

# EXHIBIT H

# **Homicides, Capital Prosecutions, and Death Sentences in Kansas, 1994 to 2023**

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## **Introduction**

In this report, I review statistical comparisons of homicides, capital prosecutions, and death sentences over the entire period of the modern Kansas death penalty, 1994 to present. My qualifications to do this work are laid out in Appendix B. My CV has been submitted as a separate exhibit.

I use data on homicides from the Centers for Disease Control (CDC) and the Kansas Bureau of Investigation (KBI) to assess their characteristics in terms of numbers over time, distribution across the counties of the state, and demographic characteristics of the offenders and victims. I then compare these with the 129 cases where capital charges have been filed in Kansas, the 76 cases where death notices were filed, and the 15 cases where a death sentence was imposed. This allows a comparison of rates of capital prosecution at three stages from filing charges to imposing a sentence of death. My study finds important disparities both with regards to the race and gender of the victims of the crime, and in the combined racial characteristics of the offenders and victims of homicide. It further demonstrates a very low rate of usage of the death penalty, no statistical correlation at all between homicides and death sentences over time, and very little correlation across counties. I conclude with a discussion of the implications of these facts.

## **Kansas Death Sentences in the Modern Era**

Kansas has imposed 15 death sentences in the period since the current death penalty law took effect in 1994. Table 1 lays out summary demographic factors associated with these cases.

Table 1. Death Sentences in Kansas since 1994

Name	County	Status	Sex	Race	Birth	Crime	Sentence	Exit	Victims
Gary Wayne Kleypas	Crawford	Currently On Death Row	M	W	10/8/1955	3/30/1996	8/6/1997		1WF
Michael Marsh	Sedgwick	Resentenced to Life with possibility of parole (Hard 40)	M	W	8/12/1975	6/17/1996	4/16/1998	4/3/2009	2WF
Gavin Scott	Sedgwick	Resentenced to Life with possibility of parole (Hard 40)	M	W	3/4/1978	9/13/1996	8/21/1998	3/24/2010	1WM; 1WF
Stanley Elms	Sedgwick	Resentenced to Life with possibility of parole (Hard 40)	M	W	8/19/1976	5/4/1998	2/10/2000	11/19/2004	1WF
Johnathan Daniel Carr	Sedgwick	Currently On Death Row	M	B	3/30/1980	12/11/2000	11/15/2002		3WM; 2WF
Reginald Dexter Carr	Sedgwick	Currently On Death Row	M	B	11/14/1977	12/11/2000	11/15/2002		3WM; 2WF
John Edward Robinson Sr.	Johnson	Currently On Death Row	M	W	12/27/1943	6/3/2000	1/21/2003		3WF
Douglas Stephen Belt	Sedgwick	Natural Death	M	W	11/19/1961	6/24/2002	11/17/2004	4/13/2016	1HF
Phillip Cheatham	Shawnee	Resentenced to Life with possibility of parole (Hard 25)	M	B	1/6/1973	12/13/2003	10/28/2005	3/20/2010	2BF
Sidney John Gleason	Barton	Currently On Death Row	M	B	4/22/1979	2/21/2004	8/28/2006		1WM; 1 HF
Scott Denver Cheever	Greenwood	Currently On Death Row	M	W	8/19/1981	1/19/2005	1/23/2008		1WM
Justin Eugene Thurber	Cowley	Currently On Death Row	M	W	3/14/1983	1/5/2007	3/20/2009		1WF
James Kraig Kahler	Osage	Currently On Death Row	M	W	1/15/1963	11/28/2009	10/11/2011		4WF
Glenn Cross Frazier	Johnson	Natural Death	M	W	11/23/1940	4/13/2014	11/10/2015	5/15/2021	2WM; 1WF
Kyle Trevor Flack	Franklin	Currently On Death Row	M	W	6/18/1985	4/20/2013	5/18/2016		2 WM; 2WF

The summary in Table 1 shows that all of those sentenced to death were male; 11 were white and four were black; two have passed away while under sentence of death, four had their death sentences reversed on appeal, and nine remain on death row today. The 15 offenders were sentenced for crimes involving 32 victims.<sup>1 2</sup> These victims had the following demographic characteristics: 22 female and 10 male; 28 white, two black and two Hispanic; 18 white females, 10 white males, two black females, two Hispanic females, and no black or Hispanic males. Every offender but one (Scott Cheever) had at least one female victim, and 11 of the 15 offenders had at least one white female victim. Looking at the combined races and genders of the offenders and the victims, and remembering that all the offenders are male, we see that 10 of 11 cases with a white offender had at least one white victim, and 3 of 4 cases with a black offender had at least one white victim (of which two included a white female victim). One case with a black offender had two black female victims; and one case with a white offender had a Hispanic victim. In other words, wither the offender was white or black, in each group the vast majority of victims were white. No cases of a white offender killing a black victim led to a sentence of death and no cases with a black male victim led to a sentence of death. A key question is how this demographic profile, with its preponderance of white victims, compares to homicides.

## **Homicides**

We can use KBI statistics to note the general characteristics of homicides in Kansas. While Kansas reinstated the death penalty in 1994, police agencies throughout the state did not report homicide statistics to the FBI Supplemental Homicide Reports system during the years of

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<sup>1</sup> Note from Table 1 that Jonathan and Reginald Carr were each convicted of the same crime, which involved 5 victims. These victims are counted once in the summaries that follow.

<sup>2</sup> Note that Gary Kleypas's first death sentence was vacated on appeal, and he was resentenced to death on 12/3/2008. Only the first death sentence is included in this analysis. This was the only case involving a reversal and a resentencing.

1994 through 2004, and even after that period some agencies failed to report. Because of these issues, attorneys for Mr. Fielder requested data from the KBI, which provided annual spreadsheets listing each homicide case in the state from 2003 through 2023, as well as the race and gender of the both the victim(s) and offender(s). I then compiled these individual homicide records for my analysis. See Appendix A for a description of how I compiled totals from the data provided.

I also summarize homicide reports from the CDC, which uses death certificates to compile a list which includes the cause of death. Homicide is listed as a specific cause of death and this data is available for the period of 1959 through 2004. Note that the CDC and KBI numbers differ in certain important ways. The CDC data relate to the state and county of residence of the decedent, where the KBI numbers refer to where the crime occurred. The CDC data include information about the victim but not about the offender. The CDC data capture slightly more cases than the KBI data, as the KBI data relate only to those homicides that are known to the police, whereas the CDC data are derived from death certificates, which are nearly universal. In spite of these differences, the two data sources tend to produce very similar numbers when aggregated on a yearly basis or by county. In particular, as the following analysis demonstrates, the proportions of victims of a given demographic group tend to be very similar. This provides reassurance that the patterns that I describe in the sections below are not artifacts of the particular database used but reflect real trends in the underlying processes. Homicides tend to occur among men and among individuals of the same racial groups, for example. The same sociological facts are the same no matter which data source we use.<sup>3</sup>

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<sup>3</sup> In a previous report submitted in February 2023 for the case of *State v. Young* (Wichita County), I used FBI data from the Supplemental Homicides Report. This data source was missing entire years and had incomplete data from Wyandotte County because of a lack of reporting from certain police agencies even in years when other agencies

Table 2 shows the number of homicides across different demographic groups. Both CDC and KBI homicide numbers are reported, with the CDC numbers referring to the period of 1994 to 2004 and the KBI numbers relating to the period of 2005 to 2023. Table 2 also shows the numbers of death sentences, using the same information as in Table 1 for white and black victims. This allows the calculation of a rate of death sentencing per 100 homicides within each demographic group, and these rates are presented in the final two columns, separately for the CDC and KBI comparisons. Note that the CDC numbers exclude very few, since victim race and gender is almost always ascertained. For the KBI homicide statistics, larger numbers are in the “other, missing” category because of cases where the offender was listed as “unknown.” Generally, these are unsolved crimes where the offender was not arrested. Note, however, when we look at the percentages in the KBI and CDC statistics together, they tend to be very similar.<sup>4</sup>

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reported. For this report, I have used a more complete database newly provided from the KBI. It is important to note, however, that the statistical patterns I showed in the earlier report concerning the demographic characteristics of homicide offenders and victims were very similar to what I show here. The substantive conclusions from this report and my previous report are identical despite using different homicides data sources.

<sup>4</sup> Note to Table 2: CDC data cover the period of 1994 through 2004. KBI data cover the period of 2005 through 2023. Percentages by race, gender, and by offender-victim combination exclude those with missing information and therefore sum to 100.0 within each group. The CDC data reflect very few missing cases but some victims of other races. The KBI data reflect a greater amount of missing data; generally, these are unsolved crimes where the information about the offender is listed as “unknown.”

Table 2. Kansas Homicides and Death Sentences Compared.

Label	CDC		KBI		Death Sentences		Rate per 100 (CDC)	Rate per 100 (KBI)
	N	%	N	%	N	%		
Total by Victims	1,572		2,543		32		2.0	1.3
By Victim Gender--								
Male	1,145	72.8	1,828	72.1	10	31.3	0.9	0.5
Female	427	27.2	706	27.9	22	68.8	5.2	3.1
(other, missing)	0		9		0			
By Victim Race--								
Black	643	41.9	910	44.7	2	6.7	0.3	0.2
White	892	58.1	1,127	55.3	28	93.3	3.1	2.5
(other, missing)	37		506		2			
By Victim Race and Gender--								
Black Male	528	34.4	750	36.9	0	-	-	-
Black Female	115	7.5	159	7.8	2	6.7	1.7	1.3
White Male	595	38.8	698	34.3	10	33.3	1.7	1.4
White Female	297	19.3	427	21.0	18	60.0	6.1	4.2
(other, missing)	37		509		2			
Total by Offenders			2,992		15			0.5
By Offender Gender--								
Female			338	13.1	0	-		-
Male			2,250	86.9	15	100.0		0.7
(other, missing)			404		0			
By Offender Race--								
Black			1,071	50.8	4	26.7		0.4
White			1,037	49.2	11	73.3		1.1
(other, missing)			884		0			
By Offender-Victim Race Combinations--								
Black kills Black			727	38.0	1	7.1		0.1
White kills Black			105	5.5	0	-		-
White kills White			831	43.4	10	71.4		1.2
Black kills White			251	13.1	3	21.4		1.2
(other, missing)			1,078		1			

The CDC reported 1,572 homicide victims from 1994 through 2004, and the KBI numbers show 2,543 additional homicides in the later period (2005 to 2023). With 32 victims in death-sentenced cases and a total of 4,115 homicides, the overall rate of death sentencing is 0.78

percent of all victims. The table calculates these rates separately for the CDC and KBI numbers, however, because the KBI numbers allow comparisons by offender characteristics as well as by victim. It is important to note, however, that we would reach the same substantive conclusion in those cases where both datasets are available. The rates would all be lower, but the systematic patterns in changes in the rates from category to category remain virtually identical.

Looking first at victims and the rows labeled “Male” and “Female,” the CDC reports 72.8 percent of all homicide victims in Kansas are male, and the KBI reports 72.1 percent. Looking at the rows indicating the race of the victims (which exclude a small number of victims of other races), the CDC reports 41.9 percent black victims, where the KBI reports 44.7 percent black. Black males are 34.4 percent of all victims in the CDC data, and 36.9 percent in the KBI reports. White females constitute 19.3 percent of all victims in the CDC dataset, and 21.0 percent in the KBI reports. Without reviewing each individual cell in the table, the point is that there is a high correspondence between the two data sources. Even though they cover different time periods, they tell the same substantive story about the demographics of homicide victimization.

I focus here on the KBI dataset because it contains something the CDC dataset does not have: Information about the offender. My focus will be on rates of death sentencing per 100 homicides. Recall that the KBI dataset covers only the period from 2005 to 2023, so it excludes homicides in the relevant years of 1994 to 2004. Thus, the rate per 100 homicides that I report is higher than the actual rate that I would report if the KBI dataset covered all relevant years. The conclusions I will draw in this report, however, do not depend on this overall rate. Rather, the relevant inquiry is the comparison of how the rates differ when we look at different categories by the demographics of offenders, victims, or both. (That is, if the rate of death sentencing per 100 homicides with male victims is  $x$ , and the rate of death sentencing per 100 homicides with female



victims is  $y$ , how do these two rates,  $x$  and  $y$ , compare?). I am therefore confident, given the close correspondence between the KBI statistics and the CDC statistics discussed above, that this is a valid methodology.

I should also add that the death sentencing rates shown here are all systematically inflated by the fact that all the homicides before 2005 are excluded from the baseline for calculation of the rate. The overall rate of death sentencing for all victims, using the KBI numbers in Table 2 is 1.26, but taking into account the period of time with CDC data, the combined rate is actually 0.78, even lower. The rates for male and female victims are listed as 0.55 and 3.12, but considering both databases they are actually 0.34 and 1.94; by race the rates are reported as 0.22 and 2.48 for black and white victims, and overall they are 0.13 and 1.39. By race and gender of victim, the rates progress in the Table from 0.0 to 1.26 to 1.43, to 4.22 as we move from black male to black female to white male to white female victims. Using all the homicides over the entire period, these rates are 0.0, 0.73, 0.77, and 2.49. They are always lower, by construction, but they follow the same pattern of being higher for some groups than for others. No substantive changes occur in any conclusions for those cases (related to victim characteristics) where it is possible to use the entire set of homicides. Since we cannot calculate these numbers for offender-based characteristics, and since the conclusions are the same in either case, I focus on the KBI-based rates of death sentencing.

Figure 1 presents a graphical summary of the numbers shown in the last column of Table 2. That is, it presents a graphical illustration of the most important elements of Table 2. For the actual numbers underlying Figure 1, the reader can therefore refer to the cell entries in Table 2. (See the appendix, Figure A-1 for a similar figure using the CDC numbers, drawing from the CDC rates shown in Table 2.)

Figure 1. Death Sentences per 100 Homicides, by Demographics of Victim and Offender.

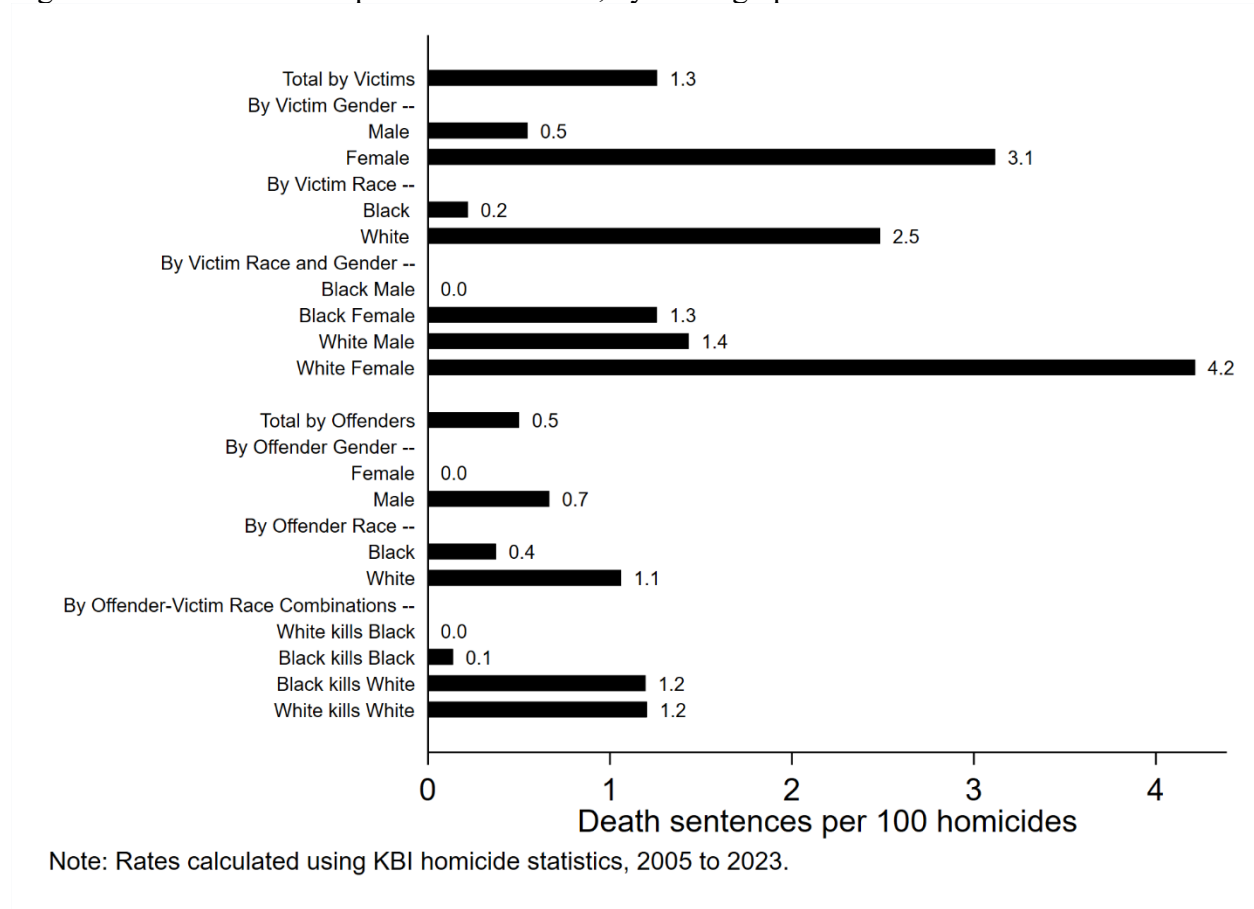


Figure 1 first shows that 1.3 percent of all homicide victims in Kansas were associated with a crime leading to a death sentence. Looking across victim gender, this rate was 0.5 for male victims and 3.1 for female victims; more than six times the rates of use. Looking next at the comparison by victim race, homicides with white victims have a death-sentencing rate of 2.5, which is more than 10 times that of homicides with black victims, 0.2. Although 750 black males were the victim of homicide according to the KBI in the period of 2005 to 2023 (see Table 2), and an additional 528 were reported by the CDC in the period of 1994 through 2004, not a single homicide with a black male victim has led to a death sentence. By contrast, 1.3 percent of those with black female victims, 1.4 percent of those with white male victims, and 4.2 percent of those with white female victims have led to a death sentence. We cannot calculate the odds ratio

between black male victims and white female victims because it is infinite; no cases with black male victims led to a death sentence.

Looking at offenders in the bottom half of Figure 1, the overall rate of death sentencing is 0.5. (There are fewer offenders than victims, which explains why the rate is higher when looking at victims as compared to when comparing by offenders.) This rate is zero for female homicide offenders, and 0.67 for male offenders; Table 2 shows that the KBI reports 338 female homicide offenders since 2005. Looking next at the race of the offenders, white offenders have a higher rate of death sentencing than black offenders, 1.1 compared to 0.4. This may be related to the fact that most homicides occur among the same racial group, and there has been no death sentence in Kansas for a crime involving a black male victim, as discussed in the previous paragraph. Looking at the offender-victim combinations shows that crimes with white offenders and black victims have a death sentencing rate of zero and crimes with black offenders and black victims have a rate of 0.1 (just one case out of 727 homicides). White-on-white crimes, by contrast, have a rate of 1.2, as do crimes with a black offender and a white victim. Table 2 and Figure 1 clearly show very substantial differences in the rates of use of the death penalty depending on the demographics of those involved, particularly the victims.

### **Capital Charging, Death Notices, and Death Sentences Compared**

The data reported in the section above relate to death sentences actually imposed. The state has seen 129 cases charged with capital murder in the period since 1994, and prosecutors have filed death notices in 76 of these cases.<sup>5</sup> Therefore, we can perform a similar analysis to that above with regard to which types of cases lead to capital charges, death notices, and death

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<sup>5</sup> Capital-charging and death-noticing information provided by the Kansas State Board of Indigents' Defense Services (BIDS). A small number of cases remain in progress as of the date of this report.

sentences. This allows us to assess whether the differences in rates of use of the death penalty relate to the first stage (which cases are deemed capital-eligible); the second stage (whether a death notice is served); or the third stage assessed above (whether a death sentence is imposed). Table 3 shows data similar to Table 2 above but shows the numbers of homicides as well as the numbers of cases charged capitally, where death notices were served, and death sentences imposed. It then shows the rates of each of these three outcomes per 100 homicides. Note that the homicide and death sentencing data shown here are identical to that reported in Table 2. Table 3 simply adds the other two stages of the death-sentencing process. For clarity of presentation, it omits the CDC homicide data. Also note that because the KBI homicide values for Hispanics are not comparable to the capital charging information, these numbers are not reported.<sup>6</sup>

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<sup>6</sup> Note to Table 3: Homicides data from the KBI; see Table 2. As noted above, reliable homicides rate data is not available for Hispanic victims. In the capital murder data set there were 23 Hispanic male victims in cases with capital charges, 10 Hispanic male victims in case with death notices filed, and 0 Hispanic male victims in cases where the death penalty was imposed. There were 16 Hispanic female victims in cases with capital charges, 6 Hispanic female victims in cases with death notices filed, and 2 Hispanic female victims in cases where the death penalty was imposed. There were 15 Hispanic defendants charged with capital murder, and death notices were filed in 6 cases with Hispanic defendants. There have been no death sentences in cases with Hispanic defendants. There were no Native American cases in the Kansas capital murder data set, and only two (2) Asian defendant cases. In cases with capital murder charges filed there were only three Asian victims, two Asian women and one Asian man. The three Asian victim cases stem from the same case, with an Asian-American offender; this case was death noticed and remains pending in district court.

Table 3. Homicides, Capital Charges, Death Notices, and Death Sentences in Kansas.

Label	Homicides	Capital Charges	Death Notices	Death Sentences	Rate per 100 Homicides		
					Charges	Notices	Sentences
Total by Victims	2,543	203	142	32	7.98	5.58	1.26
By Victim Gender							
Male	1,828	82	58	10	4.49	3.17	0.55
Female	706	118	83	22	16.71	11.76	3.12
By Victim Race							
Black	910	41	31	2	4.51	3.41	0.22
White	1,127	125	92	28	11.09	8.16	2.48
By Victim Race and Gender							
Black Male	750	17	12	0	2.27	1.60	0.00
White Male	698	49	37	10	7.02	5.30	1.43
Black Female	159	<b>24</b>	19	2	15.09	11.95	1.26
White Female	427	76	55	18	17.80	12.88	4.22
Total by Offenders							
Total by Offenders	2,992	129	76	15	4.31	2.54	0.50
By Offender Gender							
Female	338	6	2	0	1.78	0.59	0.00
Male	2,250	123	74	15	5.47	3.29	0.67
By Offender Race							
Black	1,071	49	33	4	4.58	3.08	0.37
White	1,037	63	<b>36</b>	11	6.08	3.47	1.06
By Offender-Victim Race Combinations							
White kills Black	105	1	0	0	<b>0.95</b>	0.00	0.00
Black kills Black	727	22	14	1	3.03	1.93	0.14
White kills White	831	60	35	10	7.22	4.21	1.20
Black kills White	251	26	19	3	10.36	7.57	1.20

Each of the categories laid out in the columns described in Table 3 is a subset of the previous one; in order for a capital charge to occur, there must first be a homicide; for a death notice to be served, there must first be a capital charge, and in order for a death sentence to be imposed, there must first be a death notice. Looking at rates per 100 victims, capital crimes constitute 7.98 percent of all homicides; death notices are served in 5.58 percent of the cases; and death sentences are imposed in 1.26 percent of the cases. Looking at the rates per offender, these numbers are 4.31, 2.54, and 0.50 percent, respectively. Table 3 then shows these rates for each of the categories shown, just as in Table 2. Figure 2 summarizes the information in Table 3.

Figure 2. Rates of Capital Charges, Death Notices, and Death Sentences.

A. Capital Charges.

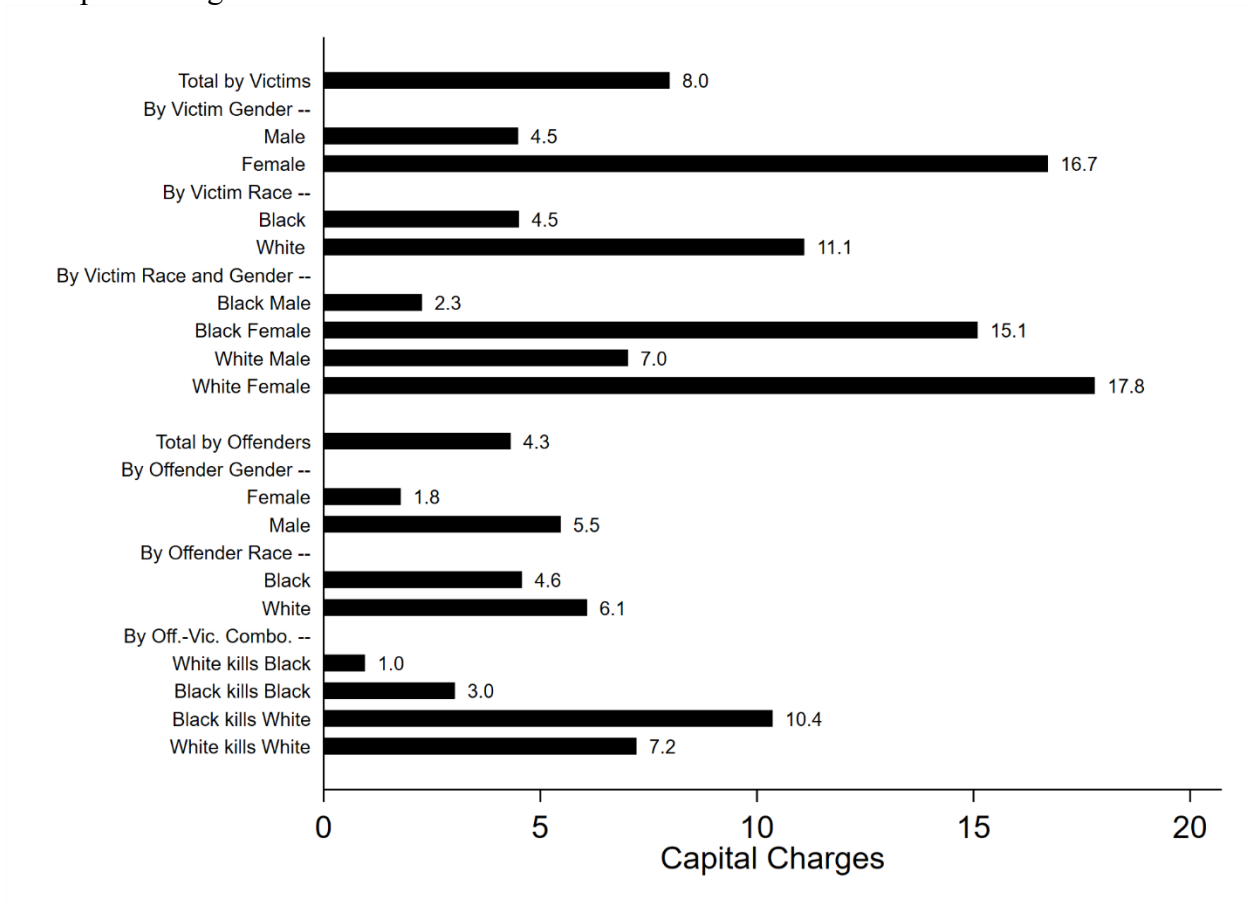


Figure 2-A focuses on capital charging rates. Cases with female victims have a much higher rate (16.7 percent) compared to those with male victims (4.5 percent). Those with white victims have 11.1 percent odds of a capital charge, compared with 4.5 percent in cases with black victims. Rates range from 2.3 percent for cases with black male victims to 17.8 percent in cases with white female victims. Looking at offenders, male offenders have a much higher rate (5.5 percent) than female offenders (1.8 percent). White offenders have a slightly higher rate than black offenders (6.1 v. 4.6 percent). This apparent disparity is explained in the next section by the combined offender-victim race information: 1.0 for cases where white offenders kill black victims and 3.0 in black-black cases, but 10.4 in cases where blacks kill whites and 7.2 in cases where whites kill whites.

Figure 2-B. Death Notices.

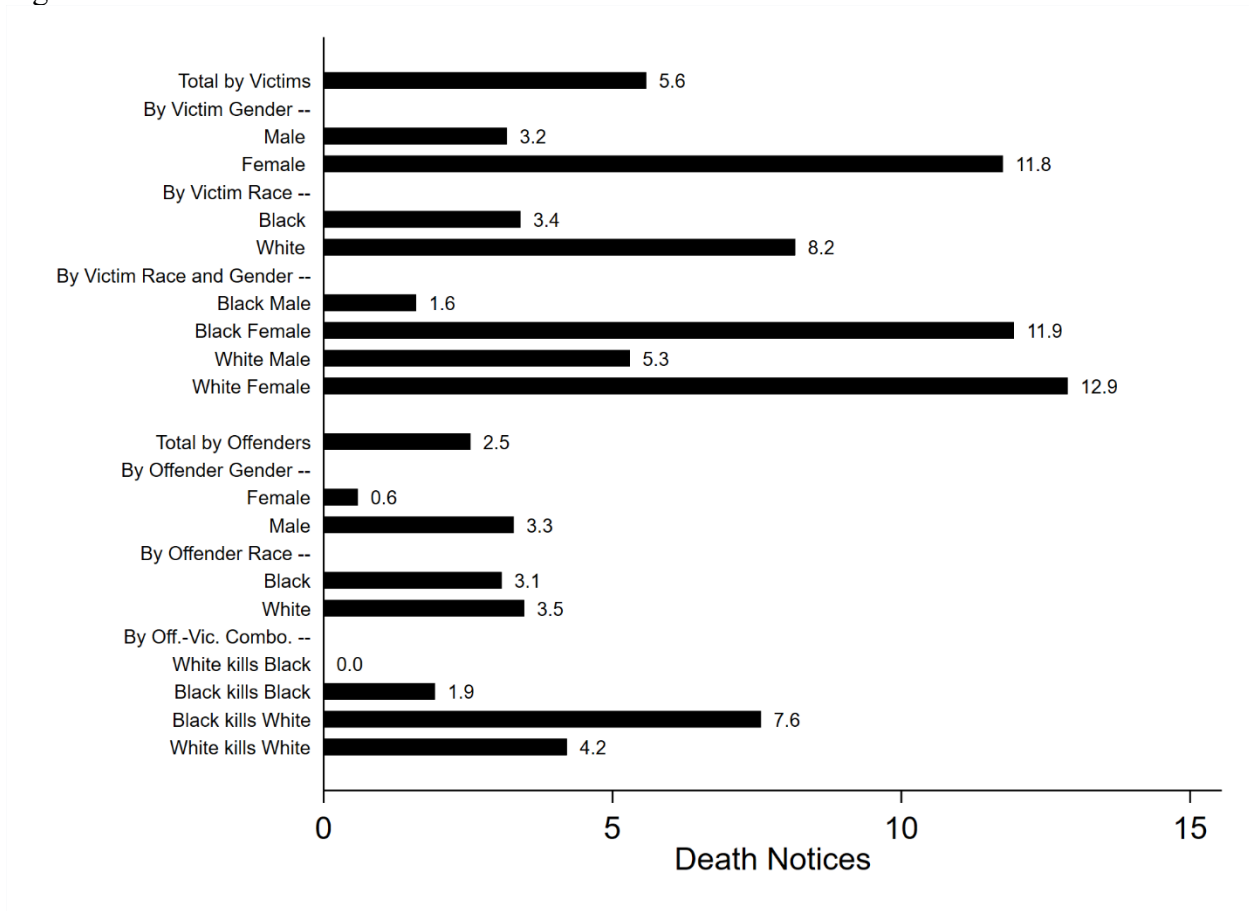


Figure 2-B presents the same information regarding death notices, and shows similar patterns. All the rates are lower, since death notices are a subset of capital charges. However, the unequal patterns of use, and the higher odds in those cases with white or female victims remain.



Figure 2-C. Death Sentences.

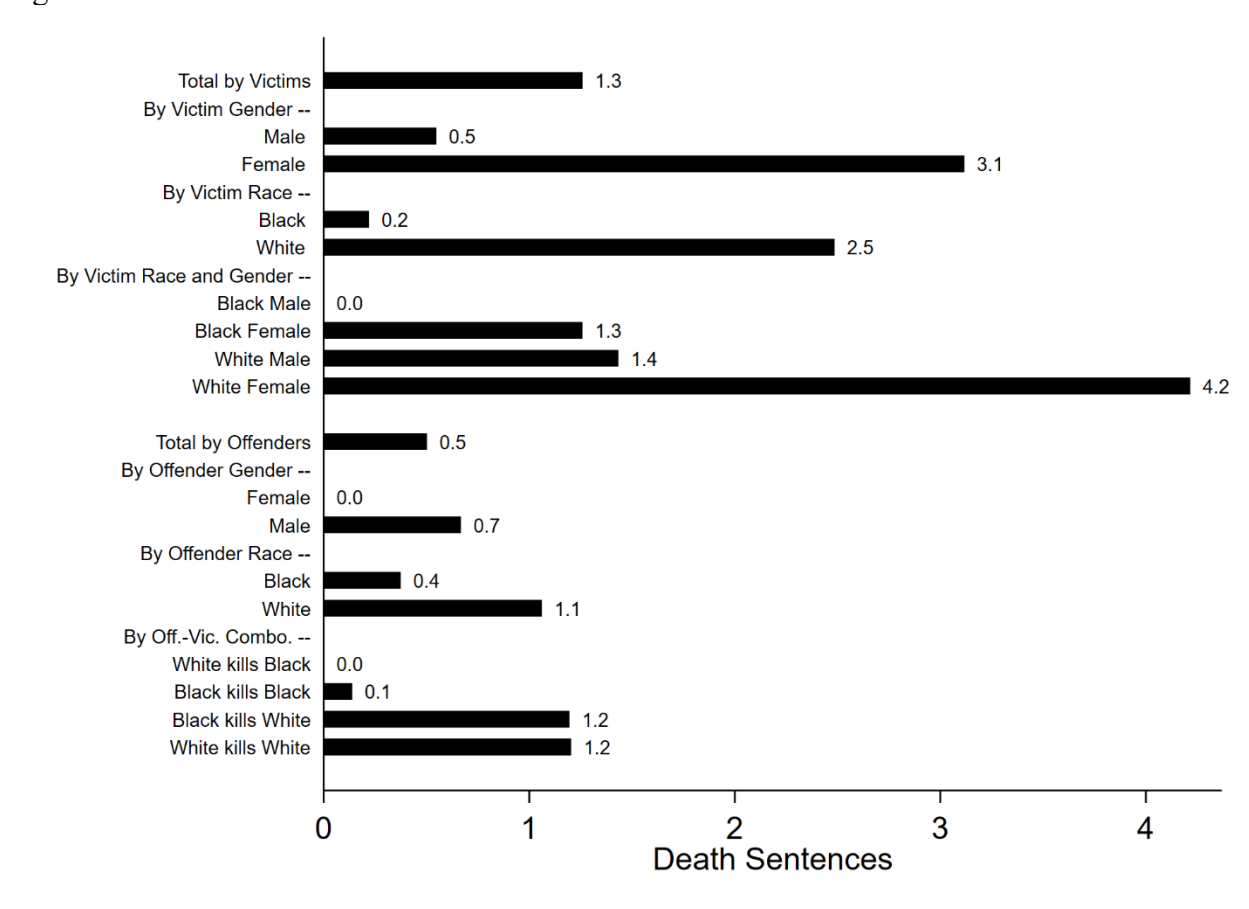


Figure 2-C presents the equivalent data for death sentences; this figure is identical to Figure 1 above. Its replication here simply shows that the disparities identified there are already present in the earlier stages: capital charges and death notices are fully under the control of the district attorney and do not involve decisions by juries. Therefore it is clear that the disparities apparent in the death penalty system cannot be laid only to decisions made by citizen jurors. These decisions are preceded by charging and plea-bargaining decisions solely under the control of the district attorney.

It is clear that victim race and gender are important factors of statistical disparities in the use of the death penalty in Kansas, but also that offender characteristics matter. In Table 4, I look more deeply into this question. The Table shows homicides separately for black and white

offenders, and is limited only to male offenders (the vast majority of all homicide offenders). Separately for black and white male offenders the Table shows the total number of homicide, death sentences, and the rate of death sentences per 100 homicides. Then it breaks these same data down by the race and gender of the victims, and presents the total. Figures 3 and 4 summarize the results

Table 4. Homicides, Death Sentences, and Rates for Black and White Male Offenders, by Victim Characteristics.

Victim Race	Black Offenders			White Offenders		
	Homicides	Death Sentences	Rate	Homicides	Death Sentences	Rate
Total by Offender	971	4	0.4	848	11	1.3
Black Male Victims	427	0	-	53	0	-
Black Female Victims	99	2	2.0	12	0	-
White Male Victims	116	7	6.0	360	6	1.7
White Female Victims	63	4	6.3	269	16	5.9
Other Race Victims	64	1	1.6	74	1	1.4
Total by Victims	769	14	1.8	768	23	3.0

Table 4 makes clear that black offenders typically have black male victims. However, not a single one of these had led to a death sentence. Similarly, white offenders typically have white victims, generally males. Rates of death sentencing are strongly dissociated with rates of homicide victimization. Rather, they relate to having a white victim, particularly a white female victim. Figure 3 shows stark variation in which groups are victimized by black and white offenders: these are strongly connected to the offender's race.

Figure 3. Black and White Male Homicide Offenders, by Victim Characteristics.

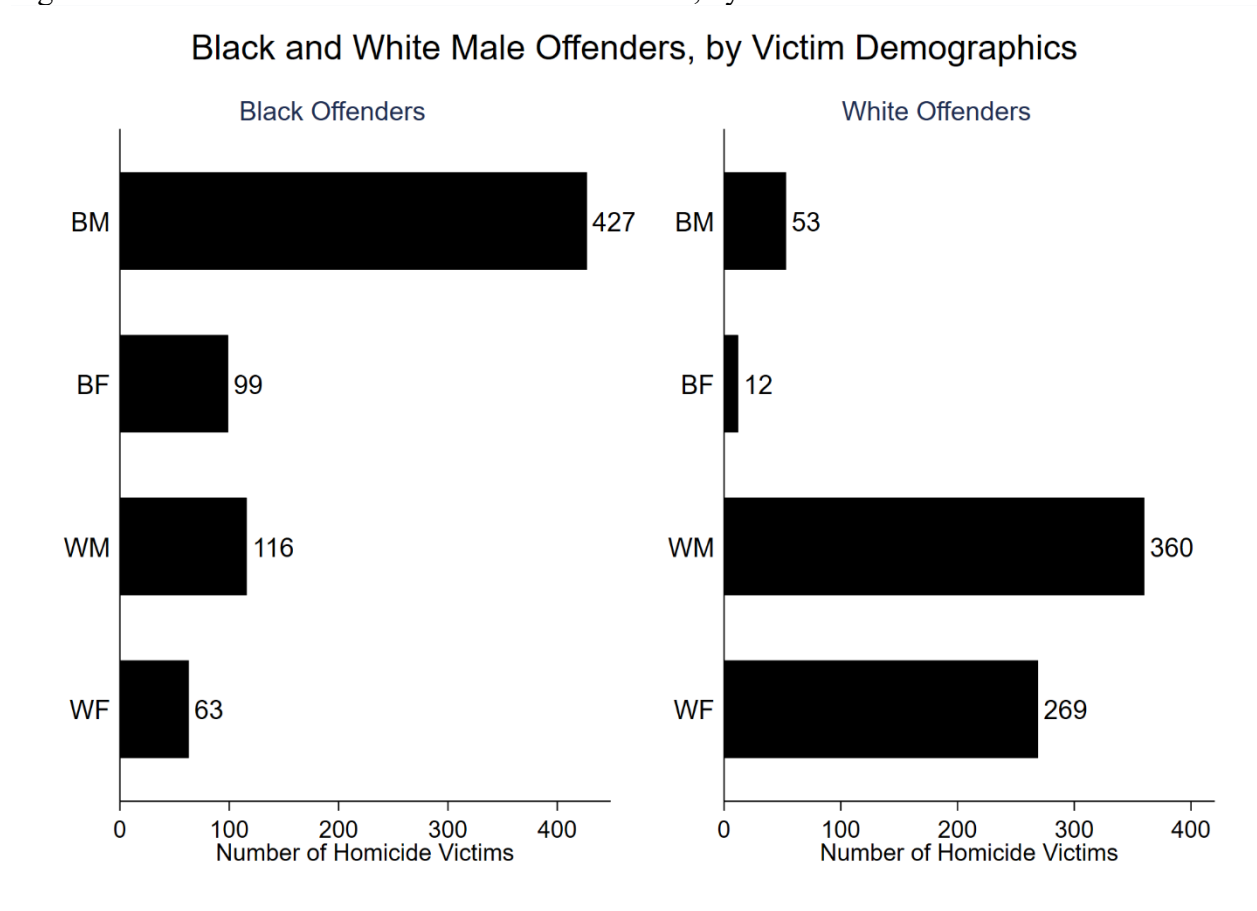
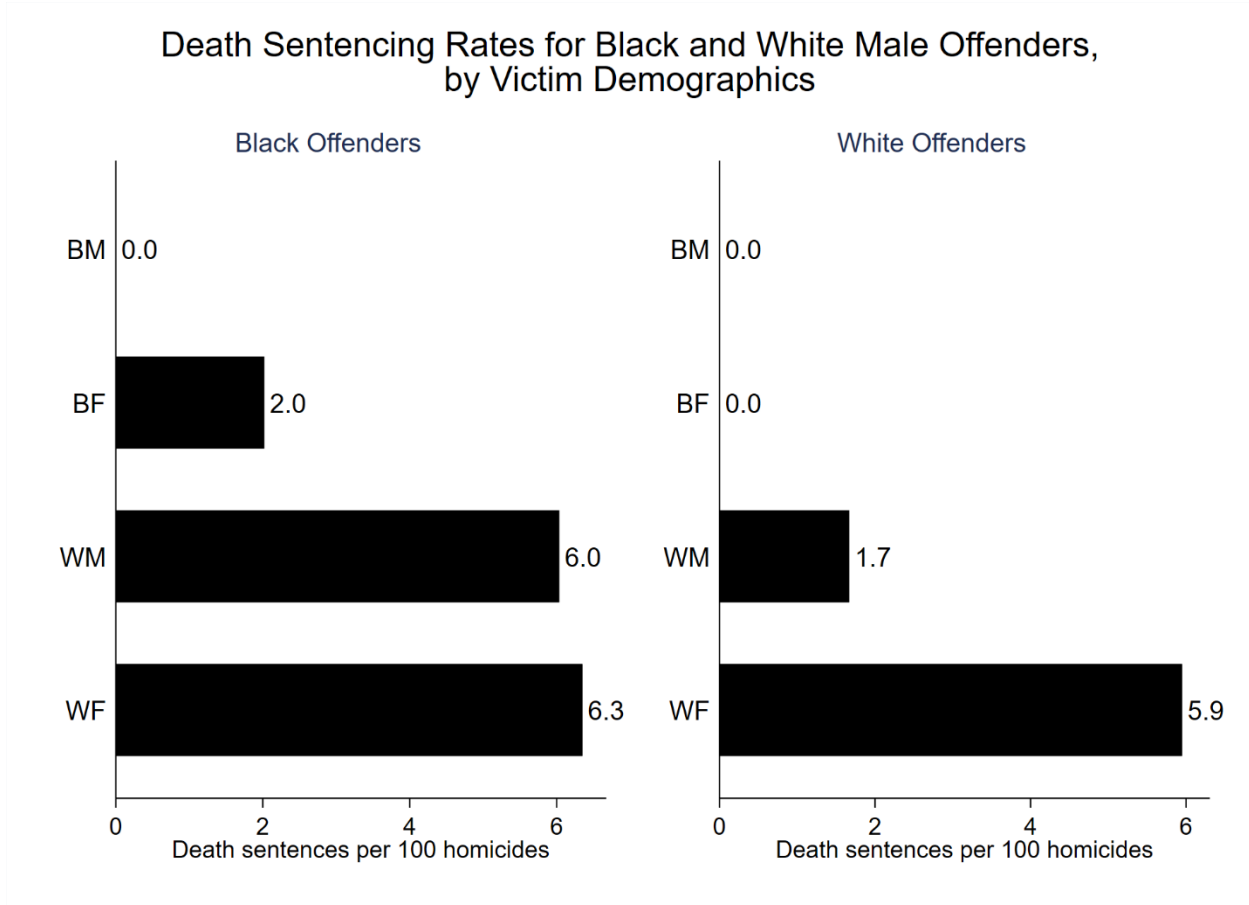


Figure 4 then shows the rates of death sentencing.

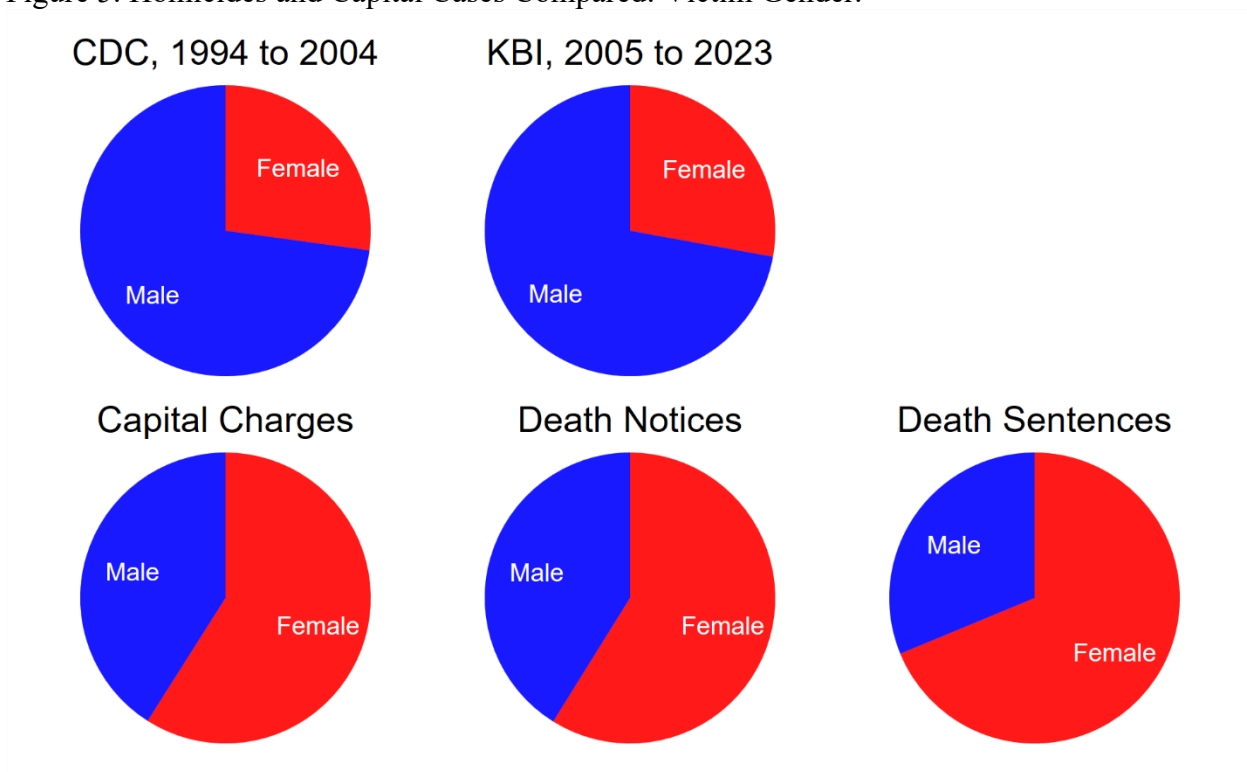
Figure 4. Death Sentencing Rates for Black and White Male Homicide Offenders, by Victim Characteristics.



Here, we see that black offenders have very high rates of death sentencing when they have a white victim, no matter the gender of that victim, and that white offenders also see a much higher rate of death sentencing when they have white victims (as they generally do). This is particularly strong when they have a white female victim. In these cases, the white offender has almost the same likelihood of a death sentence as the black offender: approximately 6 percent. But neither has any likelihood of a death sentence when the victim is a black male. Kansas has sentenced 10 people to die for killing a white male, but no one for killing a black male; Table 2 showed that there are roughly equal numbers of such homicide victims. White females are the most common demographic among victims of death sentenced cases (18 such victims), but they are a much smaller share of homicide victims (see Table 2).

We can visualize the patterns apparent in these dynamics in another way. The following section shows a series of simple pie charts. These charts convey visually the relative make-up of different groups of cases: homicides cases, capital charged cases, cases with death notices, and cases with a death sentence. In each pie chart, the share of cases sums to 100 percent, so it illustrates the relative composition of each subset. Gender data is available for almost all cases, and a small number of cases are excluded here that involve individuals of races other than white or black. So the race comparisons can be considered as the share, summing to 100 percent, of all cases with white or black offender and/or victims. This is the vast majority of cases in the state of Kansas. The data are the same as those reported in Table 3. Figure 5 shows victim gender.

Figure 5. Homicides and Capital Cases Compared: Victim Gender.

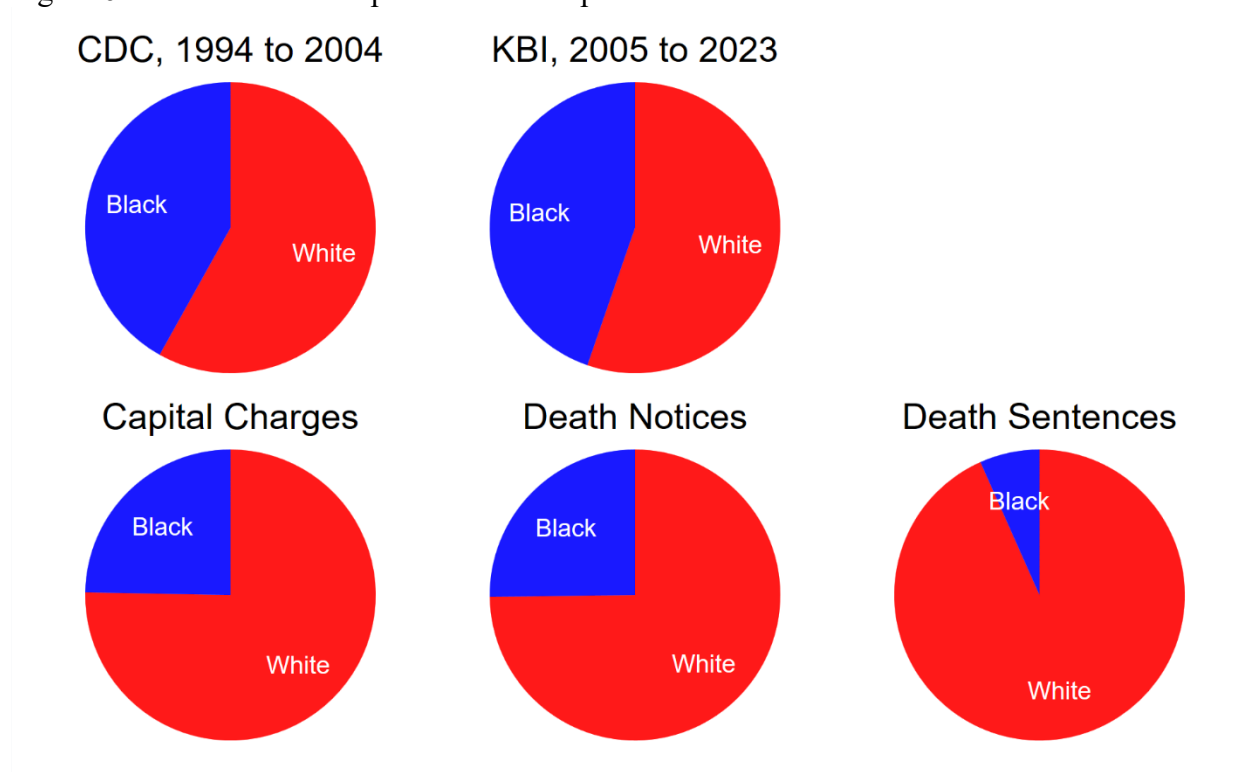


Source: Table 3.

The top row of Figure 5 shows that women constitute roughly a quarter of homicide victims in Kansas (CDC and KBI). In the bottom row, we see that they constitute a much larger share of cases with capital charges, death notices, or death sentences.

Figure 6 shows the equivalent comparison by race; note it includes only black and white victims, excluding victims of other races.

Figure 6. Homicides and Capital Cases Compared: Victim Race.

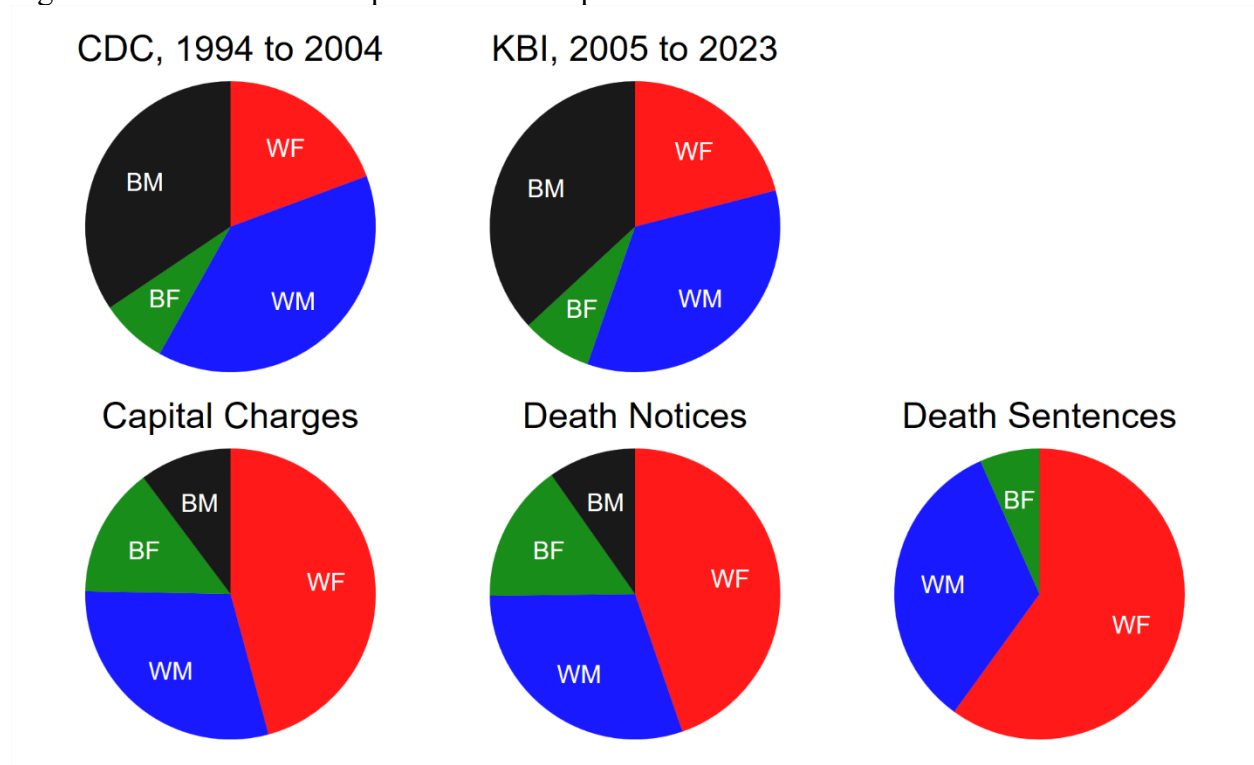


Source: Table 3.

Blacks represent roughly 40 percent of all homicide victims in Kansas, but many fewer in those cases that proceed capitally, and a tiny share of those where a death sentence is imposed.

Figure 7 shows combined race-gender statistics in the same format.

Figure 7. Homicides and Capital Cases Compared: Victim Race and Gender.



Source: Table 3. WF = White Female; WM = White Male; BF = Black Female; BM = Black Male.

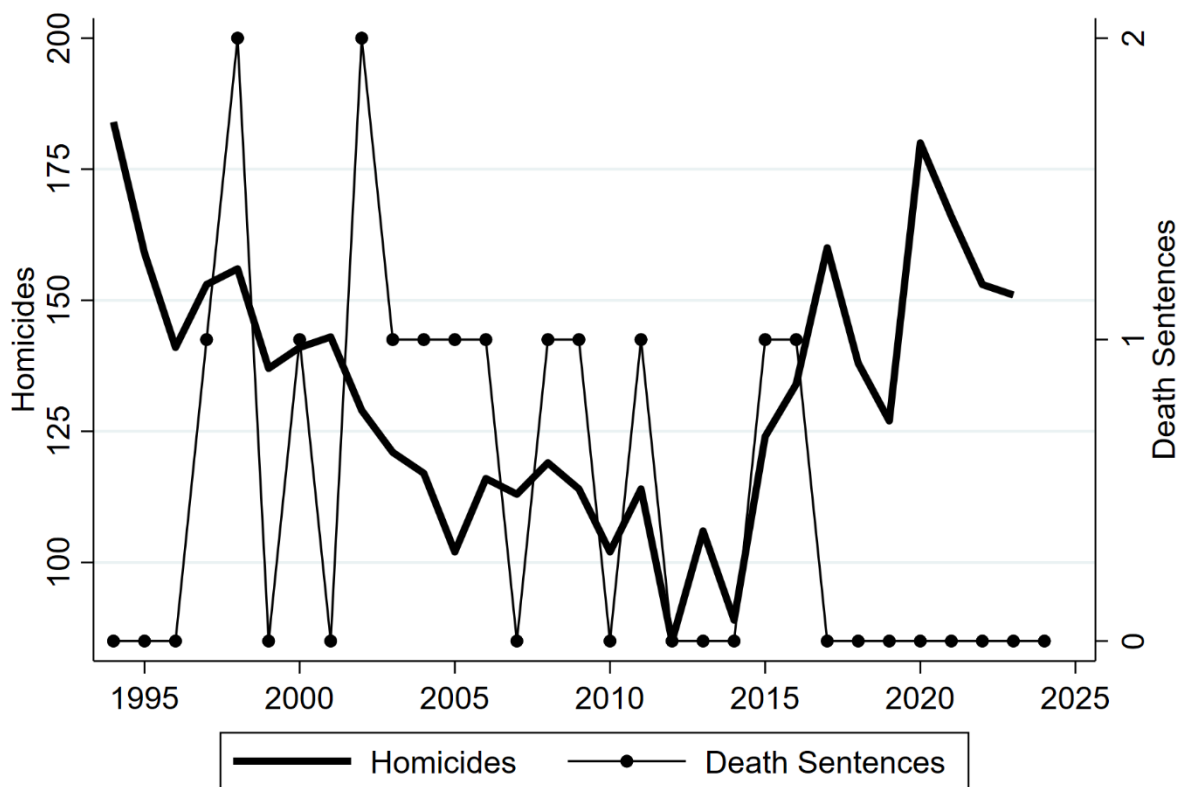
Black men completely disappear from the graph at the bottom-right, reflecting the fact that no death sentence has been imposed on an offender with a black male victim. Black men represent approximately a third of all homicide victims, shown in the upper row, but only small shares of those with capital charges and death notices. White female cases, on the other hand, move from a relatively small share of homicides (shown in the upper row; roughly 20 percent) to a plurality of those with capital charges and death sentences, and a majority of the death-sentenced cases. White male victims are the single largest group in the homicides charts at the top; they constitute smaller shares of the capital charges and death notices, but return to approximately their original share of homicides when considering death sentences actually imposed. Thus, for white male victims, we see a roughly equal share of death sentenced cases as homicides in general, and similarly for black female victims. White female victims are

dramatically over-represented in the death sentenced cases compared to homicides, and black males, who represent the second-largest share of all homicide victims, completely disappear from the cases where death sentences are imposed. These are dramatic and important differences.

### Homicides and Death Sentences over Time

The 15 death sentences imposed by the State of Kansas are listed in Table 1. Figure 8 compares the timing of these with the numbers of homicide victims by year. It uses the CDC homicide figures through 2004 and the KBI totals for the period after 2004. (See Table A-1 for the numbers underlying Figure 8.)

Figure 8. Homicide Victims and Death Sentences over Time.<sup>7</sup>



Homicides data reflect CDC numbers from 1994 to 2004 and KBI numbers from 2005 to 2023. Pearson's R = -0.14.

<sup>7</sup> Recall from the note to Table 1 that Gary Kleypas was initially sentenced to death in 1997, but this sentence was reversed and he was resentenced in 2008. Only the 1997 sentence is included here.

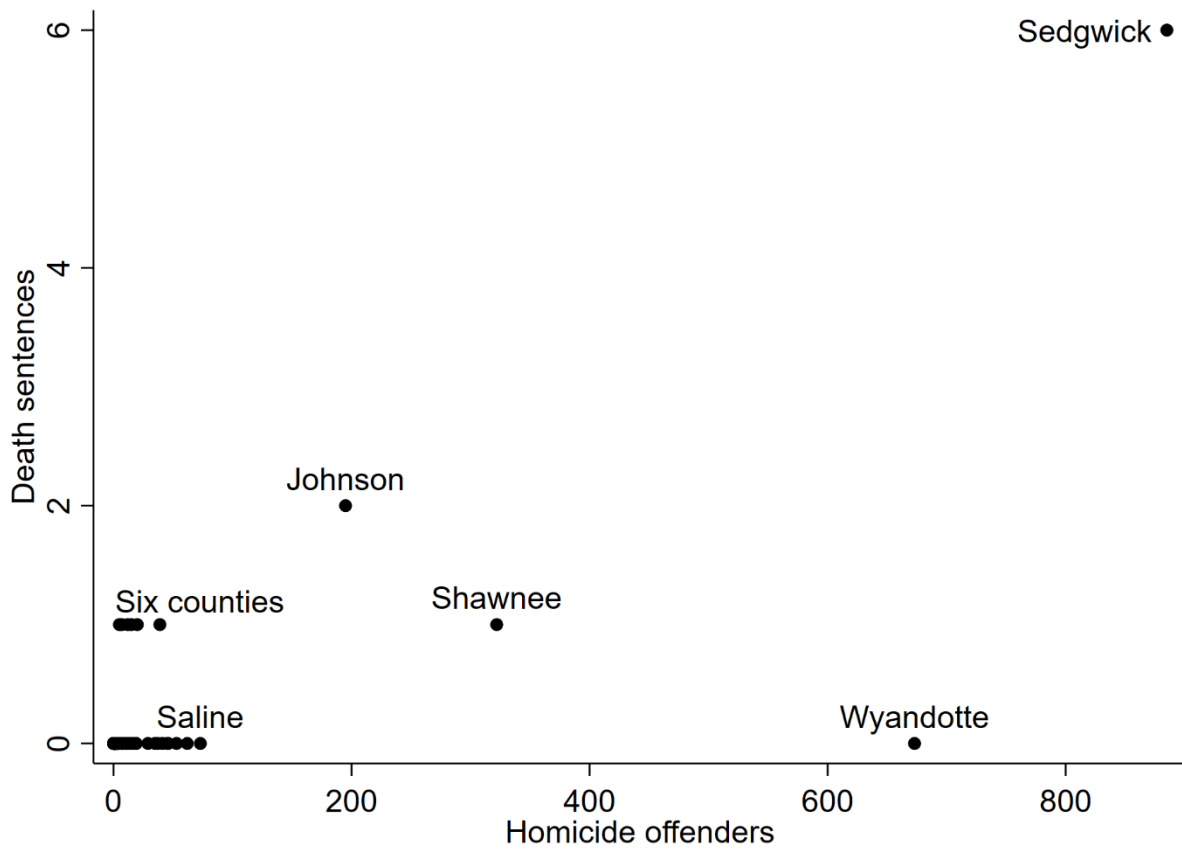


Death sentences are tracked by the thin line in Figure 8; typically, the annual number is zero (as it has been since 2017), and occasionally it has moved as high as two per year. Homicides range from as low as 91 to more than 175. There is no correlation at all between the two; in fact, the correlation is -0.14, indicating if anything a slight negative correspondence. A simple glance at the two trends in the Figure shows, however, a complete lack of connection. This makes sense because of the very low numbers of death sentences in the state, just 15 overall in more than 30 years. The complete lack of connection between homicides and death sentences suggests no causal relation between the two.

### **Homicides, Capital Prosecutions, and Death Sentences by County**

Just as there is little connection between homicides and death sentences across time, there is little connection from place to place either. Table 1 made clear that Sedgwick County has seen six death sentences; Johnson, two; several others have seen just one; and the vast majority of the 105 counties in Kansas have seen none. Figure 9 shows how these numbers correlate with the number of homicide offenders in each of these counties.

Figure 9. Homicide Victims and Death Sentences by County.



Note: Many Kansas counties have very few homicides, and zero or just one death sentence across the entire time period from 2005 through 2023. Each is represented by a dot in the figure, but many of these dots overlap; these appear in the lower-left area of the Figure. Table A-2 in the Appendix provides the exact numbers for all Kansas counties.

Sedgwick County has the greatest number of homicide offenders and is the outlier with regards to death sentences, with six imposed since 1994. Wyandotte County is the second highest with regards to homicides, but it has seen no death sentences at all. Shawnee, Johnson, and Saline counties are next with regards to homicides, but there is no correlation with death sentences, as they have one, two, and no death sentences, respectively. Six additional counties each have one death sentence, but these are all counties with low numbers of homicides.<sup>8</sup>

<sup>8</sup> Recall from the note to Table 1 that Gary Kleypas was sentenced to death twice, but for the same crime; this case derived from Crawford County, and is included only once in this analysis.

Table 5 shows the homicide values described above as well as the numbers and rates of capital charges, death notices, and death sentences for the largest counties in the state. The data are the same used in previous sections but presented here separately for each of the top homicides counties in the state.

Table 5. Homicides, Capital Charges, Death Notices, and Death Sentences by County, Selected Counties.

County	Victims	Offenders	Capital Charges	Death Notices	Death Sentences	Charge Rate	Notice Rate	Sentence Rate
Sedgwick	630	885	25	18	6	2.82	2.03	0.68
Wyandotte	651	673	27	18	0	4.01	2.67	-
Shawnee	286	322	9	3	1	2.80	0.93	0.31
Johnson	163	195	11	8	2	5.64	4.10	1.03
Saline	52	73	5	2	0	6.85	2.74	-
Douglas	56	62	1	1	0	1.61	1.61	-
Leavenworth	49	53	3	2	0	5.66	3.77	-
All Others	603	677	48	24	6	7.09	3.55	0.89

Note: See Appendix Table A-2 for a complete version of this Table, showing all 105 counties in the state.

Table 5 shows that the patterns, or lack thereof, shown in Figure 9 are the result of complex processes associated with prosecutorial decision-making. Wyandotte County has more capital charges than Sedgwick; 27 compared to 25. It has the same number of death notices (18). It has zero death sentences, however, whereas Sedgwick has six. The column labeled Charge Rate shows the number of capital charges per 100 homicide offenders; these rates vary quite substantially, from 2.80 percent in Shawnee County to 6.85 percent in Saline. Death Notice Rates also vary widely, with Shawnee County having a rate of just 0.93 and Johnson County having a rate of 4.10. Finally, Sentence Rates are quite variable as well, with many counties having rates of zero but Johnson County having a rate of 1.03 and Sedgwick 0.68. Table A-2 lays out the full data for all 105 counties in the state, making clear that there is significant variability across the geographic units of the state. Of course, because so many counties have seen very few homicides across the period of study, some of the numbers may be affected by random

fluctuations. Table 5, with its focus on the larger counties, provides a more substantive demonstration of the wide variability in application of the death penalty across the counties of Kansas. While Sedgwick County does have the highest number of homicide offenders and the highest number of death sentences, it is not the highest user of the death penalty by other metrics. Wyandotte has the greatest number of capital charges; Saline has the highest rate of capital charges per 100 homicide offenders; Johnson has the highest rate of death notices and death sentences per 100 homicide offenders. In sum, the patterns are inconsistent.

Not only are the patterns laid out in Table 5 inconsistent, but they also show substantively wide variability. Whether we look at capital charging rates, death notice rates, or death sentencing rates per 100 homicide offenders, there is little consistency across the counties of the state. These differences are greater at the death sentencing stage than at the capital charging stage, but even there, some counties have charging rates equal to 6 percent or more of all homicides occurring in the county, whereas other counties have rates below 3 percent. The fact that Table 5 is limited to the largest counties in the state, but nonetheless shows differences of this magnitude, suggests that there is substantively very wide variability in the use of the death penalty across the geographic units of the state, rather than equal application with some small residual random variability.

Figures 10, 11, and 12 illustrate the extremely low use of the death penalty across Kansas counties and the lack of connection between homicides and its use. Figure 10 shows the number of death sentences, generally zero. Figure 11 shows the number of homicides, which is considerably more variable. And Figure 12 shows the rate of death sentences per 100 homicide offenders (see Table A-2 for the raw numbers). In each Figure, these comparisons make clear that there is little connection between homicides and the use of the death penalty.

Figure 10. Death Sentences.  
Death Sentences

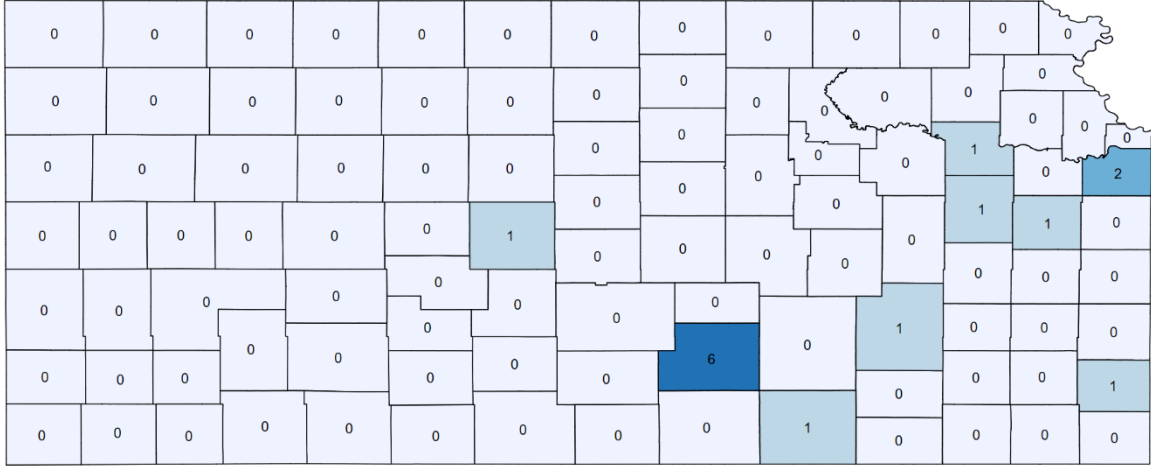


Figure 11. Homicide Offenders.  
Homicide offenders

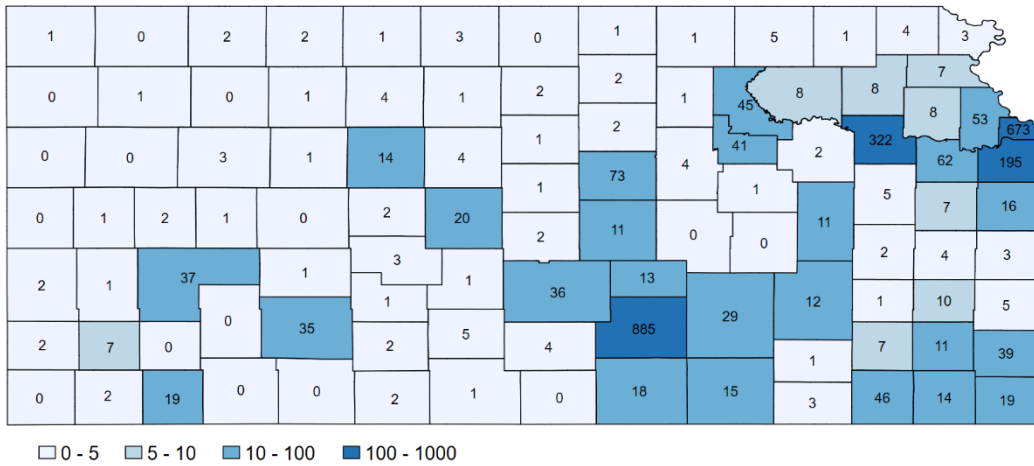
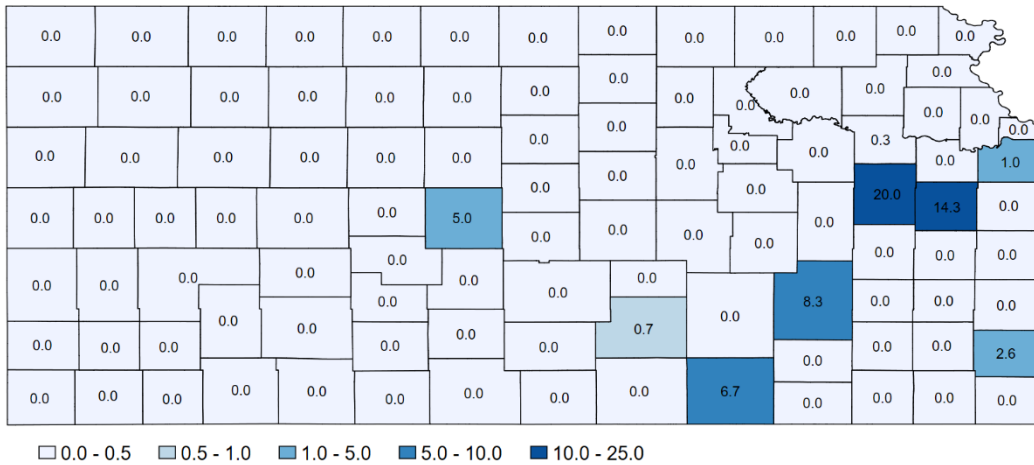


Figure 12. Death Sentences per 100 Homicide Offenders.  
Death Sentences per 100 homicide offenders



## Conclusions

In completing this analysis, I have identified three important issues with respect to use of the death penalty in Kansas: general lack of use; capricious or random and arbitrary selection of cases for death sentencing; and racial and gender biases affecting the process.

First, capital punishment is extremely rare. Table 1 showed that there have been 15 death sentences in the state since 1994, but Table 2 showed that there have been 4,115 homicides (1,572 as reported by the CDC during the period of 1994 through 2004 and an additional 2,543 reported by the KBI from 2005 through 2023). Of course, none of those death sentences has led to an execution, so the rate of executions is zero, and the rate of sentencing is 0.4 percent: fewer than one-half of one percent of homicides have led to a death sentence.<sup>9</sup>

Second, I have reviewed correlations among homicides and death penalty usage numbers (capital charging, death noticing, and death sentencing) across time as well as across the geographical units of the state, counties. There is virtually no correlation between homicides and death sentencing behavior, when considered over time. Figure 8 showed that correlation to be almost zero: -0.14 to be exact. Figure 9 showed what appears to be a correlation between homicides and death sentencing, but further analysis showed that that was driven by just a single county: Sedgwick County has the most homicides (by a small margin) and the most death sentences (by far). But when we consider the different stages of the process and consider all the counties of the state, or even only the largest five counties, this apparent correlation falls apart. Further, the variability of death sentencing across even the largest counties is not a matter of small random fluctuation around some consistent rate, as might be expected in any naturally occurring variable. Rather, the random component is very high. Rates of charging, noticing, and

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<sup>9</sup> 15 death sentences / 4,115 homicides = 0.0036452, or 0.36 percent.

sentencing, when considered per 100 homicide offenders, differ widely. These substantively large variations in rates of death penalty use, even controlling for the number of homicides, suggest a system that is substantially driven by random chance.

Finally, what factors seem to be driving these differences, other than randomness? Unfortunately, here we see something like what the US Supreme Court saw in the *Furman v. Georgia* decision that caused the Court to invalidate all existing US death penalty laws. As here, rates were very low; the justices were concerned about a small number of offenders being selected from a large number of homicide offenders as if they were “struck by lightning.” Moreover, like at the time of *Furman*, very significant racial and gender biases are apparent. Not a single one of the 15 individuals selected by the State of Kansas for the death penalty killed a black male victim, yet black male victims are present in over 30 percent of all homicides in the state.<sup>10</sup> By contrast, crimes with white female victims were by far the most likely to lead to a death sentence, though this group represents only about 20 percent of all homicide victims. My analysis above showed strong race effects, gender effects, and race-gender effects with regard to the characteristics of the victims. These effects were also apparent when considered alongside the race and gender of the offender, a significant factor since most crimes have offenders and victims of the same race.

The Kansas death penalty system has never led to a single execution in the 30 years it has been in operation. Only a miniscule proportion of homicides have led to a death sentence (0.4 percent). There is strong reason to believe that the distinguishing features that separate the death-sentenced cases from those not leading to a death sentence are the racial and gender characteristics of the victims in the crime, as well as the combined race and gender of the

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<sup>10</sup> See Table 2, showing 34.4 percent of all homicides with known race and gender of the victims being black males during the CDC reporting period, and 36.9 percent during the KBI reporting period.

offender and victim, considered together. A system used extremely rarely, and that appears to be statistically disconnected from patterns of homicides, but potentially has much to do with race and gender, is far from the “evenhanded, rational, and consistent imposition of death sentences under law,” imagined by the Supreme Court when it upheld reinstatement of the death penalty in *Jurek v. Texas*.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frank Baumgartner". The signature is stylized with a large, sweeping flourish at the end.

---

Frank R. Baumgartner  
October 15, 2024



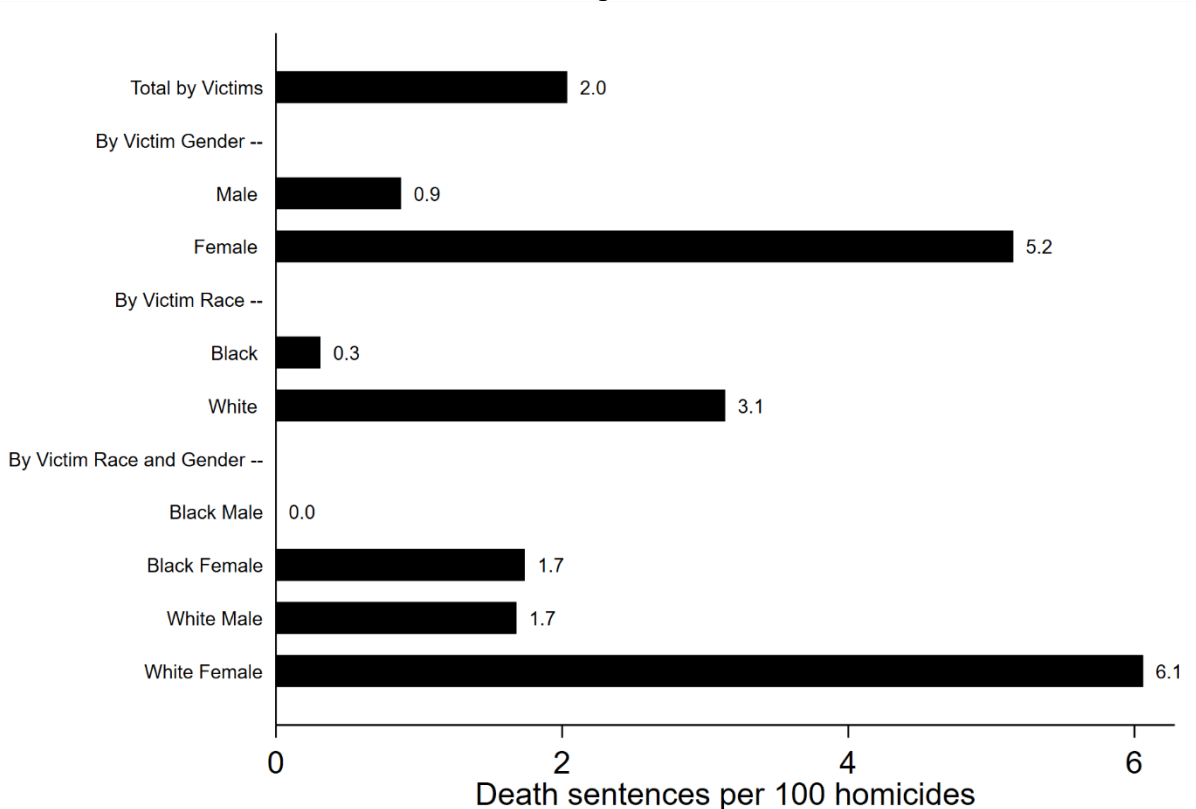
## Appendix A. Data Sources and Detailed Tables

This Appendix provides a comparison of results using CDC rather than KBI statistics on homicides, explains the construction of the annual KBI homicides data used in this report, and provides detailed data tables to supplement the information provided in the body of the report.

### *CDC v. KBI Comparisons*

Figure A-1 replicates Figure 1 using CDC homicide data rather than KBI statistics. See Figure 1 for the corresponding figure based on KBI homicides data. Note that the CDC does not have information about offenders, so this Figure refers only to victims. This demonstrates that the analysis shows a similar pattern of rates of death sentencing across different victim demographic categories no matter which homicides database is used.

Figure A-1. Homicides and Death Sentences Compared, CDC Homicide data.



Note: Rates calculated using CDC homicide statistics, 1995 to 2004.  
CDC does not include information about offenders, so only victim comparisons are shown.

Note: Data from Table 2.

### ***Constructing a database from individual-level KBI homicide database***

Next, I explain the individual-level KBI homicides database used. Based on attorney requests, the KBI provided a data file of individual homicides organized into separate sheets for each year from 2003 through 2023. Each sheet was formatted in a way that columns referred to the agency reporting; the date of the offense; the victims' race, sex, ethnicity, and age; the suspect's race, sex, ethnicity, and age; the relationship between the suspect and victim; the weapon used; the "circumstance" of the crime (e.g., argument, gang...); and the county. In cases with multiple offenders, these were listed with the same date but left blank for the victim information. In cases with multiple offenders, the victim information was repeated.

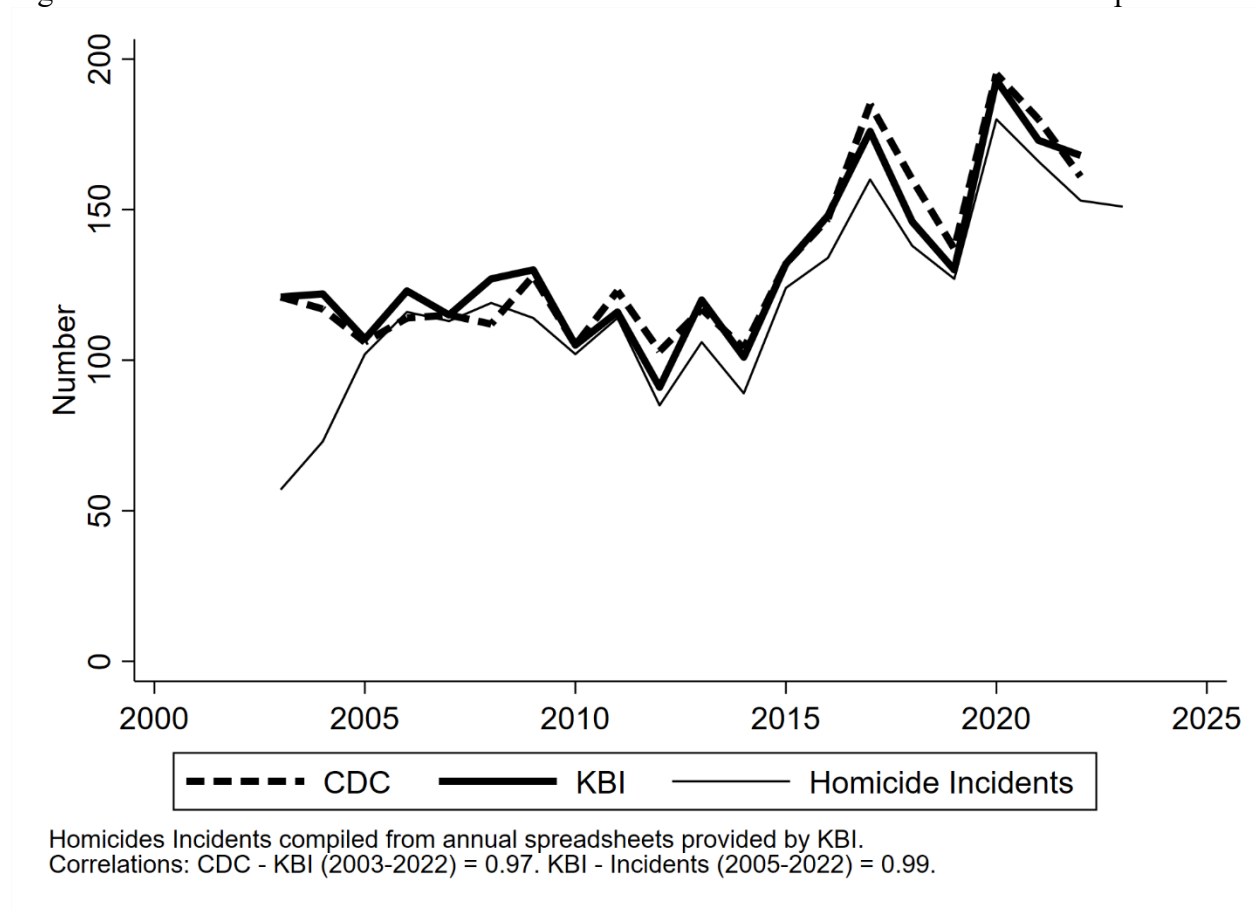
I reformatted the database so that all years were combined into a single spreadsheet; each row in the reformatted database referred to a single offender, with multiple victims listed as victim 1, victim 2, and so on as separate columns (race, age, sex, ethnicity recorded for each victim). I also created a variable to indicate whether there were multiple offenders in the case. This allowed me to generate accurate counts of offenders as well as victims, avoiding multiple counts of victims when their information was repeated for each offender from the same case.

### ***Comparison of CDC, KBI, and derived totals over time***

Figure A-2 shows how published annual totals of homicides from the CDC and KBI compare to the total numbers of incidents I calculated from the data set of individual cases provided by the KBI (see also Table A-1 below for more detail). CDC and KBI numbers would not be expected to be perfectly identical since the CDC reports deaths based on the county of the decedent's last known address, and the KBI reports by where the crime occurs. However, they are very close, as the Figure makes clear. The Figure also shows that the number of homicide incidents I calculated based on the individual KBI homicides data also corresponds very closely to previously published KBI figures. However, the spreadsheets appear to be missing substantial

numbers of homicides in 2003 and 2004. Table A-1 makes this clear by showing the number of homicides incidents as a percentage of the annual reported KBI total. This number is always above 87 percent, except in 2003 and 2004 when it is below 60 percent. For these reasons, I have excluded data from 2003 and 2004 in my analysis.

Figure A-2. CDC and KBI Annual Totals and KBI Individual Homicides Counts Compared.



Sources: Centers for Disease Control and Prevention. (1994-2004). CDC WONDER. <https://wonder.cdc.gov/>; Kansas Bureau of Investigation. (2003-2023). Annual Crime Index, Years 2003-2023. [https://www.kansas.gov/kbi/stats/stats\\_crime.shtml](https://www.kansas.gov/kbi/stats/stats_crime.shtml).

Table A-1. Reported and Calculated Annual Homicide Counts.

Year	CDC	KBI	Incidents	Offenders	Victims	Percent
1994	184					
1995	159					
1996	141					
1997	153					
1998	156					
1999	137					
2000	141					
2001	143					
2002	129					
2003	121	121	57	68	71	47.1
2004	117	122	73	88	91	59.8
2005	106	107	102	125	128	95.3
2006	114	123	116	145	150	94.3
2007	115	115	113	157	159	98.3
2008	112	127	119	146	150	93.7
2009	128	130	114	149	165	87.7
2010	105	105	102	125	128	97.1
2011	123	116	114	143	145	98.3
2012	103	91	85	104	110	93.4
2013	117	120	106	155	169	88.3
2014	104	101	89	114	122	88.1
2015	132	132	124	156	164	93.9
2016	147	148	134	169	183	90.5
2017	185	176	160	189	205	90.9
2018	160	146	138	177	185	94.5
2019	137	130	127	161	164	97.7
2020	195	193	180	220	233	93.3
2021	180	173	166	193	200	96.0
2022	161	168	153	184	196	91.1
2023			151	180	186	
Total	4,005	2,644	2,523	3,148	3,304	

Notes: CDC and KBI values refer to published annual totals. Incidents, Offenders, and Victims are calculated from annual spreadsheets listing each homicide incident provided by KBI. Percent refers to the number of calculated incidents compared to the published annual KBI totals. (For example, for 2003, 57 incidents represent 57.1 percent of the reported total of 121.) These numbers are less than 60 percent in 2003 and 2004 but 87 percent or higher in every later year. Therefore, the analysis in the report uses only the data starting in 2005.

### ***County-by-county numbers***

Table A-2 provides counts of homicide incidents, victims, and offenders from the database just described. It also includes numbers of capital charges, death notices, and death sentences

Table A-2. Homicides, Charges, Death Notices, and Death Sentences by County.

County	Incidents	Victims	Offenders	Charges	Notices	Sentences	Charge Rate	Notice Rate	Sentence Rate
Sedgwick	608	630	885	25	18	6	2.82	2.03	0.68
Wyandotte	604	651	673	27	18	0	4.01	2.67	
Shawnee	268	286	322	9	3	1	2.80	0.93	0.31
Johnson	155	163	195	11	8	2	5.64	4.10	1.03
Saline	50	52	73	5	2	0	6.85	2.74	
Douglas	52	56	62	1	1	0	1.61	1.61	
Leavenworth	45	49	53	3	2	0	5.66	3.77	
Montgomery	36	39	46	3	2	0	6.52	4.35	
Riley	36	38	45	1	1	0	2.22	2.22	
Geary	32	33	41	3	0	0	7.32		
Crawford	29	29	39	2	2	1	5.13	5.13	2.56
Finney	28	28	37	0	0	0			
Reno	26	28	36	4	1	0	11.11	2.78	
Ford	26	30	35	0	0	0			
Butler	24	24	29	1	0	0	3.45		
Barton	18	18	20	6	2	1	30.00	10.00	5.00
Cherokee	14	14	19	4	1	0	21.05	5.26	
Seward	19	21	19	1	1	0	5.26	5.26	
Sumner	17	17	18	0	0	0			
Miami	11	11	16	1	0	0	6.25		
Cowley	14	14	15	1	1	1	6.67	6.67	6.67
Labette	13	17	14	1	1	0	7.14	7.14	
Ellis	11	11	14	0	0	0			
Harvey	11	18	13	4	2	0	30.77	15.38	
Greenwood	7	8	12	1	1	1	8.33	8.33	8.33
McPherson	8	9	11	1	0	0	9.09		
Neosho	9	9	11	0	0	0			
Lyon	9	9	11	0	0	0			
Allen	9	10	10	0	0	0			
Jackson	7	7	8	0	0	0			
Pottawatomie	7	7	8	1	1	0	12.50	12.50	
Jefferson	6	7	8	0	0	0			
Atchison	7	7	7	1	0	0	14.29		
Grant	7	8	7	1	0	0	14.29		
Wilson	6	6	7	0	0	0			
Franklin	6	9	7	1	1	1	14.29	14.29	14.29
Bourbon	5	7	5	1	1	0	20.00	20.00	
Marshall	4	4	5	0	0	0			
Osage	5	10	5	1	1	1	20.00	20.00	20.00

Pratt	4	4	5	0	0	0			
Anderson	3	3	4	0	0	0			
Kingman	3	3	4	0	0	0			
Rooks	4	4	4	0	0	0			
Russell	3	3	4	0	0	0			
Brown	4	4	4	0	0	0			
Dickinson	4	4	4	2	2	0	50.00	50.00	
Smith	3	3	3	0	0	0			
Chautauqua	3	3	3	1	0	0	33.33		
Gove	3	3	3	0	0	0			
Doniphan	3	3	3	1	0	0	33.33		
Linn	3	3	3	0	0	0			
Pawnee	3	4	3	0	0	0			
Rice	2	2	2	0	0	0			
Coffey	2	2	2	0	0	0			
Cloud	2	2	2	0	0	0			
Wabaunsee	2	2	2	0	0	0			
Ottawa	2	2	2	0	0	0			
Kiowa	2	2	2	0	0	0			
Norton	2	2	2	0	0	0			
Rush	1	1	2	0	0	0			
Hamilton	2	2	2	0	0	0			
Decatur	2	2	2	0	0	0			
Mitchell	2	2	2	0	0	0			
Stevens	2	2	2	0	0	0			
Comanche	2	2	2	0	0	0			
Scott	2	2	2	0	0	0			
Stanton	2	2	2	0	0	0			
Wichita	1	1	1	1	1	0	100.00	100.00	
Nemaha	1	1	1	0	0	0			
Graham	1	2	1	0	0	0			
Ellsworth	1	1	1	0	0	0			
Elk	1	1	1	0	0	0			
Lane	1	1	1	0	0	0			
Thomas	1	1	1	0	0	0			
Washington	1	1	1	0	0	0			
Osborne	1	1	1	0	0	0			
Barber	1	1	1	0	0	0			
Trego	1	1	1	0	0	0			
Clay	1	1	1	1	1	0	100.00	100.00	
Kearny	1	1	1	0	0	0			

Lincoln	1	1	1	0	0	0			
Phillips	1	1	1	0	0	0			
Morris	1	1	1	0	0	0			
Stafford	1	1	1	0	0	0			
Woodson	1	1	1	0	0	0			
Hodgeman	1	1	1	0	0	0			
Republic	1	1	1	0	0	0			
Cheyenne	1	1	1	0	0	0			
Edwards	1	1	1	0	0	0			
Gray	0	0	0	0	0	0			
Marion	0	0	0	0	0	0			
Chase	0	0	0	0	0	0			
Morton	0	0	0	0	0	0			
Haskell	0	0	0	2	1	0			
Harper	0	0	0	0	0	0			
Ness	0	0	0	0	0	0			
Rawlins	0	0	0	0	0	0			
Logan	0	0	0	0	0	0			
Jewell	0	0	0	0	0	0			
Wallace	0	0	0	0	0	0			
Clark	0	0	0	0	0	0			
Greeley	0	0	0	0	0	0			
Sheridan	0	0	0	0	0	0			
Meade	0	0	0	0	0	0			
Sherman	0	0	0	0	0	0			

Note: Rates are calculated per 100 offenders. Rates of zero left blank.



## Appendix B. Qualifications

I am employed as the Richard J. Richardson Distinguished Professor in Political Science at the University of North Carolina at Chapel Hill. I received my BA, MA, and PhD degrees in political science at the University of Michigan (1980, 1983, 1986). I have been a faculty member since 1986 and have had full-time tenure-track or tenured academic positions at the University of Iowa, Texas A&M University, Penn State University, and UNC-Chapel Hill, where I have worked since 2009 as the inaugural holder of the Richardson Chair. I received tenure in 1992; was promoted to the rank of full professor in 1998; and to the rank of distinguished professor in 2005. I regularly teach courses at all levels and many of those courses involve significant instruction in research methodology. My research generally involves statistical analyses of public policy problems, often based on originally collected or administrative databases.

I have published over a dozen books and more than 100 articles in peer-reviewed journals, articles in law reviews, and chapters in peer-reviewed edited books. I have received a number of awards for my work, including six book awards, awards for database construction, and so on. I am a fellow of the American Academy of Arts and Sciences, an honorary society dating back to 1780. I was a fellow of the John Simon Guggenheim Memorial Foundation for the 2023-24 academic year. I have been invited as a visiting scholar in universities in the US, UK, France, Italy, Spain, and Switzerland. I have given over 100 invited academic lectures in universities in many countries. I have received multiple grants from the National Science Foundation totaling over \$2 million as well as research grants from the State of Pennsylvania, from national funding agencies in Norway, Spain, and France, as well as from the Region of Catalonia and the European Science Foundation.

I have published two books about the death penalty. The first, *The Decline of the Death Penalty and the Discovery of Innocence* (Baumgartner et al., 2008), focused on public opinion

toward capital punishment and the impact of the “innocence” argument on public opinion and on the number of death sentences handed down, nation-wide. My co-authors and I were awarded the Gladys M. Kammerer Award for the best publication in the field of US national policy from the American Political Science Association for this book in 2008. The second book, *Deadly Justice: A Statistical Portrait of the Death Penalty* (Baumgartner, Davidson, et al., 2018), provides a statistical overview of a broad range of questions relating to the “modern” (post-*Furman*) application of the death penalty: demographic characteristics of the offenders and victims, rates of use, comparison to homicide numbers, geographical patterns, eligible crimes in different states, cost, deterrence, rates of reversal, time from death sentence to execution, and so on. The book derives from and is the main text in a course I teach about the death penalty that regularly enrolls over 300 students at UNC-Chapel Hill.

My book *Suspect Citizens: What 20 Million Traffic Stops Tell Us About Policing and Race* (Cambridge University Press, 2018) won the C. Herman Pritchett Award for the best book published in 2018 from the APSA Section on Law and Courts (2019). This book uses statistical methods to analyze race- and gender-based disparities in the outcomes of millions of routine traffic stops. The results of our study have informed public policy discussions regarding police and have been cited in judicial rulings concerning the fourth amendment (see CV for a list).

I have also published a number of death penalty-related studies in law reviews and peer reviewed academic journals. Several of these makes use of a comprehensive database of over 9,000 death sentences across the country, noting the county and year of the death sentence (see Baumgartner et al. 2020; Baumgartner, Caron, and Duxbury 2022, Haney, Baumgartner, and Steele 2022). Others (e.g., Lyman, Baumgartner, and Pierce, 2021; Baumgartner 2022) involve a “Baldus-style” analysis of a set of homicides to determine the statistical correlates of being

sentenced to death. (A “Baldus-style” analysis refers to one similar to that conducted by Prof. David Baldus and presented in litigation leading to the US Supreme Court decision in *McCleskey v. Kemp*, 481 U.S. 279 (1987). See Baldus et al. 1983.) I have published work on the geographical distribution of death sentences and executions, based on a previous version of the database I use here and on a more limited one on cases eventually leading to execution (see Baumgartner et al. 2020, Baumgartner, Box-Steffensmeier et al. 2018, and Baumgartner et al. 2016). Many of these elements of my research are reflected in my book, *Deadly Justice* (see Baumgartner, Davidson et al. 2018). My most recent peer-reviewed articles drawing from a database similar to the one used here include Baumgartner, Caron, and Duxbury (2022), on the linkage between public opinion and the death penalty, and Haney, Baumgartner, and Steele (2022), on the application of the death penalty to offenders aged 18, 19, or 20 at the time of their crimes.

Regarding the death penalty, I have testified on matters relating to the use of the death penalty with offenders in the age group of 18, 19, and 20 years of age (*State v. Guzek*, Marion County OR, No. 17CV08248; court testimony in Salem OR, October 10, 2019); the patterns of use of the death penalty in Pennsylvania (*Cox v. Commonwealth of Pennsylvania*, oral testimony in court, Philadelphia, PA, August 5, 2022); gender differences in use of state peremptory strikes in the case of *State v. Bell* (testimony in Onslow County Superior Court, Jacksonville, NC, December 6, 2022); the constitutionality of the Kansas death penalty system, based on numerous challenges (*State v. Young*, Wichita Kansas, court testimony on February 9, 2023); the constitutionality of the Arizona death penalty system based on race and gender disparities in its use (*State v. Ross*, Maricopa County Arizona, court testimony on August 16–17, 2023), and various challenges to the Louisiana death penalty (including the Roper-extension question,

geographical arbitrariness, declining rates of use, and race and gender disparities in its use (testimony in *State v. Neveaux*, Jefferson Parish, LA, February 20, 2024; similar testimony in the cases of *State v. Horn*, DeSoto Parish LA, May 29, 2024 and *State v. Jones*, Terrebonne Parish LA, September 20, 2024). Further, I have provided affidavits or reports in court cases in Missouri, Florida, North Carolina, Texas, South Carolina, and California as well. These reports and testimonies have made use of previous versions of the database I use in this report.

I have also testified in Wake County (NC) Superior Court in a case regarding racial disparities in the impact of felon disenfranchisement (*Community Success Initiative v. Moore*, testimony on August 18, 2021).

I have never been denied by a court when presented as a potential expert witness.

I have provided affidavits or reports in state or federal cases in Missouri, Florida, North Carolina, Texas, South Carolina, and California as well. I have also been the lead signatory or co-signatory on amicus briefs to the US Supreme Court as well as state supreme courts in Pennsylvania and Washington. My published works have been cited in opinions by the US Supreme Court as well as by the Supreme Courts of North Carolina, Oregon, Arizona, and Iowa. Please refer to my CV for a full list of these activities.

These experiences provide me with the context and background to provide opinion or testimony in this case.

### ***Citations used in Baumgartner Qualifications Section***

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- Haney, Craig, Frank R. Baumgartner, and Karen A. Steele. 2022. *Roper* and Race: The Nature and Effects of Death Penalty Exclusions for Juveniles and the “Late Adolescent Class”. *Journal of Pediatric Neuropsychology* 8: 168–177.

(Qualifications last updated: October 9, 2024)