

**The Color of Justice in Oklahoma: Connections between Racial Disparity and  
the Death Penalty**

A THESIS

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The Color of Justice in Oklahoma: Connections between Racial Disparity and the Death Penalty

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## **Abstract**

Racial disparity among death row inmates has often been a debated and questioned topic in the United States. Although the populations of African Americans and Caucasians are relatively equal on death row, African Americans are being executed at much higher rates for murdering Caucasian victims. Flaws within the U.S. legal system, peremptory strikes, and prosecutor discretion have opened the door to personal racial biases and racial discrimination. The media, racial stereotypes, and racial resentment all have an impact on the public's view of capital punishment. Legislators and Supreme Court justices are more likely to support the death penalty, due to pressures from the public and the competitiveness of being appointed. Geographic locations also have a profound impact on minorities in capital murder trials. This research examines whether racial disparity exists among Oklahoma death row inmates, and whether the race-victim effect applies to inmates who are currently on death row, or who have had their execution carried out. This research will also examine the demographics of Oklahoma inmates, and explore the time each subject group has spent on death row in Oklahoma prisons.

*Keywords:* Oklahoma, peremptory strikes, discretion, racial disparity, racism, death penalty

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**CHAPTER 1**  
**INTRODUCTION**

Controversial issues have existed throughout the history of the United States. Issues such as war, U.S. Supreme Court decisions, discrimination, and racism have all influenced individuals' lives at some point in time. Minorities have faced many struggles throughout U.S. history, and many African Americans have overcome issues such as slavery, unequal treatment, and other discriminatory acts within our nation. Yet another problem faced by many individuals throughout the United States is the criminal justice system. Historical court cases, the national media, and individuals' own personal experiences have exposed society to both the positive and negative outcomes of the fairness and treatment of U.S. citizens who have encountered our justice system.

The U.S. Supreme Court decision in *Brown v. Board of Education* (1954), helped to change the scope and language of the historical *Plessy v. Ferguson* (1896) case. The *Brown* decision eliminated the separate but equal ruling in public education and provided an avenue for minorities to have an equal opportunity to obtain a meaningful education; it also eliminated racially segregated educational facilities. Although the efforts of many civil rights activists, combined with certain U.S. Supreme Court decisions to legalize equality among citizens of the United States, the U.S. has continued to be plagued with discrimination and racism. Numerous examples of both can be found in the U.S. criminal justice system.

The U.S. criminal justice system contains flaws in regard to its fairness and its treatment of individuals who have entered into the justice system. Racial bias and discrimination within the

criminal justice system also creates a negative perception among the public. The opportunity for racial bias and discrimination to play a role within our criminal justice system is often related to discretion. According to Gaines and Miller (2013, p. 15), discretion is “the ability of individuals in the criminal justice system to make operational decisions based on personal judgment instead of formal rules or official information.” Discretionary actions are carried out and interpreted by those who represent our government, laws, and the U.S. Constitution. Discretion is utilized by law enforcement officers in deciding whether or not to cite an individual for a violation of a law, or whether to arrest or release that individual. In the court of law, prosecutors have the discretion to try certain cases while a judge can decide the type of punishment (or sentence) that he/she wants to give to a criminal defendant. Correctional officers, parole boards, parole officers, and specialty courts, all utilize some form of discretion on a day-to-day basis. Lucy Adams (2005) has argued that discretion, and discretionary statutes, are flooded with discrimination. Discretion and/or discretionary statutes open up the ability for judges and prosecutors to insert their personal biases and/or racism into court rulings and proceedings.

The court system of the United States has often come under fire from the American Civil Liberties Union, and by many individuals who oppose capital punishment. Minority criminal defendants are often faced with challenges along with their court case. The majority of minority criminal defendants are not able to retain adequate legal counsel, understand court proceedings, nor overcome the negative stereotypes and discrimination which plagues American society. Discrimination can take place throughout all stages of the U.S. court system. Whether in the selection of prospective jurors, the race of the victim, or prosecutorial strategies, race has an impact on the outcome of the minority criminal defendant’s fate. Capital murder trials and the death penalty have also been under the scrutiny of the public and minority groups across the

nation. The death penalty has had a substantial impact upon the African American population in the United States, as well as the State of Oklahoma. Although there has been a limited amount of literature regarding the death penalty in Oklahoma, statistical data provides evidence that issues indeed persist in this state (BJS, 2014).

According to the Bureau of Justice Statistics (2011), there were 3,082 inmates on death row in the United States in 2011. As indicated in Table 1, of the 3,082 death row inmates in the United States, 55.3% were Caucasian, 41.8% were African American, and 2.9% were listed as “other.” However, minority inmates who are executed for interracial murders are put to death at a much higher rate. When examining the death penalty in the U.S., 247 black defendants were executed for killing white victims from 1977 to 2011 (BJS, 2014).

Research (Baker, Lambert & Jenkins, 2005; Cholbi, 2006; Gilboa, 2010; Michel & Cochran, 2011; Peffley & Hurwitz, 2007; Unnever & Cullen, 2007; Young, 1991) has indicated there is significant relationship between race and the public’s support of the death penalty. The race-victim effect plays a significant role within the criminal justice system as well. This race-victim influence, and/or effect, has a substantial impact on capital murder trials and death penalty convictions. Demographics and geographical locations of the murder also have an influence on death penalty cases across the United States. From 1977 to 2011, only 23 whites were executed for killing black victims while 247 blacks were executed for killing white victims, as observed in Table 2 (BJS, 2014). When examining the executions in the U.S. based upon the race-victim effect, the numbers are highly disproportionate. In the same year (2011), Oklahoma had 63 inmates on death row. Of the 63 inmates who were on death row, 52.4% were Caucasian, 41.3% were African American and 6.3% are listed as “other,” as noted in Table 3. Since 1977, the statistics for the death row inmate population across Oklahoma was significantly lower than the

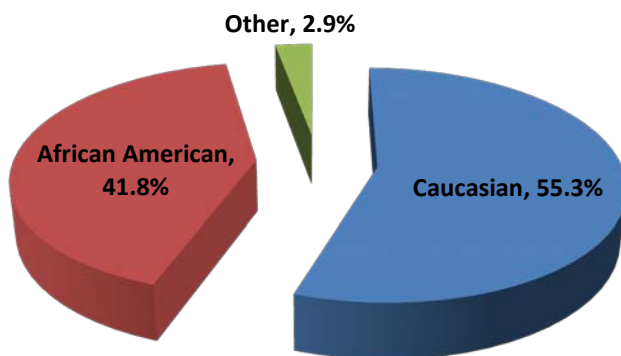
United States, but they were still disproportionate. As listed in Table 4, when the defendant in a death row case was black and the victim was white, then the number of black defendants executed represented fourteen. When the defendant (on death row) was white and the victim was black, then the number of white defendants executed was three (BJS, 2014).

The racial disparity among African American and Caucasian death row inmates in Oklahoma is similar to that of inmates who are currently serving death row sentences in the United States. When exploring the racial disparity of death row inmates in the U.S., the research poses the following questions: What is the disproportionate rate of death row inmates who have been executed in the U.S. from 1977-2011? What is the disproportionate rate in Oklahoma? Does a disparity exist among Oklahoma death row inmates? These are but a few questions that are raised when looking at the disparity of death row inmates across the United States and within Oklahoma.

This research will explore the racial disparity that exists among death row inmates in the United States and whether that disparity exists in Oklahoma. The researcher will examine data (regarding death row inmates) obtained from the Oklahoma Department of Corrections, including the demographics of Oklahoma death row inmates. Finally, this research will examine the race-victim effect in Oklahoma, along with the number of days inmates spend on death row. The researcher will examine the number of days an inmate spends on death row in order to determine if a disparity exists between the groups (by race) of death row inmates selected for this study.



### 2011 Death Row Population (United States)



**Table 1**

\*Other includes Native Americans, Hispanics, and/or a combination of races

\*\*Total Death Row Population in the United States for 2011 is: 3,082

\*\*\*Note: Information retrieved from the Bureau of Justice Statistics Capital Punishment Database

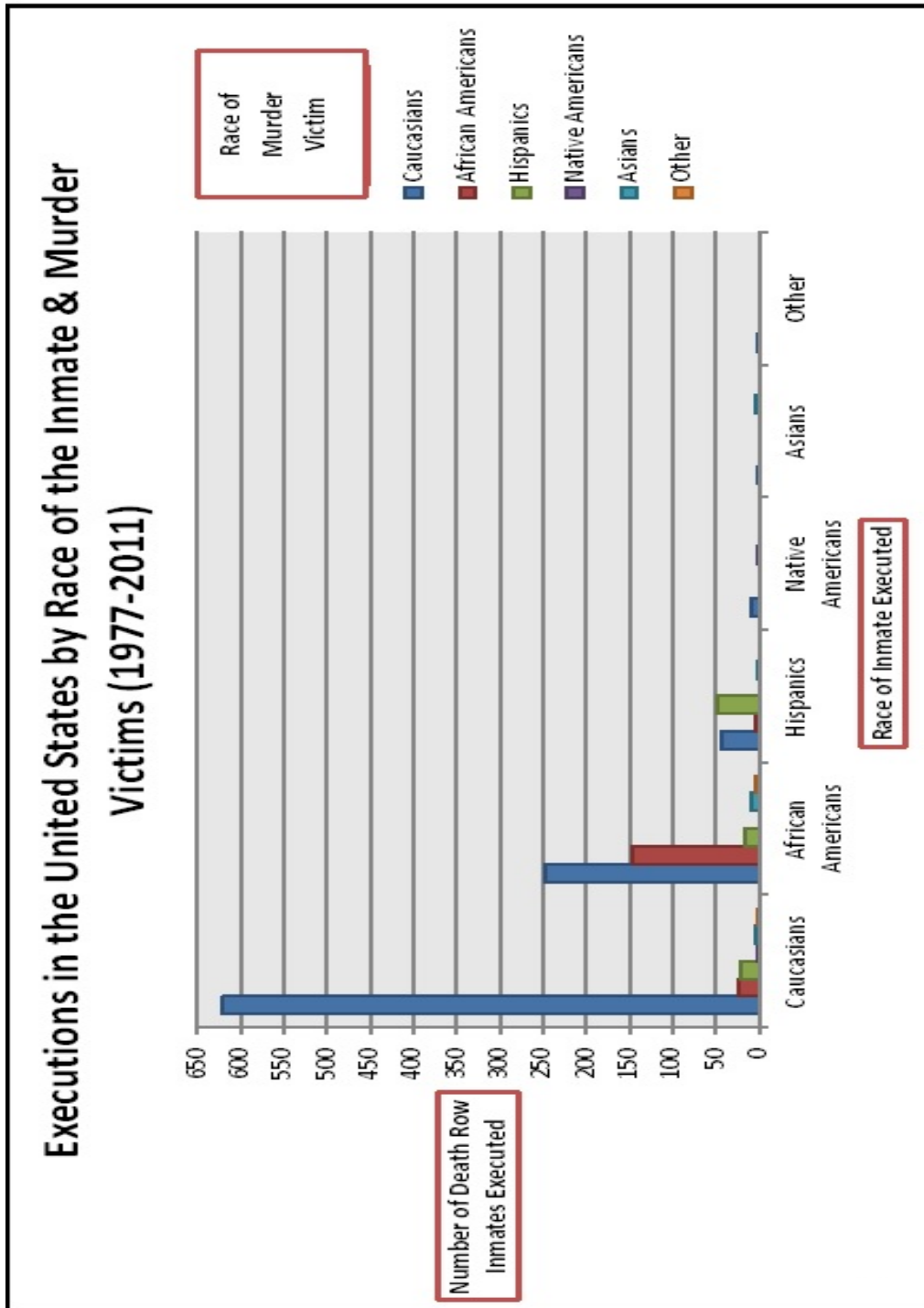
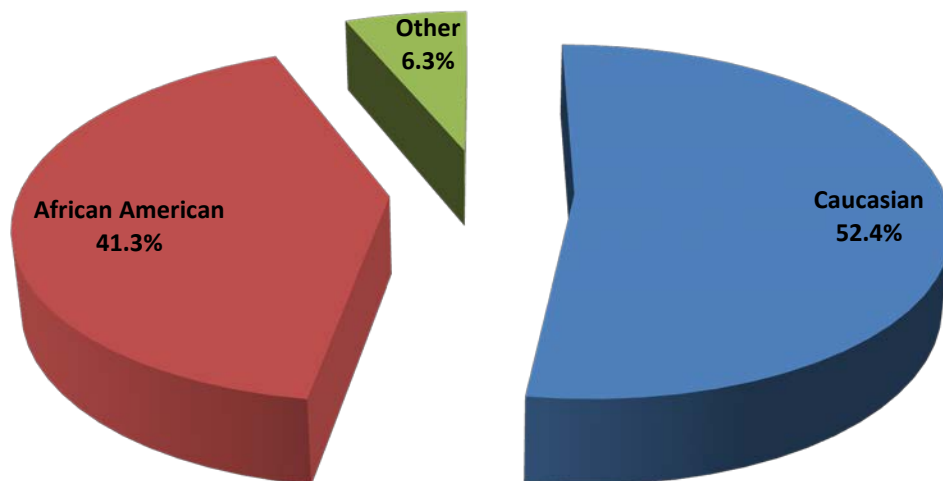


Table 2: Data Retrieved from the Death Penalty Information Center and BJS

### 2011 Death Row Population (Oklahoma)



**Table 3**

\*Other includes Native Americans, Hispanics, and/or a combination of races

\*\*Total Death Row Population in Oklahoma for 2011 is: 63

\*\*\*Note: Information retrieved from the Bureau of Justice Statistics Capital Punishment Database and Oklahoma Department of Corrections

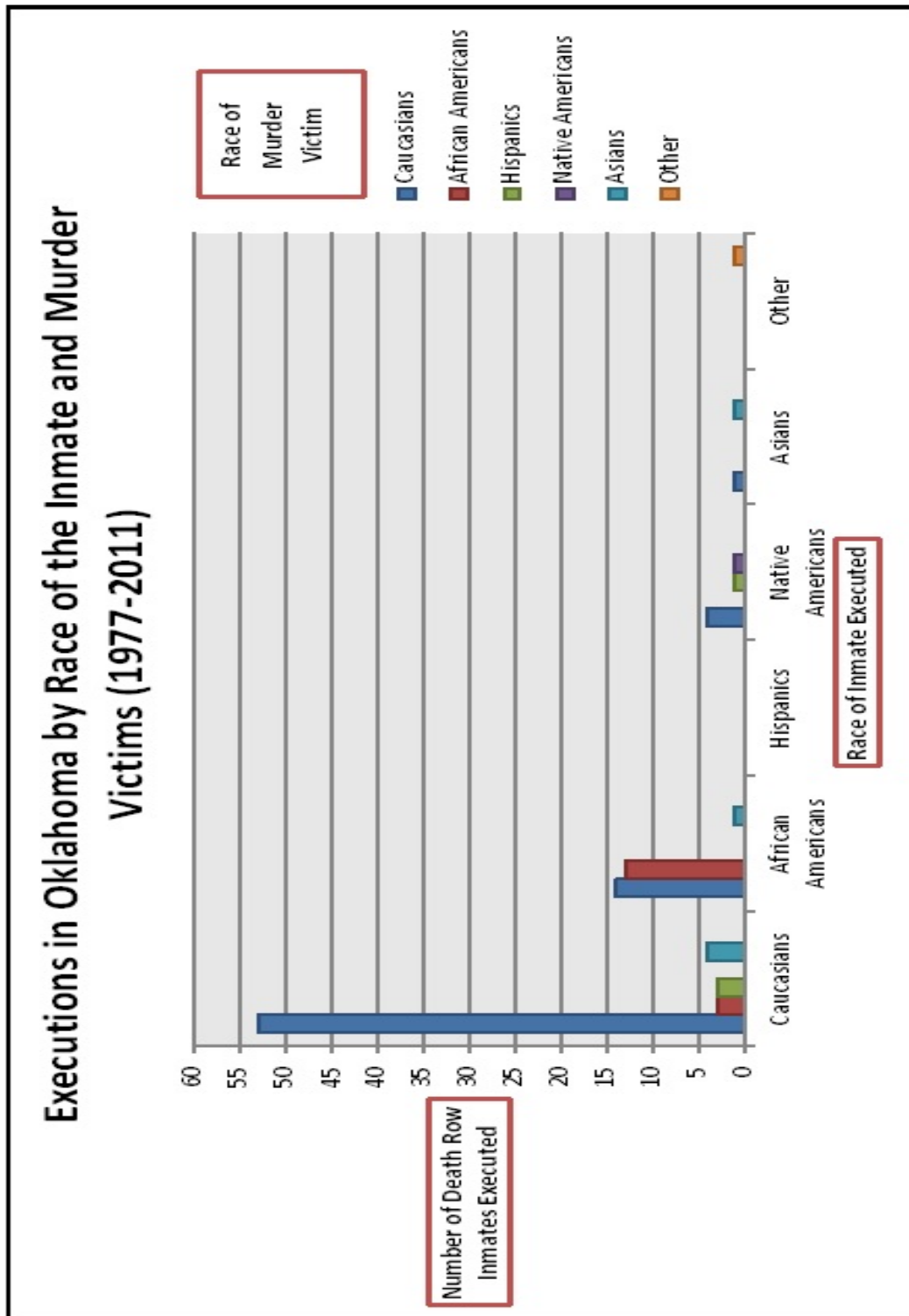


Table 4: Data retrieved from the Death Penalty Information Center, BJS, and ODOC

## CHAPTER 2

### LITERATURE REVIEW

#### *Historical Death Penalty Court Cases*

The death penalty is deeply rooted throughout the history of the United States. Over time, many citizens of the U.S. have accepted the value that the death penalty serves as a general deterrent from crime. Yet even though the death penalty has a vast array of supporters across the U.S., it has not ultimately deterred individuals from committing capital crimes. Additional problems regarding capital punishment in the U.S. include fairness, treatment, and capital murder trials themselves. Outside of issues pertaining to innocent people being charged, convicted and put to death in the U.S., however, the race of the defendant and victim has played a vital role throughout the history of the use of the death penalty by the American criminal justice system.

David Gilboa (2010) explored the issues of racism and the death penalty in the United States., and noted there was insufficient evidence pertaining to African Americans being sentenced to death at higher rates for murdering white victims. The author referenced the *Furman v. Georgia* case. William Henry Furman was in the midst of burglarizing a home. While inside the home, he was discovered by a family member. Startled by being discovered, Furman attempted to flee the scene of the crime. During his attempted escape, Furman tripped and fell and the handgun he was carrying accidentally discharged, killing the homeowner. He was convicted of murder and sentenced to death by the state of Georgia. Furman claimed that the gun accidentally discharged, but he was ultimately charged of a murder taking place during the commission of a felony, which made him eligible for the death penalty.

After a series of appeals, the U.S. Supreme Court overturned Furman's death sentence, finding that the jury in Furman's case imposed the death penalty without any specific type of

guidelines or limitations on the amount of discretion a jury could have. The justices sided with Furman and indicated that Furman's jury had a random and unpredictable manner while casting out a death sentence to the defendant. Justices Stewart and White concurred that:

While I would not undertake to make a definitive statement as to the parameters of the Court's ruling, it is clear that, if state legislatures and the Congress wish to maintain the availability of capital punishment, significant statutory changes will have to be made. Since the two pivotal concurring opinions turn on the assumption that the punishment of death is now meted out in a random and unpredictable manner, legislative bodies may seek to bring their laws into compliance with the Court's ruling by providing standards for juries and judges to follow in determining the sentence in capital cases or by more narrowly defining the crimes for which the penalty is to be imposed (*Furman v. Georgia, 1972*).

The Supreme Court's verdict stated that "unless a uniform and unwavering policy of determination for the eligibility to undergo capital punishment exists, the death penalty is to be considered as 'cruel and unusual' punishment; as a result of this finding, the death penalty was deemed to be illegal within the United States until 1976" (*Furman v Georgia, 1972*). Justices Brennan and Marshall believed that the death penalty was unconstitutional in all aspects/instances. Within the majority opinion of the court, it listed several findings, such as the apparent inclination of courts to sentence blacks to death disproportionately compared to white criminal defendants.

Gilboa (2010) believes that since the *Furman* decision, the death penalty in America does not appear to be influenced by race. The author claims there has been no judicial bias against African Americans since the *Furman* decision. He asserts that defendants should be tried for

their crimes based upon aggravating and mitigating circumstances. Within his research, the defendant in every trial was tried by the aggravating and mitigating circumstances of the case. The jury then decided which circumstances had more weight; the verdict of death was given if the aggravating factors outweighed the mitigating circumstances. A potential problem with this method is that each juror had to make those decisions based upon his/her best abilities and judgments. Gilboa was highly doubtful that racial bias influenced the decisions of jury members during criminal trials. The author brought to attention the following point: "If racists are running the system, why wouldn't they just discriminate directly against minority defendants?" (Gilboa, 2010, p. 167). Gilboa said instead of looking at the "white-victim effect," in regards to minorities being sentenced to death, an alternative approach should be taken into consideration.

Adams (2005) also addressed significant issues pertaining to the death penalty; he notes that since 1976, 34% of individuals executed in the U.S. have been African Americans, 79% of whom have been executed for murdering white victims (Adams, 2005). Adams indicated that since *Furman v. Georgia* the legislative arbitrariness of the death penalty has not changed from that before the *Furman* decision. The author asserted that the "discretionary use of the death penalty by state and federal prosecutors plays the single greatest role in introducing discriminatory societal subjectivity into the ostensibly objective decision to impose a death sentence" (Adams, 2005, p. 382).

His study reflected back upon the 1972 *Furman* decision that invalidated death penalty statutes because they violated the Eighth Amendment ban on cruel and unusual punishment. Adams (2005, p.384) stated that courts hold "that discretionary statutes are pregnant with discrimination and discrimination is not compatible with the idea of equal protection of the laws that is implicit in the ban on cruel and unusual punishment." The author goes on to say that states

statutorily balance aggravating and mitigating factors within a death penalty case, such as murder of multiple victims, torture committed during the act of murder, inhumane acts against another, or violent criminal past (Adams, 2005).

Another interesting and compelling U.S. Supreme Court case is *U.S. vs. Jackson (1968)*. This case pertained to criminal defendants who were charged under the Federal Kidnapping Act. The Act allowed the federal government to get involved with cases involving kidnapping. Congress felt that the federal government would be able to handle kidnapping cases more efficiently and effectively than local law enforcement agencies. The act also held that if anyone was convicted for knowingly transporting a kidnapped victim, and holding him/her for ransom, then he/she shall be punished by death if the victim is harmed and/or if a jury recommends a death sentence. The U.S. Supreme Court heard arguments regarding the federal statute and noted that the provisions of the death penalty could be imposed only under the recommendation of the jury.

Under the Federal Kidnapping Act:

“the defendant who abandons the right to contest his guilt before a jury is assured that he cannot be executed; the defendant ingenuous enough to seek a jury acquittal stands forewarned that, if the jury finds him guilty and does not wish to spare his life, he will die” (*U.S. v. Jackson, 1968*).

The U.S Supreme Court disputed the presumption that the statute increased the likelihood of a death sentence if a criminal defendant seeks a trial by jury. The Court held that the Federal Kidnapping Act was unconstitutional because “it makes ‘the risk of death’ the price for asserting the right to jury trial, and thereby ‘impairs . . . free exercise’ of that constitutional right” (*U.S. v*



*Jackson, 1968*). The act discouraged criminal defendants from asserting their Fifth and Sixth Amendment rights as set by the Constitution of the United States.

In *Witherspoon v. Illinois*, the defendant was convicted of murder by a jury and sentenced to death. Under Illinois statute, a prospective juror could be dismissed from a capital murder trial after expressing “conscientious scruples” against capital punishment (*Witherspoon v. Illinois, 1968*). At Witherspoon’s trial, prosecutors struck nearly half of the prospective jurors from the jury pool who had qualms regarding capital punishment. By doing so, the prosecutors did not ascertain whether any of the dismissed jurors would vote against the death penalty.

Witherspoon appealed his conviction on the grounds that dismissing prospective jurors with qualms about capital punishment violated his Sixth Amendment right to an impartial jury and for violating his 14<sup>th</sup> Amendment’s right to due process. The U.S. Supreme Court held that Witherspoon’s sentence was unconstitutional. Justice Potter Stewart indicated that the jury composed after the dismissal of prospective jurors who had qualms about capital punishment was in fact biased, and in favor of the death penalty. Justice Stewart went on to say that such a jury was not impartial and that violated Witherspoon’s Sixth and 14<sup>th</sup> Amendment rights.

Both U.S. Supreme Court cases (*Jackson* and *Witherspoon*), provide information on how discretion, prejudice and unfair treatment are incorporated within a court of law. Tactics utilized by prosecutors have a substantial impact on the outcomes of criminal and capital murder trials. Dismissing prospective jurors from the jury pool based upon race, as indicated in the *Batson* decision, or by biases, discrimination, or unequal treatment are all deemed unconstitutional.

In the U.S. Supreme Court case of *McCleskey v. Kemp (1987)*, the defendant (an African American man) was convicted of armed robbery and the murder of a police officer (a Caucasian male) during the commission of the armed robbery. The defendant filed a writ of habeas corpus

to the U.S. Supreme Court. During his trial, McCleskey challenged his sentence on the grounds that he was convicted because of his race. He believed that his sentence was given in a racially discriminatory manner, which violated his Eighth and Fourteenth Amendment rights.

*McCleskey* brought forth statistical evidence (the Baldus Study) which showed a disparity in death penalty convictions in the state of Georgia, based upon the race of the victim and the race of the defendant. The Baldus Study looked at over 2,000 murder cases in the state of Georgia during the 1970's (*McCleskey v. Kemp, 1987*). The data examined the races of both the defendants and victims. Baldus (2012, p. 1912) found "a strong and consistent pattern of discrimination in the use of the death penalty against defendants who were charged with killing white victims compared to those who were charged with killing black victims." The study concluded that African American defendants who murdered Caucasian victims had the greatest likelihood of receiving the death penalty in the state of Georgia.

The court rejected *McCleskey's* constitutional claims on the grounds that the statistics in the Baldus Study did not provide, demonstrate, show arbitrariness, or irrationality under the 14<sup>th</sup> Amendment, nor did the statistics show discrimination under the Eighth Amendment (*McCleskey v. Kemp, 1987*). The Supreme Court held that the defendant must prove that discrimination has taken place by the decision makers in his case. Violation of the Equal Protection Clause did not take place by the state, according to the Supreme Court. The court further noted that *McCleskey* did not provide any evidence indicating that the jury acted with intentional and purposeful discrimination, which is an element for showing proof in an Equal Protection Clause violation claim. The majority held that a criminal defendant must be able to prove actual discrimination whenever the defendant is challenging his/her sentence with the argument of discrimination (*McCleskey v. Kemp, 1987*).

### ***Government & Media Influence***

The U.S. government has had an influence on its citizens and criminal justice system. Depending upon the decisions of U.S. Circuit Court or Supreme Court cases, the opinion of the court can shape the outcomes of future death penalty cases in America. Many citizens have often voiced their opinions about the U.S. court system whether positive or negative, and those opinions can have an impression on the leaders serving the U.S. government. During high profile cases, questions about the fundamental fairness of the case can present itself. When these cases are covered extensively by news media outlets, news analysts will generally debate the pros and cons of the U.S. justice system. On occasion, these same news analysts will discuss/debate the death penalty case itself, along with addressing any flaws attached to the court proceedings and the criminal court system. Egalitarianism, religiosity, political orientation, authoritarianism, trust in government, class, traditional family ties, perceptions of crime rates, and the media all have an influence on people's beliefs about the death penalty. Individuals with strong conservative political views and/or orientations are more likely to support the death penalty. In addition, Unnever and Cullen (2007) noted that distrust in our government was a significant indicator in public support, or opposition to, the death penalty. The authors (2007, p. 1287) state that "researchers have argued that distrust of government is an integral component for understanding public support for crime-related issues, including the death penalty." Individuals who felt that crime was increasing developed a perception that the adult court sentencing was too lenient. However, crime rates did not rise, they were actually relatively low. Finally, the media, which heightens the public's fear of victimization and punitive ideology, shaped the public's perception of crime.

Media influence falls under one of Felson's (2010) nine fallacies about crime, the "Dramatic Fallacy." Local, cable and national media report on news from a dramatic perspective. Media outlets find horrific incidents and horror stories to entertain the public. Then, these news outlets will build upon myths, ideas, situations, etc., which lead to providing inaccurate information to the public, which then leads to the public's misconceptions about crime. At times, news reporters report on trends taking place within their community, state, or nation. One trend that U.S. news reporters report on from time to time is the rise of crime. The media report crime as very high or on the rise, when in fact crime has been on a decline. Whenever the media utilizes this type of fallacy, it then shapes the views and perceptions, and heightens the public's fear of victimization; it then provides citizens with punitive ideologies that lead to their support of capital punishment (Felson & Santos, 2010).

### ***Symbolic Racism & Flaws in the Court System***

Results of Unnever and Cullen's research indicated "that Jim Crow racism failed to significantly predict public support for the death penalty, and results indicated symbolic racism positively predicted the degree to which Americans supported capital punishment" (Unnever & Cullen, 2007, p. 1290). Symbolic Racism is defined as: "a coherent belief system reflecting a unidimensional underlying prejudice toward blacks" (Sears & Henry, 2002, p. 5). This form of racism was the most robust indicator in the public's support of capital punishment. The authors (2007) also believe white racism predicts the degree to which most Americans support the death penalty. Unnever and Cullen questioned whether white racism accounted for the racial divide among Americans in the United States. The authors noted that more than a one-third of their sample population, supported capital punishment due to the influence of white racist attitudes

towards African Americans and minorities. In their final analysis, the authors wanted to know “why white racists were more likely to support capital punishment than nonracist whites and African Americans” (Unnever & Cullen, 2007, p. 1290). The results indicated that their support was due to white racism, religiosity, and egalitarianism.

Peffley and Hurwitz (2007) mention that most individuals’ views on the death penalty are strong. Some have a strong view and know little about it, but the majority does not care to know more about the death penalty. The authors explore the governmental aspects of the death penalty and the impact that race has on the death penalty. Their first notion was “in states with citizens supportive of capital punishment, supreme court justices are significantly more likely to uphold the death sentence when they face ‘competitive electoral conditions’” (Peffley & Hurwitz, 2007, p. 997). Politicians are influenced by political and social pressures, which could in turn affect or shape the outcome of the court appeals process for capital crimes. The authors back their statement by mentioning that legislators are influenced by the public, and this has an impact on the death penalty. Congress mandated “the death penalty for certain federal crimes as part of the Violent Crime Control and Law Enforcement Act of 1994,” due to the response of the public’s growing concern with the rise in crime rates (Peffley & Hurwitz, 2007, p. 997). Peffley and Hurwitz (2007) noted that public opinion impacted state death penalty and state implementation rates. Jurors make the decision to spare or take the life of a criminal defendant in capital cases, transmitting their own personal beliefs into capital murder trials (and/or public policy).

It is noted throughout the Peffley and Hurwitz (2007) article that the death penalty has become racialized in the United States. The racial element towards capital punishment can shape the attitudes and perceptions of citizens in the U.S., and flaws within the legal system do not create a positive perception of the death penalty in the U.S. For example, the testing of DNA

evidence has exonerated numerous individuals who were sentenced to death or were on death row, leading people to question the death penalty process, as inmates have been exonerated and proven innocent of the crimes for which they were initially incarcerated. Peffley and Hurwitz (2007) believe that because of the flaws mentioned above, the door can be opened to racial biases about those involved in the legal system. Also, African Americans who are on death row are far more representative (as a population) than any other group.

Peffley and Hurwitz (2007, p. 997) argue that the U.S. “legal system is flawed to the point where an unknown proportion of individuals on death row are innocent.” Due to flawed (or wrongful) convictions, fallibility in the legal system will lower the public’s support for the death penalty. Discrimination can take place throughout any point (i.e. arrest, courts, corrections, post convictions) of the U.S. criminal justice system, and Peffley and Hurwitz (2007) examine this issue during the early stages of a criminal trial. Prosecutors in courts across the U.S. practice (at times) what is called “jury bleaching.” With 97.5 % of America’s prosecutors (on death penalty cases) being white, this could serve as a disadvantage for minorities (Adams, 2005). The reality of jury bleaching has provided prosecutors excuses for dismissing African Americans from sitting on juries (in capital cases) for invalid reasons. Striking prospective African American jurors from a jury pool based upon their race is a form of discrimination. Finally, white male dominance at jury trials can have a significant impact on sentencing outcomes after interracial trials.

Prosecutors have control over life and liberty of those who are charged with crimes within a courtroom. Demographic factors also play a significant role in sentencing and capital murder trials. Victim and offender demographics help to shape the outcome of a defendant’s sentence. Demographics also have an effect on the threat and perceived harm that crime

victimization presents, and on blameworthiness. Class, race, and gender are often correlated with sentence disparity and outcomes.

Adams (2005) mentioned that an individual's race has an influence on the prosecutor to decide whether or not to try a death penalty case. With race having an influence on a prosecutor's decision to try a capital murder case, then it provides the first opportunity for prosecutorial discrimination. The next opportunity for discrimination takes place in the court of law during the jury selection process. The juror selection process provides a second opportunity for the prosecutor to discriminate against a minority criminal defendant. If a prosecutor strikes a prospective juror from the jury pool based upon race, then that process discriminates against minority criminal defendants.

### ***U.S. Court Cases and the Court System***

Prior to the landmark U.S. Supreme Court case *Batson v. Kentucky* some prosecutors utilized their peremptory strikes to remove prospective jurors from the jury pool because of race. Peremptory strikes (or challenges) are requests made by attorneys, asking a judge not to allow certain prospective jurors from being members of the jury (Black's Law Dictionary, 2009). Once an attorney utilizes his/her peremptory challenge, then he/she does not have to provide a reason or cause for this type of challenge. But the "no cause" factor with peremptory challenges can lead to a variety of personal biases being implemented, allowing a prosecutor the opportunity to discriminate against a criminal defendant.

For instance, in the trial of Thomas Miller-El, "the prosecutor used peremptory strikes to exclude 91% of eligible black jurors" (Adams, 2005, p. 398). After this trial, it was proven that systematic measures were used (by the prosecutors) to exclude African Americans from the trial.

Adams states there are two types of racial bias categories which are noticeable in peremptory strikes: “they may be subtle and thus undetectable; or calculated and thus disguisable” (Adams, 2005, p. 399). In their review of Miller-El’s case, the U.S. Supreme Court ruled that the prosecutors’ exclusion of jurors based upon race violated the Equal Protection Clause of the Fourteenth Amendment.

In the *Batson* decision, the court “held that peremptory strikes solely on the basis of race were unconstitutional – a welcome decision given that it was 1986 – the discretion of the prosecutor in this process continues to present an opportunity for the specter of racism to enter the capital trial” (Adams, 2005, p. 391). Under the 14th Amendment of the U.S. Constitution, the Equal Protection Clause provides certain protections for citizens who come into contact with our court system. If criminal defendants believe they have been discriminated against, then they have every right to prove it in court under the Equal Protection Clause. According to *U.S. Const. amend. XIV § 1*:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Equal Protection Clause of the 14th Amendment “prohibits states from denying any person within its jurisdiction the equal protection of the laws” (Cornell Law, 2014). This means that the laws of the state must treat individuals equally in similar circumstances and situations.

According to Adams (2005), courts have the ability to disrupt criminal defendants’ challenges



(of their capital cases), in which they feel they have been discriminated against. The Equal Protection Clause requires defendants to “show that they have a discriminatory effect and it was motivated by a discriminatory purpose” (Adams, 2005, p. 395). Adams (2005) mentions this is often difficult to prove because defendants usually do not have *prima facie* evidence of racial discrimination, nor can they prove whether a prospective juror is, in fact, a racist. Even though safeguards are in place, they do not necessarily provide protections to criminal defendants, as promised.

Another disadvantage for minorities is the quality of legal representation within a court of law. The majority of criminal defendants, regardless of race, are represented by a court-appointed lawyer, while a limited number of defendants are represented by private counsel. The competence of the defense’s legal representation can shape the outcome of the trial and the appeals process. Poor legal representation, and the shifting of legal counsel throughout the court and appeals process, can greatly extend this process within U.S. judicial system.

According to Adams (2005), since 1976, courts measure crimes that warrant a death sentence by two specific measures, which is a bifurcated process. First is the guilt phase. In this phase, the prosecutor has to prove beyond a reasonable doubt that an individual committed an act that requires the death sentence. Second is the sentencing phase, where the aggravating and mitigating circumstances are weighed. But Adams (2005) noted that prosecutors have discretionary options, and the prosecutors’ power of discretion can decide the fate of a defendant. Adams believes that prosecutors take it upon themselves to decide which cases they will prosecute as death penalty cases. Prosecutors have the privilege of discretion in selecting or trying particular cases, and they are “most likely to seek the death penalty in homicides involving white female victims, and least likely to do so in cases involving black female victims”

(Holcomb, Williams & Demuth, 2004, p. 884). Whenever prosecutors are more likely to seek the death penalty in cases involving white female victims, it serves as a disadvantage for minority criminal defendants. Again, discretion being left in the hands of the prosecutor and jurors allows room for personal biases and racism. Due to the underlying factors in how prosecutors and jurors express their discretionary decisions, Adams (2005) believes that the death penalty should be abolished.

### ***Race-Victim Effect and the Death Penalty***

Boger and Unah's (2001) study in North Carolina examined whether there were any disparities among race and the death penalty in their state. Racial disparities plagued the criminal justice system in North Carolina during the 1990s, and Boger and Unah wanted to examine the issue, along with examining the race-victim effect. The study examined individuals who received death sentences in North Carolina between 1993 and 1997. During this period, the overall death sentencing rate was rather low – 2.8 percent (Boger & Unah, 2001), but the death sentencing rate among white-victim cases was higher: 3.7 percent (Boger & Unah, 2001). Whenever nonwhites murdered white victims, however, their death sentence rate rose to 6.7 percent (Boger & Unah, 2001). But, if a white defendant murdered a nonwhite victim, then the death rate decreased significantly to 2.6 percent (Boger & Unah, 2001). When minorities murdered other minority victims, the death rate was 1.7 percent (Boger & Unah, 2001). Finally, the researchers found that “the odds of receiving a death sentence rose by 3.5 times or more among those defendants (regardless of race) who murdered white persons” (Boger & Unah, 2001, para. 1). A final factor, the researchers concluded, was that whenever a white homicide victim was murdered, it was

known as a silent aggravating circumstance which increased the likelihood of a criminal defendant receiving the death penalty (Boger & Unah, 2001).

Unnever and Cullen's (2007) research discussed issues pertaining to race and the death penalty as well. The authors used the national polls of the General Social Survey (GSS) and the National Election Survey (NES) to indicate a strong animus towards race as a predictor for supporting the death penalty among whites. They also note that "white racism is no longer a relevant issue at the turn of the 21<sup>st</sup> century and therefore is immaterial for explaining the racial divide in support of capital punishment" (Unnever & Cullen, 2007, p. 1282). The article mentions two distinctions of manifestations of racism: symbolic racism and the Jim Crow (laws) racism. Unnever and Cullen (2007) conducted explanatory research to see whether there was any relationship between white racism and the support of the death penalty.

Three factors in white racism and the public's support of the death penalty were presented. These factors are racial threat, racial stereotypes, and racial resentment. The racial threat hypothesis indicates that the dominant racial groups respond and act more politically whenever they are threatened by larger minority groups (Unnever & Cullen, 2007). Prejudiced whites believe that the death penalty is a sufficient and highly needed sentence for minorities who are labeled as dangerous. They also believe that a death sentence will help suppress dangerous actions and behaviors among minorities.

Next, many prejudiced whites have preconceived stereotypes of African Americans as being more violent, especially those who are on death row, and they hold those stereotypes against minority groups, even though they are afforded special privileges which are not afforded to whites. Unnever and Cullen (2007, p. 1284) believe that racial anger and "black crime" are the fault of the minority and not society. They believe that since it is the fault of the criminal, and

not society, then it may justify putting African Americans to death because they deserve it, and it will also protect society from violent criminals.

Peffley and Hurwitz (2007) note that many Caucasians in the U.S. often reflect upon racial stereotypes when thinking about race, crime, and punishment. They also document evidence to show that Caucasians believe African Americans are more inclined to commit criminal acts than their own race. Because of that belief, Caucasians feel African Americans deserve to be treated more punitively. Peffley and Hurwitz (2007) questioned what the perceived causes of black criminal behavior were, and they explored whether African Americans get into trouble due to internal issues within themselves, or because of a biased criminal justice system. They determined that African Americans “are substantially more likely to attribute the disproportionate black crime rate to external (i.e., a discriminatory justice system) rather than internal causes, a belief that is consistent with the large body of scholarly evidence documenting substantial de facto procedural discrimination in our legal system” (Peffley & Hurwitz, 2007, p. 1007).

The majority of African Americans in the U.S. feel that the criminal justice system is unfair due to discrimination that occurs in the streets and courtrooms across the U.S. They also believe the death penalty is unfair. This belief is due to a number of innocent people being executed in the U.S., and the fact that the majority of inmates who are executed are black. Caucasians ultimately disagree with African Americans’ views of the U.S. criminal justice system. They believe that African Americans are punished because they deserve it, and not because of a biased or racial criminal justice system (Peffley & Hurwitz, 2007). However, racial prejudice has been the most important predictor among Caucasians and their views on the death penalty, while African Americans believe that the death penalty is a form of racialized

punishment. Both African Americans and Caucasians favor “punitive treatment of criminals,” but their views are for different reasons: “the former out of fear of victimization and the latter out of racial prejudice” (Peffley & Hurwitz, 2007, pg. 998).

David Gilboa (2010, p. 172) explored the race-victim effect and noted that it was not clear if the black-on-white effect explains racial discrimination, or “that the unadjusted black-on-white effect is due to the fact that African-American defendants who murdered white persons were more frequently guilty of aggravated murders, compared with others convicted of murdering white persons.” Gilboa (2010) also indicated there was a lack of evidence supporting the premise that African-American defendants were more likely to receive the death penalty than any other racial group. He also mentioned there was little evidence supporting the idea that African Americans who murdered white persons had a very high chance of receiving the death penalty. However, Gilboa (2010, p. 173) stated that the “white-victim effect, or the likelihood of receiving the death penalty if the victim was white, is an unintended consequence of the geography of the death sentence in America rather than the intended consequence of racial bias against African Americans.”

While Unnever and Cullen (2007) brought forth an issue concerning how to measure white racism, previous scholars have not been able to measure it. Unnever and Cullen (2007, p. 1286) suggest “that racist beliefs are more likely to be expressed in private settings and, therefore, that surveys – which are generally conducted in public places – will underestimate the white respondent’s true level of racist beliefs.” The authors note that their measurement of African American respondents also revealed they had racial feelings/hostilities towards their own race. Accordingly, African Americans who have strong animus towards their own race are more likely to support the death penalty (Unnever & Cullen, 2007).

### ***Support & Opposition for Capital Punishment***

Public support and opposition for the death penalty have both been displayed among groups of citizens across the United States, and support for capital punishment is greater among those who have racist beliefs. Peffley and Hurwitz (2007) found that 65% of whites supported the death penalty, compared to 50% of African Americans. The authors state that “prejudice renders individuals more punitive, as does merely living in areas with higher concentrations of African Americans” (Peffley & Hurwitz, 2007, p. 999). Race was an important predictor among whites’ support of the death penalty, and racial resentment is also a more prominent determinant of whites’ support of the death penalty than African Americans’. Interestingly, whenever Caucasians are faced with issues pertaining to the death penalty and race, some reject the argument so much that they express more support for the death penalty even when an argument has not even been raised. Racist attitudes will affect one’s support for the death penalty, and their “attributions of the causes of crimes”(Peffley & Hurwitz, 2007, p. 999).

According to Unnever and Cullen (2007), the results of their research indicated a significant relationship between race and the public’s support of the death penalty. The researchers determined that African Americans were less likely than whites to support the death penalty, and their support of the death penalty drops 16% when they feel innocent people are being executed (Peffley & Hurwitz, 2007). Support drops an additional 12% when African Americans are faced with the argument that the death penalty is unfair because they are being executed due to their race (Peffley & Hurwitz, 2007). However, Caucasians’ support for the death penalty actually increases when the racial argument is presented. Unnever and Cullen (2007) also provided five considerations that needed further attention. First, their highest

predictor in support of the death penalty across the U.S. was white racism. Second, a clear racial divide of whites were more likely than minorities to support the death penalty. Third, “it is instructive that the racial divide is not fully explained by white racism” (Unnever & Cullen, 2007, p. 1292). Fourth, the U.S. is a nation where there is division within a race; a division among whites and their support of capital punishment. Finally, “it is clear that capital punishment cannot be considered as a race-neutral public policy because white racism is inextricably involved in differential public support for the death penalty” (Unnever & Cullen, 2007, p. 1293). More research is needed in order to explain why racial animus and/or symbolic racism are related to the support for capital punishment. With the death penalty being connected to race and racism in the U.S., there needs to be a continuation of research on the five considerations listed by Unnever and Cullen.

Peffley and Hurwitz (2007) wanted to know what motivated different outcomes among both groups. They presented several factors that predict death penalty support across race along with the argument conditions attached to capital punishment. The factors include the general causes of crime, anti-black stereotypes, fear of crime, the argument conditions and interactions, and white backlash (Peffley & Hurwitz, 2007). Regarding anti-black stereotypes, Peffley and Hurwitz (2007, p. 1003) state that it is “least conceivable that African Americans’ opposition to the death penalty is associated with more negative attitudes towards whites, who, for some blacks, may be viewed as part of the power structure that uses the death penalty as a discriminatory tool” (Peffley & Hurwitz, 2007, p. 1003). However, they noted that anti-black stereotypes were not significant predictors of the attitudes of both races, and both groups agree that punishing for wrongdoing should occur.

Regarding white backlash, whites believe “that black criminal behavior is caused by dispositional factors” (Peffley & Hurwitz, 2007, p. 1005). The dispositional factors consist of those (individuals) who are likely to commit more crime and those who also have a lack of respect for authority. Peffley and Hurwitz (2007) further note that both whites and blacks have different views on the death penalty and their arguments against it. They found whites supported the death penalty more once they learned it discriminated against African Americans. Once Caucasians are faced with the argument that capital punishment is racially unfair, they generally and collectively reject (and resist) that argument. Caucasians also believe the reason more African Americans are arrested is because they commit more crimes and not because of a biased justice system. Whites also feel that blacks create more violent crime, and because of this, they (whites) are more supportive of the death penalty. Peffley and Hurwitz (2007, p. 1008) mention that when denying the racial discrimination African Americans face in the criminal justice system, then

whites are free to ‘blame the victim’ or turn a blind eye to the many injustices that blacks suffer at the hands of the police and the courts. Thus whites’ resistance to racial arguments against the death penalty is likely motivated, at least in part, by racial animus, or at the very least, a mixture of racial insensitivity and ignorance about the reality of discrimination in the justice system.

Outside of racism affecting whites’ stance on the death penalty, Peffley and Hurwitz (2007) suggested future research on the reasons why both whites and blacks respond to the death penalty differently, and why politicians opposing the death penalty face acute political dilemmas. Peffley and Hurwitz (2007) note that opposition will help with the unfairness that exists in capital murder trials without solely focusing on race. However, opposing the death penalty will



not focus on the race of the defendant, but will help those who experience racial discrimination. Peffley and Hurwitz (2007) believe that opposition alone may not gain a lot of support from Caucasians. The focus should be more on the high costs of capital punishment. Advocates against the death penalty should not ignore the moral dilemma that surrounds the death penalty, but should focus on the argument that “money spent on the death penalty should go towards victims assistance and other critical law enforcement needs” (McLaughlin, 2014, p. 709). Finally, society should continue to educate the public on the costs and inefficiencies of the death penalty in the United States.

### ***Geographical Location***

David Gilboa (2010) looked at the effects of geographical influence on sentencing in capital murder trials in the U.S. This particular study collected data from 14 different states. Gilboa selected two counties from each state, and the average likelihood of death sentences in the two largest counties was lower than the averages of the remaining counties in the study. He believed that the area, or geographical location, had an impact on the sentencing of death row inmates. A “defendant who faces a capital charge has a better chance of evading a death sentence if his trial takes place in a metropolitan county” (Gilboa, 2010, p. 168). Gilboa (2010) believed that larger city and/or county courts appeared to be more forgiving than other courts within the same state. His reasoning is due to all 14 selected states in his study having a decrease in the ratio of death sentences to capital charges (Gilboa, 2010).

Gilboa asked another important question: “If death sentences are relatively unlikely in metropolitan areas, how might it shed light on the white-victim effect?” (Gilboa, 2010, p. 168). First, the author answered the question by indicating that African Americans were more likely to be victims of murder in predominantly metropolitan areas. Second, he found that even though the

likelihood of being sentenced to death is relatively low in metropolitan areas, the likelihood will increase if the murder victim is white. Adams (2005) refers to the southern portion of U.S. as the “Death Belt.” The death penalty in the south is “more likely to be sought and imposed for an offender if the victim was white, and that this race-victim influence is strongest in the earlier stages in the judicial process” (Adams, 2005, p. 389). Even though metropolitan areas have a lower rate (or likelihood) of death sentences being carried out, the chances are greater if the murder victim is white. The reason that the chances are greater is due to the white-victim effect.

## CHAPTER 3

### THEORETICAL FRAMEWORK

#### *Cognitive Dissonance Theory*

Cognitive dissonance theory “proposes that people need to maintain a balance or consistency among their cognitions (i.e., values, beliefs, attitudes, and opinions) as well as between these cognitions and their behaviors” (Michel & Cochran, 2011, p. 293). The terms “dissonance” and “consonance” refer to a relationship that exists between two pairs of elements (Festinger, 1957). The elements include things that persons may know about themselves, about their behavior, and about their surroundings. Under this theory, cognitive dissonance usually drives an individual towards a feeling of discomfort. It has a major influence on an individual’s behavior and thought process. Whenever a person is at a level of (or in a state of) discomfort, he/she will usually try to reduce that feeling. Most individuals will try to reduce dissonance by changing behavior, and they will attempt to justify their actions and/or behaviors through changing an aspect of (dissonant) cognition. Through this state of reducing dissonance, an individual may simply justify their actions by adding new cognitions. An example of this would be an individual who is prejudiced against another group. The racist individual expresses disdain for the particular group(s) but has a friend, even a close friend, whom he/she would trust who belongs to the group for which he has disdain (or hatred). When confronted with this, the individual (who is racist) indicates that his/her friend (of the other group) does not meet the common myths and stereotypes that a racist will mention about that group. Therefore, conflict will arise whenever someone is presented with cognitive dissonance.

Michel and Cochran (2011) believe that cognitive dissonance theory may help to explain race and gender differentials in capital punishment support. Support for the death penalty can

come from those who have been victimized. Victimization can also lead to retributive feelings. Whites are more likely to have retributive feelings due to having “lower and more vicarious experiences with violent crime than blacks” (Michel & Cochran, 2011, p. 294). Blacks, on the other hand, are considerably more likely to have a punitive type of feeling or approach. Michel & Cochran (2011) believe that when discomforting information is exposed about racial disparities in sentencing, “white retributive racists” are not likely to acknowledge their prejudices, nor soften their views on the death penalty even if evidence supports a racial disparity. Peffley and Hurwitz (2007) indicated they had considerable evidence that racial beliefs play a significant role among whites. The authors note that “prejudice renders individuals more punitive, as does merely living in areas with higher concentrations of African Americans” (Peffley & Hurwitz, 2007, p. 999). Race was an important predictor among whites’ support of the death penalty, and racial resentment is also a more prominent determinant of whites’ support of the death penalty than African Americans’.

### ***Attribution Theory***

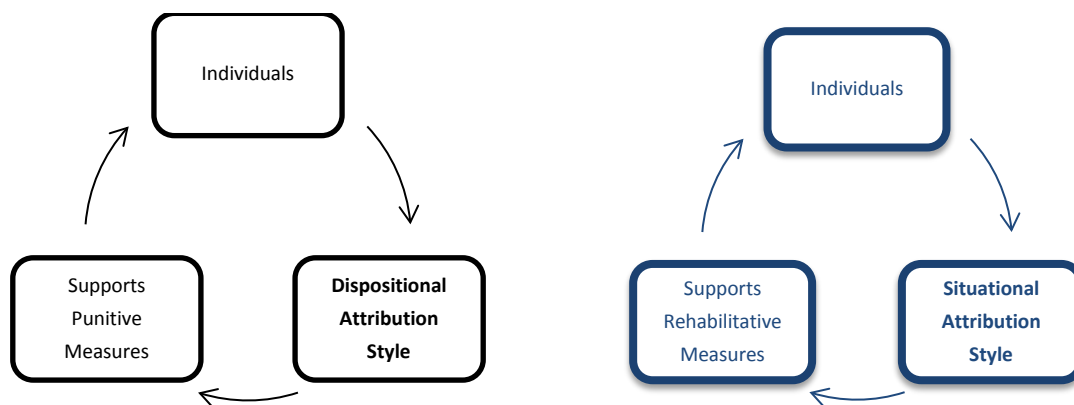
Attribution theory helps to explain differences in racial/ethnic and faith groups’ attitudes towards capital punishment. Schlaupitz (2003, p. 33) states that attribution theory “posits that people occupy one of two different attribution styles with regard to placing blame and/or causation for deviant and criminal behavior.” Schlaupitz (2003) notes the first attribution style is the dispositional attribution style. This style is ultimately shaped by the idea that crime is chosen, and individuals commit crimes for rational motivations, but selfish reasons. The idea that crime is chosen is based upon the belief that an individual decides to commit a crime and weighs the risks of the crime against the apparent reward (after committing the crime). Other factors leading an individual to commit a crime could be due to low self-control and/or strains and stressors

attached to the individual. The next style is the situational attribution style. This style indicates that crime is caused by environmental factors. Specifically, the dispositional position “attributes blame to the individual offender, thus legitimizing punishment, while the situational attribution style looks into the environment for social causes of crime, thereby emphasizing reformation and re-integration efforts, rather than punitive measures” (Schlaupitz, 2003, p. 33-34).

Attribution styles tend to shape and reflect individuals’ beliefs and attitudes towards issues such as formal sanctions applied to offenders within the criminal justice system. Individuals with dispositional attribution styles are likely to support punitive measures, while those with situational attribution styles are more likely to support rehabilitative aspects. Schlaupitz (2003, p. 35) states that “among whites, the belief that ‘poverty causes crime’ (situational attribution style) was inversely related to support for capital punishment... and, among whites, the belief that criminals commit crimes for rational self-serving reasons (dispositional attribution style) was positively related to death penalty support.” Regarding blacks, the author mentions that they are affected by perceptions of distributive and procedural justice, rather than the attribution style.

According to *Encyclopedia of Social Psychology* (2007, para. 1), distributive justice occurs when “a reward is allocated or a decision is made, people often make a judgment whether or not the outcome was fair.” This type of justice pertains to the perceived fairness of some sort of outcome, such as allocating or distributing resources among individuals within society. The methods of distributive justice also apply within a court setting. Procedural justice pertains to resolving disputes regarding the fairness of the allocation and distribution of resources (Fuller, 2014). This justice also assures fairness within court proceedings and provides an avenue for assuring that procedures are being adhered to in a court setting. When exploring both distributive

and procedural justice, the main outcome results in fairness. Therefore, if fairness is disproportionate it can shape an individual's attribution style.



**Table 5**

Disproportionately, African American crime victims rely heavily upon the criminal justice system for protection. But that protection may not be provided to this group of people due to their neglect by the system and discrimination. African Americans are disproportionately brought before the criminal court system, and whenever this occurs they have the expectation of the fundamental fairness and due process that our laws provide. However, African Americans feel they do not receive fairness with due process. African Americans and Caucasians have different experiences in the criminal justice system. Cochran and Chamlin (2006, p. 90) note that “the differences in the life experiences of Blacks and Whites, especially prejudice and discrimination, criminal victimization, and interactions with agents of the criminal justice system, led to racially different attributions styles,” in support of the death penalty.

### ***Racial Threat Hypothesis & Conflict Theory***

Unnever and Cullen (2007) discuss racial threat and conflict theory in the social spectrum. They indicate that racial threat hypothesis and conflict theory are used by whites in the

criminal justice system to subordinate minorities, and whites have the ideology to justify this injustice. When the racial threat hypothesis is used to subordinate minorities, there are three threat-based hypotheses that help to explain the method of racial threat in our society: economic threat, political threat, and the fear and/or threat of black-on-white crime. The political threat hypothesis argues that “as the percentage of blacks in the population grows progressively larger the state increasingly views blacks as a threat to the political ascendancy of whites” (Eitle, D’Alessio, & Stolzenberg, 2002, p. 559). Actors in this state will rely more on the social control mechanism to keep whites as the dominant race.

The second threat is an economic threat which is created by blacks. This means that competitiveness between blacks and whites in the workplace can lead to social controls being placed on blacks. A direct competition for jobs between blacks and whites would be an example of a type of competitiveness in the workplace that can lead to social controls. Finally, there is the racial threat hypothesis. It questions “whether the nature of the racial threat influences the decision making of actors within the criminal justice system is rooted in either political or economic threat” (Eitle, D’Alessio, & Stolzenberg, 2002, p. 560). The threat of the black crime hypothesis leads to social control measures targeted towards blacks. Whenever the black population increases in size, social measures are intensified against that group. But once the population of African Americans obscures the Caucasian population, then the extreme social measures tend to cease.

Conflict theorists who study race and crime believe that “social dissimilarity and distance are associated with powerlessness and threat, with African Americans seen by dominant groups as less powerful and more threatening to whites than Latinos” (Hagan, Sheed, & Payne, 2005, p. 384). Divisions among the different social classes can shape the opinions and support for capital

punishment. With regard to racial and economic divisions within our society, conflict theory helps to shape the public's support and the elite's views regarding the death penalty (Jacobs & Kent, 2007). Jacobs and Kent (2007) mention that economic versions of conflict theory stress inequality among the social classes. The authors believe that capital punishment (and/or criminal punishment) is determined by the relationships between the underclass and the rich. The authors indicate that harsh punishments for the underclass help to reinforce the hierarchal structure within society, and it places an emphasis on a state's power. Jacobs and Kent (2007, p. 299-300) mention that "public support for the death penalty can be expected to expand after increases in economic inequality; and a growth in executions ought to occur after economic inequality increases."

### ***Underclass Theory***

Underclass theory has influenced American society and the U.S. criminal justice system. The concept of William Wilson's underclass theory refers to "those extremely poor populations that have been abandoned in the inner city owing to the exodus of the middle class; the term has typically been used to refer to low-income blacks and Hispanics who have been especially affected by the changing economic structure of urban areas" (Bursik, 2000, p.143). Many stigmas are also attached to individuals who fall under the underclass concept. The social conditions begin to deteriorate in neighborhoods belonging to the underclass and the working poor. The number of two-parent families has deteriorated in these neighborhoods as well. Means of stable employment have usually diminished and this creates a problem among poor people.

Other concepts of underclass theory involve the uneducated, joblessness, racial minorities, and people with many children. Youth are faced with the stigmas associated with the underclass, becoming socially isolated from the mainstream social networks by which one learns



the appropriate means of making a living, as well as learning and facilitating economic advancements. Because of being isolated from mainstream networks and associations, poor youth are more vulnerable to dropping out of school, drugs, gangs, teen pregnancies, and other social disorders and behaviors. These particular issues can also lead juveniles into having lower self-controls, which allows them to commit delinquent acts as juveniles, and those negative behaviors transition into adulthood. If these issues are not addressed at an early stage (during childhood and into their teens), then problems will continue into adulthood. Strains can put additional stressors on those who are part of the underclass, which in turn can lead to crime, regardless of their reasoning for committing crime.

Individuals from the underclass have problems whenever they enter into the criminal justice system. Typically, they are not educated on the laws and procedures of the criminal justice process. Once lower class people enter the justice system, they are disadvantaged because they are not able to sustain adequate private counsel. Underclass criminals are instead given court-appointed counsel and, at times, this can serve as a disadvantage. Oftentimes, poor defendants can be funneled through the criminal justice system without understanding the entire criminal justice process. The status and attachment of “underclass” serves as a disadvantage alone. Those who are charged with capital murder crimes endure even greater stressors and disadvantages throughout their trial process. If the murder victim is white and the defendant is a minority, this will create another problem for the minority defendant outside his status as a citizen within society.

Those who are part of the underclass face many struggles in society, and individuals who are part of this class commit crime by choice and/or for survival outside of the normal thrills and excitement of committing crime. Being part of this class can also shape an individual’s values,

beliefs, opinions, and cognitive dissonance. The underclass, along with the minority population, is exposed to a lifestyle of crime and violence. Since African Americans are more likely to be exposed to a life of crime and violence, they often rely upon the criminal justice system. Therefore, African Americans are less likely to support the death penalty, whereas Caucasians are more likely to support capital punishment in part due to fear of being victimized by a minority (and/or African American) offender. Finally, the differences in the lifestyles of both African Americans and Caucasians have an influence on their perceptions of the death penalty.

The racial threat hypothesis and conflict theory (utilized by Caucasians) helps in shaping the negative views that minorities have towards the U.S. criminal justice system. Along with this assertion, Caucasians' views help to shape their outlook towards crime and punishment. Outside of the social and environmental factors that disadvantage African Americans in the U.S., racism and discrimination hinder and subordinate minorities to the same essential status opportunities that are afforded to Caucasians. By exploring the above-mentioned theories, an individual is able to see not only the influences that the theories have on an individual or group, but this impact on society, its views, and the criminal justice system.

## CHAPTER 4

### METHODOLOGY

Prior research has utilized both qualitative and quantitative research methods in examining the issues of race, gender, sentencing outcomes, and capital punishment of inmates throughout the United States. While previous research has examined the qualitative aspects of racial disparity and the death penalty, some “emphasize the goal of developing a broader, more authentic understanding of a social process or social setting;” quantitative researchers generally “adopt the goal of developing an understanding that correctly reflects what is actually happening in the real world” (Bachman & Schutt, 2012, p. 17). Quantitative methodology is part of descriptive research agendas, and is utilized in this study. This research method “records variation in social life in terms of categories that vary in amount; and the numbers and attributes can be ordered in terms of magnitude” (Bachman & Schutt, 2012, p. 17). Another important aspect of research methods is that they can lead researchers to unexpected patterns while examining and studying their data. Both qualitative and quantitative methods (and data) are implemented in order to help researchers enrich their own particular studies. Below, the researcher will provide details of the qualitative and quantitative methods contained within this study.

The descriptive research agenda for examining racial disparity among U.S. death row inmates is based upon both quantitative and qualitative methods. The agenda for examining racial disparity among Oklahoma death row inmates is primarily quantitative. The researcher examined published records and data regarding race and the death penalty; and it was collected from the Death Penalty Information Center and the Oklahoma Department of Corrections (ODOC) websites and analyzed. Published statistics were also explored by examining the

NAACP Legal Defense Fund's numbers on racial disparity and the death row in the U.S. Sentencing disparity, the number of days an inmate has been on death row, and the race-victim effect (Adams, 2005; Baldus, Grosse, Woodworth, & Newell, 2011; Gilboa, 2010; Jacob, & Paternoster, 1982; Jennings, et.al, 2014; & Peffley & Hurwitz, 2007) on minority inmates within the United States were also examined within this study.

### ***U.S. and Oklahoma Population***

The time frame utilized for this study consisted of the period from 1977-2011. The researcher selected this time frame due to the availability of secondary data. Data from the 2000 Census Bureau was explored in order to examine the racial populations across the United States and Oklahoma. The demographic characteristics from the U.S. Census Bureau provided the overall population and the total population of each racial group in the United States. The researcher developed pie charts (Tables 6 & 7) for both the U.S. and Oklahoma's 2000 (population) census data.

### ***Death Row Population***

Information on the death row population across the U.S. was compiled from the Bureau of Justice Statistics (BJS). The BJS is under the Department of Justice, and is the primary source of criminal justice data in the U.S. It collects, analyzes, and publishes information on crime, victims, and offenders of crime, along with the operations of the U.S. justice system. For this research, the researcher obtained the total 2011 population of death row inmates in the U.S., and then documented the percentages of each racial group in a pie chart (Table 1). The total number of death row inmates includes inmates who are under both federal and state death sentences. Statistical numbers from the Bureau of Justice Statistics' online database for capital punishment

provided the data, percentages, and the race of death row inmates in their National Prisoner Statistics data report. The sample population utilized for this study consisted of U.S. inmates who were on death row during the year (or after) 1977, and the span concluded with inmates who were executed by the year (or during) 2011.

For Oklahoma, the researcher utilized the ODOC execution statistics sheet. The execution sheet provided identifiers (name, age, gender & race) of each death row inmate, the crime and county in which the inmate was convicted, the corrections' reception date and execution date, the number of days before execution, and the method of execution by the state. In finding the percentages of the death row populations of Oklahoma inmates, the researcher used the following formula:  $\frac{x}{y} \times 100 = \%$ . X is the total number of death row inmates for each racial group and y represents the overall total number of death row inmates. Data from DPIC also provided information for Oklahoma as well. Demographic information on the race of the inmate executed and the murder victim was obtained through the DPIC Database. Finally, a comparative analysis between the U.S. and Oklahoma's death row populations, demographics, race-victim effect, and the length of time an inmate has spent on death row prior to his/her execution are addressed in this study.

### ***Demographics of Death Row Inmates***

The Bureau of Justice Statistics' database on capital punishment provided the information regarding the total number of executions (Table 8), by race, in the United States from 1977-2011. Data containing information about inmates who have been executed (by race) in the U.S. was figured by the BJS, and the data consisted of the same time frame as noted above. The researcher subtracted the total number of Oklahoma inmate statistics (Table 9) from the overall total of U.S.

(inmate) statistics. Pie charts (Tables 10 & 11) were compiled to show the gender differences between male and female inmates who have been executed in the U.S. and Oklahoma. Data for Oklahoma was retrieved from the ODOC execution database and the BJS.

### ***Executions by Race, Murder Victim, and the Location***

Utilizing the DPIC Execution Database, the researcher was able to obtain the number of inmates who have been executed in the U.S. and Oklahoma, by the race of both the inmate and murder victims (see Tables 3 & 4). In Table 3, the researcher provided information on the inmates executed and on the victims who were murdered. Statistical numbers for the groups of inmates executed, and the groups of murder victims, were also provided. The DPIC Execution Database allowed the researcher to select the race of the inmate and the victim. The researcher was able to select the time frame, state, age, gender, and method of execution. While examining these statistics, the researcher removed Oklahoma statistics from the overall U.S. representation of inmates who have been executed (by race) for murdering a specific race.

Regarding the geographical location and the death penalty in the U.S., this study notes the qualitative findings from previous research literature. By examining Oklahoma's 77 counties, the researcher mapped the counties where the death penalty conviction took place. Quantitative data was retrieved from the ODOC execution statistical information, and the researcher totaled and calculated all of the counties in which an inmate was convicted to death, during the time frame selected for this study. Once all of the information was collected, then the researcher developed the map (Table 12) listing the counties in which executions have taken place from 1977-2011.

### ***Average Time between Sentence and Execution***

Examining the average time elapsed between the sentence and execution was studied as well. Statistical tables from the 2011 BJS National Prisoner Statistics report provided the data on the average number of months an inmate is on death row in the U.S. Figuring the average number of months an inmate is on death row in Oklahoma (during the same time frame) was a more complex exercise. Data gathered from the ODOC's execution database allowed the researcher to calculate the total number of days each inmate spent on death row (1977-2011). To figure the average number of days an inmate spent on death row, the researcher divided the sum total by the number of inmates. Then, the average number of days was divided by the number of days in a calendar year, which resulted in the sum of the number of years. Finally, the number of years was multiplied by the number of months in a calendar year, which resulted in the average of the number of months of an inmate's death row sentence. The formula for this process is:

$$\frac{\text{Total no. of inmates}}{\text{Total no. of days for all inmates}} = x \quad \frac{x}{365} = y \quad y \times 12 = \text{average \# of months}$$

The researcher also measured and examined the disparity between Oklahoma and the United States, regarding the average time between sentencing and an inmate's execution.

### ***Measures of Absolute Disparity***

Finally, the measures of absolute disparity address the differences between groups within this study. Measures of absolute disparity examine the rate differences, and/or the percentages, between a disadvantaged and advantaged group. This method utilizes simple arithmetic between two groups, and the formula ( $RD = r_1 - r_2$ ) is used among the National Institute of Health, the National Cancer Institute, and the Center for Disease Control and Prevention regarding social

determinants of health. This formula addresses and measures the health problems among different racial and/or ethnic groups.

For this research, the variable  $RD$  is the rate difference between two groups. The variable  $r_1$  represents the non-dominant group in this study.  $R_2$  is the variable that represents the dominant group. The researcher compiled the rate differences among groups for Oklahoma and the United States, and then provided the rate difference and/or the summary measure of the gap between the non-dominant and dominant groups, and/or provided a measure for a given outcome regardless of the groups being measured/compared.



## CHAPTER 5

### RESULTS

#### *Census Population*

The total reported population (Table 6) of U.S. citizens in 2000 was 281,421,906, of which 75.1% of the population were Caucasians, 12.3% were African American, 12.5% listed as Native American, and the races listed as “other” were below 1% (Census Bureau, 2014). In Oklahoma, the total citizen population (Table 7) was 3,450,654, of which 76.2% were Caucasians, 7.6% African American, 7.9% Native American, 5.2% Hispanic, and 3.1% was listed as “other” (Census Bureau, 2014). While examining these statistics, the researcher observed a significant disparity between Caucasians and minorities in the U.S. and Oklahoma. The absolute disparity between Caucasians and African Americans in the U.S., regarding the census population, is 62.8%, while the disparity between Caucasians and Hispanics is 62.6%. The disparity between Caucasians and other races is 74.1%. In Oklahoma, the absolute disparity between Caucasians and African Americans is 68.6%, and the disparity between Hispanics and Caucasians is 71%. Finally, the disparity between other races and Caucasians is 60%. Therefore, the dominant group within the U.S. is Caucasians, while the least dominant group consists of those classified as the race listed as “other.”

## 2000 Population Census Data (United States)

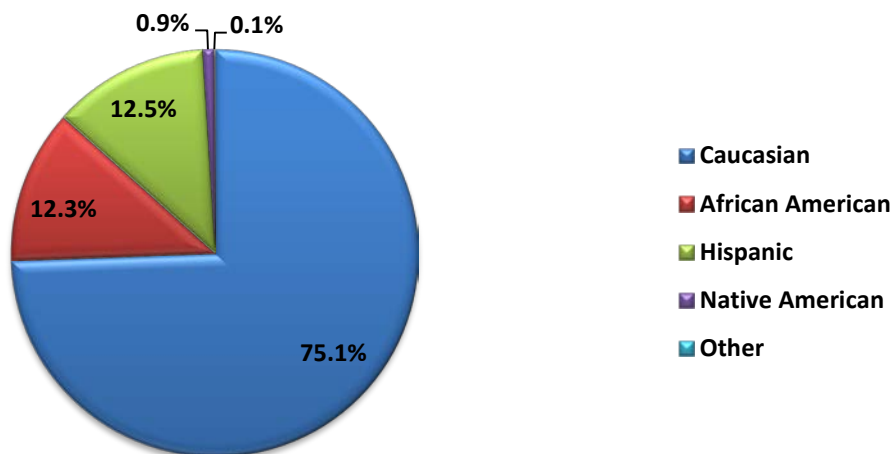


Table 6

## 2000 Population Census Data (Oklahoma)

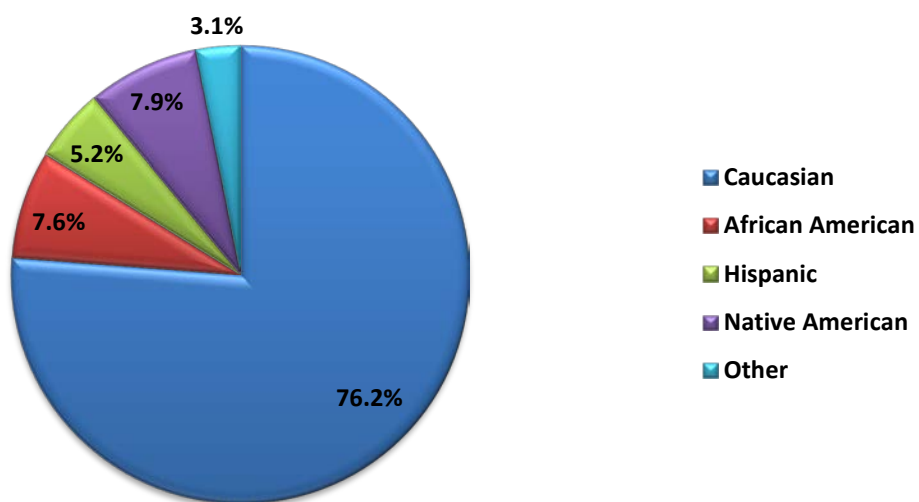


Table 7

*\*\*"Other" consists of more than one race, or other ethnic groups which are not listed in the diagram. Data is comprised from the 2000 Census Bureau of the total percentage of the U.S. and Oklahoma populations (Tables 6 & 7).*

### ***Death Row***

According to the Bureau of Justice Statistics Capital Punishment Database, the number of inmates (Table 1) who were on death row in the U.S. during 2011 equaled 3,082 inmates (BJS, 2014). Among those 3,082 death row inmates, 55.3% were Caucasians, 41.8% African American, and 2.9% were listed as “other” (BJS, 2014). The absolute disparity between Caucasians and African Americans in the U.S is 13.5%. Among the group listed as “other” in the U.S., the disparity between the race listed as “other” and Caucasians is 49.4%. In 2011, the total number (Table 3) of death row inmates in Oklahoma was sixty-three (ODOC, 2014). Of these, 52.4% were Caucasians, 41.3% were African American, and 6.3% was listed as “other.” The disparity between (Oklahoma) African American and Caucasian death row inmates is 11.1%, while the absolute disparity between the “other” race and Caucasians is at 46.1%.

Interestingly, when examining the death row population percentages of the United States and Oklahoma, the researcher observed similarities among the racial groups in Oklahoma and the U.S. In examining the death row population in the U.S., the population is relatively equal among Caucasians and African Americans. While examining and figuring the data of Oklahoma death row inmates, the researcher determined that population among African American and Caucasian inmates are relatively equal as well.

When comparing Oklahoma’s census and death row populations, a disparity exists between those populations. 76.2% of Oklahoma’s population consists of Caucasians, while 7.6% are African American, 5.2% are Hispanic, and 11% are listed as “other” in Table 7 (BJS, 2014). The death row population of Oklahoma’s inmates consists of 52.4 % Caucasians, 41.3% of African Americans, and 6.3% listed as “other” in Table 3 (BJS, 2014). With the census population of African Americans in Oklahoma being low, their death row population is extremely higher in comparison to the Caucasian population.

### ***Demographics***

Exploring the demographics of the death penalty in the U.S. and Oklahoma, the researcher found the following results: Of the 1,181 total number of inmates executed in the United States (Table 8), 660 (55.8%) were Caucasians, 413 (34.9%) African American, 99 (8.4%) Hispanic, and nine (0.9%) were listed as “other” (BJS, 2014). In Oklahoma, the total number of executions (Table 9) occurring during the time frame of this study was 96 inmates (BJS, 2014; ODOC, 2014). Of the 96 inmates executed, 62 (64.6%) were Caucasians, 27 (28.1%) African Americans, two (2.1%) were Hispanic, and five (5.2%) listed as “other.” (BJS, 2014; ODOC, 2014).

When examining the absolute disparity among inmates who have been executed in the U.S. and Oklahoma from 1977-2011, the researcher found disparities between groups selected for this study. In the U.S., the absolute disparity between Caucasians and African Americans is 20.9%. Next, the absolute disparity among Hispanics and Caucasians is 47.5%, while the disparity among races listed as “other” and Caucasians is 55.1%. In Oklahoma, the absolute disparity among the groups of death row inmates who were executed is statistically different from the U.S. The disparity between Caucasians and African Americans is 36.5%, while the disparity between Hispanics and Caucasians is 62.5%. When examining the group listed as “other,” the disparity between this group and Caucasians is 59.4%. The researcher notes that Native Americans and Asians were calculated with the group listed as “other” in Oklahoma (Table 9).

## Number of Executions by Race in the United States from 1977-2011

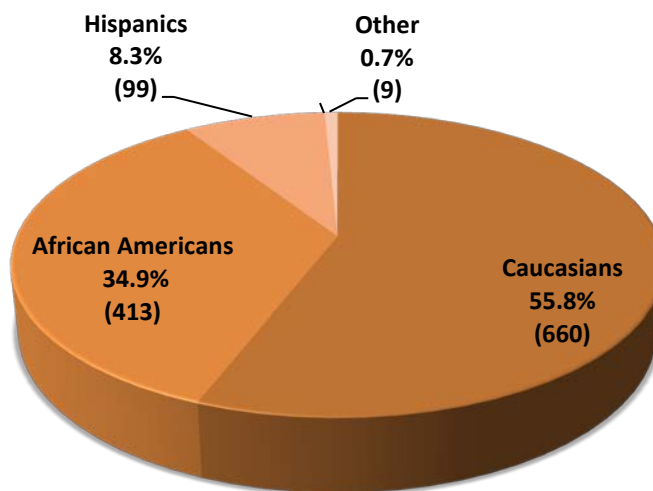


Table 8

\*Other race consists of other ethnic groups and/or a combination of race.

\*\*Total number of executions in the United States from 1977-2011 were 1,181. Oklahoma stats were removed from the BJS report of 1,277 inmates executed overall from 1977-2011. Data retrieved from the Bureau of Justice Statistics database on capital punishment.

## Number of Executions by Race in Oklahoma from 1977-2011

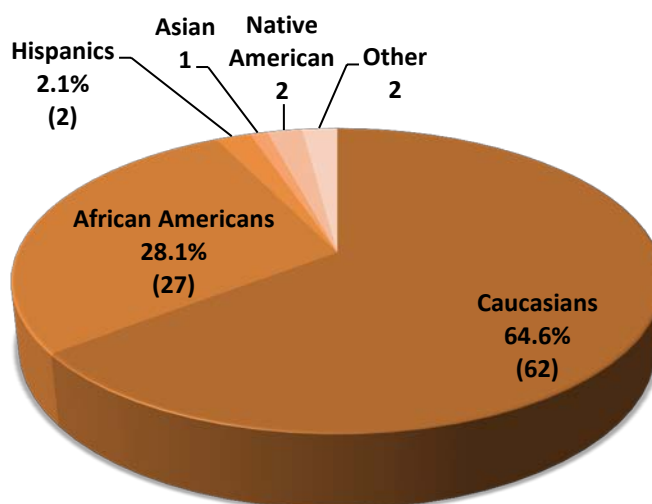


Table 9

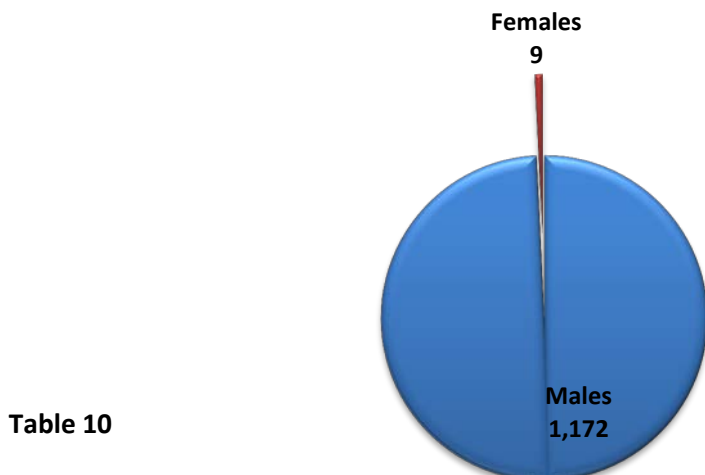
\*Other race consists of other ethnic groups and/or a combination of race.

\*\*Total number of executions in Oklahoma from 1977-2011 was 96. Data retrieved from the Bureau of Justice Statistics database on capital punishment and the Oklahoma Department of Corrections Death Penalty Execution Database.

Gender plays a vital role throughout the entire criminal justice process. A significant point where gender plays a vital role in the U.S. criminal justice system is during criminal trials and capital murder trials. Whenever the defendant in a capital murder trial is a male and the victim was a female, then the likelihood of the defendant receiving the sentence of death is far greater than when the victim is male. According to Shatz and Shatz (2012, p. 84) “men arrested for murder are six times more likely to be sentenced to death than are women arrested for murder.” Therefore, the death penalty in America is focused on the gender of both the victim and defendant.

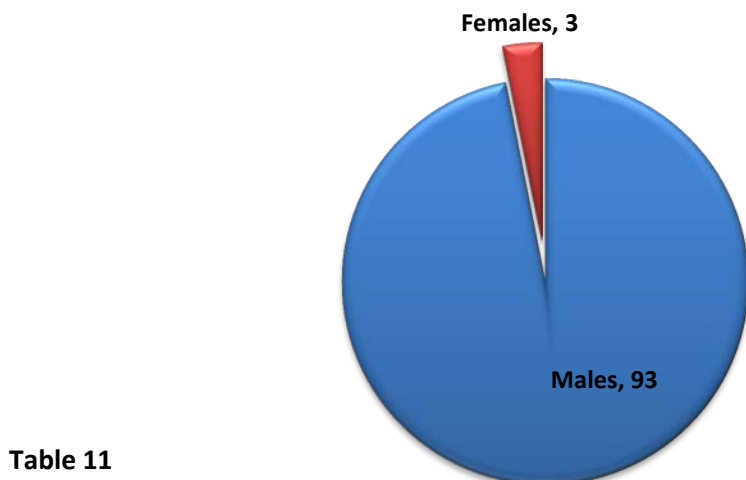
From 1977 to 2011 (Table 10), 1172 male inmates were executed in the U.S., while 93 males were executed in Oklahoma (BJS, 2014; DPIC, 2014). Among the female inmates, nine have been executed in the U.S. while three (Table 11) have been executed in Oklahoma during the same time frame (BJS, 2014; ODOC, 2014). However, women are significantly less likely to commit capital crimes than men. In examining Tables 10 and 11, a huge disparity between males and females who have been executed in both the U.S. and Oklahoma exists. This disparity raises serious questions regarding whether society should reexamine the death penalty, and examine the treatment and fundamental fairness of defendants who are entering capital murder trials/cases in the United States.

### Number of Executions in the United States (by Gender) from 1977-2011



*\*Bureau of Justice Statistics data on executions in the U.S. Overall total of executions in the United States: 1277. Oklahoma data was removed from the BJS overall total of executions, which results in an overall U.S. total of 1,181 executed from 1977-2011.*

### Number of Executions in Oklahoma (by Gender) from 1977-2011



*\*Bureau of Justice Statistics data on executions in the U.S. and the Oklahoma Department of Corrections. Overall total of executions in Oklahoma: 96*

### *Execution, Race, Victims of Murder & Location*

There is evidence indicating that gender of victim and defendant has an influence on the death penalty across the United States. However, race also has a substantial impact on capital punishment in America. While exploring data on the race of an inmate executed for murdering victims of a particular race, the researcher discovered the following information (below in Table 12):

<i>Table 12</i>	United States (1977-2011)					
	Race of the Victim Murdered					
Race of Inmate Executed						
	Caucasians	African Americans	Hispanics	Native Americans	Asians	Other
Caucasians	621	23	21	2	4	1
African Americans	247	146	16	0	9	4
Hispanics	44	4	49	0	2	0
Native Americans	9	0	0	1	0	0
Asians	1	0	0	0	3	0
Other	1	0	0	0	0	0

As noted in the chart, from 1977 to 2011 the number of Caucasians who have been executed for murdering Caucasian victims was 621 inmates (BJS, 2014). The number of Caucasians who have been executed for murdering African American victims in the U.S. was 23 inmates (BJS, 2014). 247 African Americans have been convicted of murdering Caucasian victims, and the same number of inmates has been executed. After murdering victims of their own race, 146 inmates have been executed within the time frame of this study (BJS, 2014). The data in Table 13 indicates a significant disparity between Caucasians murdering African Americans versus African Americans who murder Caucasian victims. And, when Caucasians murder minorities, the rate of execution is relatively low. This calls for further examination and research.



In Oklahoma, the race (race-victim effect) of both the offender and murder victim has an influence on capital punishment. When capital murder trials contained both Caucasian inmates and murder victims, the end result consisted of 53 Caucasian inmates being executed in Oklahoma from 1977-2011 (ODOC, 2014). Whenever this group of inmates murdered African American victims, the number of executions dropped to only three inmates being executed during the same time frame. Therefore, Caucasians are executed at a lower rate when compared to African American inmates. The researcher also examined African American defendants in Oklahoma (Table 13); a total of 14 African Americans were executed in Oklahoma for murdering Caucasian victims from 1977-2011 (ODOC, 2014). After African Americans murdered their own race, a total of 13 inmates were executed during the time frame of this research (ODOC, 2014).

While comparing race of inmates executed and race of their victims in Oklahoma, the researcher identified a disparity between Caucasians and minority groups. When observing the number of Caucasian inmates being executed for murdering their own race versus murdering African American victims, a disparity is distinctly noticeable and present. A limited number of Caucasian inmates have been executed in Oklahoma for murdering African American victims. However, when looking at the number of African Americans executed for murdering Caucasian and African American victims, the number between the two races of victims is relatively equal. The researcher also identifies that between Caucasians and African Americans murdering victims of the opposite race, African Americans are executed at a higher rate for murdering Caucasian victims than Caucasians are executed for murdering African American victims, which calls for further research.

<i>Table 13</i>	<b>Oklahoma (1977-2011)</b>					
	<b>Race of Victim Murdered</b>					
<b>Race of Inmate Executed</b>						
	Caucasians	African Americans	Hispanics	Native Americans	Asians	Other
<b>Caucasians</b>	53	3	3	0	4	0
<b>African Americans</b>	14	13	0	0	1	0
<b>Hispanics</b>	0	0	0	0	0	0
<b>Native Americans</b>	4	0	1	1	0	0
<b>Asians</b>	1	0	0	0	1	0
<b>Other</b>	0	0	0	0	0	1

Additionally, the locations of crime, trials, and sentencing all have an influence on the criminal justice system and capital punishment. Gilboa (2010) believed that area or geographical location has an impact on the sentencing of death row inmates in the U.S. A “defendant who faces a capital charge has a better chance of evading a death sentence if his trial takes place in a metropolitan county” (Gilboa, 2010, p. 168). However, Oklahoma’s metropolitan areas (or counties) provide a different outcome.

Regarding the death penalty, Oklahoma’s geographical location presents some interesting results. Table 14 provides the number of executions by county. Oklahoma County had 36 executions during the time frame selected, while Tulsa County had 13, Comanche County had six, Cleveland and Muskogee Counties had four each, Grady County had three, seven counties had two executions, and 16 counties had only one execution. Between 2004 and 2009, Oklahoma was one of eight states that accounted for more than two of every three death sentences documented in the U.S. (Smith, 2012). Accordingly, during the same time period, Oklahoma County accounted for 36 executions and sentenced a total of 18 inmates to the punishment of death, while Tulsa County accounted for eight death sentences (Smith, 2012). During the period

listed in the Smith (2012) study, and the time frame selected for this study, Oklahoma and Tulsa Counties are the two most active death penalty counties in Oklahoma.

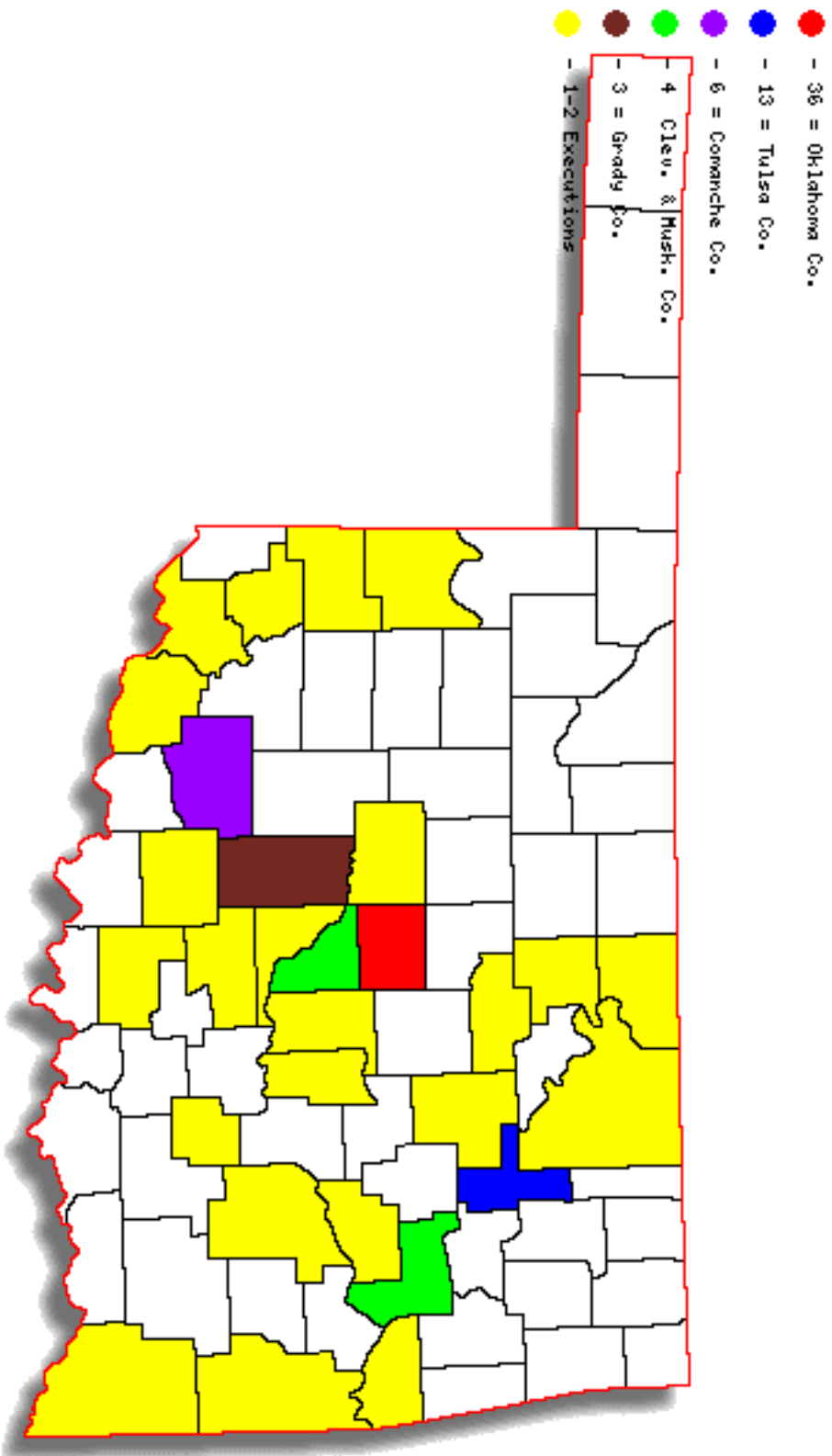
After examining the above data, the researcher concluded that the chance of receiving a death sentence is greater in Oklahoma and Tulsa Counties whenever a criminal defendant is convicted of a capital crime. Oklahoma and Tulsa Counties are the two largest metropolitan areas in the state, and those counties produce the highest execution rates in the state. Results in Oklahoma differ from Gilboa's findings regarding larger city-county courts being more forgiving on individuals who face the death penalty. Oklahoma and Tulsa Counties have the highest death penalty convictions in Oklahoma, while also representing the two largest metropolitan areas in the state. Looking at the data in Oklahoma, an individual's chances of receiving the death penalty are greater in large metropolitan areas.

Gilboa (2010) utilized the definition of a metropolitan area from the U.S. Office of Management and Budget. A metropolitan statistical area is "one or more adjacent counties or county equivalents that have at least one urban core area of at least 50,000 population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by community ties" (Gilboa, 2010, p. 167). From the 14 states selected for Gilboa's study, he examined a total of 28 counties. According to the U.S. Census Bureau's population by state for 2010 (U.S. Census Bureau, 2014), only 17 counties in Gilboa's study were larger than Tulsa County, while 16 counties were larger than Oklahoma County. However, the majority of counties selected for Gilboa's research were much larger than both Oklahoma and Tulsa Counties.

This researcher further notes that the greatest likelihood of receiving the death penalty, along with an execution, lies within central Oklahoma, followed by Comanche County,

Cleveland and Muskogee Counties, and finally, Grady County. Seven counties in Oklahoma (Sequoyah, McIntosh, Pittsburg, Pottawatomie, Carter, Stephens, Canadian) had two executions for each county, followed by 16 counties (LeFlore, McCurtain, Coal, Seminole, Creek, Osage, Kay, Noble, Payne, McClain, Garvin, Tillman, Jackson, Greer, Beckham, Roger Mills) that only had one execution in each between 1977 and 2011. Although 16 counties had only one execution during the time frame of this study, the researcher notes that the likelihood of receiving the death penalty in those counties is minimal. Upon further examination, the researcher concludes that the least likely chance of receiving the death penalty (and/or execution) in Oklahoma occurs in counties in far Northeastern Oklahoma, Northwestern Oklahoma, and the Oklahoma panhandle. There are also nine counties in the lower South-central and lower Southeastern portion of the state along the Oklahoma Red River in which an individual is least likely to receive the death penalty. In total, there are 48 counties in Oklahoma that did not have a death penalty conviction from 1977-2011.

### Oklahoma Executions by County 1977-2011



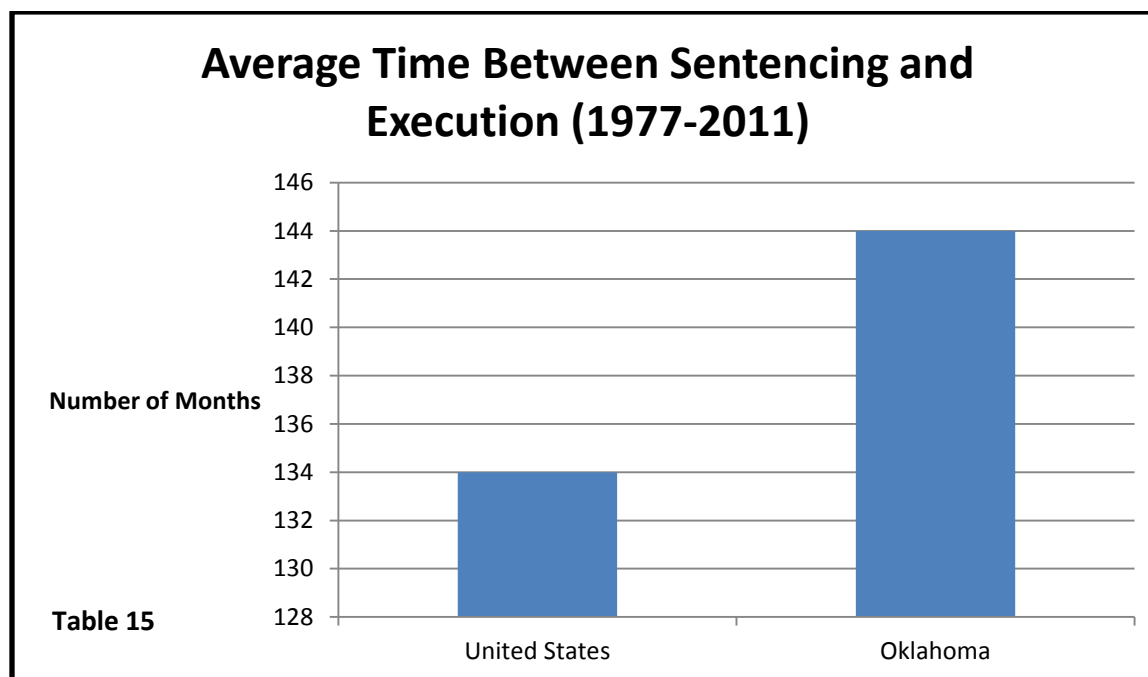
**NOTES:**

Sequoyah, McIntosh, Pittsburg, Pottawatomie, Carter, Stephens, Canadian Co. = 2 Executions  
 LeFlore, McCurtain, Coal, Seminole, Creek, Osage, Kay, Noble, Payne, McClain, Garvin, Tillman, Jackson, Greer, Beckham, Roger Mills Co. = 1 Execution

Table 14

### *Average Time between Sentence and Execution*

According to the BJS (2014), there were 7,862 total inmates on death row in the United States from 1977-2011. The average time on death row was measured from an inmate's sentencing to death row, up until execution. Among the overall total, there were 3,780 (48.1%) Caucasians, 3,237 (41.2%) African Americans, 723 (9.2%) Hispanics, and 122 (1.5%) inmates listed as "other" (BJS, 2014). According to the Bureau of Justice Statistics (2014), the average number of months an inmate spent on death row in the U.S. was 134 (Table 15). In Oklahoma, the total number of inmates who were on death row between 1977 and 2011 was 96 inmates (BJS, 2014). Of the overall total number of death row inmates, 62 (64.5%) were Caucasian, 27 (28.1%) African American, two (2.1%) Hispanic, and five (5.3%) listed as "other" (BJS, 2014). The average time an inmate spent on death row in Oklahoma totaled 144 months (ODOC, 2014).



\*U.S. statistics retrieved from BJS, and the Oklahoma statistics calculated from the ODOC Execution Database

The researcher calculated the measure of absolute disparity among in inmates' average time on death row in the U.S. and Oklahoma during the time frame of this study. Between 1977 and 2011, the absolute disparity in the United States between Caucasian and African American death row inmates was 6.9%. The absolute disparity between Hispanics and Caucasian death row inmates was 38.9%. Finally, the disparity between Caucasian death row inmates and inmates classified as "other" was 46.6%.

In Oklahoma, between 1977 and 2011, the absolute disparity between a Caucasian and African American inmate's average time on death row was 36.4%. Among Hispanic and Caucasian death row inmates, the disparity between the groups was 62.4%. Finally, the disparity between Caucasian death row inmates and the inmate group identified as "other" was 59.2%.

When figuring the measures of dispersion (Table 16), the researcher converted average number of days an inmate spent on death row into average number of months. The researcher found a mean of 142.9 months among Caucasian inmates who were on death row. The median of this group was 147.8 months, the mode was zero, with a standard deviation of 51.5 months. African American death row inmates' mean was 148.8 months, while the median was 142 months. Their mode was zero, and the standard deviation of this group was 41 months. Finally, the mean of the race group listed as "other" was 137.5 months, and their median is 144.7 months. The mode of this group was zero and the standard deviation was 43 months.

<b>Table 16</b>			
Average Time From Sentence to Execution in Oklahoma (1977-2011)			
<b>Data Distributions</b>	<b>Race of the Inmate</b>		
	<b>Caucasians</b>	<b>African Americans</b>	<b>Others</b>
Mean	142.9 months	148.8 mo.	137.5 mo.
Median	147.8 mo.	142 mo.	144.7 mo.
Mode	0	0	0
Standard Deviation	51.5 mo.	41 mo.	43 mo.

*\*Oklahoma's average time an inmate is on death (1977-2011) is 144 months*

While examining the Oklahoma data, an African American's average time on death row is approximately five more months than the state's average (144 months). Caucasian inmates, however, spend about a month less than the state's average time on death row. Finally, the group listed as "other" spends six and a half months less than the state's average time on death row prior to their execution. Therefore, African Americans spend more time on death row than any other group in Oklahoma. Both Caucasians and the group listed as "other" are serving less time on death row than African Americans. This statistic raises more questions about minorities and the criminal justice system in Oklahoma.



## **CHAPTER 6**

### **DISCUSSION**

Since the implementation of the death penalty in the United States, discrimination against minorities has been prevalent throughout history, and remains a constant issue today. Over the course of time, the U.S. Supreme Court has set standards regarding the fundamental fairness and treatment of criminal defendants, but although there have been U.S. Supreme Court rulings (such as those listed in this study) that have protected and maintained the Constitutional rights of each criminal defendant, problems still exist within the U.S. criminal justice system. Proponents of the death penalty often mention that discrimination is not associated with judicial and jury decisions of U.S. capital murder trials. Those who oppose the death penalty believe that discrimination and racism play a factor in capital murder cases. Therefore, the debate about the death penalty will continue as long as it is a form of punishment in the United States.

This study explored whether racial disparity existed among death row inmates in the United States and in Oklahoma. Also, the researcher explored the race-victim effect in the U.S. and Oklahoma. In death penalty cases, minority individuals who kill Caucasians are more likely to receive a death sentence than any other racial group that murders a victim of a different race. If the murder victim is a minority in a death penalty case, then the chances of the defendant receiving the death penalty are significantly less likely. In both Oklahoma and the U.S., Caucasians are executed at a higher rate for murdering Caucasian victims than they are for murdering African American victims. However, the Caucasian population is much larger than each minority group across the United States. In Oklahoma, African American execution rates are relatively equal among Caucasian and African American murder victims between 1977 and 2011.

When looking at the geographical location of murder, metropolitan areas seem to be more forgiving and less likely to carry out a death sentence. In Oklahoma, the results seem to differ. Metropolitan areas in Oklahoma indicate that a criminal defendant charged with murder is likely to be executed. But the chances of avoiding a death penalty sentence in Oklahoma lie in the rural areas of this state. A limitation to this statistic would lie in the population of Oklahoma's largest metropolitan areas is not representative of the large population areas in the U.S. (which has been noted in previous research). Finally, the southern portion of the U.S. has the greatest overall likelihood of carrying out a death sentence for inmates who have been convicted of murder. Further examination of geographical location regarding the death penalty in the U.S. is warranted, especially in the southern portion of the United States.

### ***Limitations***

The results of this research are not generalizable among U.S. and Oklahoma death row inmates. Only a 34-year timespan of the death row inmate population (in the United States) was represented in this study. The overall death row population in the U.S. and Oklahoma was not utilized, and the researcher identifies that executions have taken place before and after the time span selected for this study. However, the researcher was limited to the amount of secondary data that was published by the Death Penalty Information Center, the Bureau of Justice Statistics, and the U.S. Census Bureau, and due to that limitation, the results of the death penalty in America were not completely exhaustive regarding the historical aspect of the death penalty.

The DPIC did not have searchable data available from their database prior to 1977. The DPIC had searchable data available after 2011, but that data was not utilized in this study. The BJS Capital Punishment Statistical Tables database reported information about the death penalty from 1973 to 2011, which provided the demographics and geographical information about the

death penalty in the U.S. Another limitation to this study is that the researcher only examined cases where death row inmates had already received the death penalty. Inmates in the U.S. and Oklahoma with post-convictions and post-sentences were examined and utilized in this study. The researcher also did not examine or utilize all death penalty cases in America.

### ***Future Research***

After researching the death penalty in the U.S. and Oklahoma, the researcher was able to conclude that a disparity exists among Oklahoma inmates who are on death row. African Americans spend approximately five more months than the state's (Oklahoma) average on death row, while Caucasians spend about a month less. African Americans are being executed at a higher rate in the U.S. and Oklahoma while also spending additional time on death row (in Oklahoma) raises serious questions, and warrants further examination. It seems significant that African Americans have a disadvantage when it comes to the U.S. criminal justice system and the death penalty. What does this mean? It means that racial inequality still exists in the United States, and it appears that this problem will still exist well into the future.

A simple solution to solving the racism of the U.S. criminal justice system, the court system, and the death penalty, would be to simply abolish the death penalty in the United States. However, the need for punitive punishment in America is seen as essential as long as the principles of the U.S. Constitution are adhered to, and due process and fundamental fairness are afforded equally to each and every criminal defendant. Society must continue to combat and reject this type of racism and/or discrimination in the U.S. criminal justice system, otherwise this system will continue to fail and discriminate against the minorities in society. Not only should citizens of the United States focus on the criminal justice system, but they should also focus on the social factors that assist in forming those disparities. If citizens choose to ignore, or fail to

acknowledge racial prejudice and discrimination, then it will limit the necessary steps to curbing or rectifying the problems that continue to exist with the U.S. criminal justice system.

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