

A new study finds that blacks who kill whites are more likely to face execution.

Black and White -

Study Finds Racial Disparity in Executions

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Is American justice colorblind? A new study finds that blacks on **death row** convicted of killing whites are more likely to be executed than whites who kill minorities. It also concludes that blacks who kill other minorities are less likely to be executed than blacks who kill whites. The authors of the report say their findings raise serious doubts about claims that the U.S. criminal justice system is colorblind.

Appearing in the August issue of American Sociological Review, the report claims to be the first of its kind to study whether the **race** of murder victims affects the probability that a convicted killer gets the ultimate punishment. The study examined outcomes of 1,560 people sentenced to **death** in 16 states between 1972 and 2002. NEWSWEEK's Eve Conant spoke to David Jacobs, co-author of the study and a professor of sociology and political science at Ohio State University. Excerpts:

NEWSWEEK: Why did you do this study?

David Jacobs: Because the role of **race** is a fundamental question about the **death penalty**. There was a lot of research, mostly on one or two southern states, which found that if an African American killed a white, that they'd be more likely to get the **death penalty**. But you have to remember that only about 10 percent of those who get the **death** sentence actually get executed. Most people wind up leaving **death row** and going back to prison where they serve long sentences. But we really didn't know much about what happened to offenders after they were sentenced to **death** and that's what's unique about this study. We didn't know the factors that cause executions. There have been a few studies, but we didn't know if a black or Hispanic who kills a white person would be more likely to be executed. We knew it was more likely that these offenders would get the **death** sentence. But we didn't know if they were more likely to actually get executed.

So what did you find?

Holding a whole bunch of stuff constant, including several political variables, we found that if a black person killed a white person they were more likely to get executed. If a Hispanic killed a white person they were also more likely, but this probability wasn't quite as strong. There is more than a two-fold greater risk that an African American who killed a white will be executed than a white person who kills a non-white victim. A Hispanic is at least 1.4 times more likely to be executed if such an offender kills a white. Both findings are statistically significant. Also, the findings indicate that blacks who kill non-whites are less likely to be executed than blacks who kill whites, which shows that the post-sentencing capital punishment process continues to place greater value on white lives.

Can we tell if the differences have been getting more even or time or not, given the time span of the study? No, most executions happened in the 1990s, so we really couldn't discover period effects. As a result of the appeals process, people spend a long time on **death row**, so there weren't that many executions in the 1980s.

Was age at all a factor, or just **race**?

We checked for age but it was not significant.

Or the nature of the crime? Or was it simply **race**?

We don't have much data on the nature of the crime. But Supreme Court regulations require a state to come up with aggravating and mitigating factors for capital cases. Aggravating factors might include, say, the killing of a child or torturing a victim. Mitigating factors might include the age of the offender or their childhood experience, whether they were abused, etc.

So why do you think that blacks are twice as likely to get the **death penalty** for killing a white than a white for killing a non-white?

There are two plausible explanations. Prosecutors often win higher office if they win well-publicized cases. When a black kills a white such killings gets more publicity and we have evidence for that. Secondly—and perhaps even more plausible—appellate court justices at the state level are often subject to elections, called retention elections. That means they run unopposed without a party label. It's hard to blow an election like that. But some appellate justices in California and a few other states supposedly granted relief in too many

death penalty appeals and got unelected in these retention elections. That's also why some states that are reluctant to execute just stall. California has something like 650 people who've been on **death** row and since 1976 but this state has only executed about 15 people. They are dragging it out because they see the pressure and don't want to lose their seats. My fundamental point is that the **death penalty** is intrinsically political.

But also about **race**; that's what your study found.

Yes, it's both. The findings, in short, show that we clearly value white lives more than those of blacks or Hispanics.

You've been researching **race** in the judicial system for years. Was there anything in this study that particularly surprised you?

What is interesting is the characteristics of states that make the **death penalty** legal and lead to additional executions. At the state level we found that ... the greater the strength of the Republican party in the state, the more likely you'll have executions, **death** sentences or that capital punishment will be legal in the state.

What about the size of the African-American population in any given state, does that play any role?

Yes, up to a point. As the black population grows in a given state then executions become more likely probably because whites fear blacks. But after a point—when the black population reaches about 16 percent—executions start to diminish probably because blacks become politically strong enough to reduce executions when their proportions reach that level. What bothered me about this study is that we couldn't get more cooperation from state corrections departments. We'd like to expand beyond the 16 states we studied: Arizona, California, Delaware, Florida, Georgia, Illinois, Kansas, Kentucky, Maryland, Missouri, New Jersey, Ohio, Tennessee, Texas, Virginia and Washington.

Caption: