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AN ABSTRACT OF THE THESIS OF Patrick Arthur Jolley for the Master of Science in
Administration of Justice presented May 8, 1992.

Title: Race, Aggravated Murder, and the Death Sentence in Multnomah County, Oregon,
1984-1990: A Descriptive Analysis and Review

APPROVED BY THE MEMBERS OF THE THESIS COMMITTEE:

Charles A. Tracy, Chair

Annette I. Jolin

Barry F. Anderson

Criminal justice administrators in the United States have been challenged by a highly
visible accusation of racial discrimination. This perception has weakened the confidence in,
and support of, our judicial process. This study attempted to clarify this perception by

examining the effect of race on certain judicial decisions related to the death penalty. The variables chosen for analysis focused on the persons involved in the homicide, the circumstances of the crime, and decisions made during the processing of capital cases.

Data collection began by establishing a database from the Supplemental Homicide Reports filed by police agencies in Oregon between 1984 and 1990. Most variables related to the victim, defendant, and the circumstances of the crime were found in these reports. Multnomah County was chosen due to its large and diverse population in comparison to other counties within the State. Once the Multnomah County homicides were identified, case numbers were matched to the reporting police agency to obtain potential court case numbers or defendant names. Court records were searched for data specific to the charge(s), disposition, and sentence for each homicide defendant. The variables were analyzed through basic bi-variate comparisons and where possible, through the use of logistic regression.

The primary research question was whether the race of the defendant and/or victim affected capital case dispositions as well as sentencing? Due to low frequencies, most of the data analysis and conclusions were based on simple bi-variate comparisons although logistic regression was applied as well. Likewise, most tests of statistical significance were suspect but a few provided significant findings in regard to the disposition stage.

White defendants were more likely to be convicted of aggravated murder than non-white defendants. Defendants who killed white victims were more likely to be convicted than those who killed non-white victims. The multi-variate logistic regression analysis for whites and blacks only produced findings similar to the bi-variate analyses in most circumstances. The findings for the sentencing stage of the capital case process were somewhat different compared to the disposition stage. In regard to the defendant's race, a higher percentage of non-whites received a death sentence. The comparisons for the victim's race were based on very small frequencies and were not easily interpretable. Most of the results for the sentencing stage, however, were in contrast to the findings for the disposition stage. A multi-variate

logistic regression analysis was attempted for the sentencing stage, but due to small frequencies, the results were questionable and omitted.

The data collected were also used to develop a profile of homicides in Multnomah County between 1984 and 1990. This profile for the County found that most victims were male and white with an average age of 33.9 years. Most defendants were also male and white with an average age of 29.1 years. Blacks, however, were over-represented in the homicide statistics. The homicides were primarily intra-racial and involved only one defendant and one victim. Firearms caused 46.3% of the deaths and knives or other cutting instruments caused 22.7%. Most defendants knew the victim (77.3% of the identifiable victim/defendant relationships).

This research produced mixed findings and failed to provide adequate evidence to prove or disprove challenges of racial discrimination in the application of the death sentence in Multnomah County.

RACE, AGGRAVATED MURDER, AND THE DEATH SENTENCE
IN MULTNOMAH COUNTY, OREGON, 1984-1990:
A DESCRIPTIVE ANALYSIS AND REVIEW

by
PATRICK ARTHUR JOLLEY

A thesis submitted in partial fulfillment of the
requirements for the degree of

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in
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Portland State University
1992

TO THE OFFICE OF GRADUATE STUDIES:

The members of the Committee approve the thesis of Patrick Arthur
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INTRODUCTION

GENERAL BACKGROUND

In order for the criminal justice system to provide justice, it must treat those under its jurisdiction on as equal and nondiscriminating basis as possible. To do this, the police, courts, and corrections should focus on the crime and its circumstances as well as legally defined variables relevant to a particular offense. The decisions made by officials must be based on legally established principles and law, not on the personal characteristics of an offender.

Criminal justice administrators in the United States have been challenged by a highly visible accusation of racial discrimination. Evidence of discrimination weakens the authenticity, reliability, and legitimacy of what the justice system attempts to represent. Whether the challenge is old or new, it should be examined in order to substantiate and evaluate current practices.

In comparison to the general U.S. population, it appears that blacks are over-represented in the criminal justice system. The 1990 U.S. Census reported that 12.1% of the U.S. population was black (Bureau of the Census 1991). Of all the arrests made in 1989 (ages 18 and older), 31.3% of the offenders were black (Sourcebook 1991). A 1988 survey of the most serious offense which lead to a conviction in a state court estimated that blacks represented 52% of convicted murderers, 33% of convicted rapists, 63% of convicted robbers, and 44% of those convicted of aggravated assault (Sourcebook 1991). Radelet & Vandiver (1986) also noted that blacks committed homicide more often than whites. Of those inmates held in state and federal correctional facilities in 1989, 47.0% were black (Correctional Populations, 1989 1991). Finally, as of April 24, 1991, blacks accounted for 39.3% of the 2,457 people in the United States on death row (Sourcebook 1991).

This disproportionate representation of blacks throughout the system, however, may have been due to blacks being involved in more serious crimes (Blumstein 1982). Blumstein argued that disproportional arrest rates have lead to higher frequencies of blacks within the criminal justice system as a whole. However, he also noted that discrimination could not be totally ruled out.

Several specific research studies have attempted to examine the charges of racial discrimination within the criminal justice system at different stages of the process (i.e., arrest, charging, plea bargaining, conviction, and sentencing). In previous decades, there have been claims of police discrimination in the use of deadly force (e.g., see Fyfe 1982). In a review of prosecutorial discretion and decision-making, Spohn, Gruhl & Welch (1987) found that blacks and Hispanics were more likely to be prosecuted and less likely to have the original police charge rejected when compared to whites. When examining plea bargaining for convicted burglars, Humphrey & Fogarty (1987) reported that being a member of a racial minority often meant increased incarceration time upon sentencing. However, the findings among the researchers have not been entirely consistent (Miethe & Moore 1986).

In the often reviewed subject of sentencing, racial discrimination may exist at one stage of the sentencing process but not at another (Miethe & Moore 1986). Findings of discrimination have been usually related to the research design and data analysis techniques employed. For example, Zatz (1987) contended that early cries of racial discrimination began in the 1930's, but were quelled during the 1960's and 1970's when other variables were taken into account. However, subsequent re-analysis of the same data re-energized the debate by finding intermittent but not always consistent subtle or overt, racial discrimination.

Attempting to examine discrimination in all aspects of the administration of criminal justice would be a very large endeavor. In order to provide a more complete examination of this issue, it would be more advantageous to focus on a single challenge. For example, as noted above, sentencing has been a popular topic for charges of racial discrimination. One

sentence that has attracted much of the attention is the death penalty. The potential effect of race not only refers to the race of the defendant but also to the race of the victim.

The death penalty seems to be a popular sentence among the public for those defendants convicted of murder. Table I reproduces part of a 1991 Gallup Poll.

TABLE I
"ARE YOU IN FAVOR OF THE DEATH PENALTY FOR PERSONS
CONVICTED OF MURDER?"

RESPONDENT	RESPONSE			
	FAVOR	OPPOSE	NO OPINION	# OF INTERVIEWS
NATIONAL	76%	18%	6%	990
WHITE	78%	16%	6%	659
BLACK	59%	31%	10%	303

Source Gallup, Alec & Frank Newport. 1991. "Death Penalty Support Remains Strong," The Gallup Poll Monthly, Report No. 309, p. 43.

This poll showed strong approval for the death penalty. Although a majority of blacks supported the use of capital punishment (59%), their support was somewhat weaker than whites' (78%). This may reflect black apprehension if respondents believed there is racial discrimination in determining who will get a death sentence (Gallup & Newport 1991).

Table II presents the response of the same people when confronted with a question about the effect of race on the application of the death penalty. This table illustrates that there was considerable doubt regardless of race concerning the equal application of the death penalty. When race was considered, 73% of black respondents versus 41% of white respondents agreed that there was racial discrimination. When compared to a similar poll taken in 1985 where nationally 39% agreed, 53% disagreed, and 8% had no opinion, this latest poll showed increased doubt in the equal application of death sentences (Gallup & Newport 1991).

TABLE II

"...TELL ME IF YOU AGREE OR DISAGREE WITH...A BLACK PERSON IS MORE LIKELY THAN A WHITE PERSON TO RECEIVE THE DEATH PENALTY FOR THE SAME CRIME...?"

RESPONDENT	RESPONSE			
	AGREE	DISAGREE	NO OPINION	# OF INTERVIEWS
NATIONAL	45%	50%	5%	990
WHITE	41%	54%	5%	650
BLACK	73%	20%	7%	303

Source: Gallup, Alec & Frank Newport. 1991. "Death Penalty Support Remains Strong," The Gallup Poll Monthly, Report No. 309, p. 45.

A recent survey by the City Club of Portland provided some insight into local community sentiment regarding the trial process and sentencing (City Club of Portland 1992: 208, 231).¹ Among other statements, the survey sought a response to "...Our system provides a fair trial for members of all racial and ethnic groups." The mean response was 5.98 on a 9 point scale overall (where a 9 indicated strong disagreement) with whites averaging 5.36 and blacks averaging 6.35. When presented with the statement "...Our system provides all racial and ethnic group members equality in sentencing.", the mean response was 6.45 overall with whites (n = 11) averaging 5.70 and blacks (n = 21) averaging 7.00. The responses to both questions indicated some doubt regarding aspects of the justice system, more so among black respondents than among whites.

OREGON AND THE DEATH PENALTY

Capital punishment has been characterized by waves of uncertainty in Oregon. The first death penalty statute for the State appeared in 1864. It survived constitutional challenges

in 1909 and 1912 (e.g., see State v. Finch, 54 Or 482 (1909)), but was abolished via a constitutional amendment in 1914 (see Kanter 1979, The Organic and Other General Laws of Oregon 1843-1872 1874). In 1920, another constitutional amendment reinstated the death penalty as the sentencing option for first degree murder unless juries recommended life imprisonment. Although escaping abolishment in 1958, voter opinion and sentiment had changed by 1964. Capital punishment was again removed as a sentencing option through a constitutional amendment. Voters reinstated the death penalty through a statute in 1978, but it was invalidated in 1981 by the Oregon Supreme Court since it gave death sentencing power to judges (see State Of Oregon v. John Wayne Quinn 290 Or 383 (1981)). In 1984, via an initiative petition to exempt the death penalty from constitutional constraints, the death penalty was re-approved by statute. Similar to the last attempt, however, the Oregon Supreme Court subsequently invalidated the sentencing option due to a lack of jury instructions informing them to consider all mitigating circumstances as well as whether the offender truly deserved to be executed (see State Of Oregon v. Jeffrey Scott Wagner 305 Or 115 (1988) and 309 Or 5 (1990)) (Kanter 1979 & 1981, Mason 1991, Kramer 1992). Nevertheless, the statute survived, with greater attention being given to jury instructions, mitigating circumstances, and an additional question being added to those juries must answer when considering death.

In a review of Oregon's earlier death penalty use, Bedau (1965) produced some basic descriptive statistics on those sentenced to death in the State between 1903 and November, 1964. Of the 92 offenders for whom data were available, all but one were males (the lone female was never actually executed). Of the 83 offenders for which racial data were available, 9 were non-white. Among the non-white offenders, four were black and three were actually executed. Between 1930 and 1964, 50% of the offenders sentenced to death in the United States were non-white; in Oregon, the percentage was 19. Bedau estimated there was a 1 in 30 chance that a criminal homicide in Oregon would have eventually lead to a death sentence.

Since 1903, 58 people have been executed in Oregon (Bedau 1965, 1980). The last person legally executed in the State was put to death in August, 1962.

On November 6, 1984, Ballot Measure 7 placed the question of death as a sentencing option for aggravated murder before the voters. In an almost 3 to 1 majority, the death penalty was supported by the voters and became law on December 6, 1984 (Oregon Laws 1985). Prior to this change, there had been two sentencing options for those convicted of aggravated murder. The more severe sentence was a minimum of 30 years without possibility of release (i.e., parole, work release, temporary leave, employment, or work camp). The less severe sentence was a minimum of 20 years without possibility of release. Furthermore, those sentenced to a 30 year minimum could petition for parole after 20 years, whereas those sentenced to 20 years could petition after 15 years. The decision to grant parole was to be based solely on whether or not the prisoner could be rehabilitated in a reasonable amount of time (Oregon Revised Statute or ORS 163.105, Criminal Code of Oregon 1984). With death as a new sentencing option, the 20 year minimum sentence was deleted from the statute (Oregon Laws 1985). The two sentencing options then became either death or 30 years without release.

As required by the United States Supreme Court, there are two possible trials in Oregon's capital cases (ORS 163.150, Criminal Code of Oregon 1992). The first trial is to determine the guilt or innocence of a defendant. If a defendant is convicted of aggravated murder, a second penalty trial is held if the prosecution decides to seek the death penalty. If a defendant pleads guilty to or is convicted of aggravated murder before a judge, a sentencing jury will subsequently be formed. Evidence previously entered and any new evidence for sentencing purposes can be considered by the jury. Upon completion, the jury was formerly asked the following three questions (ORS 163.150 (1)(b), Criminal Code of Oregon 1992, Oregon Laws 1985):

- A. Whether the conduct of the defendant that caused the death of the deceased was committed deliberately and with the reasonable expectation that death of the deceased or another would result;
- B. Whether there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society;
- C. If raised by the evidence, whether the conduct of the defendant in killing the deceased was unreasonable in response to the provocation, if any, by the deceased;...

When considering question B (ORS 163.150 (1)(c), Criminal Code of Oregon 1984), the jury was also instructed to consider any mitigating circumstances offered as evidence that could include (but was not limited to): the defendant's age, the extent and severity of the defendant's prior criminal "conduct", as well as potential mental and emotional pressures affecting the defendant at the time of the offense . Each question required a "yes" or "no" response from the jury which was to be answered on a "beyond a reasonable doubt" basis. The vote had to be unanimous. If all three questions were answered with "yes", the judge was bound to sentence the defendant to death. Before 1989, if one or more of the questions was answered negatively, the judge sentenced the defendant to 30 years without release (ORS 163.150, Criminal Code of Oregon 1992).

This sentencing scheme did not meet the U.S. Supreme Court's guidelines for juries considering mitigating circumstances because they were only being considered in relation to question B. Subsequent changes added a fourth question to those submitted to the jury (ORS 163.150, Criminal Code of Oregon 1992, Oregon Laws 1989):

- D. Whether the defendant should receive a death sentence.

Mitigating circumstances are now to be considered by the jury for all questions. For question D, the jury also examines the defendant's background, character, and/or the circumstances of the crime. All four questions must be answered in the affirmative by all jurors for a defendant to be given a death sentence (ORS 163.150, Criminal Code of Oregon

1992). If one or more questions are answered in the negative, the judge can sentence the defendant to life imprisonment without parole; a third sentencing option added in 1989 (ORS 163.105(1)(b), Oregon Laws 1989). In the event that ten or more jurors find adequate mitigating circumstances, the defendant can be sentenced to life imprisonment with a 30 year minimum without release.

Since December 6, 1984, 23 defendants in the state of Oregon have been sentenced to death (Kramer 1992, Anonymous 1992a). Those defendants sentenced prior to the U.S. Supreme Court's warning regarding mitigating circumstances are having or have had their sentences reviewed by Oregon's Supreme Court. Of the 14 offenders affected by this decision, 4 have had their death sentences reaffirmed, 3 have been sentenced to life without parole, and 4 have been sentenced to 30 years without release. One offender has had his conviction and sentence reversed due to the admission of improper evidence at his trial and has been granted a new trial (Anonymous 1992b). The remaining two offenders are still undergoing or awaiting review. Currently, there are eight people on Oregon's death row, and there are a total of seven people serving life terms including the three life sentences noted above.

The five types of homicide currently in the State are criminally negligent homicide (ORS 163.145), manslaughter in the second degree (ORS 163.125), manslaughter in the first degree (ORS 163.118), murder (ORS 163.115), and aggravated murder (ORS 163.095) (Criminal Code of Oregon 1992). Only aggravated murder charges can potentially lead to a death sentence if a defendant is convicted. Homicides with at least one of the following aggravating circumstances can be prosecuted as a capital case in Oregon (ORS 163.095, Criminal Code of Oregon 1992):

(1)

(a) The defendant committed the murder pursuant to an agreement that the defendant receive money or other thing of value for committing the murder.

(b) The defendant solicited another to commit the murder and paid or agreed to pay the person money or other thing of value for committing the murder.

(c) The defendant committed murder after having been convicted previously in any jurisdiction of any homicide, the elements of which constitute the crime of murder as defined in ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.

(d) There was more than one murder victim in the same criminal episode as defined in ORS 131.505.

(e) The homicide occurred in the course of or as a result of intentional maiming or torture of the victim.

(2)

(a) The victim was one of the following and the murder was related to the performance of the victim's official duties in the justice system:

(A) A police officer as defined in ORS 181.610 (7);

(B) A correctional, parole or probation officer or other person charged with the duty of custody, control or supervision of convicted persons;

(C) A member of the Oregon State Police;

(D) A judicial officer as defined in ORS 1.210;

(E) A juror or witness in a criminal proceeding;

(F) An employee or officer of a court of justice; or

(G) A member of the State Board of Parole and Post-Prison Supervision.

(b) The defendant was confined in a state, county or municipal penal or correctional facility or was otherwise in custody when the murder occurred.

(c) The defendant committed murder by means of an explosive as defined in ORS 164.055.

(d) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the homicide under the circumstances set forth in ORS 163.115 (1)(b) [see next page];

(e) The murder was committed in an effort to conceal the commission of a crime, or to conceal the identity of the perpetrator of a crime.

(f) The murder was committed after the defendant had escaped from a state, county or municipal penal or correctional facility and before the defendant had been returned to the custody of the facility.

Felony homicides, homicides which are accompanied by an additional felony or more, are defined in ORS 163.115. A felony homicide as defined by statute includes the following crimes (ORS 163.115 (1)(b), Criminal Code of Oregon 1992):

- (A) Arson in the first degree as defined in ORS 164.325;
- (B) Criminal mischief in the first degree by means of an explosive as defined in ORS 164.365;
- (C) Burglary in the first degree as defined in ORS 164.225;
- (D) Escape in the first degree as defined in ORS 162.165;
- (E) Kidnapping in the second degree as defined in ORS 163.225;
- (F) Kidnapping in the first degree as defined in ORS 163.235;
- (G) Robbery in the first degree as defined in ORS 164.415;
- (H) Any felony sexual offense in the first degree defined in this chapter; or
- (I) Compelling prostitution as defined in ORS 167.017;...

The difference between being charged with murder or aggravated murder when the homicide is accompanied with at least one other felony above is slight, but important. ORS 163.095 (2)(d) provides the additional phrase "personally and intentionally committed the homicide." (see Criminal Code of Oregon 1992). It is the prosecutor who formulates this charge, and although validated by a grand jury, much room is still left for discretion (see Mason 1991).

PROBLEM STATEMENT

Research Questions

The widely held perception of racial discrimination in the administration of criminal justice weakens the confidence in, and support of, our judicial process. This study attempts to clarify the accuracy of this perception by examining the effect of race on certain judicial decisions related to the death penalty. This research is guided by a specific set of research questions:

1. What is the profile of homicides in Multnomah County between 1984 and 1990?
2. Does the race of the defendant affect capital case dispositions?
3. Does the race of the defendant affect capital case sentencing?
4. Does the race of the victim affect capital case dispositions?
5. Does the race of the victim affect capital case sentencing?
6. Is there an interaction between the race of the defendant and the race of the victim that affects capital case dispositions?

7. Is there an interaction between the race of the offender and the race of the victim that affects capital case sentencing?
8. Do other legal and extra-legal variables affect capital case dispositions or sentencing?

Scope and Limitations

The possibility of racial discrimination in the administration of the death penalty was examined only in Multnomah County, Oregon. The number of variables considered were limited due to small frequencies or lack of variation. Although Multnomah County was chosen because it is the largest and most urban jurisdiction with the most criminal homicides and good racial diversity, it may be those areas where minority or inter-racial homicides are relatively infrequent that should be examined. Bowers & Pierce (1980), Paternoster (1983), Bowers (1983), Gross & Mauro (1984) as well as Bienen et. al. (1988) have highlighted regional variation in capital case processing within a state.

A number of important variables were not collected or examined. For example, two important variables excluded were the defendant's criminal record as well as the strength of the case against the defendant. It is quite possible that findings from this research suffer from a misspecification error (i.e., the exclusion of an important variable in the regression analysis).

This dataset would have been more complete if police incident and investigation reports had been available. The disposition and sentencing decisions may be affected by earlier decisions in capital case processing. Most previous research highlights the importance of the prosecutor's charging and sentencing decisions.

THEORETICAL FRAMEWORK

Constitutional Considerations

The focus of this research is not on the merits of the death penalty. Rather, it is the administration of the death sentence. Justice is the "...proper administration of law..." as well as "...the constant and perpetual disposition of legal matters or disputes to render every man

his due..." (Black's Law Dictionary 1983: 447). Justice also refers to the "...quality of being fair; the dispensation of earned reward or punishment..." (Martin 1973: 124). The U.S. Constitution and its amendments provide the framework within which these theories of justice can be examined.

Most challenges to the death penalty have been guided by the 8th Amendment to the U.S. Constitution, arguing that death sentences are a cruel and unusual punishment. Those who claim this call attention to the unsystematic, capricious, infrequent, and discriminatory manner in which death sentences have been delivered. Many also include the 14th Amendment to the U.S. Constitution in the debate, arguing that the application of death sentences violates the clauses pertaining to due process and equal protection of the law.

Definitions of Terms and Concepts

Those terms or variables which have special meaning for data analysis in this paper are defined below. A copy of select codes used for data collection is provided in Appendix B.

DISPOSITION: This dichotomous dependent variable marks whether a defendant was convicted of at least one aggravated murder homicide charge (abbreviated AGG MURDER) or no aggravated murder charge(s) (NON AGG MURDER).

SENTENCE: This dichotomous dependent variable marks whether an offender was sentenced to death or to prison. If an offender received multiple sentences of the same type, only one is used to represent that case. Additional sentences accompanying an aggravated murder sentence are ignored.

DEFENDANT/OFFENDER: The term defendant refers to those charged or suspected of a criminal homicide, but not convicted. The term offender refers to those people who have been convicted of at least one criminal homicide charge.

RACE: The race of the victim and defendant/offender is categorized as follows: Caucasian, black, Hispanic, Native Indian, Chinese, Japanese, Vietnamese/Cambodian/Laotian/Thai, other Asian, and other. Caucasian is synonymous with white. Race is divided

into two different dichotomous groups due to small frequencies for most minorities other than blacks. One group includes only whites and blacks. The other group includes whites and all other minorities (i.e., non-whites).

RELATIONSHIP OF THE VICTIM TO THE DEFENDANT/OFFENDER: There are approximately 40 possible relationships codes for this variable. Consequently, it is divided into two categories. The first category includes all cases where it was possible to determine that the defendant/offender knew the victim in some manner, including mere acquaintances. The second category includes all cases where it was believed the victim and defendant/offender were strangers. In the event the relationship was not known, it was excluded from data analysis. A slightly different categorization is used in the Homicide Profile Section.

WEAPON TYPE / CAUSE OF DEATH: There are a variety of possible weapon types or causes of death. As a result, this variable is divided into three categories: firearms, knives or cutting instruments, and other. A complete recount of weapon types is provided in the Homicide Profile Section of this thesis.

TYPE OF DEFENSE COUNSEL: This variable represented three categories: a court-appointed attorney or public defender, a privately retained attorney, or the defendant was self-represented. There were frequent changes for most homicide defendants. The choice of attorney category is based on which type was serving formally as defense counsel for a majority of the time between indictment and disposition.

PRETRIAL CUSTODY STATUS: This variable records whether a defendant was released from custody (i.e., a jail or prison but not including community-related supervision) for a majority of the time between indictment and disposition.

TRIER OF FACT: This variable records whether a defendant was adjudicated by a jury or judge.

NUMBER OF DIFFERENT AGGRAVATING CIRCUMSTANCES: ORS 163.095 provides 17 aggravating circumstances which qualify a homicide as an aggravated murder (Criminal

Code of Oregon 1992). This variable notes the number of different aggravating circumstances argued in each indictment. For example, if an indictment charges that an armed robbery lead to the intentional death of the person robbed (see ORS 164.415), and the death of a police officer responding to the crime, the number of aggravating circumstances would equal at least three (i.e., an intentional homicide to further the crime of robbery, the killing of a police officer, and multiple victims). However, this variable does not include multiple counts of the same aggravating circumstance. Referring to the previous example, if the indictment includes a charge of burglary I (ORS 164.225) as well, this would mean two aggravating felonies under ORS 163.095 (2)(d) (Criminal Code of Oregon 1992), but only one would be counted for this variable since it is the same aggravating circumstance

FELONY HOMICIDES: Another measure of crime seriousness in this analysis is whether the homicide occurred in association with another felony. This variable is dichotomous, with either at least one accompanying felony charge under ORS 163.095 (2)(d) or no additional felony charge under ORS 163.095 (2)(d). It does not include multiple felony charges.

PLEAS: This variable refers to pleas of guilty or no contest. A defendant could have entered a plea for a current charge or a lesser charge.

SELECTED REVIEW OF THE LITERATURE

SIGNIFICANT COURT CASES

In 1972, Furman v. Georgia 408 U.S. 238 (1972) halted the use of executions. In a 5 to 4 decision, with each justice writing their own opinion, the Court found the death penalty discriminatory, arbitrary, excessive, as well as cruel and unusual. Capital punishment, as currently administered violated the 8th and 14th Amendments of the U.S. Constitution. However, the Court only halted executions, offenders could still be sentenced to death. The key issue was not the use of the death penalty, but the amount of discretion in the administration of capital punishment which made it cruel and unusual.

With a 7 to 2 majority, the Court in Gregg v. Georgia 428 U.S. 153 (1976) held that the death penalty did not consistently violate the U.S. Constitution. The Court's remedy was guided decision-making, which would include legally established aggravating and mitigating factors that had to be substantiated in writing, as well as a bifurcated trial process, the determination of guilt and sentencing would be two separate trials in capital cases. Additionally, in each case where the death penalty was imposed, there would be an automatic appeal to the state's supreme court. The Court believed these changes would resolve the previous capricious and arbitrary use of death as a sanction.

Similarly, the U.S. Supreme Court in Proffitt v. Florida 428 U.S. 242 (1976) held that trial judges must also document in written form the factors they considered in decision-making when a jury was not empaneled. In this 7 to 2 decision, the Court further noted the importance of defendant characteristics and the circumstances of the crime when considering aggravating and mitigating factors besides reaffirming automatic appeals for death sentences.

Some states had argued a mandatory death sentence for first degree murder as an avenue to prevent arbitrariness and discrimination. However, by a 5 to 4 decision in Woodson et. al. v. North Carolina 428 U.S. 280 (1976), as well as in Roberts v. Louisiana 428 U.S. 325 (1976), the Court refused to accept mandatory death sentences. The individual defendant and circumstances of each case had to be examined on their own merits.

In Jurek v. Texas 428 U.S. 262 (1976), the Court with a 7 to 2 majority accepted the Texas guided decision-making scheme which did not utilize both aggravating and mitigating factors, but gave specific attention to mitigating circumstances. This finding was later qualified in Lockett v. Ohio 438 U.S. 586 (1978), which ruled that mitigating factors could not be construed so narrowly as to impair the use of capital punishment. These cases were further supplemented by Penry v. Lynaugh 109 S Ct. 2934 (1989), which voiced the importance of jury sentencing instructions and consideration being given to any mitigating evidence about the defendant's background, character, or the circumstances of the crime. Finally, in McCleskey v. Kemp 481 U.S. 279 (1987), the Court found that statistical evidence of discrimination in other cases was not sufficient to substantiate discrimination in all cases. If a defendant charged discrimination, he or she would have to provide evidence specifically related to that case. McCleskey v. Kemp utilized data collected and analyzed by Baldus, Pulaski & Woodworth (1983, 1985, 1986), which are reviewed in the next section. Following the decision in Spinkellink v. Wainwright 578 F2d 582 (1978) (the Supreme Court denied certiorari 440 U.S. 976 (1979)), the Court stated that if racial discrimination was argued, evidence must be presented directly stemming from the defendant's case to substantiate the claim.

PREVIOUS RESEARCH

Gross & Mauro (1984) and Paternoster (1984) have stressed the importance of starting from the beginning of the capital case process when discussing capital sentencing. Hence much attention has been focused on the prosecutor's role in potential capital cases, for even

if the facts allow prosecution as a capital offense, the prosecutor does not have to do so. Prosecutors formulate the charge for trial and decide whether to seek the death penalty if a capital conviction results. This has been found to be most often a low visibility, high discretion decision (Paternoster 1984). Prosecutors can also offer a life sentence in exchange for a guilty plea (Zeisel 1981). This may lead prosecutors to "up the charge" in order to get a guilty plea for a lesser charge. The decision to seek a death sentence may be related to case loads, time constraints, trial costs, community pressure or politics, and public attention or outrage (Bowers 1983, Paternoster 1984, Radelet & Pierce 1985). Race may also become a factor if black victims are "devalued", or, from Durkheim's social/cultural argument, if the crime has crossed social or status boundaries (Zeisel 1981, Radelet 1989, Gross & Mauro 1984). Many of these same arguments have also been made against judges and juries. For example, juries may identify more easily with white victims since whites usually are the majority sitting on a jury.

In New Jersey, Bienen et. al. (1988) reviewed potential prosecutorial discretion in capital cases between 1982 and 1986. They found a somewhat strong effect for the race of the victim, but a weaker effect for the offender's race. There was also some variation among the state's counties in relation to the prosecutor's decisions.

Bowers (1983), in a review of the prosecutor's charges, examined Florida's death sentences during 1976 and 1977 for 20 counties. He found that four legally relevant factors affected a first degree (capital) murder indictment: a felony related homicide, multiple offenders, multiple victims, and female victims. Blacks who killed whites had as significant an effect as any of the four legal variables. Whites who killed whites also had a significant effect but less than blacks who killed whites. Cases involving white victims, however, also seemed to have more aggravating factors, and the location of the crime within the state showed some variation in the prosecutor's decisions. Finally, court-appointed defense counsel did the poorest job of defending in capital cases versus public defenders and especially private counsel (Bowers 1983).

Racial biases, based on white victims, increased during a review of capital murder convictions for Florida between 1973 and 1977 (Bowers 1983). Although region remained significant, attorney type and number of victims showed a reduced effect. In his review of capital sentencing for Florida during 1973 and 1977, Bowers found that a felony homicide was the only significant legal factor related to receiving a death sentence, but those offenders with white victims were much more likely to get the death penalty. Region within the state showed some variation in sentencing as well as court-appointed attorneys being involved in a higher percentage of cases resulting in death sentences. Bowers, however, did not examine the criminal history or record of the offender.

In an earlier study of homicide indictments and dispositions in 20 Florida counties between 1976 and 1977 (788 total cases), Radelet (1981) found that the victim's race was a factor at the indictment stage but less so at the disposition stage. The offender's race was a weak influence when the victim's race was controlled. There was some effect for the relationship of the victim to the offender (i.e., homicides involving strangers ultimately received more death sentences). Radelet, however, did not control for the victim's and offender's sex and age, the offender's criminal record, or region within the state.

In a review of over 1,400 homicide indictments between 1973 and 1977 in selected counties of Florida, Radelet & Pierce (1985) reported that police charges in possible felony homicide cases were more likely to be upgraded by the prosecutor/court for blacks who killed whites, then for whites who killed whites, blacks who killed blacks, and least often for whites who killed blacks. Upgrading cases may have been related to possible plea bargains or dissatisfaction by the prosecutor. When no pleas had been discussed, upgrading a homicide increased the probability of a death sentence. Race continued as an influence even when crime seriousness was controlled (e.g., victim/offender relationship, number of offenders or victims, etc). When police charged an accompanying felony with the homicide, blacks who killed whites were most likely to remain as felony homicides and those cases with black victims

were most likely to be downgraded (Radelet & Pierce 1985). However, they did not control for prior criminal record.

Arkin (1980) examined 350 murder cases in Dade County, Florida between 1973 and 1976. He reported that cases with white victims lead more often to capital convictions compared to black victim cases. A greater percentage of white offenders were convicted of capital murder, but of the black offenders convicted of capital murder, a larger percentage of them were given the death penalty, especially blacks who killed whites. However, Arkin argued that after controlling for felony/non-felony homicides, there was no conclusive evidence for racial effects on capital convictions. It should be noted that Arkin's study had only 10 death sentences out of the 350 cases examined.

After reviewing 205 death eligible or potential capital homicide cases between June 8, 1977, and November 30, 1979, in South Carolina, Jacoby & Paternoster (1982) reported that offenders with white victims were 3.2 times more likely to face the death penalty than those with black victims. Furthermore, they found white offenders were more likely to face a death sentence than black offenders. However, they did not consider the possibility of offender/victim interaction at first, and when controlled they found very little evidence of offender-based racial discrimination. The race of the victim had the most influential effect.

Paternoster (1984) reviewed approximately 1800 non-negligent homicides in South Carolina between June 8, 1977, and December 31, 1981. Of the 1800, 311 were potential capital cases and only in approximately one-third of the cases was the death penalty sought by the prosecution. His results indicated that those who killed whites were 2.5 times more likely to face the death penalty than those who killed blacks (Paternoster 1984). As with Bowers & Pierce (1980) and Radelet (1981), the race of the offender, separate from the victim, had a negligible effect for felony homicides. However, when combined, blacks who killed whites were much more likely to face the death penalty than whites who killed whites, but also blacks who killed blacks were significantly less likely to face the death penalty than whites

who killed blacks. Who a black killed had more of an effect than who a white killed (i.e., when the victim's race was controlled). He found that aggravating offenses, felonies accompanying the homicide or other aggravating circumstances discussed below, appeared to affect the outcome differentially. Race still had an effect, but somewhat less as the number of aggravating offenses increased (Paternoster 1984). The type of weapon, victim's sex, number of victims, victim/offender relationship, as well as other legal and extra-legal factors could not account for the effect of the victim's race (Paternoster 1984).

These findings were similar to results in an earlier analysis of these data. Like Bowers (1983), Paternoster (1983) found evidence of regional variation within South Carolina; death sentences were more often sought in rural areas. However, neither considered the criminal record of the offender or the strength of evidence against the offender. In his earlier report, Paternoster (1983) highlighted the difference that aggravating offenses could play in a prosecutor's decision to seek the death penalty (e.g., multiple victims, number of offenders, concealing the victim's body, brutality or torture, female victims, a stranger victim/offender relationship, etc.). For example, if aggravating offenses were examined in relation to race, 75% of blacks who killed whites qualified legally as capital cases, compared to 29.6% of whites who killed blacks, 19.5% of whites who killed whites, and 8.5% of blacks who killed blacks. Overall, white victims were involved in homicides with additional aggravating factors more often.

Bowers & Pierce (1980) and Bowers (1983) had found comparable results for their studies in Florida. In Georgia, Heilbrun, Foster & Golden (1989) argued that of the known cases between 1974 and 1987, the race of the victim had a greater effect when the offender was black, and a smaller effect when the offender was white. Black offenders would get death sentences more often when compared to white offenders if the victim's race was white. However, the white victim "effect" was limited when the "dangerousness" of the offender was

measured. Dangerousness was measured through an examination of the offender's social (or anti-social) history as well as an intelligence test.

Likewise, Baldus, Pulaski & Woodworth (1983) claimed that prosecutors and juries tolerated higher levels of aggravation or crime seriousness (i.e., more aggravating circumstances) with black victims when they chose to select death as the penalty for a homicide in Georgia. Baldus, Pulaski & Woodworth's (1983) review of Georgia death sentences given by juries between March 28, 1973, and June 30, 1978 (a total of 594 cases), argued that the race of the victim affected the prosecutor's decision to seek the death sentence in a capital case. Their finding that a higher likelihood of a death sentences for blacks who killed whites remained after controls were included for over 200 other variables, but strength of evidence against the offender was not included.

Among other new controls, strength of evidence was included in a subsequent expanded analysis of the data (Baldus, Woodworth & Pulaski 1985). The victim's race continued to show a significant effect while the race of the offender showed a minor effect. They found the victim's race had a greater impact on those cases which were intermediate on a scale of homicide seriousness (affecting both prosecutorial and jury sentencing decision-making). In 1986 Baldus, Pulaski & Woodworth (1986) added that the effect of the victim's race in Georgia appeared strongest in the prosecution's decision to seek death in a penalty trial, but remained a factor in jury sentencing as well.

Barnett (1985) used the same data of Baldus, Pulaski & Woodworth (1983). By developing his own scale, established mainly on crime seriousness, Barnett argued that the victim's race was associated with receiving a death sentence. Barnett's scale of crime seriousness was formed basically on (1) the certainty that the offender deliberately meant to kill, (2) a stranger versus known victim/offender relationship, and (3) the "heinousness of the killing" (Barnett 1985). However, as previously argued, whites were more often found to be victims of crimes that evoked capital trials and death sentences. The victim's race had an

effect even when the offender's criminal record and seriousness of the offense were controlled, though somewhat weak. Barnett found little evidence for the offender's race. As later substantiated by Baldus and his associates through regression analysis, the race of the victim had its greatest effect in the intermediate seriousness range.

In a series of analyses, Vito & Keil (1988) examined Kentucky homicides between December 22, 1976, and October 1, 1986 (454 complete cases). Of the potential cases prosecuted as capital crimes, blacks who killed whites and offenders with white victims were more likely to face death qualified juries (i.e., prosecuted as a capital case) than any other racial combination. Of those given a death sentence, 7 of 8 had white victims. Homicide seriousness, the number of aggravating circumstances, however, was found more influential than race in receiving the death penalty from a jury (Vito & Keil 1988). Furthermore, a history of violent offenses was the most aggravating factor. They noted that the black-killed-white racial combination had its greatest impact on the disposition rather than the sentencing stage.

Subsequently, Keil & Vito (1989) re-analyzed as well as expanded their database and reported that the race of the offender and victim were found to have an effect on capital sentencing. This new finding was based on their use of Barnett's crime seriousness scale. In contrast to Barnett (1985) and Baldus, Woodworth & Pulaski (1985), as well as their previous findings, they contended that the effects of race were not confounded by the seriousness of the homicide in regard to prosecution and jury decision-making, but homicide seriousness was a factor by itself. Additionally, they revalidated previous findings that criminal record, female victims, and multiple victims were also factors in sentencing, but did not totally account for the race effect. In a further re-analysis of the 1988 data, Keil & Vito (1990) produced similar results. Capital charges and jury death sentences were more likely for blacks who killed whites. They note, though, that the existence of a prior record had a negative effect on an offender being tried with a capital charge, and that an accompanying felony or a stranger victim/offender relationship did not affect a capital charge being entered. Overall, the race of

the victim was more important than the race of the offender, which had an indirect effect based on the victim's race.

In an analysis of 21 Florida counties between 1972 and 1978 (approximately 800 cases), Foley & Powell (1982) examined race in relation to whether a homicide case went to trial, the jury's sentence recommendation, and the judge's sentence. When controlling for other variables (through analysis of covariance) such as age, sex, education, occupation, criminal record of the offender, victim/offender relationship, and weapon, only the judge's decision to impose death was affected by the race of the victim. Additional influential factors included the offender's sex (i.e., male), number of victims, additional offenses, and guilty pleas. The decision to charge and the juries recommendation did not show significant effects for race when the other variables were controlled.

Zeisel (1981) reviewed Florida's capital sentencing patterns between mid-1977 to 1980. Zeisel examined 85 offenders sentenced to death for felony homicide. He found the victim's and the offender's race were related to being given a death sentence. Prior to Furman, 67% of Florida's death row inmates were black. By the end of 1980, the percentage of blacks sent to death row had dropped to 40% (Zeisel 1981). Furthermore, the number of offenders sent to death row who killed blacks rose from 4% to 12%. Before this study, there had never been a white offender on death row for killing a black.

According to Radelet & Vandiver (1986), by the mid-1980's, the number of whites who killed blacks on Florida's death row had reached eight. Radelet & Vandiver also reported that in Florida between 1973 and early 1985, 44% of homicide victims were black, but only 10.2% of the offenders were given the death penalty for killing a black. By the end of 1985, there were 331 offenders on Florida's death row for killing a white, while 38 had killed a black victim.

In an early review of post-Furman sentencing at the national level, Reidel (1976) reported that between June 29, 1972, and August, 1975, the number of non-whites being

sent to death row increased in all regions of the country except the South (where it remained virtually the same). However, Reidel employed no real controls (e.g., victim or "case" details) in making this conclusion.

Louisiana's death sentencing practices were examined by Smith (1987) between October 1, 1976, and December 31, 1982, which included 504 death eligible cases. Offenders with white victims received more death sentences than those with black victims (84.9% v. 15.1% respectively). Those offenders with white victims were approximately twice as likely to have received a death sentence. He also found discrimination towards white offenders; i.e., whites who killed whites were more at risk than blacks who killed whites. The racial effects observed remained after controls for victim's sex, number of victims, weapon type, victim/offender relationship, and location within the state were included. Overall, the race of the offender was insignificant unless the victim's race was known when predicting death sentences. Smith suggested more attention be given to the offender's criminal record.

In a review of Texas death sentences through an estimate of homicides between February, 1974, and December, 1983, Ekland-Olson (1988) reported that 85% of the offenders sentenced to death had white victims. He also found that felony homicides occurred in 72% of those cases which eventually lead to death sentences (overall, 81% of the potential capital cases were felony homicides). Furthermore, homicides involving a stranger or a female victim were more likely to get death sentences.

A few studies have been multiple state ventures. Bowers & Pierce (1980) reviewed the first five years following Furman in Florida, Georgia, Ohio, and Texas, from when each state enacted a capital punishment penalty through 1977. They found race to be the most influential extra-legal variable in regard to differential application of the death penalty. Although the race of the victim had the strongest effect, the race of the offender was also influential when considered with the victim's race. For Florida, Georgia, and Texas, even if a homicide may have been felony-related, race had a stronger effect than this legal variable. The

probabilities of a death sentence and the effect of race, however, varied by state. Black offenders and those who killed whites were more likely to get a death sentence. In Florida and Georgia (the only two for which data were available), the rates also varied by region within the state (regional variation on a smaller scale was also found for charging and convictions) (Bowers & Pierce 1980). For Florida, the race of the victim especially, and to a lesser degree the race of the offender, affected the whole capital process, including arraignment, indictment, disposition, and sentencing. This finding was especially true for felony homicides. For non-felony homicide cases, the offender's race had its greatest impact on arraignment while the effect of the victim's race was strongest for indictment and disposition.

A later multi-state study by Gross & Mauro (1984) examined Arkansas, Florida, Georgia, Illinois, Mississippi, North Carolina, Oklahoma, and Virginia between January 1, 1976, or when the respective state approved a capital punishment penalty, and December 31, 1980. Since Florida, Georgia, and Illinois utilized capital sentencing more often, they were discussed together while the remaining four, with smaller frequencies, were discussed together.

In Georgia, cases with white victims were 10 times more likely to receive a death sentence than cases with black victims. For Florida, cases were 8 times more likely, and for Illinois, cases were 6 times more likely (Gross & Mauro 1984). When regression analysis was applied, these numbers changed to approximately 7.2 times more likely in Georgia, 4.8 times more likely in Florida, and 4.0 times more likely in Illinois. When controlling for white victims, blacks were more likely to get a death sentence than whites in all three states. Other influential variables included the number of victims, a stranger victim/offender relationship, and felony homicides, but these controls could not account for the effect of the victim's race. The race of the offender, however, had almost no effect when these variables were controlled. There was also some evidence for the effect of region within Florida and Georgia as well as for female victims. Multiple regression analysis found that the race of the offender was not independent of the victim's race in Florida and Georgia, but there was some evidence in Illinois.

As already noted, the frequencies for Arkansas, Mississippi, North Carolina, Oklahoma, and Virginia were small, but there was some evidence for a race of victim effect in all five of these states (Gross & Mauro 1984). This effect remained when the level of aggravation and felony/non-felony cases were controlled. When multiple regression analysis was applied, the victim's race appeared to have an effect in Mississippi, North Carolina, and Oklahoma, but Arkansas and Virginia showed statistically insignificant results. However, when the race of the suspect was controlled, the race of the victim had a stronger effect in Arkansas, Mississippi, Oklahoma, and Virginia, but was no longer statistically significant in North Carolina. Gross & Mauro (1984) did not control for criminal record or strength of evidence.

Radelet & Vandiver (1983) examined death sentence appeals to the Florida Supreme Court between January 1, 1973, and December 31, 1981. Of the total 145 cases reviewed, only 51.7% were affirmed. They found five basic predictors of the Court's decisions. The two most important were legal variables: jury recommendation and the number of victims. Three extra-legal predictors were also found: offender's race, victim's sex, and the interaction of the offender's race and victim's sex. Slightly more black offenders had their sentence reaffirmed than white offenders (54.2% v. 50.0% respectively) (Radelet & Vandiver (1983)). When examining both Florida and Georgia state and federal appellate review, Bowers (1983) as well as Bowers & Pierce (1980) found very little correction of discrimination at earlier stages of capital case processing. Gross & Mauro (1984) also found little evidence for the efficacy of state appellate review in Florida and Georgia. Similarly Baldus, Pulaski & Woodworth (1983) reached the same conclusion for Georgia. Radelet & Vandiver (1986) noted that only a few studies have examined post-sentencing in capital cases.

Most research on race and capital sentencing has been conducted in the southern region of the United States. This does not mean that discrimination is only suspect in that region. A few studies have been conducted outside of the South and produced similar results, for example, Ohio (Bowers & Pierce 1980), New Jersey (Bienen et. al. 1988), and Illinois

(Gross & Mauro 1984). One possible reason for fewer studies elsewhere in the country is that there are relatively small populations of minorities. Another is that death sentences, where applicable, are not as frequently imposed. This limits the degree of analysis that can be performed on the available data.

Bowers (1983) reported that judges, juries, defense counsels, and prosecutors all admit the interaction of extra-legal factors in capital cases. Furthermore, Radelet & Vandiver (1986) caution that not all racial disparity is a "conscious" act of discrimination. A possible confounding factor in studying race and the death penalty is the relatively low number of whites who kill blacks (Radelet 1989). In a review of almost 16,000 known American executions since 1608 in U.S. jurisdictions, only 30 offenders in 26 cases were whites who killed blacks. Possible explanations for this scarcity historically include the fact that white offenders who killed blacks were infrequently charged with a capital crime, blacks were reluctant to testify against whites, or that these homicides crossed social or economic status boundaries.

There may be more white victim offenders on death row either because of a yet unknown variable relative to the offender and/or victim other than race, or some qualitative difference between white victim and black victim homicides (Paternoster 1984). From these studies, however, it appears that the race of the victim, and in some cases, the offender's race can have an effect on the processing of these cases. The offender's race, if influential at all, is usually dependent on its interaction with the race of the victim. Other influential variables usually included felony homicides, the number of aggravating circumstances (e.g., multiple victims or criminal justice officials), region within a state, the sex of the victim, and whether the offender and victim were strangers.

RESEARCH DESIGN AND METHODS

Data collection began by recovering and establishing a database of the Supplemental Homicide Reports filed by police agencies in Oregon between 1984 and 1990. Multnomah County was chosen due to its large and diverse population in comparison to other counties within the State. Once the Multnomah County homicides were removed, case numbers were matched to the reporting police agency to obtain potential court case numbers or defendant names. Court records were searched for data specific to the charge(s), disposition, and sentence for each homicide defendant.

SELECTION OF HOMICIDE CASES

The unit of analysis is the homicide case from the police report through sentencing. Under ORS 163.005 (Criminal Code of Oregon 1992), "...a person commits criminal homicide if, without justification or excuse, the person intentionally, knowingly, recklessly or with criminal negligence causes the death of another human being." For the purpose of this analysis, a homicide case is offender- or defendant-based. That is, each defendant is considered a case regardless of the number of defendants or victims. One homicide involving three defendants would be considered three homicide cases. The few cases with multiple victims have been entered in a compensating manner (i.e., averaged numerically), but most importantly two or more victims would be represented in only one case. The Homicide Profile Section to follow, however, examines each victim and offender separately. Figure 1 provides a flow-chart illustrating the attrition of applicable homicide cases.

Figure 1. Homicide case attrition.

There were 266 cases with at least one victim and one defendant. Since the death penalty did not become a sentencing option until December 6, 1984, all homicides that occurred prior to this date were removed ($n = 34$ cases). Furthermore, ORS 419.533 and ORS 161.620 allows offenders under 18 years of age (i.e. 15-17 years) at the time of the homicide to be prosecuted for aggravated murder but they can not be given a death sentence or life without release (Criminal Code of Oregon 1992). Only convicted juvenile offenders who were 17 years old can be given a prison sentence of 30 years without release. Consequently,

all cases involving juveniles (i.e., persons under 18 years of age when the homicide was committed) were removed from the database (n = 18 cases). This left 214 cases with at least one homicide charge. Of the 214 cases, only 55 involved at least one charge of aggravated murder. An aggravated murder conviction and sentence were delivered in 31 of these cases. A death sentence was given in 6 cases.

VARIABLE SPECIFICATION AND DATA COLLECTION

Data related to the following list of dependent and independent variables were collected:

Dependent Variables:

Disposition
Sentence

Independent Variables:

Defendant's race
Victim's race
Defendant's sex
Victim's sex
Defendant's age
Victim's age
Number of defendants
Number of victims
Relationship of victim to defendant
Weapon type or cause of death
Type of defense counsel
Pretrial custody status
Trier of fact
Number of different aggravating circumstances
Felony homicide / non-felony homicide
Pleas
Number of convictions
Number of aggravated murder convictions

The data were supplied from two main sources: Supplemental Homicide Reports and court records. Supplemental Homicide Reports are currently collected by the Law Enforcement Data System in Salem, Oregon. The information summarized on these forms includes:

- A. Law enforcement case number, reporting agency, county and situation codes, date and time of incident, and whether the homicide was willful, negligent, or justifiable;
- B. Age, sex, race, and number of victims and suspects;
- C. Descriptions of the weapon/cause of death, victim/ offender relationship, and a brief summary of the circumstances.

All of the data were transferred and coded numerically into a computer database for future comparison and analysis. The Multnomah County cases were removed and each police agency contacted in order to gain access to their records. For example, most of the homicides for Multnomah County were reported by the Portland Police Bureau. Through the use of their computer, the case numbers were verified, defendants identified, and their court case number or district attorney case number retrieved. In the event the court case number was not available, the name of the defendant was used as the case identifier. Although Portland Police records were examined by the researcher, the Multnomah County Sheriff's Office and the Gresham Police Department provided court case numbers and/or defendant names (as well as their race, a piece of data later found to be missing in older computerized court files).

Once these data were collected, court records were reviewed for each case or defendant via Oregon's Judicial Information Network (OJIN), a computerized court record system. Court records were searched for the charge(s), attorney type and changes, pretrial release status, the trier of fact, aggravating and mitigating circumstances, final disposition, and sentence. If a case was not available on OJIN, missing, or questionable data were found on the computer, the original paper file was recovered through the Multnomah County Court file room. Similarly, for each aggravated murder case, the original paper file or indictment(s) was examined in order to note the specific aggravating offense(s).

Upon completion of data collection and preliminary analysis, it became evident that certain data would not be available or relevant to the analysis. As a result, the following variables were excluded from the analysis: sex of the defendant, age of the victim, number of victims, weapon or cause of death, the type of defense counsel, pretrial custody status, trier

of fact, pleas, number of convictions, and number of aggravated murder convictions. Appendix C contains an explanation and a brief discussion about the exclusion of each variable.

ANALYTIC TECHNIQUES

The examination of the data incorporated a simple bi-variate analysis along with an attempt at a more complex logistic regression analysis. The bi-variate analysis compared each independent variable with the two dependent variables to examine any possible relationships. The bi-variate analysis in most cases utilized either a chi-square (χ^2) or a t-test of the difference of two means as measures of statistical significance. Small frequencies, however, limited the use of these tests as well as the use of multi-variate techniques like logistic regression. The regression analysis allowed a comparison of all the independent variables together in relation to the dependent variables.

Logistic regression is used because of the dichotomous dependent variables. The regression model is similar to a probability statement; how well do the independent variables predict the dependent variable? The usual assumption of linearity with normal multiple regression is not applicable to this model. Basic multiple regression argues that with each additional unit of an independent variable, there is a consistent corresponding effect on the dependent variable related to the size of the partial regression coefficient (see Wonnacott & Wonnacott 1990). Likewise, if the independent variable continues to increase, so should the effect on the dependent variable (although the effect may be positive or negative). However, dichotomous dependent variables are constricted between two points. Once the extreme of the dependent variable is reached, additional increases or decreases in the independent variable will not have any corresponding effect. Typical multiple regression does not account for this situation.

Consequently, for this analysis, a non-linear relationship is assumed. In contrast to assuming a straight line, logistic regression assumes a smoothed, monotonic "s" shaped

relationship encompassing all values of the independent variables. With this in mind, it becomes apparent that the effect of an independent variable will not be the same for each additional unit of that variable. Extreme values will have less effect than more mid-range values. The relationship of a dependent variable to independent variable becomes even more complex if multiple independent variables are included within the logistic regression equation. As such, the partial regression coefficients presented in the next section do not have the simple interpretation they would in normal regression analysis. The partial regression coefficients are also used as the basis for probability estimates to show the effect of race on dispositions and sentencing.

DATA ANALYSIS AND RESULTS²

HOMICIDE PROFILE FOR MULTNOMAH COUNTY, 1984-1990

This section presents a profile of the victims of homicides in Multnomah County between 1984 and 1990 followed by a profile of the offenders. These descriptive profiles are supplemented by some basic associations between the victims and offenders. Finally, a brief, overall description of the six offenders sentenced to death is provided.

Victim Profile

This research collected data on 397 homicide victims in Multnomah County between 1984 and 1990 (one additional case was deleted since it was later determined to be a suicide). This total includes willful, justified, and negligent homicides.

A vast majority of the homicides had only one victim ($n = 379$ or 97.9%). In six cases (1.6%), there were two victims, and in two cases, there were three victims (0.5%). The victims' sex is displayed in Table III followed by Table IV with the victims' race.

TABLE III

SEX OF HOMICIDE VICTIMS IN MULTNOMAH COUNTY, 1984-1990

SEX	FREQUENCY	PERCENTAGE
MALE	287	72.3%
FEMALE	110	27.7%
TOTALS	397	100%

TABLE IV
RACE OF HOMICIDE VICTIMS IN MULTNOMAH COUNTY, 1984-1990

RACE	FREQUENCY	PERCENTAGE
WHITE	248	62.5%
BLACK	95	23.9%
HISPANIC	28	7.1%
NATIVE INDIAN	13	3.3%
ASIAN	13	3.3%
TOTALS	397	100%

There were a total of 287 male victims (72.3%) and 110 female victims (27.7%). The majority of victims were white (248 or 62.5%) while the second largest racial group was black (95 or 23.9%). Of the remaining victims, 28 were Hispanics (7.1%), 13 were Native Indians (3.3%), and 13 were Asians (3.3%). Although the data did differentiate among Asian groups, they were combined since the frequencies were quite small. The crosstabulation in Table V presents the sex and race of the victims.

TABLE V
SEX AND RACE OF HOMICIDE VICTIMS IN MULTNOMAH COUNTY, 1984-1990

RACE OF VICTIM	SEX OF VICTIM	
	MALE	FEMALE
WHITE	170 / 59.2%	78 / 70.9%
BLACK	75 / 26.1%	20 / 18.2%
HISPANIC	25 / 8.7%	3 / 2.7%
NATIVE INDIAN	9 / 3.1%	4 / 3.6%
ASIAN	8 / 2.8%	5 / 4.6%
TOTALS	287 / 100%	110 / 100%

As suggested by Tables III and IV, a majority of the male and female victims were white (59.2% male and 70.9% female). White males were the most frequent victims ($n = 170$ or 42.8% of all victims), followed by white females ($n = 78$ or 19.7%), black males ($n = 75$ or 18.9%), Hispanic males ($n = 25$ or 6.3%), and black females ($n = 20$ or 5.0%).

Overall, the age of the victims ranged from less than a week old to 94 years of age. For purposes of analysis, those victims less than one year old were coded as one year of age. The mean age of all victims was 33.9 years of age with a standard deviation of 17.0 years. The mean age of male victims was 34.9 years with a standard deviation of 16.6 years, and for female victims, the mean age was 31.6 years with a standard deviation of 17.9 years. In relation to race, the mean age of death for whites was 35.0 years of age with a standard deviation of 17.8 years; for blacks, 33.1 years of age with a standard deviation of 16.9 years; for Hispanics, 29.5 years of age with a standard deviation of 8.1 years; for Native Indians, 41.2 years of age with a standard deviation of 15.3 years; and for Asians, 22.9 years with a standard deviation of 13.4 years.

Table VI presents the type of weapon or cause of death for all the victims. When more than one weapon type was reported, either the most serious weapon type was coded, or, if available, the general circumstances section of the Supplemental Homicide Report was read for additional information regarding the cause of death. The most common cause of death was a handgun, accounting for 36.3% of the cases. Altogether, firearms were involved in 46.3% of the cases ($n = 184$). The second most frequent cause of death was knives or other cutting instruments like ice picks, axes, and scissors ($n = 90$ or 22.7%). When combined, these two types of weapons explained 69.0% of the deaths. The third and fourth largest categories were blunt objects ($n = 39$ or 9.8%) and strangulation ($n = 29$ or 7.3%).

For both sexes and for all races except Native Indians and Asians, handguns were the most frequent cause of death. Native Indians were more frequently killed by knives, and Asians were divided between handguns and knives. For males, the top four causes of death

were handguns (n = 118 or 41.1%), knives or other cutting instruments (n = 66 or 23.0%), blunt objects (n = 33 or 11.5%), and shotguns (n = 17 or 5.9%). For women, the top four causes of death were handguns (n = 26 or 23.6%), knives or other cutting instruments (n = 24 or 21.8%), strangulation (n = 20 or 18.2%), and asphyxiation (n = 10 or 9.1%).

TABLE VI

CAUSE OF DEATH FOR HOMICIDE VICTIMS IN MULTNOMAH COUNTY, 1984-1990

WEAPON/CAUSE	FREQUENCY	PERCENTAGE	CUMULATIVE PERCENTAGE
HANDGUN	144	36.3%	36.3%
RIFLE	15	3.8%	40.1%
SHOTGUN	23	5.8%	45.8%
FIREARM (UNKNOWN)	2	0.5%	46.3%
KNIFE/CUTTING INSTRUMENT	90	22.7%	69.0%
BLUNT OBJECT	39	9.8%	78.8%
PERSONAL WEAPONS	18	4.5%	83.4%
PUSHED OR THROWN	3	0.8%	84.1%
FIRE	3	0.8%	84.9%
NARCOTICS/ DRUGS	1	0.3%	85.1%
DROWNING	5	1.3%	86.4%
STRANGULATION/ HANGING	29	7.3%	93.7%
ASPHYXIATION	13	3.3%	97.0%
VEHICLE	4	1.0%	98.0%
OTHER	8	2.0%	100%
TOTALS	397	100%	100%

Offender Profile

This general profile of 242 offenders included those people convicted of a homicide as well as those cases where the offenders were known and killed themselves at the scene or shortly thereafter (i.e., a total of ten murders followed in each case by the offender's suicide).

Similar to the victim profile, most homicides only had one offender ($n = 158$ or 82.7%). In regard to homicides with multiple offenders, 23 cases had two offenders (12.0%), 8 cases had three offenders (4.2%), and 2 cases had six offenders (1.0%). There were no cases that had both multiple offenders and multiple victims found in Multnomah County for this time period. Table VII provides a breakdown of the offenders' sex followed by Table VIII with a breakdown of the offenders' race.

Males committed homicides in 86.0% ($n = 208$) of the known cases while females were the perpetrator in only 14.0% ($n = 34$) of the cases. Furthermore, of the 241 offenders for which their race was known in Table VIII, whites committed more homicides than any other racial or ethnic group ($n = 150$ or 62.2%) while blacks committed the second largest number ($n = 66$ or 27.4%) and Hispanics the third largest ($n = 17$ or 7.1%). Other racial minorities were found responsible in approximately 3.3% of the cases. According to U.S. Bureau of the Census (1990, 1991) data for Multnomah County, blacks were the largest minority population at 6.0%, followed by Asians (4.7%) and Hispanics (3.1%). It appears that blacks and possibly Hispanics were over-represented among homicide offenders between 1984 and 1990. In Table IX, the sex and race of the offenders are presented for those cases in which both are known ($n = 241$).

Almost an equal percentage of male and female offenders were white (62.3% v. 61.8% respectively). In terms of frequency, white males were the offender most often ($n = 129$ or 53.5% of all offenders), followed by black males ($n = 55$ or 22.8%), white females ($n = 21$ or 8.7%), Hispanic males ($n = 17$ or 7.1%), and black females ($n = 11$ or 4.6%). Those who committed murder/suicide were white and 9 of 10 were males.

TABLE VII

SEX OF HOMICIDE OFFENDERS IN MULTNOMAH COUNTY, 1984-1990

SEX	FREQUENCY	PERCENTAGE
MALE	208	86.0%
FEMALE	34	14.0%
TOTALS	242	100%

TABLE VIII

RACE OF HOMICIDE OFFENDERS IN MULTNOMAH COUNTY, 1984-1990

RACE	FREQUENCY	PERCENTAGE
WHITE	150	62.2%
BLACK	66	27.4%
HISPANIC	17	7.1%
NATIVE INDIAN	2	0.8%
ASIAN	6	2.5%
TOTALS	241	100%

TABLE IX

SEX AND RACE OF HOMICIDE OFFENDERS IN MULTNOMAH COUNTY, 1984-1990

RACE OF OFFENDER	SEX OF OFFENDER	
	MALE	FEMALE
WHITE	129 / 62.3%	21 / 61.8%
BLACK	55 / 26.6%	11 / 32.4%
HISPANIC	17 / 8.2%	0 / 0.0%
NATIVE INDIAN	1 / 0.5%	1 / 2.9%
ASIAN	5 / 2.4%	1 / 2.9%
TOTALS	207 / 100%	34 / 100%

The age of the offenders ranged between 15 and 70 years. The mean age of the offenders was 29.1 years with a standard deviation of 10.6 years. The mean age of male offenders was 28.5 years of age with a standard deviation of 10.0 years. The mean age of female offenders was 32.7 years with a standard deviation of 13.4 years. White offenders had a mean age of 29.3 years with a standard deviation of 10.8 years. Black offenders had a mean age of 28.0 years with a standard deviation of 10.8 years. Hispanic offenders had a mean age of 32.4 years with a standard deviation of 8.5 years. Native Indian offenders had a mean age of 26.0 years with a standard deviation of 11.3 years. Asian offenders had a mean age of 28.0 years with a standard deviation of 7.9 years.

Victim and Offender Associations

The next two tables represent a cross-tabulation between convicted homicide offenders as well as the ten murder/suicide offenders and their victims. The total frequencies have changed since those cases with multiple victims or offenders required the recount of offenders or victims where appropriate. For example, a homicide with two offenders and one victim would mean the victim would be counted twice, once for each offender. Table X presents a cross-tabulation of the victims' and offenders' sex, and Table XI presents a cross-tabulation of victims' and offenders' race.

TABLE X

SEX OF HOMICIDE VICTIMS AND OFFENDERS IN MULTNOMAH COUNTY, 1984-1990

SEX OF VICTIM	SEX OF OFFENDER		TOTALS
	MALE	FEMALE	
MALE	153 / 72.5%	27 / 77.1%	180 / 73.2%
FEMALE	58 / 27.5%	8 / 22.9%	66 / 26.8%
TOTALS	211 / 100%	35 / 100%	246 / 100%

TABLE XI

RACE OF HOMICIDE VICTIMS AND OFFENDERS IN MULTNOMAH COUNTY, 1984-1990

RACE OF VICTIM	RACE OF OFFENDER					TOTALS
	WHITE	BLACK	HISPANIC	NATIVE INDIAN	ASIAN	
WHITE	128/ 83.7%	22/ 33.9%	9/ 52.9%	1/ 50.0%	1/ 12.5%	161/ 65.7%
BLACK	14/ 9.2%	42/ 64.6%	0/ 0.0%	0/ 0.0%	0/ 0.0%	56/ 22.9%
HISPANIC	3/ 2.0%	1/ 1.5%	7/ 41.2%	0/ 0.0%	1/ 12.5%	12/ 4.9%
NATIVE INDIAN	5/3.3%	0/0.0%	1/5.9%	1/50.0%	0/0.0%	7/2.9%
ASIAN	3/2.0%	0/0.0%	0/0.0%	0/0.0%	6/75.0%	9/3.7%
TOTALS	153/ 100%	65/ 100%	17/ 100%	2/ 100%	8/ 100%	245/ 100%

Table X indicates most homicide victims were males regardless of the sex of the offender. Males killed males 72.5% of the time and females killed males 77.1% of the time. Furthermore, a majority of females were killed by males (87.9%). Homicide in Multnomah County was primarily intra-racial according to Table XI. For white (83.6%), black (64.6%), and Asian (75.0%) offenders, their victims were more likely to be of the same race. Hispanics killed slightly more whites (52.9%) than other Hispanics (41.2%) and the two victims of the Native Indian offender were white and Native Indian. The number of blacks who killed whites ($n = 22$ or 33.9%) was a little higher than the number of whites who killed blacks ($n = 14$ or 9.6%).

Table XII compares the relationships between the victim and the offender.³ In 44 of the 246 homicides (17.9%), the victim was a relative. In 35 or 14.2% of the homicides, the victim was a friend, and in 64 or 26% of the homicides, the victim was an acquaintance. Of

the identified cases, a majority of the offenders knew their victims (77.3%). In 17.1% of the cases (42 of 246), the offender did not know the victim.

TABLE XII
RELATIONSHIP OF HOMICIDE VICTIMS TO OFFENDERS
IN MULTNOMAH COUNTY, 1984-1990

RELATIONSHIP OF VICTIM TO OFFENDER	FREQUENCY	PERCENTAGE
RELATIVE	44	17.9%
FRIEND	35	14.2%
ACQUAINTANCE	64	26.0%
STRANGER	42	17.1%
UNKNOWN RELATIONSHIP	61	24.8%
TOTALS	246	100%

The Six Offenders Sentenced to Death

Only one of the six offenders remains on death row. Four offenders have had their sentences changed to prison sentences, either life without release or 30 years without release, and one has had his conviction and sentence reversed for a new trial (Anonymous 1992a, Anonymous 1992b). The remaining offender is involved in the appeal process.

All the offenders were male. Two were white, two were black, and two were Hispanic. The youngest was 25 years old at the time of the homicide, the oldest was 52 years of age. Two were co-offenders in the same homicide (i.e., a total of five victims among six offenders). Three of the victims were female and two were male. Four of the five victims were white and one was black. The youngest victim was 26 years old while the oldest victim was 45 years old.

The cause of death (for a total of five victims) was divided among a knife or other cutting instrument (two homicides), strangulation (two homicides), and a shotgun (one

homicide). One offender knew his victim, three offenders were strangers to their victims, and the victim/offender relationship for the other two cases could not be determined. Each offender was convicted by a jury.

DISPOSITIONS

There are a number of factors that interact when a prosecutor formulates the charge(s) for an indictment and decides whether to seek the death sentence if a conviction for aggravated murder is obtained. If racial discrimination is found in relation to who gets the death penalty, it may only be a reflection of who gets charged with aggravated murder. However, one limitation of this research design is that the police reports or investigation records were not examined. As a result, the total number of cases for which it may have been possible to charge for aggravated murder remains unknown. Additional pre-charge data are needed in addition to the data collected already before the charging stage can truly be examined. With this qualification in mind, the following analysis concentrated on the disposition and sentencing stages for those offenders charged with aggravated murder ($n = 55$).

There were only 55 cases out of 214 cases prosecuted with at least one aggravated murder charge. One additional case was removed from the 55 cases since the prosecutor subsequently dropped all the charges against the defendant, leaving a total of 54 cases with at least one aggravated murder charge and a disposition (see Figure 1, page 29).

The disposition decision was divided into a dichotomous variable (i.e., the defendant was either convicted of at least one aggravated murder charge or was not convicted of at least one aggravated murder charge). Of the 54 cases, 22 defendants or 40.1% were not convicted of aggravated murder. This does not mean that the defendant was found not guilty or acquitted; only 1 of the 54 cases terminated with this result. The remaining 21 defendants who were not convicted of aggravated murder were convicted of a lesser charge (e.g., many defendants plead to lesser included charges like murder).

Race of the Defendant and Victim

The following tables examine the defendant's race in relation to their disposition. Due to small frequencies, there will be two sets of tables presented. The first compares whites to blacks. The second compares whites to non-whites.

Table XIII shows there were over twice as many whites charged with aggravated murder than blacks (34 of 49 defendants or 69.4%). Furthermore, whites were more likely to be convicted of aggravated murder than blacks (64.7% v. 40.0% respectively). These differences, however, were not statistically significant ($\chi^2 = 2.594$, $p = .107$).⁴

TABLE XIII
DISPOSITION BY RACE OF WHITE AND BLACK DEFENDANTS

DISPOSITION	RACE OF DEFENDANT		TOTALS
	WHITE	BLACK	
NON AGG MURDER	12 / 35.3%	9 / 60.0%	21 / 42.9%
AGG MURDER	22 / 64.7%	6 / 40.0%	28 / 57.1%
TOTALS	34 / 100%	15 / 100%	49 / 100%

Table XIV compares the trial disposition of white and non-white defendants. In this comparison, a greater percentage of whites continue to be convicted of aggravated murder ($n = 22$ or 64.7%) versus non-whites ($n = 10$ or 50.0%). The number of non-white defendants convicted of aggravated murder has increased from 40.0% in Table XIII to 50.0%. The differences between the racial groups, however, remained statistically insignificant ($\chi^2 = 1.128$, $p = .288$). Although not apparent in the Table XIV, four Hispanics were charged with aggravated murder; all four were convicted of aggravated murder.

Table XV provides a cross-tabulation of the victim's race to the defendant's disposition for white and black victims only. In this comparison, 39 of the 49 victims (79.6%) were white. Although the number of black victims was relatively small ($n = 10$), it would appear

that more aggravated murder convictions were given in cases with white victims than black victims (66.7% v. 30.0% respectively). The differences were statistically significant, but the test was suspect ($\chi^2 = 4.430$, $p = .035$).⁶

TABLE XIV

DISPOSITION BY RACE OF WHITE AND NON-WHITE DEFENDANTS

DISPOSITION	RACE OF DEFENDANT		TOTALS
	WHITE	NON-WHITE	
NON AGG MURDER	12 / 35.3%	10 / 50.0%	22 / 40.7%
AGG MURDER	22 / 64.7%	10 / 50.0%	32 / 59.3%
TOTALS	34 / 100%	20 / 100%	54 / 100%

TABLE XV

DISPOSITION BY RACE OF WHITE AND BLACK VICTIMS

DISPOSITION	RACE OF VICTIM		TOTALS
	WHITE	BLACK	
NON AGG MURDER	13 / 33.3%	7 / 70.0%	20 / 40.8%
AGG MURDER	26 / 66.7%	3 / 30.0%	29 / 59.2%
TOTALS	39 / 100%	10 / 100%	49 / 100%

In Table XVI, the disposition of a case is compared to white and non-white victims. The number of non-white victims increased from 10 to 15 (27.8% of the total cases). Defendants who killed white victims were convicted of aggravated murder more often than those who killed non-white victims (66.7% v. 40.0% respectively). Although approaching statistical significance at the .05 level, the differences were not statistically significant ($\chi^2 = 3.191$, $p = .074$).

TABLE XVI
DISPOSITION BY RACE OF WHITE AND NON-WHITE VICTIMS

DISPOSITION	RACE OF VICTIM		TOTALS
	WHITE	NON-WHITE	
NON AGG MURDER	13 / 33.3%	9 / 60.0%	22 / 40.7%
AGG MURDER	26 / 66.7%	6 / 40.0%	32 / 59.3%
TOTALS	39 / 100%	15 / 100%	54 / 100%

Tables XVII and XVIII examine the possible effect that the race of the defendant (white and black only) had on a defendant's conviction when the race of the victim was controlled (white and black only). The frequencies were quite small and interpretation as well as conclusions must be made cautiously. Regardless, it does appear that in those cases with white victims, white defendants were more likely to be convicted of aggravated murder (70.4%) than black defendants (42.9%). When considering black victims, no white defendant (out of two possible cases) was convicted of aggravated murder. Of the cases where a black killed a black, 3 of 8 (or 37.5%) resulted in an aggravated murder conviction. When compared to white victims, blacks were convicted of aggravated murder in 3 of 7 (42.9%) of the cases. Table XIX summarizes the percentages of those convicted of aggravated murder in relation to the race of the defendant and victim.

Tables XX and XXI control for white and non-white victims in regard to the race of the defendant (white and non-white) and their disposition. When the victims were white, white defendants were convicted of aggravated murder more often than non-white defendants (70.4% v. 58.3% respectively). The number of non-white defendants convicted of aggravated murder increased by four cases (i.e., the four Hispanic defendants). In regard to non-white victims, white defendants were convicted of aggravated murder slightly more often than non-white defendants (42.9% v. 37.5% respectively). The differences here were minimal. Non-white defendants, however, were convicted more often for killing white victims than non-white

victims (58.3% v. 37.5% respectively). Table XXII provides a summary of the percentage of defendants convicted for both race of defendant and victim.

TABLE XVII

DISPOSITION BY RACE OF WHITE AND BLACK DEFENDANTS
FOR WHITE VICTIMS

DISPOSITION	RACE OF DEFENDANT		TOTALS
	WHITE	BLACK	
NON AGG MURDER	8 / 29.6%	4 / 57.1%	12 / 35.3%
AGG MURDER	19 / 70.4%	3 / 42.9%	22 / 64.7%
TOTALS	27 / 100%	7 / 100%	34 / 100%

TABLE XVIII

DISPOSITION BY RACE OF WHITE AND BLACK DEFENDANTS
FOR BLACK VICTIMS

DISPOSITION	RACE OF DEFENDANT		TOTALS
	WHITE	BLACK	
NON AGG MURDER	2 / 100%	5 / 62.5%	7 / 70.0%
AGG MURDER	0 / 0.0%	3 / 37.5%	3 / 30.0%
TOTALS	2 / 100%	8 / 100%	10 / 100%

TABLE XIX

AGGRAVATED MURDER CONVICTIONS BY RACE OF VICTIM AND DEFENDANT
- WHITES AND BLACKS ONLY -

RACE OF VICTIM	RACE OF DEFENDANT	
	WHITE	BLACK
WHITE	19 of 27 / 70.4%	3 of 7 / 42.9%
BLACK	0 of 2 / 0.0%	3 of 8 / 37.5%

TABLE XX

DISPOSITION BY RACE OF WHITE AND NON-WHITE DEFENDANTS
FOR WHITE VICTIMS

DISPOSITION	RACE OF DEFENDANT		TOTALS
	WHITE	NON-WHITE	
NON AGG MURDER	8 / 29.6%	5 / 41.7%	13 / 33.3%
AGG MURDER	19 / 70.4%	7 / 58.3%	26 / 66.7%
TOTALS	27 / 100%	12 / 100%	39 / 100%

TABLE XXI

DISPOSITION BY RACE OF WHITE AND NON-WHITE DEFENDANTS
FOR NON-WHITE VICTIMS

DISPOSITION	RACE OF DEFENDANT		TOTALS
	WHITE	NON-WHITE	
NON AGG MURDER	4 / 57.1%	5 / 62.5%	9 / 60.0%
AGG MURDER	3 / 42.9%	3 / 37.5%	6 / 40.0%
TOTALS	7 / 100%	8 / 100%	15 / 100%

TABLE XXII

AGGRAVATED MURDER CONVICTIONS BY RACE OF VICTIM AND DEFENDANT
- WHITES AND NON-WHITES -

RACE OF VICTIM	RACE OF DEFENDANT	
	WHITE	NON-WHITE
WHITE	19 of 27 / 70.4%	7 of 12 / 58.3%
NON-WHITE	3 of 7 / 42.9%	3 of 8 / 37.5%

Sex of the Victim

The relationship between the sex of the victim and the disposition of a case is presented in Table XXIII. Although the number of female victims was small (n = 15), it

appears that cases with female victims were more likely to receive aggravated murder convictions (64.3% plus the case with both a male and female victim) than cases with lone male victims (56.4%). The differences, however, were not statistically significant, especially since the test was suspect ($\chi^2 = .965$, $p = .617$).

TABLE XXIII
DISPOSITION BY SEX OF VICTIM

DISPOSITION	SEX OF VICTIM			TOTALS
	MALE	FEMALE	MALE & FEMALE	
NON AGG MURDER	17 / 43.6%	5 / 35.7%	0 / 0.0%	22 / 40.7%
AGG MURDER	22 / 56.4%	9 / 64.3%	1 / 100%	32 / 59.3%
TOTALS	39 / 100%	14 / 100%	1 / 100%	54 / 100%

Age of the Defendant

The age of the defendant may also have affected the disposition. Table XXIV presents the relationship between the mean age of the defendant and the disposition of their trial. The 22 defendants who were not convicted of aggravated murder had a mean age of 35.4 years while the 32 defendants who were convicted of aggravated murder had a mean age of 27.75. A t-test on the mean age of the defendants found that this difference was statistically significant ($t = 2.225$, $p = .033$).

TABLE XXIV
DISPOSITION BY MEAN AGE OF DEFENDANTS

DISPOSITION	MEAN AGE OF DEFENDANTS
NON AGG MURDER	35.4
AGG MURDER	27.8

Number of Defendants

Although most homicides in the Homicide Profile Section had only one defendant charged, this was not the case with this sample of 54 defendants. Of the 54 cases, 24 had one defendant (44.4%), 20 cases had two defendants (37.0%), 9 cases had three defendants (16.7%), and 1 case had five defendants (1.9%). These frequencies total to more than 54 defendants since this variable includes the total number of defendants for a given homicide. For example, although only one of three homicide defendants was charged with aggravated murder, there remained three people who were charged with taking part in that homicide. The following comparison of means in Table XXV compares the mean number of defendants charged and the trial disposition. The mean number of defendants charged in a homicide for those convicted of aggravated murder was 1.5 compared to a mean of 2.1 defendants for those not convicted of aggravated murder. On average, those homicide cases with more defendants tended not to receive an aggravated murder conviction. This difference was statistically significant ($t = 2.499$, $p = .017$).

TABLE XXV

DISPOSITION BY MEAN NUMBER OF DEFENDANTS CHARGED FOR A HOMICIDE

DISPOSITION	MEAN NUMBER OF DEFENDANTS
NON AGG MURDER	2.1
AGG MURDER	1.5

Relationship of Victim to Defendant

Only 33 of 54 cases could be analyzed for this variable. Table XXVI presents few differences between the relationship categories and the defendant's disposition. Of the cases where the defendant knew the victim, 69.2% of the defendants were convicted of aggravated murder versus 60.0% of the defendants whose victims were strangers. It would appear that more aggravated murder convictions were secured when the defendant knew the victim. The

differences between the groups, however, were not statistically significant, and the test was suspect ($\chi^2 = .290$, $p = .590$).

TABLE XXVI
DISPOSITION BY RELATIONSHIP OF VICTIM TO DEFENDANT

DISPOSITION	RELATIONSHIP OF VICTIM TO DEFENDANT		TOTALS
	KNOWN	STRANGER	
NON AGG MURDER	4 / 30.8%	8 / 40.0%	12 / 36.4%
AGG MURDER	9 / 69.2%	12 / 60.0%	21 / 63.6%
TOTALS	13 / 100%	20 / 100%	33 / 100%

Number of Aggravating Circumstances

Table XXVII provides a cross-tabulation of the number of different aggravating circumstances charged compared to the defendant's disposition. This table appears to support the claim that the more types of aggravating circumstances, the greater the likelihood of receiving a conviction of aggravated murder. Each additional circumstance charge, accepting that the number of cases with more than two aggravating circumstances was very small ($n = 6$), increased the percentage of offenders convicted of aggravated murder. While only 43.5% of the defendants with one aggravating circumstance were found guilty of aggravated murder, 72.0% of the defendants with two aggravating circumstances were found guilty and 66.7% of the defendants with three aggravating circumstances were found guilty. These differences, however, were not statistically significant, and the test of statistical significance was suspect ($\chi^2 = 4.190$, $p = .123$).

A comparison of the mean number of aggravating circumstances charged in a homicide and the disposition of the case is provided in Table XXVIII. Those defendants convicted of aggravated murder had a mean of 1.8 aggravating circumstances charged compared to a mean

of 1.5 aggravating circumstances charged for defendants not convicted of aggravated murder.

The difference in this comparison was not statistically significant ($t = 1.706$, $p = .095$).

TABLE XXVII

DISPOSITION BY NUMBER OF AGGRAVATING CIRCUMSTANCES

DISPOSITION	NUMBER OF AGGRAVATING CIRCUMSTANCES			TOTALS
	ONE	TWO	THREE	
NON AGG MURDER	13 / 56.5%	7 / 28.0%	2 / 33.3%	22 / 40.7%
AGG MURDER	10 / 43.5%	18 / 72.0%	4 / 66.7%	32 / 59.3%
TOTALS	23 / 100%	25 / 100%	6 / 100%	54 / 100%

TABLE XXVIII

DISPOSITION BY MEAN NUMBER OF AGGRAVATING CIRCUMSTANCES

DISPOSITION	MEAN NUMBER OF AGGRAVATING CIRCUMSTANCES
NON AGG MURDER	1.5
AGG MURDER	1.8

Felony Homicides

One type of aggravating circumstance is an accompanying felony with a homicide.

Table XXIX shows that an additional felony accompanied a homicide in a slight majority of the cases (29 of 54 cases or 53.7%). In comparison, 69% of those defendants with at least one accompanying felony were convicted of aggravated murder versus 48% of those defendants without an accompanying felony. The differences, however, were not statistically significant ($\chi^2 = 2.444$, $p = .118$).

TABLE XXIX
DISPOSITION BY FELONY AND NON-FELONY HOMICIDES

DISPOSITION	TYPE OF HOMICIDE		TOTALS
	NON-FELONY	FELONY	
NON AGG MURDER	13 / 52.0%	9 / 31.0%	22 / 40.7%
AGG MURDER	12 / 48.0%	20 / 69.0%	32 / 59.3%
TOTALS	25 / 100%	29 / 100%	54 / 100%

Multi-variate Analysis of Aggravated Murder Dispositions

The previous bi-variate failed to account or control for other variables which may have confounded the relationship between each of the primary independent variables and the dependent variable (i.e., the disposition). Consequently, the use of logistic regression provided some insight into the effect of each variable taking into account the other variables. However, before doing this analysis, the variables were considered in relation to previous research on capital case processing and the findings presented in the last section of this thesis. When comparing the variables available to previous research, the case processing stages (i.e., prosecutor's charge and/or decision to seek the death penalty, disposition, and sentencing) were ignored in favor of using variables that the literature review indicated were influential in at least one aspect of capital case processing. This was a partial reason for dropping so many variables. The justification for the inclusion of each variable except race is presented below.

Sex of the Victim(s): In addition to findings provided in the bi-variate analysis, female victims have been found to be influential by Bowers (1983), Paternoster (1983), Gross & Mauro (1984), Ekland-Olson (1988), and Vito & Keil (1988).

Age of the Defendant(s): There were no research articles that highlighted the age of the defendant (except possibly Bowers 1983). However, due to the significant finding in the bi-variate analysis, it was included in the regression analysis.

Number of Defendants: In addition to the previous statistically significant bi-variate findings, multiple defendants have been reported to be influential by Bowers (1983) and Paternoster (1983).

Relationship of the Victim(s) to the Defendant(s): Although the findings from the bi-variate analysis were insignificant, other research by Radelet (1981), Paternoster (1983), Gross & Mauro (1984), and Ekland-Olson (1988) has provided evidence to support some further consideration of whether the victim was known to the defendant or a stranger.

Number of Different Aggravating Circumstances: Homicides involving multiple aggravating circumstances have been reported influential by Paternoster (1983 & 1984), Baldus, Pulaski & Woodworth (1983), Gross & Mauro (1984), Barnett (1985), Vito & Keil (1988), and Keil & Vito (1989 & 1990). The finding for the mean number of different aggravating circumstances in the present sample would have been statistically significant at the .10 level.

Felony Homicides: Although the findings reported in the bi-variate analysis were not significant, there does seem to be some evidence to include this variable based on the literature review. As a variation of the number of aggravating circumstances, much of the literature devoted attention to felony homicides and the potential effect an additional felony had on capital cases. The researchers included Arkin (1980), Bowers & Pierce (1980), Foley & Powell (1982), Bowers (1983), Gross & Mauro (1984), Paternoster (1984), and Ekland-Olson (1988). Upon analysis, it was later found that this variable and the number of aggravating circumstances variable were highly co-linear or correlated. Since the number of aggravating circumstances would include this variable, but not vice versa, the felony homicide variable was removed from the equation.

Therefore, the following independent variables were chosen to be included in the logistic regression equation for estimating the disposition of aggravated murder defendants: defendant's race, victim's race, victim's sex, defendant's age, the number of defendants,

relationship of the victim to the offender, and the number of aggravating circumstances. Variables like the defendant's age (coded as DEFAGE), number of defendants (NUMDEF), as well as the number of aggravating circumstances (NUMAGGCIR) were counting variables and did not need any modification to be included in the regression equation. The remaining variables, however, were dichotomous and were entered as dummy variables (0 or 1). The category of the dummy variables represented by a "0" was the reference category. Each dichotomous variable was included in the regression equation as follows: defendant's race (DEFBLACK), 0 = white, 1 = black; victim's race (VICBLACK), 0 = white, 1 = black; victim's sex (VICFEMALE), 0 = male, 1 = female; victim/offender relationship (STRANGER), 0 = known, 1 = stranger.

In addition, variables were formulated to include the interaction of both the defendant's and victim's race, but due to small frequencies and inadequate variation, the logistic regression technique could not estimate an equation and the variables were removed. The dependent variable DISPOSITION was also a dummy variable (i.e., 0 = no aggravated murder conviction, 1 = at least one aggravated murder conviction). Table XXX provides the basic logistic regression output for white and black offenders and victims only.

Table XXX shows that only three variables were statistically significant at the .05 level. Those variables were the defendant's race ($p = .048$), the defendant's age ($p = .038$), and the number of defendants ($p = .040$). Although the coefficients do not allow a simple interpretation of their effect, all three of these variables showed a negative relationship. Defendants who were black, older, or charged in a homicide with more co-defendants were less likely to be convicted of aggravated murder. All of the other variables showed a positive relationship. In cases with black victims, female victims, where the victim was a stranger to the defendant, and with multiple aggravating circumstances, the likelihood of an aggravated murder conviction increased.

TABLE XXX

**BASIC LOGISTIC REGRESSION OUTPUT FOR DISPOSITION EQUATION
- WHITES AND BLACKS ONLY -**

PREDICTOR	REGRESSION COEFFICIENT	STANDARD ERROR	t STATISTIC	P-VALUE
CONSTANT	1.07320	.494942	2.168	.03013
DEFBLACK	-.376315	.189780	-1.983	.04738
VICBLACK	.0736818	.256906	.287	.77426
VICFEMALE	.0294307	.218125	.135	.89267
DEFAGE	-.0126724	.00611180	-2.073	.03813
NUMDEF	-.189440	.0920151	-2.059	.03951
STRANGER	.166629	.148330	1.123	.26128
NUMAGGCIR	.189204	.147511	1.283	.19962
% DISPOSITIONS CORRECTLY PREDICTED			89.7%	
NUMBER OF CASES			29	

Only 29 of 44 cases were used to estimate the equation. The variable STRANGER had a high number of missing values and this lead to the deletion of all the corresponding case data by the statistical technique. A separate equation was entered without the STRANGER variable, but the predictive power of the model was weaker. With the 29 cases, the model accurately predicted 89.7% of the outcomes, a 31.1% improvement over simply guessing the most frequent outcome for all cases.⁶

Table XXXI provides the probability that an aggravated murder conviction would result with a known male victim given the circumstances stated within the table note. Based on these data, regardless of the victim's race, it would appear that white defendants have a higher likelihood of being convicted of aggravated murder. If the victim is white, the probability for a white defendant's conviction would be .65 in comparison to .56 for a black defendant, and if the victim is black, the probability would be .67 for a white defendant in comparison to .58

for a black defendant. A black victim increases the probability of an aggravated murder conviction for both white and black defendants.

TABLE XXXI

PROBABILITY OF AN AGGRAVATED MURDER CONVICTION BY RACE OF
VICTIM AND DEFENDANT (WITH A KNOWN MALE VICTIM)
- WHITES AND BLACKS ONLY -

RACE OF VICTIM	RACE OF DEFENDANT	
	WHITE	BLACK
WHITE	.65	.56
BLACK	.67	.58
NOTE: The probabilities are based on a male victim, the victim knew the defendant, the mean defendant age (30.48 years), the mean number of aggravating circumstances (1.52), and the mean number of defendants per homicide (1.9).		

If the homicide included a female victim and a stranger, the probabilities would be as presented in Table XXXII. The results reflect those above, but with an increased probability of conviction if the two additional factors are present. White defendants now have a 69% chance of being convicted if their victim is white and a 71% chance if their victim is black. Black defendants now have a 61% chance of being convicted if their victim is white and a 62% chance if their victim is black. For this analysis, however, the sex of the victim had a very limited effect, if any, separate from the relationship variable. The STRANGER variable explained the most change in the probabilities.

A similar analysis was done for white and non-white defendants and victims. The results showed less predictive power as well as fewer statistically significant variables. These results are presented in Appendix D.

TABLE XXXII

**PROBABILITY OF AN AGGRAVATED MURDER CONVICTION BY RACE OF
VICTIM AND DEFENDANT (WITH AN UNKNOWN FEMALE VICTIM)
- WHITES AND BLACKS ONLY -**

RACE OF VICTIM	RACE OF DEFENDANT	
	WHITE	BLACK
WHITE	.69	.61
BLACK	.71	.62
NOTE: The probabilities are based on a female victim, the victim was a stranger to the defendant, the mean defendant age (30.48 years), the mean number of aggravating circumstances (1.52), and the mean number of defendants per homicide (1.9).		

SENTENCING

There were a total of 32 defendants convicted of aggravated murder (see Figure 1, page 29), 6 were given death sentences, 1 was given life without release, 24 were given 30 years without release, and 1 offender was found guilty but insane. The latter offender was an exception to the three usual aggravated murder sentencing options and was excluded from this portion of the data analysis. This left a total of 31 cases. It should be noted that the original sentences were used in this research. For example, 4 of the 6 death sentences for Multnomah County have been changed to prison sentences. An original sentence would have been ignored only if it was known to not be a sentencing option to a particular offender. In this case, the new sentence would have replaced the original sentence.

The sentencing stage was also divided into a dichotomous dependent variable like the disposition stage, i.e., whether those offenders convicted of aggravated murder were given a death sentence or a prison sentence. As already mentioned, there are two prison sentence options. However, since only one offender was given the life without release sentence, this offender was grouped with those who were given the 30 years without release sentence. With

this decision in mind, a total of 6 offenders (or 19.4%) were sentenced to death and 25 offenders (or 80.7%) were sentenced to prison.

Race of the Offender and Victim

The following tables examine the offender's race in regard to the sentencing options. Table XXXIII compares only white and black offenders to their sentence. It shows that blacks were more likely to receive a death sentence than whites (33.3% v. 9.5% respectively). Of the 27 cases, only 6 cases (22.2%) involved black offenders and this small number probably accounted for the percentage differences. The differences were not statistically significant, and the significance test was suspect ($\chi^2 = 2.096$, $p = .148$).

TABLE XXXIII
SENTENCE BY RACE OF WHITE AND BLACK OFFENDERS

SENTENCE	RACE OF OFFENDER		TOTALS
	WHITE	BLACK	
PRISON	19 / 90.5%	4 / 66.7%	23 / 85.2%
DEATH	2 / 9.5%	2 / 33.3%	4 / 14.8%
TOTALS	21 / 100%	6 / 100%	27 / 100%

Table XXXIV compares white and non-white offenders to their sentence. With the number of non-white offenders increased to 10 cases, the difference between white and non-white offenders who received a death sentence was even greater (9.5% v. 40.0% respectively). Non-whites were more likely to be given a death sentence. The differences were statistically significant, but the test was suspect ($\chi^2 = 4.031$, $p = .045$).

TABLE XXXIV

SENTENCE BY RACE OF WHITE AND NON-WHITE OFFENDERS

SENTENCE	RACE OF OFFENDER		TOTALS
	WHITE	NON-WHITE	
PRISON	19 / 90.5%	6 / 60.0%	25 / 80.7%
DEATH	2 / 9.5%	4 / 40.0%	6 / 19.4%
TOTALS	21 / 100%	10 / 100%	31 / 100%

Table XXXV provides a cross-tabulation of the victim's race to the offender's sentence for whites and blacks. Although the number of black victims was relatively small ($n = 3$), a comparison of frequencies indicates that 5 of the 6 death sentences involved white victims. If percentages are compared, it would appear that more death sentences were given in cases with black victims (33.3%) than white victims (20.0%). The differences, however, were not statistically significant, and the test was suspect ($\chi^2 = .283$, $p = .595$).

TABLE XXXV

SENTENCE BY RACE OF WHITE AND BLACK VICTIMS

SENTENCE	RACE OF VICTIM		TOTALS
	WHITE	BLACK	
PRISON	20 / 80.0%	2 / 66.7%	22 / 78.6%
DEATH	5 / 20.0%	1 / 33.3%	6 / 21.4%
TOTALS	25 / 100%	3 / 100%	28 / 100%

Table XXXVI compares white and non-white victims to the offender's sentence. Similar to the number of black victims in the previous table, the total number of non-white victims in this sample was limited to 6 cases (19.4% of the total). However, with the addition of three victims, it now appears that offenders who killed white victims were more likely to get a death sentence than those who killed non-white victims both by frequency (5 of 6 victims

being white) and by percentage (20.0% of white victim offenders getting a death sentence versus 16.7% of non-white victim offenders). These differences, however, were not statistically significant, and the test was suspect ($\chi^2 = .034$, $p = .853$).

TABLE XXXVI
SENTENCE BY RACE OF WHITE AND NON-WHITE VICTIMS

SENTENCE	RACE OF VICTIM		TOTALS
	WHITE	NON-WHITE	
PRISON	20 / 80.0%	5 / 83.3%	25 / 80.7%
DEATH	5 / 20.0%	1 / 16.7%	6 / 19.4%
TOTALS	25 / 100%	6 / 100%	31 / 100%

As with the disposition stage, the interaction of the offender's and victim's race must be considered. Tables XXXVII and XXXVIII examine the effect of the defendant's race on their sentence when the race of the victim was controlled. The frequencies became quite small, however, when this division was made. More black offenders were given a death sentence (33.3% or 1 of 3) compared to white offenders (11.1% or 2 of 18) when percentages for white victims were compared. When considering black victims, no white who killed a black victim was convicted of aggravated murder. Of the 3 cases in which a black killed black, 1 of 3 (33.3%) offenders received a death sentence. Table XXXIX provides a summary of the percentage of offenders sentenced to death considering both the victim's and offender's race.

Tables XL and XLI control for white and non-white victims in relation to the offender's race and their sentence. For white victims, a higher percentage of non-white offenders were sentenced to death (42.9%) compared to white offenders (11.1%). Although the number of non-whites who killed whites remained small ($n = 7$), the difference was greater than that found for white and black offenders. For non-white victims, only three white offenders were convicted of aggravated murder and all three were sentenced to prison. The non-white who

received a death sentence for killing a non-white in Table XXXVIII was a black who killed a black. A summary of the percentage of offenders who received a death sentence is presented in Table XLII with both the race of the offender and victim considered.

TABLE XXXVII
SENTENCE BY RACE OF WHITE AND BLACK OFFENDERS
FOR WHITE VICTIMS

SENTENCE	RACE OF OFFENDER		TOTALS
	WHITE	BLACK	
PRISON	16 / 88.9%	2 / 66.7%	18 / 85.7%
DEATH	2 / 11.1%	1 / 33.3%	3 / 14.3%
TOTALS	18 / 100%	3 / 100%	21 / 100%

TABLE XXXVIII
SENTENCE BY RACE OF WHITE AND BLACK OFFENDERS
FOR BLACK VICTIMS

SENTENCE	RACE OF OFFENDER		TOTALS
	WHITE	BLACK	
PRISON	0 / 0.0%	2 / 66.7%	2 / 66.7%
DEATH	0 / 0.0%	1 / 33.3%	1 / 33.3%
TOTALS	0 / 100%	3 / 100%	3 / 100%

TABLE XXXIX
DEATH SENTENCES BY RACE OF VICTIM AND OFFENDER
- WHITES AND BLACKS ONLY -

RACE OF VICTIM	RACE OF OFFENDER	
	WHITE	BLACK
WHITE	2 of 18 / 11.1%	1 of 3 / 33.3%
BLACK	0 of 0 / 0.0%	1 of 3 / 33.3%

TABLE XL

**SENTENCE BY RACE OF WHITE AND NON-WHITE OFFENDERS
FOR WHITE VICTIMS**

SENTENCE	RACE OF OFFENDER		TOTALS
	WHITE	NON-WHITE	
PRISON	16 / 88.9%	4 / 57.1%	20 / 80.0%
DEATH	2 / 11.1%	3 / 42.9%	5 / 20.0%
TOTALS	18 / 100%	7 / 100%	25 / 100%

TABLE XLI

**SENTENCE BY RACE OF WHITE AND NON-WHITE OFFENDERS
FOR NON-WHITE VICTIMS**

SENTENCE	RACE OF OFFENDER		TOTALS
	WHITE	NON-WHITE	
PRISON	3 / 100%	2 / 66.7%	5 / 83.3%
DEATH	0 / 0.0%	1 / 33.3%	1 / 16.7%
TOTALS	3 / 100%	3 / 100%	6 / 100%

TABLE XLII

**DEATH SENTENCES BY RACE OF VICTIM AND OFFENDER
- WHITES AND NON-WHITES -**

RACE OF VICTIM	RACE OF OFFENDER	
	WHITE	NON-WHITE
WHITE	2 of 18 / 11.1%	3 of 7 / 42.9%
NON-WHITE	0 of 3 / 0.0%	1 of 3 / 33.3%

Sex of the Victim

The sex of the victim compared to their offender's sentence is presented in Table XLIII. Although the number of female victims was small ($n = 10$), it would appear that cases with female victims were more likely to receive death sentences (33.3%) than cases with male victims (14.3%). This excludes the one case with two victims of each sex in which the offender received a prison sentence. The differences, however, were not statistically significant, especially since the test was suspect ($\chi^2 = 1.712$, $p = .425$).

TABLE XLIII
SENTENCE BY SEX OF VICTIM

SENTENCE	SEX OF VICTIM			TOTALS
	MALE	FEMALE	MALE & FEMALE	
PRISON	18 / 85.7%	6 / 66.7%	1 / 100%	25 / 80.7%
DEATH	3 / 14.3%	3 / 33.3%	0 / 0.0%	6 / 19.4%
TOTALS	21 / 100%	9 / 100%	1 / 100%	31 / 100%

Age of the Offender

Table XLIV presents a comparison of the mean age of the offenders in relation to the sentencing options. The mean age of those offenders sentenced to prison was 26.8 years compared to a mean age of 32.7 years for those sentenced to death. Although there was a difference of approximately 6 years, this difference was not statistically significant ($t = 1.350$, $p = .226$). Regardless, those given death sentences appear to be slightly older than those given prison sentences.

TABLE XLIV
SENTENCE BY MEAN AGE OF OFFENDER

SENTENCE	MEAN AGE OF OFFENDER
PRISON	26.8
DEATH	32.7

Number of Defendants

Table XLV examines the mean number of defendants charged for a homicide and the two sentencing options. The differences between the two groups were slight. Homicides which resulted in prison sentences had a mean of 1.56 defendants charged and homicides which resulted in death sentences had a mean of 1.50 defendants charged. This difference was not statistically significant ($t = .226$, $p = .826$).

TABLE XLV
SENTENCE BY MEAN NUMBER OF DEFENDANTS CHARGED FOR A HOMICIDE

SENTENCE	MEAN NUMBER OF DEFENDANTS CHARGED
PRISON	1.56
DEATH	1.50

Relationship of Victim to Offender

Of the convicted offenders, the relationship of the victim to the offender could be identified in only 21 cases. In 12 of the cases (57.1%), the offender knew the victim while in 9 cases (42.9%), the victim was a stranger to the offender. Table XLVI provides a comparison of the relationship categories to the offender's sentence. It appears that those defendants who killed strangers were more likely to get a death sentence (33.3%) compared to those who killed a previously known victim (8.3%). These differences, however, were not statistically significant and the significance test was suspect ($\chi^2 = 2.085$, $p = .149$).

TABLE XLVI
SENTENCE BY RELATIONSHIP OF VICTIM TO OFFENDER

SENTENCE	RELATIONSHIP OF VICTIM OF OFFENDER		TOTALS
	KNOWN	STRANGER	
PRISON	11 / 91.7%	6 / 66.7%	17 / 81.0%
DEATH	1 / 8.3%	3 / 33.3%	4 / 19.1%
TOTALS	12 / 100%	9 / 100%	21 / 100%

Number of Aggravating Circumstances Charged

Table XLVII compares the mean number of aggravating circumstances charged to an offender's sentence. Those offenders sentenced to prison had a mean of 1.880 aggravating circumstances charged while those offenders sentenced to death had a mean of 1.667 aggravating circumstances charged. The difference between the groups, however, was not statistically significant ($t = .602$, $p = .569$).

TABLE XLVII
SENTENCE BY MEAN NUMBER OF AGGRAVATING CIRCUMSTANCES CHARGED

SENTENCE	MEAN NUMBER OF AGGRAVATING CIRCUMSTANCES CHARGED
PRISON	1.880
DEATH	1.667

Felony Homicides

Of the defendant's convicted of aggravated murder, 20 of the 31 cases (64.5%) involved a felony homicide. Table XLVIII shows that a higher percentage of offenders with a non-felony homicide received a death sentence (27.3%) compared to those who committed an additional felony with their homicide (15.0%). Of the 6 death sentences, 3 came from each

category. The differences, however, were not statistically significant, and the test was suspect ($\chi^2 = .685$, $p = .408$).

TABLE XLVIII
SENTENCE BY FELONY AND NON-FELONY HOMICIDE

SENTENCE	TYPE OF HOMICIDE		TOTALS
	NON-FELONY	FELONY	
PRISON	8 / 72.7%	17 / 85.0%	25 / 80.7%
DEATH	3 / 27.3%	3 / 15.0%	6 / 19.4%
TOTALS	11 / 100%	20 / 100%	31 / 100%

Multi-variate Analysis of Aggravated Murder Sentencing

The same variables used in the logistic regression equation to help explain dispositions were included in an equation to help explain sentencing. The inclusion of the age of the defendant and number of defendants was based primarily on the statistically significant bi-variate findings and the logistic regression results related to the disposition stage, even though the differences when compared to sentencing were not statistically significant.

As a result of small frequencies and missing data, the number of death sentences used in this analysis dropped from six to four when comparing whites and non-whites ($n = 21$ cases) and dropped from six to three when comparing whites and blacks ($n = 17$ cases). This lack of variation in the dependent variable produced results which were confusing in relation to the previous bi-variate analysis and most likely were based on an unrepresentative sample of the six death sentences. For that reason, the results of the multi-variate analysis are not presented. More cases or at least fewer instances of missing data, would have helped remedy this problem.

SUMMARY AND DISCUSSION

This research suffers from a lack of data. Most of the tests of statistical significance are suspect, but for the purpose of discussion, the frequencies, percentages, and comparison of means are used to compare the variables. This discussion is based primarily on the bi-variate analysis. Table XLIX provides a summary of the statistically significant bi-variate findings for the independent and dependent variables and Table L on page 70 provides a summary of the statistically significant findings for the logistic regression analysis of the disposition stage for whites and blacks only.

The homicide profile for the County found that most victims were male (72.3%) and white (62.5%) with an average age of 33.9 years. Blacks accounted for 23.9% of the victims and Hispanics 7.1%. Most offenders were also male (86.0%) and white (62.2%) with an average age of 29.1 years. Blacks accounted for 27.4% of the offenders while Hispanics accounted for 7.1%. Males were victims over 70% of the time regardless of the sex of the offenders. It would appear that both blacks and Hispanics are over-represented in relation to being a victim or an offender in a homicide. The homicides were primarily intra-racial and involved only one offender and one victim. Firearms caused 46.3% of the deaths, and knives or other cutting instruments caused 22.7%. Most victims knew the offender (77.3% of the identifiable victim/offender relationships).

White defendants were more likely to be convicted of aggravated murder than black or non-white defendants. Defendants who killed whites were more likely to be convicted when comparing white and black victims. This difference was statistically significant, but the test was suspect. Similarly, for whites and non-whites, defendants were more likely to be convicted for killing whites (this test was almost statistically significant). The results for the interaction between the defendant's and victim's race were mixed. In regard to white and

black only cases, white victims lead to more aggravated murder convictions overall for both offender races, but for black offenders there was little difference between whether they killed white or black victims. In comparing white to non-white cases, a white or a non-white defendant was more likely to be convicted if their victim was white. White defendants were slightly more likely to be convicted than non-white defendants regardless of the victim's race.

TABLE XLIX

STATISTICALLY SIGNIFICANT BI-VARIATE RELATIONSHIPS
BETWEEN INDEPENDENT AND DEPENDENT VARIABLES*

INDEPENDENT VARIABLES	DEPENDENT VARIABLES	
	DISPOSITION	SENTENCE
RACE OF DEFENDANT - WHITE AND BLACK ONLY		
RACE OF DEFENDANT - WHITE AND NON-WHITE		✓✓
RACE OF VICTIM - WHITE AND BLACK ONLY	✓✓	
RACE OF VICTIM - WHITE AND NON-WHITE		
SEX OF VICTIM		
AGE OF DEFENDANT	✓	
NUMBER OF DEFENDANTS	✓	
VICTIM/DEFENDANT RELATIONSHIP		
NUMBER OF AGGRAVATING CIRCUMSTANCES CHARGED		
FELONY HOMICIDE		

*✓ = $p < .05$, ✓✓ = $p < .05$ (test suspect), no entry denotes a non-statistically significant finding.

Of the other variables, most supported previous research findings, if they were included in previous research. If the victim was a female, defendants were more likely to be convicted. Younger defendants, compared by mean ages, were more often convicted than older

defendants and this difference was statistically significant. Homicides with more aggravating circumstances and an additional felony were also associated with a greater likelihood of an aggravated murder conviction.

TABLE L

STATISTICALLY SIGNIFICANT MULTI-VARIATE RELATIONSHIPS
BETWEEN SELECTED INDEPENDENT VARIABLES AND
THE DEPENDENT VARIABLE DISPOSITIONS
- WHITES AND BLACKS ONLY -**

INDEPENDENT VARIABLES (PREDICTORS)	DEPENDENT VARIABLE = DISPOSITION
DEFBLACK	✓
VICBLACK	
VICFEMALE	
DEFAGE	✓
NUMDEF	✓
STRANGER	
NUMAGGCIR	

**✓ = $p < .05$, no entry denotes a non-statistically significant finding.

This study did produce some findings in contrast to previous research, as well. Based on the mean number charged, multiple defendants were associated with fewer convictions. This difference was statistically significant. A further deviation from most previous research, based upon a small difference, was the finding that convictions occurred more often in cases where the defendant knew the victim.

In most circumstances, the multi-variate logistic regression analysis for whites and blacks only produced findings similar to the bi-variate analysis. When controlling for the other variables, defendants who were black, older, and had more co-defendants charged were less likely to be convicted. Only those three variables were statistically significant. All the other variables showed a positive relationship to being convicted. This includes the victim/offender

relationship variable which was found to be negatively associated in the bi-variate analysis. In other words, if the offender was a stranger, a conviction was more likely. Furthermore, not only was the victim's race found to be an insignificant variable, it showed an exactly opposite effect. That is, taking into account the other variables, black victims were associated with a greater likelihood of an aggravated murder conviction. A possible explanation for this finding is that of the 44 possible cases used in this analysis, 15 cases were lost due to the inclusion of the relationship variable (i.e. STRANGER) which left only 29 cases to estimate the model.

The probability comparisons partially supported these findings, but were somewhat misleading with regard to inter-racial homicides. This was probably due to small frequencies and missing values. Although the result that female victims increased the probability of a conviction supported most previous research as well as the bi-variate comparisons, it had a very limited effect, if any, separate from the relationship variable (STRANGER). The finding that a stranger victim/offender relationship increased the probability of a conviction contradicts the bi-variate analysis for dispositions, but supports previous research.

The findings for the sentencing stage of the capital case process were somewhat different compared to the disposition stage. In regard to the offender's race, a higher percentage of blacks and non-whites, more so than blacks alone, received a death sentence. The finding for non-whites was statistically significant, but the test was suspect. The comparisons for the victim's race were based on small frequencies. This may explain why a higher percentage of offenders with black victims received a death sentence when compared to white victims. When white and non-white victims were compared, a white victim lead to slightly more death sentences both by frequency and percentage. When the interaction of white and black offenders/victims was considered, black offenders were more likely to get a death sentence for both victim racial groups, especially since no white defendant was convicted of aggravated murder for killing a black in two possible cases. In regard to white and non-white cases, white and non-white offenders were more likely to get a death sentence

for killing whites than non-whites. Of the three cases where a white killed a non-white, none resulted in a death sentence.

As with the disposition stage, offenders who killed females were more likely to get a death sentence. Most of the results for the sentencing stage, however, were in contrast to the disposition findings. Of the defendants convicted, the older offenders were more likely to get a death sentence compared to the younger offenders. The difference, though, was not statistically significant as previously found in relation to dispositions. Furthermore, there was little, if any difference between the sentences regarding the number of defendants charged in a homicide case. Those offenders who killed strangers were more likely to get a death sentence. Other contrasting results included offenders with fewer aggravating circumstances as well as those who did not commit an additional felony with their homicide were more likely on average to get a death sentence .

A multi-variate logistic regression analysis was attempted for the sentencing stage, but because of small frequencies, the results were questionable and omitted in order to avoid confusion. It would have been beneficial to be able to control for all the other variables at this stage. For the sentencing as well as the disposition regression equations, the small number of cases and the possibility of leaving out an important variable made the findings questionable.

These mixed findings make it difficult to generalize. However, it seems that a conviction of aggravated murder is more likely for a homicide with the following components: white defendants, white victims, female victims, younger defendants, fewer co-defendants, a stranger victim/offender relationship, more aggravating circumstances, and/or an additional felony accompanies the homicide. A death sentence seems more likely for homicides with the following components: non-white offenders, female victims, older offenders, an unknown victim/offender relationship, fewer aggravating circumstances, and a non-felony homicide. The race of the victim at sentencing does not show a clear effect, but does seem to indicate that white victims lead to more death sentences. Finally, it cannot be emphasized enough that all

of these general conclusions are based on such small frequencies that the addition or subtraction of even a single case for some independent variables could change their relationship with the respective dependent variable.

RECOMMENDATIONS FOR FUTURE RESEARCH

If this study were to be replicated, a number of methodological decisions would be re-evaluated. The scope of this investigation should be expanded or investigators should wait patiently for more cases in the County containing the sample population. Expanding the scope of the research to the entire state of Oregon would probably be preferable.

The database was not entirely complete for the time period. Due to typographical errors and miscommunication with Law Enforcement Data System on the part of the researcher, a few cases were left out the analysis. A "deadline" was set for which data collection would cease. It is known that at least one aggravated murder case was not included. The reporting agency's case number could not be cross-referenced to a Supplemental Homicide Report. It was later confirmed by Law Enforcement Data System that there was no report for the case number and reporting agency claimed by the court records. As such, there was not an alternative reference to confirm whether all cases and defendants were accounted for. Although due diligence was undertaken to include all relevant cases, it is believed a few were omitted. However, this researcher does not know of any reason why the available cases would necessarily be unrepresentative.

OJIN was used as a time saving device, and because it provided the necessary data in a summary form for most cases. However, the paper files were preferred. Although taking more time and energy, the information was more complete, and it was the experience of this researcher that OJIN data could differ from the data in paper files in remote instances. Most of this difference probably can be explained by random data entry errors. In the event there were questions, the original source was preferable to the transferred records and contained the

most information. Furthermore, OJIN was not completely on-line in Multnomah County until 1988. Many cases between 1984 and 1987 were not entered into the computer system. A manual search of micro-fiche records was conducted for cases between 1984 and 1987 which did not appear on OJIN. However, since the micro-fiche was subdivided by year, this may have resulted in some missing cases.

Missing cases also may have been due to defendants being indicted directly by the district attorney and not having been charged by the police. An attempt was made to confirm multiple offenders in both OJIN and the paper files, but this was not always possible due to editing by court staff. It should also be noted that cases were entered into the database only if they contained at least one homicide charge. Later charges or indictments filed to supplement a case would not have been entered (or even recovered) unless an additional homicide charge was noted somewhere in the original case file.

Future research may want to consider different uses of the variables included in this study or expanding to include others. For example, Paternoster (1984) examined the number and/or type of felonies accompanying a homicide. This may produce different results than the simple dichotomous version used here. Also, as noted in Appendix C, by qualifying whether the defense counsel was a public defender or court-appointed attorney may provide more variation than the current application of the type of defense counsel variable. Likewise, the inclusion of variables like a defendant's criminal record or history as well as the strength of evidence against the defendant would be extremely worthwhile.

Finally, another confounding factor was the defendant's use of pleas. As explained in Appendix C, pleas were offered and accepted in 29 of the 54 aggravated murder cases. Pleas may have reflected the strength of evidence held by the prosecutor or a bargaining chip by the defense to avoid a death sentence. It would have been beneficial to separate those cases in which pleas were accepted. This issue could be addressed along with the role of the prosecutor.

CONCLUDING REMARKS

It is hoped that this research has provided a fuller understanding of those homicides which were prosecuted as aggravated murder in Multnomah County. The explanatory power of this research is quite limited. The intent was mainly descriptive with the application of some explanatory tests to provoke further thought.

The interpretation of these results should be made cautiously. The bi-variate frequencies, percentages, and comparison of means provide the most information. Although attempts were made to include statistical controls for all the variables through logistic regression, small frequencies and missing values hampered a reliable application of these techniques. If this research were to be expanded to include a larger number of counties or more cases, these techniques would show their merit. There may be other methods of examining these data, but the statistical tools applied are not uncommon.

The death sentence in Oregon remains a rather rare penalty for homicide. It has been almost 30 years since the last execution, and it is uncertain when the next will occur. However, since many persons would consider death one of the highest prices to pay for crime, the application of this sentence must be considered with scrutiny. The findings from this endeavor are mixed, and failed to provide any conclusive answers. As such, this research does not offer adequate evidence to prove or disprove challenges of racial discrimination in the processing of capital cases in Multnomah County. There may be no simple or clear answers for this question. Only continuous attention to the issue of discrimination as well as thoughtful research will reveal any conclusions.

NOTES

¹The nine point scale was based on 1 meaning strong agreement and 9 meaning strong disagreement. Only 55 of 127 surveys were returned, for a response rate of 43%.

²Percentages may not equal 100 due to rounding.

³Appendix B contains a list of all the relationship categories. For the Homicide Profile, the five categories were formed on the following basis: Relatives refers to any blood or legally related family member, which includes in-laws, ex-spouses, step-family members, and common law based marriages; Friends includes boy- or girl-friends (present or past) and homosexual relationships; Acquaintances includes the "other known to victim" category and babysitters; Strangers refers to only those cases where it is believed that the victim and offender were strangers; and the unknown category are those cases where the relationship could not be classified.

⁴The standard level of statistical significance used for the data analysis in this paper is .05. In order to be statistically significant, the results should have a probability (i.e., a p-value) of occurring by chance equal to or less than 5 times out of 100. The reader is given the p-value for most tables in parentheses. This is the probability that the differences in the respective table could have been obtained by chance. Any p-value greater than .05 is not considered statistically significant. The value of the chi-square test is preceded by the abbreviation " χ^2 ". The value of the separate variances from a t-test of means (two-tailed) is preceded by the abbreviation "t".

⁵Many of the chi-square tests of statistical significance were suspect. A chi-square test was usually suspect when there were less than five frequencies in any respective cell of the cross-tabulation. This means that there was not enough cases in all the cells to make a reliable application of the test.

⁶To be more specific, if one had to guess the outcome of each case and the only information known was that 17 of 29 cases had resulted in a conviction, he or she could simply guess the most frequent outcome for every case. By guessing that each case resulted in a conviction for all 29 cases, a person would be guaranteed to get a majority correct or 58.6%.

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APPENDIX A

COURT CASES

APPENDIX A

COURT CASES

Furman v. Georgia 408 U.S. 238, 33 LE2d 346, 92 S Ct. 2726 (1972)

Gregg v. Georgia 428 U.S. 153, 49 LE2d 859, 96 S Ct. 2971 (1976)

Jurek v. Texas 428 U.S. 262, 49 LE2d 929, 96 S Ct. 2950 (1976)

Lockett v. Ohio 438 U.S. 586, 57 LE2d 973, 98 S Ct. 2954 (1978)

McCleskey v. Kemp 481 U.S. 279, 95 LE2d 262, 107 S Ct. 1756 (1987)

Penry v. Lynaugh 106 LE2d 256, 109 S Ct. 2934 (1989)

Proffitt v. Florida 428 U.S. 242, 49 LE2d 913, 96 S Ct. 2960 (1976)

Roberts v. Louisiana 428 U.S. 325, 49 LE2d 974, 96 S Ct. 3001 (1976)

Spinkellink v. Wainwright 578 F2d. 582 (1978)

Spinkelink v. Wainwright 440 U.S. 976, 59 LE2d 796, 99 S Ct. 1548 (1979)

State v. Finch 54 Or 482 (1909)

State Of Oregon v. John Wayne Quinn 290 Or 383 (1981)

State Of Oregon v. Jeffrey Scott Wagner 305 Or 115 (1988)

State Of Oregon v. Jeffrey Scott Wagner 309 Or 5 (1990)

Woodson et. al. v. North Carolina 428 U.S. 280, 49 LE2d 944, 96 S Ct. 2978 (1976)

APPENDIX B

CODES USED FOR DATA COLLECTION

APPENDIX B

CODES USED FOR DATA COLLECTION

Age

0	AGE UNKNOWN AND NO REASONABLE ESTIMATE AVAILABLE
-1	AGE OF 1 WEEK OR OLDER BUT LESS THAN 12 MONTHS
-2	AGE OF LESS THAN 1 WEEK
1-99	THE NUMBER GIVEN IS THE AGE OF THE INDIVIDUAL

Sex

0 or U	UNKNOWN OR UNSPECIFIED
1 or M	MALE
2 or F	FEMALE

Race

0 or U	UNKNOWN OR UNSPECIFIED
1 or W	CAUCASIAN
2 or B	BLACK
3 or H	HISPANIC/MEXICAN AMERICAN OR NATIONAL/LATIN/CENTRAL/SOUTH
4 or I	INDIAN
5 or C	CHINESE
6 or J	JAPANESE
7 or V	VIETNAMESE/CAMBODIAN/LAOTIAN/THAI
8 or A	OTHER ASIAN/PACIFIC ISLANDER

Situation Codes (Supplemental Homicide Reports)

0 or U	UNKNOWN OR UNSPECIFIED
1 or A	SINGLE VICTIM / SINGLE OFFENDER
2 or B	SINGLE VICTIM / UNKNOWN OFFENDER(S)
3 or C	SINGLE VICTIM / MULTIPLE OFFENDERS
4 or D	MULTIPLE VICTIMS / SINGLE OFFENDER
5 or E	MULTIPLE VICTIMS / MULTIPLE OFFENDERS
6 or F	MULTIPLE VICTIMS / UNKNOWN OFFENDER(S)

Situation Codes (Multnomah County File)

2	NOT APPLICABLE
6	NOT APPLICABLE
7	DEFENDANT DIED BEFORE PROSECUTION
8	NO PROSECUTION OR OFFENDER UNKNOWN
9	DATA FROM LAW ENFORCEMENT AGENCY NOT AVAILABLE

Relationship of Victim to Defendant

01 or AC	ACQUAINTANCE
02 or AU	AUNT
03 or BF	BOYFRIEND
04 or BR	BROTHER
05 or BS	BABYSITTER
06 or CH	COMMON-LAW-HUSBAND
07 or CO	COUSIN
08 or CW	COMMON-LAW-WIFE
09 or DA	DAUGHTER
10 or EE	EMPLOYEE
11 or ER	EMPLOYER
12 or FA	FATHER
13 or FF	FOSTER FATHER
14 or FM	FOSTER MOTHER
15 or FR	FRIEND
16 or GD	GRANDFATHER
17 or GF	GIRLFRIEND
18 or GM	GRANDMOTHER
19 or HB	HALF-BROTHER
20 or HO	HOMOSEXUAL RELATIONSHIP
21 or HS	HALF-SISTER
22 or HU	HUSBAND
23 or IL	IN-LAW
24 or MO	MOTHER
25 or NE	NEIGHBOR
26 or OF	OTHER FAMILY
27 or OK	OTHER KNOWN TO VICTIM
28 or SD	STEP DAUGHTER
29 or SF	STEP FATHER
30 or SI	SISTER
31 or SM	STEP MOTHER
32 or SO	SON
33 or SS	STEP SON
34 or ST	STRANGER
35 or UC	UNCLE
36 or UN	UNKNOWN (OR UNDETERMINED) RELATIONSHIP
37 or WI	WIFE
38 or XB	EX-BOYFRIEND
39 or XG	EX-GIRLFRIEND
40 or XH	EX-HUSBAND
41 or XW	EX-WIFE
42 or SU	LATER DETERMINED TO BE SUICIDE

Type of Defense Counsel

0	UNCERTAIN OR UNKNOWN
1	COURT-APPOINTED OR PUBLIC DEFENDER
2	PRIVATE ATTORNEY
3	SELF-REPRESENTED

Counsel Changes

0	UNCERTAIN OR UNKNOWN
1	YES
2	NO

Homicide Type

0 or U	UNKNOWN OR UNSPECIFIED
1 or W	WILLFUL HOMICIDE
2 or N	NEGLIGENT HOMICIDE
3 or J	JUSTIFIABLE HOMICIDE

Weapon Type or Cause of Death

1	HANDGUN
2	RIFLE
3	SHOTGUN
4	FIREARM (TYPE UNKNOWN)
5	KNIFE OR CUTTING INSTRUMENT (ICE PICK, SCREWDRIVER, AX, SCISSORS, ETC.)
6	BLUNT OBJECT
7	PERSONAL WEAPONS (HANDS, FISTS, FEET, ETC.)
8	POISON (NOT INCLUDING GAS)
9	PUSHED OR THROWN
10	EXPLOSIVES
11	FIRE
12	NARCOTICS AND DRUGS (INCLUDES SLEEPING PILLS)
13	DROWNING
14	STRANGULATION - HANGING
15	ASPHYXIATION (INCLUDES DEATH BY GAS)
16	OTHER (WEAPON TYPE OR CAUSE NOT ABOVE OR UNKNOWN)
17	MACHINE GUN (IF SPECIFIED AS SUCH)
18	EXPOSURE
19	VEHICLE

Pretrial Release Status

0	MISSING VALUE IF UNCERTAIN
1	RELEASED
2	CUSTODY

Trier of Fact

- 0 UNKNOWN OR UNCERTAIN
- 1 JURY
- 2 JUDGE
- 3 ALL CHARGES DISMISSED BY PROSECUTION MOTION
- 4 DEFENDANT DIED BEFORE DISPOSITION
- 5 IN PROGRESS

Disposition

- 0 UNKNOWN, UNSPECIFIED OR UNCERTAIN
- 1 CONVICTED (FOUND GUILTY)
- 2 PLEA OF GUILTY - CONVICTED
- 3 PLEA OF NO CONTEST - CONVICTED
- 4 PLEA OF NO CONTEST - NOT CONVICTED
- 5 PLEA TO A LESSER CHARGE
- 6 NOT GUILTY
- 7 ACQUITTED
- 8 CHARGE(S) DISMISSED (BY COURT OR PROSECUTION)
- 9 GUILTY EXCEPT INSANE (NOT RESPONSIBLE)
- 10 CONVICTED OF A LESSER INCLUDED CHARGE

Sentence (only applicable with aggravated murder charges)

- 0 UNCERTAIN OR UNKNOWN
- 1 DEATH PENALTY
- 2 LIFE W/O PAROLE
- 3 LIFE (30 YEAR MINIMUM)
- 4 LIFE (20 YEAR MINIMUM)
- 5 NOT RESPONSIBLE OR GUILTY BUT INSANE
- 6 OTHER (A NON-AGGRAVATED MURDER SENTENCE)
- 7 DEFENDANT DIED BEFORE SENTENCE HEARING
- 8 MERGED OR CONCURRENT
- 9 NO CONVICTION
- 1(ORS#) CONCURRENT TO OTHER SENTENCE
- 2(ORS#) CONSECUTIVE TO OTHER SENTENCE

APPENDIX C

JUSTIFICATION FOR THE EXCLUSION OF CERTAIN VARIABLES

APPENDIX C

JUSTIFICATION FOR THE EXCLUSION OF CERTAIN VARIABLES

Upon completion of data collection and preliminary analysis, it became evident that certain data would not be available or needed for the analysis. As a result, the following variables were excluded from the data analysis section of the paper: sex of the defendant, age of the victim, number of victims, weapon or cause of death, the type of defense counsel, pretrial custody status, trier of fact, pleas, number of convictions, and number of aggravated murder convictions. This appendix contains an explanation and a brief discussion of each of these variables.

ANALYSIS OF VARIABLES EXCLUDED

Sex of the Defendant

In Table LI, a comparison of the defendant's sex and case disposition is provided. Male defendants were more likely to be convicted of aggravated murder than female defendants (62.0% v. 25.0% respectively). However, the number of female defendants was quite small ($n = 4$). Consequently, the test of statistical significance was suspect, and the differences were not statistically significant ($\chi^2 = 2.1$, $p = .147$). In regard to sentencing, the one female convicted of aggravated murder was given a sentence of 30 years without release. Although there was some evidence to pursue this variable (at least at the disposition stage), the literature review provided little additional justification to include this variable in the multi-variate analysis. Only one study found evidence of an influence for the sex of the defendant (i.e., Foley & Powell 1982).

TABLE LI
DISPOSITION BY SEX OF DEFENDANT

DISPOSITION	SEX OF DEFENDANT		TOTALS
	MALE	FEMALE	
NON AGG MURDER	19 / 38.0%	3 / 75.0%	22 / 40.7%
AGG MURDER	31 / 62.0%	1 / 25.0%	32 / 59.3%
TOTALS	50 / 100%	4 / 100%	54 / 100%

Age of the Victim

Table LII presents a comparison of the mean age of the victim in relation to the corresponding defendant's disposition. Of the 22 cases where the defendant was not convicted of aggravated murder, the mean age of the victim was 42.4 years. Of the 32 cases where the defendant was convicted, the mean age of the victim was 39.7 years. The difference between the two groups, however, was not statistically significant ($t = .650$, $p = .519$).

TABLE LII
DISPOSITION BY MEAN AGE OF VICTIMS

DISPOSITION	MEAN AGE OF VICTIMS
NON AGG MURDER	42.4
AGG MURDER	39.7

The mean age of the victim did show a greater difference when compared to the offender's sentence. Table LIII presents a comparison of the mean age of the victim in relation to the corresponding offenders sentence. The mean age of victims for those offenders receiving prison sentences was 39.8 years and for those offender's receiving death sentences, the mean age of the victim was 33.3 years. Although there was a difference of approximately

6 years of age, this difference was not statistically significant ($t = 1.621$, $p = .121$). Regardless, victims of offenders receiving death sentences appear to be slightly younger than the victims of offenders receiving prison sentences. However, without other research to justify the inclusion of this variable in the regression equations, the statistically insignificant findings lead to its exclusion.

TABLE LIII
SENTENCE BY MEAN AGE OF VICTIMS

SENTENCE	MEAN AGE OF VICTIM
PRISON	39.8
DEATH	33.3

Number of Victims

There were only two cases that involved multiple victims in this sample. Table LIV presents a comparison between the number of victims and whether a defendant was convicted of aggravated murder. It would appear that merely meeting the statutory circumstances of multiple victims did not lead directly to an aggravated murder conviction. The results showed one case resulted in an aggravated murder conviction and one did not. With only two cases, however, very few assertions can be based on this table. Not surprisingly, the test of statistical significance was suspect and found no statistical difference ($\chi^2 = .074$, $p = .786$).

With only one case leading to an aggravated murder conviction, this left even less to compare at the sentencing stage. The one offender with multiple victims was sentenced to 30 years without release. It would have been beneficial to include this variable since an effect for multiple victims has been reported by Foley & Powell (1982), Bowers (1983), Paternoster (1983), Gross & Mauro (1984), Vito & Keil (1988), and Keil & Vito (1990).

TABLE LIV
DISPOSITION BY NUMBER OF VICTIMS

DISPOSITION	NUMBER OF VICTIMS		TOTALS
	1 VICTIM	2 VICTIMS	
NON AGG MURDER	21 / 40.4%	1 / 50.0%	22 / 40.7%
AGG MURDER	31 / 59.6%	1 / 50.0%	32 / 59.3%
TOTALS	52 / 100%	2 / 100%	54 / 100%

Weapon Type or Cause of Death

Table LV provides mixed results in regard to the weapon categories and dispositions. Those using weapons (or causing death) from the "other" category had the highest percentage of aggravated murder convictions (72.2%). Defendants using a firearm had a slightly lower conviction rate for aggravated murder (60.0%) while those using knives had the lowest conviction rate for aggravated murder (47.6%). The differences among the groups, however, were not statistically significant ($\chi^2 = 2.435$, $p = .296$).

TABLE LV
DISPOSITION BY WEAPON TYPE OR CAUSE OF DEATH

DISPOSITION	WEAPON TYPE / CAUSE OF DEATH			TOTALS
	FIREARMS	KNIVES	OTHER	
NON AGG MURDER	6 / 40.0%	11 / 52.4%	5 / 27.8%	22 / 40.7%
AGG MURDER	9 / 60.0%	10 / 47.6%	13 / 72.2%	32 / 59.3%
TOTALS	15 / 100%	21 / 100%	18 / 100%	54 / 100%

Table LVI compares the offender's sentence to the weapons categories. The frequencies among the categories were quite similar and contradictory to the findings related to dispositions. Overall, those who used a knife were most likely to receive a death sentence (30.0%) followed by the "other" category (16.7%) and those who used a firearm (11.1%).

Due in part to the small frequencies, these differences were not statistically significant, and the significance test was suspect ($\chi^2 = 1.173$, $p = .556$). An effect for weapon type in capital cases has been argued rarely, a possible exception being Paternoster (1983).

TABLE LVI
SENTENCE BY WEAPON TYPE OR CAUSE OF DEATH

SENTENCE	WEAPON TYPE / CAUSE OF DEATH			TOTALS
	FIREARMS	KNIVES	OTHER	
PRISON	8 / 88.9%	7 / 70.0%	10 / 83.3%	25 / 80.7%
DEATH	1 / 11.1%	3 / 30.0%	2 / 16.7%	6 / 19.4%
TOTALS	9 / 100%	10 / 100%	12 / 100%	31 / 100%

Type of Defense Counsel

Upon completion of data collection, it became clear that the type of counsel variable would be of little use in this analysis. Of the cases in this sample for which attorney type could be determined, 52 out of 53 had court-appointed or public defenders for a majority of the time period between indictment and disposition. Only 1 of 53 had a private attorney. One case could not be determined. This usually happened when a private attorney was retained during the time period in addition to a court-appointed attorney or public defender, but it could not be established which attorney type was operating for a majority of the period. Consequently, it would have been advantageous to differentiate between court-appointed attorneys and public defenders. The importance of this variable in Oregon has already been highlighted by earlier research by Bedau (1965).

Pretrial Custody Status

All defendants charged with aggravated murder were held in pretrial custody. Overall, of the cases which could be determined, a vast majority of those defendants for any homicide charge were held in pretrial custody.

Trier of Fact

Of the 54 cases with aggravated murder charges, 30 went before a judge and 24 went before a jury for the final disposition. In those cases where both a judge and jury were involved in the final disposition, the trier of fact was recorded as the one which made a majority of the overall decision (i.e., adjudicated the most charges). Table LVII compares the trier of fact to whether a defendant was convicted of aggravated murder. Juries convicted 79.2% of the defendants while judges convicted 43.3% of the defendants. However, this simple table ignores the fact that judges took pleas before and during trials; these pleas were most often to lesser included charges. Although juries could have convicted a defendant of a lesser included offense, it would not have been the same type of decision. In all cases except one heard before a judge only ($n = 29$ of 30 or 96.7%), the judge accepted a plea (either to a lesser charge or to aggravated murder). The differences were statistically significant ($\chi^2 = 7.091$, $p = .008$). Since a judge only determined guilt or innocence once without benefit of a plea, there was no real basis to compare the two categories.

TABLE LVII
DISPOSITION BY TRIER OF FACT

DISPOSITION	TRIER OF FACT		TOTALS
	JURY	JUDGE	
NON AGG MURDER	5 / 20.8%	17 / 56.7%	22 / 40.7%
AGG MURDER	19 / 79.2%	13 / 43.3%	32 / 59.3%
TOTALS	24 / 100%	30 / 100%	54 / 100%

Pleas

Pleas in capital murder cases have received little examination in the literature. Foley & Powell (1982) made reference to pleas for judicial death sentencing decision-making. Since it has often been argued that pleas are exchanged for lesser convictions or sentences (see

Zeisel (1981) and Radelet & Pierce (1985)), a limited analysis is provided here. Table LVIII presents a comparison of whether a plea was offered and the disposition of the defendant. A plea was offered and accepted in 29 of the 54 cases. Of the 29 pleas tendered, 17 defendants (58.6%) were convicted of a lesser charge than aggravated murder. Excluding the one finding of not guilty, only 4 defendants (or 16%) were convicted of a lesser charge by a jury. The differences between offering a plea or not offering a plea were statistically significant ($\chi^2 = 8.295$, $p = .004$). All of the offenders who plead guilty to aggravated murder were given prison sentences.

TABLE LVIII
DISPOSITION BY PLEA STATUS

DISPOSITION	PLEA STATUS		TOTALS
	NO PLEA OFFERED	PLEA OFFERED	
NON AGG MURDER	5 / 20.0%	17 / 58.6%	22 / 40.7%
AGG MURDER	20 / 80.0%	12 / 41.4%	32 / 59.3%
TOTALS	25 / 100%	29 / 100%	54 / 100%

Number of Convictions

The more offenses for which an offender has been convicted may be an indicator of crime seriousness. The literature reviewed found little mention of this potential sentencing influence. Table LVIX provides a comparison of the mean number of convictions and the offender's sentence. Offenders sentenced to prison had a mean of 2.240 convictions compared to a mean of 3.833 convictions for those offenders sentenced to death. This difference, however, was not statistically significant ($t = 1.675$, $p = .133$).

TABLE LVIX
SENTENCE BY MEAN NUMBER OF CONVICTIONS

SENTENCE	MEAN NUMBER OF CONVICTIONS
PRISON	2.240
DEATH	3.833

Number of Aggravated Murder Convictions

To further analyze any differences in the number of convictions, Table LX provides a comparison of the mean number of aggravated murder convictions between the two sentencing options. The offenders who received prison sentences had a mean of 1.280 aggravated murder convictions while those offenders sentenced to death had a mean of 2.000 aggravated murder convictions . This difference, however, was not statistically significant ($t = 1.365$, $p = .231$).

TABLE LX
SENTENCE BY MEAN NUMBER OF AGGRAVATED MURDER CONVICTIONS

SENTENCE	MEAN NUMBER OF AGG MURDER CONVICTIONS
PRISON	1.280
DEATH	2.000

APPENDIX D

LOGISTIC REGRESSION PROBABILITIES FOR WHITES AND NON-WHITES

APPENDIX D

LOGISTIC REGRESSION PROBABILITIES FOR WHITES AND NON-WHITES

The basic logistic regression results for white and non-white cases are presented in Table LXI. The variables DEFBLACK and VICBLACK were replaced by DEFNW (0 = white, 1 = non-white) and VICNW (0 = white, 1 = non-white). Table LIV shows that only one variable was statistically significant at the .05 level. The number of aggravating circumstances (NUMAGGCIR) was statistically significant with only the t statistic of 4.749 giving an indication of the level. In regard to the direction of the relationships, each was the same as they were for whites and blacks. Defendants who were non-white, older, and/or charged with more co-defendants were less likely to be convicted of aggravated murder. All of the other variables showed a positive relationship. In cases with female victims, where the victim was a stranger to the defendant, and with multiple aggravating circumstances, the likelihood of an aggravated murder conviction increased. As with the analysis for whites and blacks only, there was a somewhat confusing result and explanation for the race of the victim effect. Black victims were associated with an increased likelihood of an aggravated murder conviction.

Although the sample would have included all 54 cases, the number of missing values for the STRANGER variable deleted 21 cases. With the current 33 cases, the model accurately predicted 84.9% of the outcomes, a 27.9% improvement over simply guessing the most frequent outcome for all cases.

The probability that an aggravated murder conviction would result, given a known male victim, is provided in Table LXII based on the circumstances stated within the table. Considering these data, regardless of the victim's race, it would appear that white defendants have a higher likelihood of being convicted of aggravated murder (63% chance) compared to non-white defendants (57% chance). However, there is no difference in the probability whether the victim is white or non-white. The finding for the race of the defendant supports

the previous bi-variate analysis. As for the race of the victim, the results contradict almost all previous results found with this sample and with previous research.

TABLE LXI

BASIC LOGISTIC REGRESSION OUTPUT FOR DISPOSITION EQUATION
- WHITES AND NON-WHITES -

PREDICTOR	REGRESSION COEFFICIENT	STANDARD ERROR	t STATISTIC	P-VALUE
CONSTANT	.000106846	.000524081	.204	.83845
DEFNW	-.265481	.184866	-1.436	.15098
VICNW	.0216500	.243211	.089	.92907
VICFEMALE	.142772	.242716	.588	.55638
DEFAGE	-.00160400	.00474726	-.338	.73545
NUMDEF	-.0531069	.0789984	-.672	.50142
STRANGER	.150188	.163071	.921	.35705
NUMAGGCIR	.447138	.0941531	4.749	.00000
% DISPOSITIONS CORRECTLY PREDICTED			84.9%	
NUMBER OF CASES			33	

TABLE LXII

PROBABILITY OF AN AGGRAVATED MURDER CONVICTION BY RACE OF
VICTIM AND DEFENDANT (WITH A KNOWN MALE VICTIM)
- WHITES AND NON-WHITES -

RACE OF VICTIM	RACE OF DEFENDANT	
	WHITE	NON-WHITE
WHITE	.63	.57
NON-WHITE	.63	.57
NOTE: The probabilities are based on a male victim, the victim knew the defendant, the mean defendant age (30.85 years), the mean number of aggravating circumstances (1.52), and the mean number of defendants per homicide (1.88).		

If the homicide includes a female victim and a stranger, the probabilities would be as presented in Table LXIII. The results reflect those above, but with an increased probability of conviction given the two additional factors. White defendants now have a 69% chance of being conviction if their victim is white and a 70% chance if their victim is non-white. Non-white defendants now have 64% chance of being convicted regardless if their victim is white or non-white. The result that female victims and a stranger victim/offender relationship increase the probability of a conviction supports previous research and the bi-variate analysis. In comparison to whites and blacks only, both of these variables contribute almost equally to the increased probability of conviction (i.e., have an effect separate from each other). However, the minimal differences based on the race of the victim would question this variable's effect.

TABLE LXIII

PROBABILITY OF AN AGGRAVATED MURDER CONVICTION BY RACE OF
VICTIM AND DEFENDANT (WITH AN UNKNOWN FEMALE VICTIM)
- WHITES AND NON-WHITES -

RACE OF VICTIM	RACE OF DEFENDANT	
	WHITE	NON-WHITE
WHITE	.69	.64
NON-WHITE	.70	.64
NOTE: The probabilities are based on a female victim, the victim was a stranger to the defendant, the mean defendant age (30.85 years), the mean number of aggravating circumstances (1.52), and the mean number of defendants per homicide (1.88).		