any potential juror with hesitations about inflicting a death sentence can be struck from jury duty. Thus, jury selection in capital cases often takes weeks, even months to complete. The jury is supposed to represent the “conscience of the community.” That is, they are to reflect the general opinion of the community in which they are tried; this enumerates the phrase “jury of one’s peers,” which is not explicitly mentioned in the Constitution, but is implied in the Sixth Amendment. However, it has long been debated that jurors, especially in capital cases, are biased; they may have preconceived notions toward sex, race, socioeconomic class, punishment, and so on. These beliefs undoubtedly play a role in how they decide someone’s fate (Conrad, 2000). Aside from these viewpoints, death qualifying itself inevitably produces conviction prone jurors because so-called scrupled jurors are more likely to vote not guilty than guilty (Leatherman, 2014).

According to researchers, socioeconomic status is an obvious representation of the inequity and injustice in the delivery of capital punishment. Society values individuals of higher social classes disproportionately compared to individuals of lower social classes; as a result, the death penalty is administered in an economically discriminatory manner (Tilley, 2014). Nun, Helen Prejean says, money equates to a good defense. This explains why individuals like O.J. Simpson never end up on death row. As the saying goes, ‘capital punishment means them
without the capital get the punishment’ (as cited in Does a Person's Income Level Affect the Likelihood of Him/Her Receiving the Death Penalty?, 2008).

D: PRIOR CONVICTIONS

A factor that does not necessarily lend itself to discrimination, but still has the possibility to, is prior convictions. Findings show that offenders with prior convictions are sentenced more severely by trial courts. Because repeat offenders pose the greatest threat to the community to both the community following their release and other prisoners during the time of their incarceration, it is plausible to assume that a defendant is more likely to executed if they have prior convictions than if they do not (Jacobs, Carmichael, Qian, & Kent, 2007). Research supports this assumption. In 2000, 64% of death row inmates had prior felony convictions and 39% were previously involved in the criminal justice system at the time of their capital offense. Further, prior homicide convictions were present in the criminal records of 8.1% of inmates (Cunningham & Vigen, 2002). More recently, the U.S. Justice Department’s 2016 report showed that two-thirds of individuals on death row had prior convictions and 10% had previous murder convictions (Boys, 2017). However, it is also important to note there are structural determinants to recidivism, and that more severe sentences perpetuate a problem, and a cycle of discrimination, rather than solving it. Meaning, courts use prior conviction statuses to justify harsher punishments, but if those prior convictions and their frequency were themselves functions of a defendant’s race and class, using a defendant’s prior convictions as a way to amplify their punishment for a more recent offense is just as frowned upon as the initial discriminatory choices were.

However, due to fact that offender prior convictions play a role in the courts’ decisions whether or not to seek and punish the death penalty, there is weak evidence that this affects post-
death sentence execution probabilities. That is, in identifying offender characteristics in 16 states, researchers found out of individuals with prior convictions, 7.7% of individuals were executed, while 7.6% were not (Jacobs, Carmichael, Qian & Kent, 2007). Thus, I utilized prior convictions as a control variable in my research.

E: GEOGRAPHY

The final factor warranting analysis is geography. Currently, capital punishment is a legal penalty used by 30 states, the federal government, and the military. However, executions are overwhelmingly concentrated in the south. Out of the 1,493 executions in the U.S. since 1976, 1,220 have been in the south, roughly 81%. Two southern states, Texas and Oklahoma, account for 45% of all executions in the United States since 1976. Oklahoma is actually ranked third amongst states for total executions with 112, coming right behind Virginia with 113. However, the disparity between these two states and Texas is gaping to put it mildly. The Lone Star State comes in with 560 total executions (Number of Executions by State and Region Since 1976, 2019). Interesting enough, however, Oklahoma has a higher per capita execution rate than Texas according to the 2010 census; Oklahoma’s death sentence per capita is 0.823, while Texas’ is 0.380 (Number of Executions by State and Region Since 1976, 2019).

In 2016, only 2% of the nation’s counties accounted for a majority of the people sitting on death row. What separates these counties from the rest of America where the death penalty seems to be fading away? The 16 counties span seven states in the south and west including major cities like Los Angeles, Houston, Las Vegas and Phoenix; suburban areas like Orange County and San Bernardino in California, and moderately sized places like Mobile, Alabama, and Caddo Parish, Louisiana. Upon analysis, researchers have determined that individuals who receive the death penalty tend to live in places with overaggressive prosecutors and defense
attorneys who are unable of giving them a strong fight. In some places, there is a third element, a legacy of racial bias and exclusion, as has been demonstrated and noted here by prior research (Bazelon, 2016).

To bring some positive light into the discussion, after decades of blatant geographic trends, it appears as though a death sentence now depends slightly less on where a defendant is tried (Oppel, 2018). For example, Harris County, where Houston is located, used to be known as the ‘capital of capital punishment.’ In recent years, however, the number of death penalty convictions in Texas has drastically declined; this change is most apparent in Harris County. Death row inmates from Harris County have accounted for 129 executions in Texas since capital punishment was reinstated in Texas in 1982, more than any other county. However, 2018 marked the first death sentence in four years in Harris County (Lozan, 2018). Furthermore, 2018 marked the first year since the reinstatement of the death penalty that no single county in the United States imposed more than two death sentences. This serves as a stark contrast to years in which the use of capital punishment was more concentrated in counties in Philadelphia, Los Angeles, and Houston, as previously mentioned. Yet, the use of capital punishment remains largely a matter of geography at the state and national level. The 25 executions carried out in 2018 occurred in only eight states—Alabama, Arkansas, Florida, Georgia, Nebraska, South Dakota, Tennessee, and Texas—reflecting the popularity of the death penalty in the southern region of the United States and more notably in Texas, which accounted for 13 executions, more than half of the total number of people executed in the entire country (Oppel, 2018).

Nevertheless, Supreme Court Justice Breyer wrote in 2015 that to receive a death sentence remains as random as being “…struck by lightning. How then can we reconcile the death penalty with the demands of a Constitution that first and foremost insists upon a rule of
law?” (Bazelon, 2016). The conversation surrounding geography leads me to pose several questions: to what extent does this become an issue of urban and rural divide? Is our society reaching a point where there is homogeneity of opinion on the application of the death penalty in large cities, even in big cities in conservative states with the death penalty, so that both public and elite opinion in Dallas or Houston, for example, is not unlike that in Boston, New York, or San Francisco? Furthermore, is the death penalty becoming more rural as a phenomenon? Are there mid-size cities that manage to maintain a commitment toward executing people, or is capital punishment, just as Justice Breyer suggests, being applied in outlier cases regardless of geographic environment?

Though I did not be examining the distribution of death penalty cases in America at large, as I narrowed my analysis to Texas specifically, my research allowed me to examine yet another discriminatory factor that comes into play when looking at the application of the death penalty. Furthermore, by focusing on Texas, the state in which the most executions take place, I was able to gather data where perhaps the most discrimination occurs. To account for geographic discrimination, I examined the county in Texas in which each defendant’s offense was committed and subsequently prosecuted. Of the most highly researched, discussed, debated, and controversial factors regarding discrimination in the application of the death penalty, geographic bias is the final variable I utilized in this research.

F: FRAMEWORK

The debate surrounding capital punishment in America is in-exhaustive and inconclusive; that is, it has not analyzed discriminatory factors in their totality to determine which is the most pertinent in deciding whether or not to give an individual a death sentence. 30 states, the federal government, and the U.S. military utilize the death penalty; 20 states have abolished its use; and
the Supreme Court has ruled it unconstitutional only to later reinstate it. Thus, there are many questions that remain unanswered surrounding capital punishment and further, about its disproportionate application. As of 2019, the U.S. federal government lists 41 capital offenses punishable by death including espionage, treason, and death resulting from hijacking an aircraft; most common, though, are various forms of murder (41 Federal Capital Offenses, 2012). Capital offenses vary from state to state, but like at the federal level, the most represented crime is murder with varying degrees of aggravated circumstances. Also represented are rape, kidnapping, and murder during the commission of other crimes such as robbery, sexual assault, and arson (Crimes Punishable by the Death Penalty, 2018).

Prior researchers have considered various components of the inequality of capital punishment in America—sex, race, class, and geography are among the most discussed. There are several theories on what the most relevant factors are that explain the inequality and unjustness in the delivery of the death penalty, and while the majority have overlapping views, none seem to be conclusive. Therefore, by looking at empirical data of capital case records in Texas 2012 to 2018, I stand to determine what discriminatory factor(s) most significantly affects the sentencing of an individual to death. Furthermore, I concluded whether or not this exhibits the inequity and injustice in the U.S. criminal justice system, and subsequently, whether, or how this is problematic.

III: RESEARCH DESIGN

Due to the sheer number of death penalty cases in the United States, I narrowed my research to cases in which the defendant was tried for capital murder 2012 to 2018; this amounted to 241 total cases, with 233 defendants who were found guilty and eight acquittals. I coded the cases for those receiving the death penalty and those who do not. Then, I collected the
data on the relevant factors for each case in the large-n study. I evaluated which discriminatory factor(s) is most significant in determining whether or not an individual is sentenced to death; moreover, this led me to conclude if that variable helps to explain the injustice apparent in the application of capital punishment. By examining the factors that researchers suspect plays a role in the inequity within our criminal justice system, I was able to confirm or deny prior claims.

A: VARIABLES

The factors I examined were: defendant sex, victim(s) sex, defendant race, victim(s) race, counsel, and county of offense; these served as my dependent variables. To account for spuriousness, I controlled for several things: prior convictions, the aggravating circumstances in the offense, co-defendants, the number of victims in the offense, the age of the defendant at the time of the offense, and victim(s) age. I also recorded the sentence decided by the judge: death, life without the possibility of parole (LWOP), life, or other. Finally, my dependent variable was whether the death penalty is applied or not. Subsequently, I recorded the defendant’s date of birth, the date of the crime, and the date of the judgement, for convenience purposes.

To explain how and why I chose my control variables, it is beneficial to know background information. To be given a death sentence in Texas, the jury must do more than just find the defendant guilty of homicide and conclude that insufficient mitigating circumstances are warranting a lesser sentence. Moreover, according to the Texas Code of Criminal Procedure Art. 37.071,

“b) On conclusion of the presentation of the evidence, the court shall submit the following issues to the jury: (1) whether there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society…” (Tex Code of Criminal Procedure § 37.07).
In layman’s terms, the jury must believe that the defendant constitutes a “continuing threat” to society. If they cannot do this, the defendant is sentenced to life in prison without the possibility of parole. To determine whether or not the defendant constitutes a “continuing threat to society,” the jury is allowed to consider several conditions. According to the decision in *Keeton v. State* (1987), “those factors include, but are not limited to:

1. the circumstances of the capital offense, including the defendant's state of mind and whether he or she was working alone or with other parties;
2. the calculated nature of the defendant's acts;
3. the forethought and deliberateness exhibited by the crime's execution;
4. the existence of a prior criminal record, and the severity of the prior crimes;
5. the defendant's age and personal circumstances at the time of the offense;
6. whether the defendant was acting under duress or the domination of another at the time of the commission of the offense;
7. psychiatric evidence; and

From this opinion, I decided to control for numbers one, four, and five: the number of co-defendants, prior convictions, and the defendant’s age at the time offense. I also controlled for the age of the victim(s) at the time of the offense, the aggravating circumstances in the offense, and the number of victims, further explained later.

**B: HYPOTHESES**

I conducted a large-n study geared toward “refereeing” among competing explanations of the outcome I sought to analyze. Subsequently, I then tested them against my data, in effect,
forcing them to “compete” against each other to see which one, or ones, do the best job of explaining the variance in outcomes. The hypotheses I tested and compared were:

Hypothesis 1: Men are more likely to receive the death penalty than women.

Hypothesis 2: Male defendants with female victim(s) are more likely to receive the death penalty than male or female defendants with male victim(s).

Hypothesis 3: Minority defendants are more likely to receive the death penalty than white defendants, in proportion to their relative representation in the population.

Hypothesis 4: Defendants with appointed counsel are more likely to receive the death penalty than defendants retaining private counsel.

Hypothesis 5: Defendants in urban counties are more likely to receive the death penalty than in rural counties.

I also predicted possible directions of effect from my control variables:

Hypothesis 6: Defendants without co-defendants are more likely to receive the death penalty than defendants with one or more co-defendants.

Hypothesis 7: Defendants with prior convictions are more likely to receive the death penalty than defendants with no prior convictions.

Hypothesis 8: Older defendants (at the time of the crime) are more likely to receive the death penalty than younger defendants (at the time of the crime).

Hypothesis 11: Defendants with particularly old victim(s) are more likely to receive the death penalty than defendants with victim(s) of average age.

Hypothesis 12: Defendants with particularly young victim(s) are more likely to receive the death penalty than defendants with victim(s) of average age.
Hypothesis 13: Defendants with more than one aggravating circumstance are more likely to receive the death penalty than defendants with one aggravating circumstance.

Hypothesis 14: Defendants with more than one victim are more likely to receive the death penalty than defendants with only one victim.

C: METHODS FOR ANALYSIS

I collected quantitative data of 233 individuals tried in capital cases on the stated factors, analyzed said data, and generated a conclusion. To evaluate my data, I performed multivariate analyses. Upon scrutiny of the produced data, I was able to conclude the most significant discriminatory factor(s) when determining whether or not an individual is sentenced to death if any. Additionally, I analyzed the independent impact of each explanatory variable on my dependent variable, receives the death penalty or not.

IV: DATA SOURCES & MEASURES

My initial scan for data began with the Texas Judicial Branch’s data on jury charges and sentences in capital cases. This lists all defendants tried in a capital case in which the prosecution sought the death penalty from 2007 to 2018; however, I only examined the years 2012 to 2018. I evaluated each case and initially recorded the county where the offense occurred, the date of the crime, the date of the judgement, whether or not there was an imposition of the death penalty, the sentence decided by the judge, the race and sex of the victim, co-defendants, and the number of victim(s). However, for many of the latter variables, I needed to also do further research on each case to uncover information on these specific variables, as they are not explicitly expressed. I did this by merely finding news articles on the crimes from either the city they took place in or national news outlets for more high-profile cases (Jury Charges & Sentences in Capital Cases, 2018).
Additionally, much of my data came from the Texas Department of Criminal Justice. They have records on all current death row prisoners and standard inmates in Texas prisons. Their records include basic demographic information on each defendant as well as information regarding their offense. However, there is more information available for executed offenders and offenders on death row than for those who are serving standard sentences. For the purpose of my research, I obtained the following data from their records on death row offenders: defendant date of birth, race of defendant and victim(s), sex of defendant and victim(s), number of co-defendants, number of victims, age of defendant at the time of the offense, and prior convictions (Death Row Information: Offenders on Death Row, 2019). For incarcerated individuals not on death row, I obtained the following information: race of defendant, sex of defendant, age at the time of the offense, and prior convictions (Offender Information Search, 2019).

A: COUNTY

To analyze the county of offense, it was crucial to not simply list nominally the county of occurrence and prosecution. Instead, I measured whether the county was urban or rural by using a binary variable of zero being urban, or one being rural. Urban countries consist of the top 10 largest counties by population in Texas; these are counties with 700,000+ residents. This equates to 10 out of 254 counties (United States Census Bureau, 2019).\(^1\) Narrowing down the cities to examine allowed me to better evaluate the discrepancies in the application of capital punishment, according to geography.

B: PRIORS

When measuring prior convictions, I did not include misdemeanors. Further, I only included crimes in which the defendant was sentenced to prison, whether or not that resulted in

\(^1\) A list of all 10 counties and their respective population sizes is in Appendix A.
releasing the defendant on probation or parole. Therefore, I counted the number of felony convictions the defendant had before the offense for which they were executed and record this as an interval variable. For this variable, I censored the numeric options. Meaning, I only included 0, 1, 2, and 3+. I made this decision for several reasons. First, due to the size of my sample, I reasoned that there would not likely be many defendants with more than four felony convictions. Additionally, the difference between two priors and three is significant enough to make an additional category, but beyond this point, the likelihood of subsequent felonies making a substantial impact on a juror’s decision is unlikely.

C: SOCIOECONOMIC CLASS

Next, to measure the socioeconomic status of defendants, I needed to use an indicator variable, as it would be extremely challenging, perhaps even impossible, to uncover the income level of the defendant. Therefore, to estimate their socioeconomic class, I used whether or not the defendant was appointed an attorney during their initial trial. As some counties in Texas do not have public defenders’ offices, there is instead a list of qualified attorneys who can be appointed to defendants who cannot otherwise afford an attorney. I thus used the term appointed attorney rather than public defender henceforth. This served as an indication that the individual belonged to a low socioeconomic class. Defendants who \textit{did} have an appointed attorney represented individuals belonging to a low socioeconomic class. Because it is impossible to know whether or not individuals who retained private counsel were of middle or high socioeconomic statuses, I did not record such information. Rather, I recorded that they simply hired private counsel and thus, represented individuals \textit{not} belonging to a low socioeconomic class. Therefore, as shown in the results, I recorded defendants with appointed counsel and defendants with private counsel.

To do so, I obtained data from several sources. I first needed to obtain and record when the
offender committed the offense and was subsequently charged and sentenced. As mentioned previously, I found this information from the Texas Judicial Branch (Jury Charges & Sentences in Capital Cases, 2018). The jury charge and judgement express the defendant’s attorney(s) in the trial. Thus, I then had to research said attorneys to determine whether or not they work for the state or have their own practice. I recorded appointed counsel as zero and private counsel as one. This variable is henceforth referred to as appointed counsel.

D: AGGRAVATING CIRCUMSTANCES

Perhaps the most vital control variable was the number of aggravating circumstances in the offense. An aggravating circumstance is a factor that increases the severity or culpability of a criminal act, leading to a harsher penalty (Aggravating Circumstances, n.d.) This enabled me to more accurately analyze whether or not the decision to give someone the death penalty was based on discriminatory factors, as I accounted for the nature of their crime. Thus, I avoided committing a type I error of mistakenly concluding that there is a relationship between discriminatory factors and the determination of a capital sentence if, and when, the primary reason an individual received the death penalty was, in fact, due to the inherently heinous nature of their crime. Aggravating circumstances differ from state to state. In Texas, capital charges consist of a criminal homicide with at least one of nine aggravating circumstances according to the Tex. Penal Code § 19.03. The aggravating circumstances in Texas used as variables in this research are:

1) the person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman;

3) the person commits the murder for remuneration or the promise of remuneration or
employs another to commit the murder for remuneration or the promise of remuneration;

5) the person, while incarcerated in a penal institution, murders another:

(A) who is employed in the operation of the penal institution; or

(B) with the intent to establish, maintain, or participate in a combination or in the profits of a combination;

(Tex. Penal Code § 19.03).²

To obtain the aggravating circumstances surrounding the defendant’s offense, I again referenced the Texas Judicial Branch (Jury Charges & Sentences in Capital Cases, 2018). These records contain all information, court documents, and judge and jury opinions on the defendant’s case. This provided me with the aggravating circumstances used in the conviction and sentencing of the defendant. To measure the aggravating circumstances surrounding the defendant’s offense, I set up a separate variable for each aggravating circumstance. There was also a separate variable for cases in which more than one aggravator was present. Meaning, a code of 1 corresponded to the first aggravating circumstance in the Texas Penal Code, and so forth, while a code of 10 represented defendants with more than aggravating circumstance.

For coding purposes, dummy variables were initially put into place for aggravating circumstance numbers one, three, and five in the Texas Penal Code, or murder of a peace officer, murder for hire, murder of a prison guard, and the additional number 10 I created for more than one aggravating circumstance. I made this decision as these factors are likely to make jurors more inclined to sentence a defendant to death. Upon running the model, I removed murder for hire due to collinearity, and I removed murder of a prison guard as there was only one response.

E: NUMBER OF VICTIMS

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² The complete list of aggravating circumstances is in Appendix B.
Although the number of victims is implicit in number seven of the aggravating circumstance section of the Texas Penal Code, I decided to include number of victims as its own, independent control variable to better analyze how significantly this affects the outcome of a capital case. I measured the number of victims by simply using the corresponding interval number while coding. However, I also censored this variable, meaning I only used 1, 2, and 3+ victims. I reasoned that the killing of one person, versus two, versus three, has differing effects on jurors; after completing background research, I concluded that this third victim made a difference in the minds of a jury. While a higher number of victims likely increases the likelihood of a defendant receiving the death penalty, it is doubtful whether victim counts beyond three make a substantial difference in the jury’s decision.

**F: DEFENDANT & VICTIM AGE**

Defendant and victim(s) age are interval variables and I recorded them as such. Age has a scale with age ranges. It is also worth noting that I included the age of victim(s) because juries tend to perceive cases with a child or elderly victim as exceedingly horrific as these victims are defenseless; thus, juries often desire a harsher punishment. Age was recorded differently for defendants and victims. While defendant age was coded as (1=17 and under, 2=18-28, 3=29-39, 4=40-50, 5=51-61, 6=62-72, 7=73-83, 8=84+), victim age was be coded as (1=0-9, 2=10-19, 3=20-29, 4=30-39, 5=40-49, 6=50-59, 7=60-69, 8=70-79, 9=80+). I made this decision for several reasons. For defendants, only those aged 18 and older can be sentenced to death, per the *Roper v. Simmons* decision in 2005. For victims, those under the age of 10 constitute an aggravating circumstance, according to the Texas Penal Code. Thus, I included these as their own categories. I split the remainder of the age ranges into increments of approximately ten years for simplicity. I included defendant age because younger defendants tend to evoke more
sympathy amongst jurors, in turn resulting in a lesser sentence. In contrast, older victims are more likely to be held to a higher standard, so to speak, and often receive harsher punishments. Upon initially examining the data, I made subsequent coding decisions. For victim age, I created a dummy variable for especially old and young victims, or victims 70 and older and under 20, respectively. As mentioned previously, I made this decision due to the impact victim ages tend to have on juries. For defendant age, the individuals in my dataset only fell into the categories one through five on my original coding measurement; thus, I did not change this.

G: CO-DEFENDANTS

The number of co-defendants is also an interval variable. This factor, like prior convictions and number of victims, was censored. Meaning, I only recorded the numbers 0, 1, 2, and 3+. While priors and victim count are both variables in which the higher the number, the higher the likelihood the defendant will be sentenced to death, the opposite is true for the number of co-defendants. In the minds of jurors, the presence of a co-defendant lessens the culpability of any single defendant. The certainty with which one can decide that the defendant on trial is guilty beyond a reasonable doubt lessens amongst the presence of co-defendants. When a defendant is tried alone, there is often no one else to blame, for lack of better words. However, upon the introduction of co-defendants, the individual responsible for the crime becomes muddled. Furthermore, there is even a sub-difference between two and three co-defendants. Looking at sheer odds, it is much less likely that a defendant was solely guilty for a crime when they have two co-defendants versus one. Thus, a jury is perhaps less likely to deliver a death sentence in this scenario. However, beyond this, it is difficult to determine whether or not additional co-defendants continue to lessen the probability of receiving a death sentence. Thus, three or more co-defendants was my highest category.
H: REMAINING VARIABLES

The variables death notice given, defendant sex, and victim sex, were all be recorded as binary variables. For death notice, zero was yes, and one was no; for sex, zero was male, and one was female. Moreover, for victim sex, I classified the dummy variable as victim or victim(s) female, meaning the defendant killed at least one woman. This allowed me to analyze the significance, if any, of the victim’s sex but did not limit this analysis to defendants who only had female victims. Additionally, although my hypothesis was originally written to only include male defendants, I expanded this to female defendants as well to only focus on the significance of the victim’s sex, rather than that of the defendant. The remaining variables did not require significant changes upon coding.

Finally, for the defendant and victim(s) race as well as sentence imposed, an indicator variable was used. A number coincided to each race, 1=Black, 2=White, 3=Hispanic, 4=Asian, 5=Other, and sentence imposed, (1=death penalty, 2=LWOP, 3=life, 4=other). For defendant race, specifically, I created a dummy variable for defendants who identified as black or Hispanic and denoted the excluded category to equal non-black and non-Hispanic, meaning, this included white, Asian, and other.

I: EQUATION

To analyze my data, I analyzed the following statistical model using logistic regression:

Death Penalty or Lesser Sentence = Defendant Woman + Defendant Hispanic + Defendant Black + Defendant Appointed Counsel + Defendant Killed At Least One Woman + Rural County + Prior Convictions + Defendant Age + Victim Age Under 20 + Victim Age 70+ + Killed Peace Officer + More Than One Aggravator + Number of Co-Defendants + Number of Victims + e.

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3 This was later changed to 0 = no, 1 = yes.
V: EXPECTED RESULTS

After collecting data on the desired variables amongst the 233 capital cases in Texas from 2012 to 2018, my results employed the “refereeing effect” of the relative importance of contending what the most pertinent discriminatory factors are determining whether or not an individual receives the death penalty. I weighed the prior hypotheses against one another to see which, if any, held the correct explanation when compared to empirical data. I evaluated whether my data confirms or denies prior researchers’ claims. Subsequently, I returned to my research question, filled in the gaps, and provided an answer. In a broader sense, the results partially enabled me to conclude what propagates injustice and inequity in our criminal justice system today, specifically at the highest level of punishment. I concluded whether or not discrimination is prevalent in the application of the death penalty, while also proposing new questions and subsequent research.

VI: FINDINGS

The analysis of 233 individuals charged with capital murder in Texas from 2012-2018 yielded meaningful conclusions. The results of the logit analysis are both surprising and intriguing. First, I recorded the results of my dependent variable; 27 individuals received the death penalty, while 206 received a lesser sentence.\(^4\) The small number of defendants sentenced to death was not surprising as there has been an overall continuing decline in the use of the death penalty in the United States. I then moved on to my explanatory and control variables. Four variables in the model returned statistically significant results, two variables returned substantively significant, but not statistically significant, results, and the remaining eight had no effect.\(^5\)

\(^4\) The full table of descriptive statistics is in Appendix C.
\(^5\) The full table of results is in Appendix D.
The most significant variable impacting whether or not a defendant received the death penalty, or a lesser sentence was the county of offense and prosecution. Recall from the findings of prior researchers that while geography was found to be a significant factor in the past, most individuals believe the impact of this variable comes from urban counties. Thus, in hypothesis five, I predicted that defendants in urban counties are more likely to receive the death penalty than in rural counties. Much to my surprise, the opposite appeared to be true. Meaning, defendants who committed their offense and subsequently faced prosecution in rural counties were statistically more likely to receive the death penalty than those in urban counties. More specifically, this variable yielded statistically significant results in accordance with a 99% confidence interval, as the p-value was .00. I determined that there was an association between the two variables, subsequently rejected the null hypothesis, and ultimately concluded that the relationship between rural county and receiving the death penalty was statistically significant. Furthermore, as the coefficient, 1.88, is positive, this signifies that the presence of this variable means the defendant is more likely to receive a death sentence.

Upon further rumination on these results, I resolved that this result is perhaps due to infrequencies of capital murders in rural areas. If violent crimes are not commonplace in smaller cities, this both increases the likelihood for a prosecutor to more aggressively pursue the death penalty on these cases and makes jurors more inclined to return a death sentence. In contrast, in urban counties, such as Harris, which encompasses Houston, capital murders are much more frequent, perhaps lessening the shock to jurors and thus, decreasing the likelihood of a defendant receiving the death penalty. Additionally, this finding might reflect the overall decline in death sentences emerging from Harris County; recall that the death penalty experienced a hiatus from
2014-2018. Nevertheless, this finding is incredibly important, as it contradicts prior researchers’ claims as well as my hypothesis. Furthermore, this suggests that a reconsideration of how significant an urban versus a rural county is in the determination of a defendant’s likelihood to be sentenced to death. However, although the significance of the county of offense and subsequent prosecution was not in the direction that I anticipated, it still calls into question the legitimacy of this factor. Meaning, county is explanatory, and thus, it *does* constitute a discriminatory variable in the determination of the imposition of the death penalty.

Moreover, as this was the variable retaining statistically significant results at the highest level, this answers my research question. The goal of this paper is to evaluate which discriminatory factors most significantly affect whether or not an individual is sentenced to death. In other words, outside of what is necessary to sentence an individual, what factor(s) play the most substantial role in determining the imposition of the death penalty or a lesser sentence. According to these results, the county of crime committed, and subsequent prosecution serves as the answer to my question. Meaning, geography was the most critical factor in determining who received a death sentence, out of the variables tested.

**B: VICTIM AGE UNDER 20**

The next variable with statistically significant results was victim under the age of 20. This was significant at the .05 level. Though not overtly present in the literature review, I hypothesized that victim age perhaps influences the likelihood of whether a defendant is sentenced to death. More specifically, in hypothesis 11, I predicted that defendants with particularly old victims increase the chances of receiving a death sentence; likewise, in hypothesis 12, I predicted the same outcome for defendants with particularly young victims. Here, the latter is true. This variable was statistically significant in accordance with a 95%
confidence interval. Furthermore, the coefficient for this variable, 1.20 is also positive, meaning having a victim under the age of 20 makes a defendant more likely to receive the death penalty. Thus, there is a statistically significant relationship between having a victim under age 20 and receiving the death penalty. Though I did expect this conclusion, I also anticipated similar results regarding defendants with particularly old victims as well. However, as explained later, the same did not hold for that variable. Therefore, only victims of especially young ages, here being 20 years old or younger, increased the likelihood of the imposition of the death penalty.

While I reasoned that juries consider younger victims especially helpless, in turn acting as sort of an aggravating factor when determining one’s sentence—particularly when taking into consideration the eighth aggravating circumstance from the Texas Penal Code, which denotes victims under the age of 10 as a worsening factor—this same line of thought cannot be used for older victims as well. Perhaps cases with victims under the age of 10 heavily influenced the outcome of these results, or maybe older victims are simply not seen as especially defenseless to jurors. Nonetheless, I was able to make significant conclusions for the control variable victim age under 20, showing the importance of age on the sentencing outcome of capital cases.

C: DEFENDANT AGE

Two variables yielded statistically significant results at the .1 level. The first is the defendant age. Like the previous variable, this is also a control variable. I suspected that the age of the defendant at the time of the crime affects the likelihood they receive a death sentence. Moreover, in hypothesis eight, I predicted that older defendants at the time of the crime are more likely to receive the death penalty than younger defendants. This yielded statistically significant results, denoted by a p-value of .07. Additionally, with a positive coefficient of .46, older defendants are more likely to receive the death penalty than younger defendants.
Though I did anticipate these results, I did not expect this variable being among the most significant. Similar to my initial reasoning, the age of the defendant affects jurors, either making them more lenient in cases with younger defendants, or stricter in those with older defendants. The former has been influenced by a string of decisions from the United States Supreme Court pointing to the lack of maturity and responsibility amongst juveniles. Perhaps most notable, *Roper v. Simmons*, as mentioned previously, held that it is unconstitutional to impose the death penalty on defendants who committed crimes under the age of 18. After analyzing both scientific and sociological research, juveniles were found to be more reckless, have less control over their environment, lack similar freedoms, and are more vulnerable to negative influences such as peer pressure, when comparing them to rational adults. Furthermore, as individuals under the age of 18 are excluded from voting, serving on juries, or marrying without parental consent, this further serves as evidence to their lack of maturity (Steinberg & Scott, 2003). Therefore, although still subjected to possibly receiving a death sentence, younger defendants, despite being over the age of 18, are likely evaluated by some jurors with the characteristics of immaturity and recklessness in mind. In turn, this often yields lesser sentences for these defendants.

In contrast, the same does not translate to older defendants. The culpability of a defendant increases with age, and subsequently makes jurors less sympathetic or understanding upon review of their case. The older one gets, the better they can make rash decisions and take responsibility for their actions. Thus, when older defendants commit heinous crimes, they are more likely to receive a harsher punishment, as the proportionality is more appropriate. An additional factor worth consideration regarding age is that typically, older defendants also have more prior convictions, which generally has yielded harsher sentences; though, the same was not
found in this study, discussed later. Despite this, further analysis should ensue to consider the relationship between prior convictions, age, and receiving a death sentence.

D: AGGRAVATING CIRCUMSTANCE—MURDER OF A PEACE OFFICER

The second variable found to be statistically significant at the .1 level was the aggravating circumstance, murder of a peace officer, number one in the Texas Penal Code. I did not make a hypothesis regarding which aggravating circumstance most strongly increased the likelihood of receiving the death penalty; however, I computed these results after observing the aggravating circumstances that were most present in the dataset as well as those considered to have the most unfavorable effects for defendants. Nevertheless, this variable yielded statistically significant results at the 90% confidence level. Moreover, a positive coefficient of 2.16 signifies that the presence of the aggravating circumstance, murder of a peace officer, increases the likelihood of being put to death.

Despite not initially hypothesizing the effects of this circumstance, the findings do not surprise me. Typically, murders involving peace officers, meaning police officers or firefighters, receive considerable media coverage. Additionally, these cases generally evoke more emotion amongst the public, as the victims’ jobs are to protect society. Thus, juries are often more inclined to deliver a harsher sentence, as crimes of this nature perhaps fall into the so-called, “worst of the worst.” In sum, cases with the aggravating circumstance, murder of a peace officer, present, make defendants more likely to receive the death penalty.

E: MORE THAN ONE AGGRAVATING CIRCUMSTANCE

Though I did not hypothesize about specific aggravating circumstances, I did predict that cases with more than one aggravating circumstance present increased the likelihood of receiving a death sentence, as stated in hypothesis 13. With a p-value of .13, this variable was not found to
be statistically significant, but rather, substantively significant. Meaning, although I cannot make conclusions at any standard level of confidence, the results are still meaningful. Moreover, the positive coefficient was 1.35, suggesting that the presence of more than one aggravating circumstance increases the likelihood of imposing the death penalty. As stated in my initial reasoning for including this variable, cases with more than one aggravating circumstance are likely to be especially heinous or premeditated. Furthermore, this likely plays a significant role during jurors’ sentencing deliberation. This finding suggests that while the specific aggravating circumstance present in a capital case may significantly impact the likelihood of the defendant receiving a death sentence, as explained in the preceding section, the mere presence of multiple aggravators, regardless of which ones, yields the same outcome.

F: APPOINTED COUNSEL

The final variable with significant findings was appointed counsel. Again, this variable was not statistically significant, as there was a p-value of .19, but it revealed substantively significant results. In hypothesis four, I predicted that defendants with appointed counsel are more likely to receive the death penalty than defendants retaining private counsel. This served as an indicator variable for the commonly discussed factor, socioeconomic status. Thus, as defendants with appointed counsel were used to represent individuals belonging to low socioeconomic classes, these findings provide credence to both my hypothesis as well as the theories of prior researchers. Moreover, as the coefficient, 1.15, is positive, this serves as further evidence that having appointed counsel increases the likelihood of a death sentence. Recall that individuals belonging to lower socioeconomic classes typically are unable to afford a private attorney; they are subsequently appointed counsel who notoriously work in understaffed offices, are overworked, and have overwhelming caseloads. Thus, they are unable to devote adequate
time to each assigned case. This works to the detriment of the client, especially in capital cases. Therefore, my findings fall in line with the notion that the criminal justice system is biased toward members with low socioeconomic backgrounds. Thus, although lacking statistically significant results, there is still strong reason to believe that socioeconomic status is, in fact, both an explanatory variable and subsequently, a discriminatory factor impacting who receives the death penalty.

G: STATISTICALLY & SUBSTANTIALLY INSIGNIFICANT VARIABLES

The remainder of the variables in the model did not produce statistically or substantively significant results. I was especially surprised at the lack of significant findings for the majority of the variables; however, these results are nonetheless important to discuss and further question. Three of the eight total variables showed no overall effect have positive coefficients. These variables were black defendant, defendant killed at least one-woman, and number of co-defendants. Perhaps the most unexpected finding was the lack of significance regarding black defendants and receiving the death penalty. In hypothesis three, I predicted that minority defendants are more likely to be sentenced to death than white defendants. I further split this into black and Hispanic for the analysis. Race is the most widely discussed factor regarding discrimination and the death penalty. More specifically, many researchers affirm that the use of the death penalty is biased toward blacks, supported by the disproportionate number of African Americans on death row compared to their overall population. However, my findings fail to corroborate these notions. With a p-value of .54, I was unable to reject the null hypothesis that race does not affect the likelihood of receiving the death penalty. The lack of significance suggests a reconsideration of the weight race plays in the application of the death penalty. Though capital punishment is rooted in racial prejudice throughout history, perhaps race is no
longer an overwhelming discriminatory factor. In sum, the variable, minority defendants, or more specifically, black defendants, had no significant effect on whether there was an imposition of the death penalty; thus, it is not an example of discrimination in capital punishment.

In addition to black defendants, the model also tested Hispanic defendants. Recall from earlier that hypothesis three predicted the relationship between race and the death penalty. Like defendants classified as black, those identifying as Hispanic also showed no statistically or substantively significant results. The variables Hispanic defendant and receiving the death penalty were not significantly associated with one another. Like the findings from black defendants, I was also quite surprised by these results. It is worth noting that the number of Hispanic defendants in this dataset is likely not representative of all states with the death penalty. Texas has the second-highest Hispanic population in the country behind New Mexico. Additionally, four out of the ten cities with the most Hispanics are in Texas (Koebler, 2019). Thus, perhaps being Hispanic affects sentencing outcomes differently in states with lower Hispanic populations; Hispanics may face harsher treatment elsewhere, which could explain the overall theory that minorities are more likely to receive the death penalty than whites.

Regardless, these findings suggest that being Hispanic is not an explanatory or discriminatory factor of receiving a death sentence in Texas. Thus, as I proposed with black defendants, perhaps a re-evaluation of how we discuss race and the application of the death penalty needs to occur.

The next variable yielding a positive coefficient was the defendant killed at least one woman, one of my explanatory variables. Recall from hypothesis two that I anticipated male defendants with female victim(s) are more likely to receive the death penalty than defendants with male victim(s). This was simplified to include defendants with at least one female victim. Though the findings of prior researchers support the claims that defendants who kill females over
males tend to receive harsher punishments, my results lack support for this. The p-value was .25, failing to indicate statistical significance. If the sex of the victim does not heavily influence the delivery of the death penalty or a lesser sentence, this does not serve as an example of the discrimination present in the application of the death penalty.

The final insignificant variable yielding a positive coefficient was the number of co-defendants. Recall from hypothesis six that I predicted defendants without co-defendants are more likely to receive the death penalty than defendants with at least one co-defendant. I coded this in a scale from zero to three or more co-defendants. The two variables, number of co-defendants and receiving a death sentence, are not associated. Although it may make logical sense that co-defendants decrease the culpability of any one individual defendant, if the crimes in this dataset were so violent or gruesome to warrant a punishment of death, perhaps others involved in the crime do not even matter. In other words, maybe the presence of co-defendants only serves as a mitigating circumstance in cases up to a certain extent. The severity of capital murder may influence jurors to evaluate defendants more harshly overall, regardless of whether others were involved. Nevertheless, one or more co-defendants did not significantly impact the likelihood of one receiving the death penalty or not.

There were also variables among those yielding insignificant results that had negative coefficients, such as prior convictions. In hypothesis seven, I predicted that defendants with prior convictions are more likely to receive the death penalty than defendants without prior convictions; I measured this on a scale of zero to three or more. Although past literature contributes to the belief that the presence of prior convictions increases the likelihood of a defendant receiving a death sentence, my findings fail to support this theory. One or more prior convictions does not affect the likelihood of the imposition of the death penalty. Yet, I suspect
that specific prior felonies serve as more of an aggravator than others. Meaning, perhaps defendants previously convicted of violent crimes, particularly murder, are given a harsher sentence upon their subsequent conviction. However, because I did not record the specific priors of each defendant, it is impossible to know if this subjected these individuals to the death penalty at a higher rate than their counterparts. Thus, I must maintain the conclusion that prior convictions are not associated with receiving a death sentence.

Next, was victim aged 70 or older. Recall from earlier that the variable, victim under the age of 20 was significant at the .05 level. As mentioned previously, I suspected that defendants with particularly old or young victims increase the likelihood of receiving the death penalty. Thus, I predicted the former in hypothesis 11 and the latter in hypothesis 12. I was quite surprised that my results were only consistent with hypothesis 12. With a p-value of .99, older victims clearly did not affect the likelihood of a defendant receiving the death penalty. However, perhaps this can be explained by the fact that jurors do not see the elderly as defenseless as they see children. Additionally, as the Texas Penal Code includes victims under the age of 10 as their own aggravating circumstance, and there is nothing similar to this for older victims, the significance of victim age outside of children and young adults is apparently irrelevant. Also, worth including is the notably large coefficient, -16.01. There were only 10 defendants with victims aged 70 or older in the dataset, and none of them received the death penalty. Thus, upon running the model, the variable, victim aged 70+, always produces someone that does not receive the death penalty. However, the logit has difficulty estimating the strength this effect has, resulting in an abnormally large coefficient and standard error.

The variable, number of victims also failed to produce significant results. In hypothesis 14, I predicted that defendants with more than one victim are more likely to receive the death
penalty than defendants with only one victim. I included this variable per aggravating circumstance number seven in the Texas Penal Code. Despite this seemingly being of some importance when determining a sentence, the results fail to support the theory. This finding particularly surprised me. When defendants kill more than one victim, it increases the likelihood of premeditation, and as a result, juries are often harsher on these individuals. However, perhaps the nature of the crime, or other variables included in this research, is more significant than the number of victims killed. As this finding remains troubling, I believe future research into the effect victim count plays on sentence outcome could be conducted to offer a more conclusive explanation.

Finally, the variable, male defendant, failed to produce any significant results. One of the primary arguments circling discrimination and the death penalty is sex. Thus, in hypothesis one, I predicted that men are more likely to receive the death penalty than women. While males statistically commit more crimes than females and thus are more likely to receive the death penalty, when comparing violent offenders alike, female defendants tend to receive more lenient sentences. Perhaps due to the societal perception of women as weak or incapable of committing such heinous crimes, juries often view female defendants as less threatening than male defendants, even when charged with similar crimes. Though my findings did not produce statistically or substantively significant results for this variable, the size of my dataset was a substantial factor in this outcome. As there were only nine women represented in the whole sample, and none received the death penalty, it is incredibly challenging to make far-reaching conclusions based on the findings from my research alone. Furthermore, as with the variable, victim aged 70+, sex also produced a huge coefficient, at -17.91. Meaning, female defendants always result in a lesser sentence. In turn, the logit cannot estimate how strong the effect of this
variable is. Thus, I contend that much larger samples serve as a better indicator of how sex plays into the application of the death penalty.

**H: PREDICTED PROBABILITIES**

For five variables of interest, I calculated the predicted probabilities. For each estimated predicted probability of the death penalty, the profile respondent was: a male, black defendant who was appointed counsel, had at least one female victim, had prior convictions, had the mean defendant age, had a victim under the age of 20 but not over the age of 70, killed a peace officer, had more than one aggravating circumstance, had the average number of co-defendants, and had the average number of victims. First, for county, being tried in a rural county instead of an urban county increased the defendant’s likelihood of receiving the death penalty from 91.15% (urban county) to 98.53% (rural county), an over seven percentage-point increase. Next, for defendant age, being in the highest age category, 51-61, instead of the lowest, 17 and under, increased the defendant’s likelihood of receiving the death penalty from 83.29% (17 and under) to 96.89% (51-61), a 13 percentage-point increase. Third, defendants with a victim(s) under the age of 20 increased their likelihood of receiving the death penalty from 75.61% (victim 20+) to 91.15% (victim under 20), a 15.5 percentage-point increase. For the aggravating circumstance, killed peace officer, this increased the likelihood of a defendant receiving the death penalty from 54.20% (did not kill a peace officer) to 91.15% (killed peace officer), a 37 percentage-point increase. Finally, cases with more than one aggravating circumstance increased the defendant’s likelihood of receiving the death penalty from 72.76% (only one aggravator) to 91.15% (more than one aggravator), an 18.5 percentage-point increase. It is also important to note that although

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6 A full table of predicted probabilities is in Appendix E.
the county of offense was the most statistically significant predictor, the strongest variable was actually the presence of the aggravating circumstance, killed a peace officer.

**VII: CONCLUSION**

**A: DISCUSSION**

In summation, the findings of my research do provide some meaningful conclusions, but also posit important questions. For decades, researchers have examined the application of the death penalty and pointed to its seemingly discriminatory aspects. Often citing race, sex, socioeconomic status, and geographic location, among others, as characteristics that foster indifferent treatment, there is a general concurrence that certain individuals more frequently receive the death penalty than others. However, there is a lack of consensus on which of these variables, if any, is the primary culprit of the inequity visible in the criminal justice system. Thus, this paper attempts to resolve this uncertainty. By examining the 233 capital murder cases tried in Texas from 2012 to 2018 that yielded a guilty verdict, I was able to weigh different variables against one another to determine which was most significant in determining whether or not an individual receives a death sentence. By analyzing the factors prior researchers believed point to the disparity in death penalty sentences, I was able to offer support and find incongruity with these claims.

The explanatory variables tested were defendant sex, victim(s) sex, defendant race, victim(s) race, counsel, and county of offense. Additionally, I controlled for prior convictions, the aggravating circumstances in the offense, co-defendants, the number of victims in the offense, the age of the defendant at the time of the offense, and victim(s) age. Finally, the dependent variable was whether the defendant received the death penalty or a lesser sentence. Of
the variables tested, four returned statistically significant results, two returned substantively significant results, and eight had no impact.

The most significant findings came from the variable county of offense and subsequent prosecution; this was statistically significant at the 99% confidence level. However, while I hypothesized, along with prior scholars, that more death sentences would emerge from urban counties than rural counties, the opposite was found to be true. Therefore, defendants prosecuted in rural counties were more likely to receive the death penalty than those in urban counties. Furthermore, as this variable yielded the most significant results out of those tested, it serves as the answer to my overall research question. In other words, outside of what is reasonable and just when considering a defendant’s sentence, county of prosecution proved to be the most significant in determining whether or not one received the death penalty, according to my findings. This supports prior researchers’ claims that geographic location is a discriminatory factor apparent in the application of the death penalty, but not in the way that many have suspected. I suspect that this is because in large urban counties, like Harris County, for example, capital murders are much more common than in a small, lightly populated town. Thus, police officers, attorneys, and jurors are likely are less impacted by these crimes and therefore, are less likely to advocate for punishment at the highest level. Conversely, in places where a heinous crime is perhaps the only one that the civilians of that town have seen, it is reasonable to believe that they would be more inclined to deliver a sentence of death. Nevertheless, these findings suggest that the county unjustly impacts death penalty cases, they take place in; however, instead of examining urban cities, the focus should be directed to rural areas.

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7 Urban counties included the top 10 most populated counties in Texas, which resulted in counties with 700,000+ residents.
The next three variables with statistically significant results were all control variables. Victim age under 20 was significant at the 95% confidence level, while defendant age and the aggravating circumstance, murder of a peace officer, were significant at the 90% confidence level. These results were not particularly surprising and had relatively simple explanations. As mentioned previously, defendants with younger victims often receive harsher sentences because they have preyed upon defenseless individuals. However, I did suspect that this same line of reasoning would hold for victims aged 70 and older, which it did not. For defendant age, the results supported my original hypothesis that older defendants are more likely to receive the death penalty than younger defendants, as it was significant at the 90% confidence level. This is mainly because younger individuals are less mature, more impulsive, and cannot be held to the same degree of accountability as adults. Also significant at the 90% confidence level was the aggravating circumstance, murder of a peace officer. Again, I expected this outcome as police and other public safety officers are put in place to protect society; so, the conscious decision to harm these individuals makes civilians exceedingly dismayed and more inclined to advocate for a death sentence. Though the effect of this variable is substantial, it is perhaps foreseeable.

The final two variables yielding significant results—more than one aggravator and appointed counsel—were only substantively significant. The former was a control variable I utilized to account for especially heinous and violent cases that inherently carry a higher likelihood of resulting in a more severe outcome. Appointed counsel, however, was a critical indicator variable used to represent the explanatory variable, socioeconomic status, as I was unable to obtain the incomes or occupations of the defendants. Thus, individuals who were appointed counsel represented defendants belonging to a lower socioeconomic class, and those who were able to hire private counsel did not represent this category, as it would be implausible
to assume, they belonged to a higher socioeconomic class. Along with the reasonings of prior researchers, I suspected that defendants with appointed counsel would be more likely to receive the death penalty than those who retained their own counsel. My findings support these claims. Often, appointed counsel, do not have the same time or resources as private firms. Thus, these attorneys do not have adequate time to examine and prepare cases as they should, and defendants pay the price by receiving a harsher punishment. Although not statistically significant, the substantively significant results still point to an element of discrimination apparent within the death penalty process. Defendants with lower socioeconomic statuses are often appointed counsel who are unable to fully devote themselves to their case. As a result, these defendants are more likely to receive the death penalty than defendants who can hire private counsel who have unlimited time and resources to make the best defense possible.

The remaining eight variables did not yield significant results. Perhaps the most surprising of all, was the lack of significance for the variable, race. Race often dominates the topic of discrimination within the criminal justice system, not solely concerning capital punishment, but overall. Thus, I was shocked to see that there was a lack of support for my hypotheses, black defendants will be more likely to receive the death penalty than white defendants, and Hispanic defendants will be more likely to receive the death penalty than white defendants. While I believe this could have partially been affected by the higher Hispanic population in Texas in comparison to many other states, I think this finding presents a more significant question. If race is not a discriminatory variable connoted with the application of the death penalty, then are scholars perhaps paying too much attention to this variable? Moreover,

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8 Appointed counsel typically refers to public defenders; however, several cities in Texas do not have public defender’s offices and, thus, appointed counsel emerge from a list of qualified attorneys who work on appointed cases at a reduced rate compared to their privately retained clients.
are racial tensions in the criminal justice system beginning to subside? Though I cannot offer an answer to these questions, I contend that the relationship between race and the death penalty may not be what so many have thought it to be.

The other explanatory variables failing to provide significant results were defendant killed at least one woman, and defendant was male. There is a stigma around cases involving female victims that they often result in the defendant receiving a harsher punishment. Perhaps rooted in chivalry, juries arguably are more punitive toward defendants with female victims to “protect” females in society. Similarly, researchers point to the scarce number of women on death row. Thought to be due to the perception of women as fragile and incapable of committing such heinous crimes, recipients of the death penalty are overwhelmingly male. However, because the dataset included so few women, I was unable to draw reliable conclusions, despite the absence of the death penalty for all of these defendants. More specifically, in the sample, being female was a perfect predictor of not receiving a death sentence. As a result, the model cannot estimate what effect there is, though it is likely strong. Thus, due to my small sample size, as there were only nine female defendants and one defendant who killed a prison guard, and none of the above-mentioned defendants received the death penalty, the scope of this analysis was limited.

Finally, the control variables, number of co-defendants, number of victims, prior convictions, and victims aged 70+ also failed to show significant results. Though I did make hypotheses about these variables, because they were not the main variables of interest, the lack of significant findings is not particularly alarming or disputing of prior researchers’ claims. For the number of co-defendants and number of victims, I suspect that perhaps the nature of the crime carries more weight amongst jurors than the aggravator, number of victims, or the
mitigator, number of co-defendants. Additionally, I was unable to thoroughly analyze the impact of prior convictions as I did not record the actual previous crimes themselves that the defendants committed if any. Thus, I do not know if the presence of certain crimes perhaps exacerbated the likelihood of an individual receiving the death penalty. Finally, as mentioned previously, the lack of significant results for victims aged 70 and older posits a more in-depth look into the impact age has on jurors’ decisions, particularly when compounded with the significant findings from the variable, victims under the age of 20.

B: LIMITATIONS

An overwhelming limitation facing my study was my sample size. Due to time constraints, I was unable to complete a project with a larger sample size, leaving me with only 233 cases to analyze. Thus, I was limited in the number of cases in which some of the variables in my analysis were represented, including defendant sex. This hindered my ability to estimate the effect of sex, as there were only nine female defendants, and none of them received a death sentence. The sample size was also an impeding limitation for other variables such as the aggravating circumstance, killed prison guard, as only one defendant fell into this category. Additionally, as I only examined the application of the death penalty over a seven-year period, the scope to which my findings can be generalized is limited. Finally, this research was only focused on the state of Texas, while the results of prior researchers are often generalized to the nation as a whole.

C: FUTURE RESEARCH

Perhaps my biggest recommendation for future research is to examine a larger dataset to allow for more far-reaching analysis. Additionally, as mentioned previously, I believe

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9 When assuming that there were more than one victim and at least one or more co-defendants.
researchers should re-evaluate certain factors thought to be discriminatory in the realm of capital punishment. Specifically, my findings fail to support the accepted significance of both race and sex. Thus, this study suggests that the relationship between these variables and the death penalty are no longer the same as they once were. Academics should conduct future research to elucidate the answers to these questions further.

D: IMPLICATIONS

My results both support and fail to support some of the theories and findings of prior researchers. Though variables such as race, sex, or socioeconomic status have previously been argued, and in many cases, proven to be discriminatory characteristics upon deciding whether or not to deliver a death sentence, my findings do not corroborate these claims with statistically significant results. Thus, if it is true that what researchers have been directing their focus toward is not, in fact, the ultimate answer to unveiling the cause of disparity in who receives the death penalty, perhaps we should be looking in different places.

However, in line with the claims of prior scholars, geography was, found to be a discriminatory factor apparent in the application of the death penalty. Despite the assumption that this disparity emerges from urban counties, rural counties house justice systems that hand down more death sentences, according to my findings. Thus, the death penalty is discriminatory, just not in the way that many have suspected.

Still, the death penalty has long been, and perhaps always will be, an incredibly controversial topic. Arguments both for and against it can be rooted in empirical data, Supreme Court jurisprudence, and the United States Constitution. If what prior hypotheses and my findings imply—that the death penalty is applied in a discriminatory manner—is true, then it serves as evidence that capital punishment is a violation of our Constitutional rights. Thus, the
results of this research potentially suggest huge implications to analyze the justness and acceptability of the practice as a whole. The Washington State Supreme Court said in its decision to overturn the death penalty in *State v. Gregory* (2018),

“...The death penalty is invalid because it is imposed in an arbitrary and racially biased manner. ... [T]he use of the death penalty is unequally applied—sometimes by where the crime took place, or the county of residence,\(^\text{10}\) or the available budgetary resources at any given point in time, or the race of the defendant. The death penalty, as administered, ... fails to serve any legitimate penological goal; thus, it violates... our state constitution” (*State v. Gregory*, 2018).

\(^{10}\) Bolded text added for emphasis.
### VIII: APPENDICES

#### A: URBAN COUNTY LIST

<table>
<thead>
<tr>
<th>Rank</th>
<th>County</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Harris County</td>
<td>4,698,619</td>
</tr>
<tr>
<td>2</td>
<td>Dallas County</td>
<td>2,637,772</td>
</tr>
<tr>
<td>3</td>
<td>Tarrant County</td>
<td>2,084,931</td>
</tr>
<tr>
<td>4</td>
<td>Bexar County</td>
<td>1,986,049</td>
</tr>
<tr>
<td>5</td>
<td>Travis County</td>
<td>1,248,743</td>
</tr>
<tr>
<td>6</td>
<td>Collin County</td>
<td>1,005,146</td>
</tr>
<tr>
<td>7</td>
<td>Hidalgo County</td>
<td>865,939</td>
</tr>
<tr>
<td>8</td>
<td>Denton County</td>
<td>859,064</td>
</tr>
<tr>
<td>9</td>
<td>El Paso County</td>
<td>840,758</td>
</tr>
<tr>
<td>10</td>
<td>Fort Bend County</td>
<td>787,858</td>
</tr>
</tbody>
</table>
B: TEXAS AGGRAVATING CIRCUMSTANCES

1) the person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman;

2) the person intentionally commits the murder in the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, arson, obstruction or retaliation, or terrorist threat under Section 22.07(a)(1), (3), (4), (5), or (6);

3) the person commits the murder for remuneration or the promise of remuneration or employs another to commit the murder for remuneration or the promise of remuneration;

4) the person commits the murder while escaping or attempting to escape from a penal institution;

5) the person, while incarcerated in a penal institution, murders another:
   (A) who is employed in the operation of the penal institution; or
   (B) with the intent to establish, maintain, or participate in a combination or in the profits of a combination;

6) the person:
   (A) while incarcerated for an offense under this section or Section 19.02, murders another; or
   (B) while serving a sentence of life imprisonment or a term of 99 years for an offense under Section 20.04, 22.021, or 29.03, murders another;

7) the person murders more than one person:
(A) during the same criminal transaction; or

(B) during different criminal transactions but the murders are committed pursuant to the same scheme or course of conduct;

(8) the person murders an individual under 10 years of age; or

(9) the person murders another person in retaliation for or on account of the service or status of the other person as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court (Tex. Penal Code § 19.03).
C: DESCRIPTIVE STATISTICS

<table>
<thead>
<tr>
<th>Variable</th>
<th>Counts (233 Total Cases)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death Penalty or Lesser Sentence</td>
<td>207 (Lesser), 26 (DP)</td>
</tr>
<tr>
<td>Sex</td>
<td>224 (Men), 9 (Women)</td>
</tr>
<tr>
<td>Appointed Counsel</td>
<td>194 (Appointed), 39 (Not Appointed)</td>
</tr>
<tr>
<td>Victim Female (At Least One)</td>
<td>83 (At Least One), 150 (No Female Victims)</td>
</tr>
<tr>
<td>County</td>
<td>51 (Rural), 182 (Urban)</td>
</tr>
<tr>
<td>Prior Convictions</td>
<td>135 (0), 27 (1), 18 (2), 42 (3+)</td>
</tr>
<tr>
<td>Defendant Age</td>
<td>8 (17 and Under), 134 (18-28), 50 (29-39), 29 (40-50), 12 (51-61)</td>
</tr>
<tr>
<td>Victim Age Under 20</td>
<td>50 (Victim Under 20), 183 (Victim 20+)</td>
</tr>
<tr>
<td>Victim Age 70+</td>
<td>10 (Victim 70+), 233 (Victim Under 70)</td>
</tr>
<tr>
<td>Aggravating Circumstance: Killed Peace Officer</td>
<td>4 (Killed Peace Officer), 229 (Did Not Kill Peace Officer)</td>
</tr>
<tr>
<td>Aggravating Circumstance: Murder for Hire</td>
<td>6 (Murder for Hire), 227 (Did Not Commit Murder for Hire)</td>
</tr>
<tr>
<td>More Than 1 Aggressor</td>
<td>15 (More Than 1 Aggressor), 218 (Only 1 Aggressor)</td>
</tr>
<tr>
<td>Number of Co-Defendants</td>
<td>12 (0), 66 (1), 25 (2), 19 (3+)</td>
</tr>
<tr>
<td>Number of Victims</td>
<td>183 (1), 40 (2), 10 (3+)</td>
</tr>
</tbody>
</table>
**D: TABLE RESULTS:**

Effects of Various Factors on the Likelihood of Receiving the Death Penalty

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>Standard Error</th>
<th>P-Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defendant Male</td>
<td>-17.91</td>
<td>1878.04</td>
<td>.99</td>
</tr>
<tr>
<td>Defendant Black</td>
<td>.41</td>
<td>.69</td>
<td>.54</td>
</tr>
<tr>
<td>Defendant Hispanic</td>
<td>-.20</td>
<td>.78</td>
<td>.80</td>
</tr>
<tr>
<td>Appointed Counsel</td>
<td>1.15</td>
<td>.88</td>
<td>.19</td>
</tr>
<tr>
<td>Victim Female (At Least One)</td>
<td>.68</td>
<td>.59</td>
<td>.25</td>
</tr>
<tr>
<td>County (Rural)</td>
<td>1.88</td>
<td>.52</td>
<td>.00 ***</td>
</tr>
<tr>
<td>Prior Convictions</td>
<td>-.08</td>
<td>.21</td>
<td>.69</td>
</tr>
<tr>
<td>Defendant Age</td>
<td>.46</td>
<td>.28</td>
<td>.07 *</td>
</tr>
<tr>
<td>Victim Age Under 20</td>
<td>1.20</td>
<td>.59</td>
<td>.04 **</td>
</tr>
<tr>
<td>Victim Age 70+</td>
<td>-16.01</td>
<td>1884.89</td>
<td>.99</td>
</tr>
<tr>
<td>Aggravating Circumstance: Killed Peace Officer</td>
<td>2.16</td>
<td>1.27</td>
<td>.09 *</td>
</tr>
<tr>
<td>More Than 1 Aggravator</td>
<td>1.35</td>
<td>.88</td>
<td>.13</td>
</tr>
<tr>
<td>Number of Co-Defendants</td>
<td>.20</td>
<td>.33</td>
<td>.53</td>
</tr>
<tr>
<td>Number of Victims</td>
<td>-.10</td>
<td>.49</td>
<td>.83</td>
</tr>
</tbody>
</table>

Observations: 233
AIC: 153.28
Significant Codes: *=.1, **=.05, ***=.001
## E: Predicted Probabilities

<table>
<thead>
<tr>
<th>Variable</th>
<th>Initial Probability</th>
<th>Predicted Probability</th>
<th>Percentage-Point Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>County (Rural)</td>
<td>91.15%</td>
<td>98.53%</td>
<td>&gt;7%</td>
</tr>
<tr>
<td>Defendant Age</td>
<td>83.29%</td>
<td>96.89%</td>
<td>13%</td>
</tr>
<tr>
<td>Victim Age Under 20</td>
<td>75.61%</td>
<td>91.15%</td>
<td>15.5%</td>
</tr>
<tr>
<td>Aggravating Circumstance:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Killed Peace Officer</td>
<td>54.20%</td>
<td>91.15%</td>
<td>37%</td>
</tr>
<tr>
<td>More Than 1 Aggurator</td>
<td>72.76%</td>
<td>91.15%</td>
<td>18.5%</td>
</tr>
</tbody>
</table>
IX: REFERENCES


https://doi.org/10.15779/Z38SD0H


