



DEATH PENALTY PROPORTIONALITY REVIEW PROJECT  
FINAL REPORT TO  
THE NEW JERSEY SUPREME COURT

139358  
(part I)

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By: David C. Baldus  
Special Master  
September 24, 1991

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FINAL REPORT TO THE NEW JERSEY SUPREME COURT

by

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David C. Baldus  
Special Master, Proportionality Review Project

ACQUISITIONS

September 24, 1991

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## I. Introduction

The purpose of this report is (a) to describe the research I have undertaken with the Staff of the Administrative Office of the Courts (AOC) pursuant to my appointment as Special Master for Proportionality Review, (b) to present finding of fact concerning the operation of New Jersey's capital charging and sentencing system since 1982, and (c) to present recommendations for the establishment of a system of comparative proportionality review in New Jersey.

Unless otherwise indicated, this report supersedes the findings and recommendations concerning the establishment of a proportionality review system that were contained in our first two interim reports to the Court.

There were five main goals in this project. The first was to conduct a census of New Jersey homicide cases and to identify those defendants who were death-eligible under the New Jersey capital-sentencing statute. Our second task was to develop a machine-readable data base of these cases that could be used by us to develop and refine measures of defendant culpability and, by interested parties, to evaluate the evenhandedness and consistency of New Jersey's capital sentencing system. The third task was to develop measures of defendant culpability which will assist the Court in identifying death-eligible cases that are "similar . . . considering both the crime and the defendant" within the meaning of



N.J.S.A. 2C:11-3e. Our fourth task was to recommend approaches to proportionality review, including the basic universe of cases that the Court should routinely consider in its reviews. Our final assignment was to recommend an ongoing system of (a) contemporaneous data collection at the trial court level, and (b) data management and analysis in the AOC.

A draft of this report was considered at a meeting of the parties September 6, 1991 attended by representatives (attorneys and statistics experts) of both the Attorney General's office and the office of the Public Advocate. At various points in this report we note the views expressed by the parties at that and other earlier meetings.

## II. Methodology

The first step in our research was the development of a census of all homicide cases by adults processed in New Jersey since August 6, 1982, from which we could identify all of the New Jersey death-eligible murders that have occurred since the adoption of the 1982 capital punishment statute.

### A. The Prescreen Master File

The core of the census, which we call the "prescreen master file," is a manual list of all homicides known to the project, compiled from our files of judgments and presentence investigation reports (PSI's), the Public Advocate's homicide data file,<sup>1</sup> the

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1. See Bienen, Weiner, Denno, Allison & Mills, The Reimposition of Capital Punishment in New Jersey: The Role of (continued...)

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State Police arrest file, the Department of Corrections inmate files, and our Promis/Gavel case processing data base (plus any other sources as may arise).<sup>2/</sup>

1. Threshold Screen of the Master File

The first stage in the screening process was the threshold elimination of all cases which, on the basis of the crimes charged or the procedural outcome of the case, were clearly not death-eligible. Cases involving juveniles, death by auto, or acquittal in a murder trial were excluded at this point. So also were other non-penalty-trial homicide cases that involved indictments for less than some form of murder or that resulted in convictions for crimes less serious than aggravated manslaughter. In sum, the only cases to survive this initial screen were (a) pleas to murder, felony murder, or aggravated manslaughter when the original charge was a form of murder, (b) jury convictions for murder and for felony murder when the indictment was for felony murder, and (c) capital murder convictions.<sup>3/</sup>

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1. See Bienen, Weiner, Denno, Allison & Mills, The Reimposition of Capital Punishment in New Jersey: The Role of Prosecutorial Discretion, 41 RUTGERS L. REV. 27-372 (1988) (hereinafter "Bienen et al.").

2. This file has been computerized and is currently being updated with case status information, e.g., juveniles, conspiracy, death by auto.

3. Pleas to aggravated manslaughter when the original indictment was aggravated manslaughter are not screened further. Our failure to further screen homicide cases that resulted in  
(continued...)

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As of July 1, 1991, the master file contained about 3200 cases, substantially all of which have been prescreened. About 1500 of these cases survived this screening process and received further analysis.

B. Factual Case Screening

The second stage in the project involved screening the approximately 1500 cases that survived the threshold screen and entered what is known as the "screened case file." On the basis of the facts reported in the presentence report and the judgment of conviction, we evaluated the death-eligibility of these cases in terms of the defendant's own conduct, mens rea, and the presence of a statutory aggravating circumstance. The case screening was conducted in the first instance by legal technicians who were either law students or recent law graduates. They worked under the direct supervision of Nina Rossi, Esq., of the AOC staff. In

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3. (...continued)  
result in a conviction for at least aggravated manslaughter, unless the offender was acquitted at trial or the charges in the case were dismissed or greatly reduced as part of a plea bargain to obtain the offender's testimony. Each of these factors would distinguish the case from comparable cases that did or could have resulted in a capital murder conviction. Moreover, from the hundreds of aggravated manslaughter pleas that we subjected to a full factual screen, as described in the next section, we classified fewer than 20 as death-eligible. As we note below, however, we recommend that homicide cases resulting in convictions for less serious crimes be considered in a proportionality review if they are presented by defense counsel or otherwise identified by the AOC staff and the basis of the decision is a deathworthiness rather than an evidentiary consideration.

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addition, during the early stages of the project, I provided training sessions for the legal technicians. The coding procedures and personnel are described in more detail in technical appendix 6.

For each case, the coders recommended an initial classification into one of three levels, (1) clearly death-eligible, (2) questionable as to death eligibility, or (3) clearly not death-eligible. These factual findings and recommendations were reported on a preliminary screening coding form, a copy of which is presented in technical appendix 1 of this report. The technicians received additional guidance in their coding through a written coding protocol, which is presented in technical appendix 2. Each completed questionnaire was reviewed against the presentencing report by senior AOC staff. For difficult cases, additional sources such as appellate records were consulted. Occasionally, phone calls were made to trial counsel. On this record, I reviewed and classified each case. The AOC staff then entered the results of each review into the screened case master file, and from it produced for each case a progress report, a sample copy of which is presented in technical appendix 3 of this report. There are about 1500 cases in the screened case file.

Groups of the progress reports prepared for each case were periodically submitted to the Office of the Attorney General (AG), the County Prosecutors' Association, and the Public Advocate's Office. These submissions were routinely followed by meetings of interested parties, who were invited to present objections to our

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screening classifications. The staff of the Public Advocate regularly presented detailed critiques of our classifications and case descriptions. However, because of their motion pending before the Court to limit the universe to death-sentenced cases, the Attorney General's staff and the County Prosecutors' Association, while attending all meetings, have not responded to any of our requests for input on specific cases. Also, drafts of all of the documents used in the screening process were submitted to and considered by the interested parties at our periodic meetings.

In the screening process, all of the penalty trial cases were given a provisional clearly death-eligible classification.<sup>4</sup> We applied a different rule for non-penalty-trial cases. To qualify as death-eligible, the reported facts of those cases had to satisfy both a procedural and substantive test. First, the record had to indicate that the prosecutor waived the death penalty through a decision (a) not to charge the defendant with a capital murder, (b) not to file a notice of factors, or (c) to withdraw a notice of factors filed earlier. Second, the admissible evidence in the case clearly had to support an inference (a) that the defendant had the requisite mens rea --- as defined by Gerald and other recent decisions of the Court -- and (b) that the defendant had either committed the homicide by his own conduct or paid another to do so, and (c) that there was present in the case one or more statutory

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4. See infra note 69 at p.57 for a listing of penalty-trial cases that are not death-eligible under current law.

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aggravating circumstances.

The "questionable" category of cases included those in which there was strong evidence of some elements of a death-eligible offense but also an identifiable problem concerning mens rea, own-conduct, or the presence of a statutory aggravating circumstance. A typical example would be an armed robbery murder by copetrators in which there is some uncertainty about who did the shooting or whether the killing was knowing or purposeful. Also, some cases raise legal issues concerning the applicability of a statutory aggravating circumstance. For example, are robberies that occurred as an afterthought following a murder for reasons wholly unrelated to the murder properly treated as robbery murders within the meaning of 4g? Similarly, is a defendant who kills in an altercation over a debt owed to him by the victim one who murders "in expectation of the receipt of any thing of pecuniary value" within the meaning of 4d? Where additional information appeared likely to shed useful light on the status of a questionable case, we sought to obtain it. The clearly not-death-eligible cases include those which failed the threshold procedural test and those in which it was plain that the case lacked the requisite mens rea or own conduct requirements or there was no statutory aggravating factor present.

In the spring of 1990, we developed a conservative evidentiary-based standard for further review of the nonpenalty trial cases that we had initially classified as clearly death-

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eligible. We evaluated those cases with the four-level evidentiary standard presented in appendix A. With it, we reclassified as questionable with respect to death-eligibility any case that did not appear to have evidence of guilt for capital murder that was overwhelming or strong. We estimate that in cases falling in the "overwhelming case" category in appendix A, there is a very high probability of a conviction, probably from 85% to 90%. In the second "strong case" category, the evidence is less strong but constituting what would generally be considered very substantial, or clear and convincing, with a likelihood of conviction well above 60%. In the third "clearly defensible" category, which does not satisfy our recommended evidentiary threshold, the chances of an acquittal are substantially higher. In the fourth "clearly insufficient" case category, the evidence would not normally be sufficient to reach the jury in the face of a defendant's motion for a directed verdict.<sup>5/</sup>

Three considerations informed our requirement that the evidence appear to be overwhelming or strong as a basis for a classification of clearly death-eligible. The first is a presumption of regularity in prosecutorial decision-making. We see

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5. The standards in appendix A were applied to each component of death-eligibility -- mens rea, own conduct, and the presence of one or more statutory aggravating circumstances. If the strength of evidence for these elements varies, e.g., strong for mens rea and clearly defensible for own conduct, the classification for the weakest link in the chain controls. Thus, in the example given, the overall evidentiary classification would be clearly defensible and the case would receive an overall classification of questionable in terms of death-eligibility.

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nothing inappropriate in a prosecutorial decision to accept a guilty plea or to unilaterally waive the death penalty in a case that is clearly death-eligible.<sup>6/</sup> However, when the case involves evidence of death-eligibility less compelling than overwhelming or strong, deference to prosecutorial discretion supports a presumption that the basis of the prosecutorial decision not to treat the case as a capital homicide is based on evidentiary concerns affecting the likelihood of obtaining a capital conviction rather than a judgment about the appropriateness of a death sentence or a prediction of jury penalty-trial sentencing behavior.

The second basis for our evidentiary standard is the general perception that evidence is generally weaker than it appears to be on the face of any documents describing that evidence.

The third basis of our standard consists of two items of empirical evidence. The first is that in the first 94 cases tried under the new statute, 27% (25/94) resulted in an acquittal, although usually with a conviction for a lesser included offense. The second item of evidence consists of the results of a follow-up analysis we conducted of the evidentiary strength of New Jersey cases that resulted in an acquittal in a capital trial. The results of that analysis indicate that a fairly high proportion of those cases fell into category 3 (clearly defensible) on our

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6. See infra note 19 and accompanying text at p. 21. This presumption called for particularly close scrutiny of evidence bearing on mens rea in cases that resulted in an aggravated manslaughter plea.



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strength-of-evidence typology (which fails to meet our standards for inclusion). We also studied the evidentiary strength of capital cases that resulted in a capital murder conviction. We found that a higher proportion of those cases had overwhelming or strong evidence.<sup>7</sup>

The results of this screening process yielded 246 clearly death-eligible cases. Of the remaining 1250 cases, about 80% were clearly not death-eligible and about 20% were questionable with regard to death-eligibility. Among the death-eligible cases, 132 resulted in a capital murder conviction and advanced to a penalty trial.<sup>8</sup> We also

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7. The acquittal rate in the first 94 capital cases tried under the new statute is reported in Bienen et al. supra note 1 at 160. The follow up analyses considered nine cases that resulted in a capital murder acquittal and 20 cases that resulted in a capital murder conviction. Each case was scored on the evidentiary typology in Appendix A by four raters. The scores ranged from #1 (an overwhelming case) to #3 (a clearly defensible case). The average rater scores for the cases that resulted in a capital murder conviction were as follows -- #1 (45%, n=9); #2 (45%, n=9); #3 (10%, n=2). The average rater scores for the cases that resulted in a capital murder acquittal were as follows -- #1 (25%, n=2); #2 (37%, n=3); #3 (37%, n=3).

8. Nine penalty-trial cases involved multiple victims, and two penalty verdicts. Throughout this report we identify cases in the footnotes by name and case number (CASE) in the DCI data base. The multiple victim cases were: (190) Bertino 1st vict. - life; (2801) Bertino 2nd vict. - life; (231) Booker 1st vict. - life; (2825) Booker 2nd vict. - life; (1060) Hernandez 1st vict. - life; (3022) Hernandez 2nd vict. - life; (2808) Johnson 1st vict. - life; (1227) Johnson 2nd vict. - death; (1288) Keenan 1st vict. - life; (3023) Keenan 2nd vict. - life; (1598) McDougald 1st vict. - death; (2811) McDougald 2nd vict. - death; (2826) Monturi 1st vict. - life; (1709) Monturi 2nd vict. - life; (1720) Moore 1st vict. - death; (2810) Moore 2nd vict. - death; (1959) Pitts 1st vict - life; (2809) Pitts 2nd vict. - death. Unless otherwise indicated, each verdict is treated as a separate penalty trial.

(continued...)

identified approximately 114 non-penalty-trial cases that we deemed clearly death-eligible.<sup>2/</sup>

8. (...continued)

Since our May 16, 1991 meeting with the parties, we have deleted from the study a few non-penalty trial cases because of evidentiary problems: Counts (514), Cupe (554), A. Johnson (1188), and Talbot (2431). McFadden (1604) was deleted because the waiver of the death penalty in his case appears to have been based on a need for his testimony rather than deathworthiness considerations. We also added the following non-penalty trial cases: Armstrong (4004), Basha (4014), Brand (4038), Brooks (4003), Brown (4019), H. Clark (4021), Dean (4006), Dollard (4027), Farrow (4024), Gainer (4020), Grant (4001), Henderson (4033), Keresty (4012), Kershaw (4005), Lippen (4034), O. Mendez (4002), Mincey (4009), A. Muhammad (4028), Norman (4011), Pomales (4018), Slover (4008), Soto (4007), Sullivan (4029), Telford (4030), Toro (4025), C. Thomas (4013), Valdez (4016), Watkins (4017), C. Washington (4035), Worthington (4032). Finally we added two recent penalty trial cases: Muscio (4031) and S. Jackson (4037).

9. Among the total group of death-eligible cases, eight involved a death-sentenced defendant whose sentence or conviction was overturned on appeal and whose case on remand involved a jury or prosecutorial deathworthiness decision. Subsequent dispositions in those cases were: (3000) Bey 2B - penalty trial - death; (3002) Biegenwald 1B - penalty trial - death; (3007) Clausell 1B - no penalty trial - life; (3001) Kise 1B - penalty trial - life; (3018) Koedatich 1B - penalty trial - life; (3003) Rose 1B - penalty trial - life; (3005) Williams 1B - no penalty trial - life; (3006) Zola 1B - no penalty trial - life.

The final DCI date set consisted of the following cases:

A. <u>Penalty Trial Cases</u>		
1.	Death eligible under current law (NJ211=1)	113
2.	Not death eligible under current law (NJ211=0) (n=19)	
	a. Jury found no factors (PTWEIGH=0)	9
	b. Factors found but insufficient evidence under current law	
	(1) Death sentence	5
	(2) Life sentence	5
		132
B.	<u>Non-Penalty Trial Case</u>	114
	TOTAL	246

(continued...)

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C. Preparation of a Machine-Readable Data File

To prepare a machine-readable data file, we first prepared an extensive data collection instrument (DCI) capable of recording detailed information on hundreds of variables in addition to the statutory aggravating and mitigating circumstances. The following indicates the topics covered by the "DCI File":

- I. Case Identifying and Procedural Information
- II. Defendant's Personal Circumstances
- III. Defendant's Prior Record and Personal History
- IV. Coperpetrators
- V. Background Information on Victim
- VI. Contemporaneous Offenses
- VII. Defendant's Role in Homicide and Any Contemporaneous Offense(s)
- VIII. Characteristics of the Homicide
- IX. People Killed, Injured, or Put at Grave Risk of Death
- X. Defense Trial Strategy

A copy of the entire DCI is presented in technical appendix 4. A copy of the coding instructions used by the coders is found in technical appendix 5.

The coding of the DCI was done by law students or recent law graduates who also prepared a detailed narrative summary of the

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9. (...continued)

The sample sizes in the analyses reported in the tables of this report vary depending on the cases used. If all cases are included, n=246. If all cases that are death eligible under current law are included, n=227 (246-19). If all penalty trial cases are included except those with no finding of statutory aggravating circumstances, n=123. If all penalty trial cases that are death eligible under current law are included, n=113 (132-19). If all cases in which a statutory aggravating circumstance was found or present are included, n=237 (246-9).

See infra note 69, p.57 for the identity of the cases that are not death eligible under current law.

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facts of each case.<sup>10/</sup> However, for the non-penalty-trial cases, I made the final coding decisions on the presence or absence of statutory aggravating and mitigating factors, in collaboration with Jack McCarthy and Nina Rossi.<sup>11/</sup>

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10. Technical appendix 6 describes the personnel and procedures involved in more detail.

One coding issue concerned the proper code for mitigating circumstances that were charged to the jury and received one or more, but fewer than 12 votes. If the factor received one or more affirmative votes, we coded it as present in the case, i.e., we gave it a "1" rather than a "0", which would mean it was "not found." Ideally, we would have coded the exact vote for each mitigator. With that approach, the results of the statistical analysis for a mitigator, say 5a, would reflect the average impact of each additional juror vote for 5a rather than the average effect of the 5a factors having been found or not found in the case, which our present statistics indicate. The State argues, and we agree, that a coding protocol that reflects the actual vote for each mitigating circumstance is preferable. However, because we did not have the exact vote for mitigating circumstances on most of the penalty-trial cases, we were unable to conduct such an analysis.

The State also suggests that useful insight would be gained by similarly analyzing the actual number of juror votes for aggravating circumstances that were charged but not found. Such an analysis is not currently possible, however, because the exact jury vote on aggravating circumstances short of unanimity is rarely reported.

11. For the aggravating circumstances, we applied the rules found in technical appendix 5 and appendix E. For the mitigating circumstances, we found the 5c factor (age) present when the defendant was 21 years old or younger or 50 years old or older. The 5f factor (no significant prior criminal activity) was found present unless the defendant had one or more criminal convictions for an indictable offense or four or more criminal convictions for any type of an offense. The 5h (catchall) factor was deemed to be present in all non-penalty-trial cases, since all resulted in a sentence less than death. Because of a lack of data in the AOC files on trial witnesses, the coders did not code questions 118 and 119 in the DCI. Similarly, because of prosecutorial unwillingness to provide any information on the strength of evidence in the case, questions 121-125 also were not coded.

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I conducted the initial coder training sessions and evaluated their early output. Direct daily supervision was provided by Nina Rossi, who reviewed each DCI and narrative summary. In recent months, both the AOC staff and I have focused on ensuring the validity of the coding on the variables that emerged as important in the statistical analysis reported in section VII.B below. In my judgment, the quality of the data in the DCI, particularly as to the aggravating and mitigating circumstances found by the penalty-trial jurors, are superior to those in any other reported study, including the Georgia studies in which I have been an investigator.<sup>12/</sup>

In April 1991, with the assistance of Dr. George Woodworth, I prepared a series of over 150 "recode" variables that build upon the raw data in the DCI file and are suitable for multivariate statistical analysis.<sup>13/</sup> A listing of those recoded variables and the code that underlies them are found respectively in technical appendices 7 and 8. These recode variables fall into the following categories:

a. Case administrative and procedural.

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12. A number of questions deemed unprofitable were deleted as a result of our initial analysis and will not be coded in cases with project numbers over 4000. See infra technical appendix 5, amendment II.

13. I selected these variables on the basis of prior experience and the apparent statistical importance of the information in question. Specifically, if the outcome in a group of five or more cases was associated with a disparity 10 percentage points higher or lower than the average rate, it was the basis for a recoded variable.

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- b. Statutory aggravating and mitigating circumstances.
- c. Nonstatutory aggravating and mitigating factors.
- d. Racial/suspect factors.
- e. Geographic factors.

All of the statistical analyses presented in this report are based on these recoded variables.

### III. Trends of Decision in New Jersey's Capital Charging and Sentencing System

#### A. Overall Death Sentencing Rates

The principal trend in New Jersey's capital charging and sentencing system between 1983 and 1991 has been a marked decline in the frequency with which death sentences are imposed among death-eligible cases. Table 1 indicates the frequency of death sentencing by year among all cases that are death-eligible under current law. 1987 marks the dividing line. The overall rate before 1988 was .21 (29/140), while the overall rate after 1987 has been .06 (5/87). Among the death-eligible murders committed since January 1, 1987, a death verdict has been returned in only two cases.<sup>14/</sup>

The death-sentencing rates reported in table 1 reflect three decisions by actors in New Jersey's capital charging and sentencing system: (a) prosecutorial charging decisions, (b) jury convictions of capital murder that advance the cases to a penalty trial, and (c) penalty-trial decisions.

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14. Purnell (2026); Martini (3032). The three other death sentences imposed since 1987 involved murders committed before 1987.

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Appendices B, C, and D provide an overview of the cases processed through the system. Appendix B lists the case names and dates by procedural outcome: death sentence, penalty trial life sentence, and no penalty trial. Appendix C lists the cases in the same order but includes a brief description of each case. Appendix D lists the cases alphabetically with a brief case description of each case.

#### B. Penalty-Trial Death Sentencing Decisions

Table 2 presents penalty-trial data on an annual basis since 1983. Column A of table 2 indicates for each year the death-sentencing rate among all penalty-trial cases, regardless of the defendant's death-eligibility under current law. It includes all penalty trials known to us. Column B is limited to cases that satisfy the current requirements of death-eligibility.

The data in table 2 show a fairly steady death-sentencing rate through 1987 and a substantial decline from 1988 to date. Among the cases in column B that are death-eligible under current law, the average rate before 1988 was .36 (29/81). During the last three and one-half years, it was .16 (5/32).

The declining penalty-trial death-sentencing rates since 1987 are likely explained by penalty-trial procedural changes that have occurred since 1985. One possible explanation is the June 1985 statutory amendment requiring that penalty-trial juries be told that a life sentence means 30 years incarceration without consideration for parole. Yet the death-sentencing rates in 1986

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and 1987 were equal to or higher than the 1985 rate. Another possible explanation is the combined effect of the above-noted jury instruction, with Biegenwald's "beyond a reasonable doubt" test for weighing aggravating and mitigating circumstances, and Bey II's (August 1988) rule on the consideration of mitigating circumstances by individual jurors.<sup>15/</sup>

Another possibility is that the post-1987 penalty trials involved less aggravated cases. We tested this hypothesis by comparing the aggravation level of the penalty-trial cases with a statistically derived index. It showed that on average the 32 penalty-trial cases held since January 1, 1988, were somewhat less aggravated than the 81 such trials held before that date, but not to a degree that would explain the magnitude of the decline. A final possibility is that juror attitudes on capital punishment may be becoming less punitive. We tested this hypothesis by comparing the rates at which jurors returned death sentences in comparable cases during the two periods. We found that in each category of cases, as determined by the culpability scale, the death-sentencing rate was lower in the later period than it had been in the earlier

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15. State v. Biegenwald, 106 N.J. 13 (1987); State v. Bey II, 112 N.J. 123 (1988).



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period.<sup>16/</sup> However, the small number of death sentences in the later period (n=5) limits the significance of this comparison. Moreover, we cannot distinguish between the possible impact of the procedural changes noted above and possible changes in juror attitudes.

### C. Prosecutorial Charging Decisions

The second question raised by the data in table 1 is the extent to which the declining death-sentencing rates are attributable to differences in the rates at which prosecutors are seeking death sentences in death-eligible cases. Table 3 presents the rates at which death-eligible cases advance to penalty trials. It reflects the combined effects of prosecutorial decisions to seek

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16. The death-sentencing rates during the two periods in five different categories, on the scale from 5 (most) to 1 (least) aggravated, were: level 5 pre .93 (14/15) - post .75 (3/4); level 4 pre .67 (4/6) - post .50 (1/2); level 3 (no post data); level 2 pre .42 (7/17) - post .25 (1/4); level 1 pre .05 (2/38) - post .0 (0/22). The culpability index underlying this comparison is discussed infra at note 104, p. 94, and accompanying text.

The results of a logistic multiple regression statistical analysis that controlled for a variety of statutory and non-statutory aggravating circumstances, plus a variable for whether the case was decided before or after January 1, 1988 indicated that in the later period the odds of receiving a death sentence, among all death eligible cases were .27 of what they had been in the earlier period. Among the penalty trial case the odds were estimated to be .32 of what they were in the earlier period. However, the pre-versus post- '87 variable was not statistically significant beyond the .05 level in either model. DEATH model ( $b = 1.13, p = .33$ ); PTDEATH model ( $b = 1.30, p = .13$ ). See infra technical appendix 10, schedules 5 and 11 for detail on the models used to estimate the changes pre- and post-January 1, 1988.

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a death sentence and juror decisions to convict defendants of capital murder. The tabulation does not include cases charged with capital murder but acquitted or found guilty of a lesser offense.<sup>17/</sup> Column A presents the penalty trial rate for all cases. Column B presents the rates among cases that are death-eligible under current law.

When comparing the pre- and post-1987 periods, we do not see the same sharp decline in penalty-trial rates that was so prominent in the penalty-trial sentencing data. Rather, we see a gradual decline, commencing in 1988, the same year as the sharp drop in penalty-trial death-sentencing rates, and continuing to the present time. Among the cases listed in column B the penalty-trial rate before 1988 was .58 (81/140), while it has been .37 (32/87) in the last three and one-half years.

What could explain the decline? One possibility is that the non-penalty trial cases we have identified as death-eligible have become less aggravated since 1988. This seems implausible, since we used the same standard to identify death-eligible nonpenalty trials for all years.<sup>18/</sup>

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17. Bienen et al. supra note 1 at 160 reports this outcome for about 25% of the capital prosecutions during the early years of the new system.

18. Among the non-penalty trial cases the average number of aggravating circumstances was the same in both periods - 1.5. A related argument is that the data in table 3 are unreliable and therefore irrelevant since the cases that did not advance to a penalty trial were not prosecuted as a capital case because the evidence in the case concerning mens rea and/or own conduct was  
(continued...)

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A more plausible explanation for the declining penalty-trial rates is that prosecutors have perceived the declining penalty-trial death-sentencing rates and have waived the death penalty when they believed it was unlikely or problematical that a jury would return a death sentence in the penalty phase of the case.

Prosecutors are empowered to make such judgments in New Jersey and elsewhere. Indeed, the guidelines of the New Jersey County Prosecutors Association prescribe that a death sentence should be

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18. (...continued)  
not sufficiently strong to support a capital murder conviction. Recall that 25% of the cases that did advance to capital trial resulted in a complete acquittal or a conviction for a lesser included homicide offense. We believe, however, that, because of the strength-of-evidence measure we are applying to identify the clearly death-eligible cases (see infra section II.B. of this report), weak evidence concerning death-eligibility is a plausible explanation for a small number of such cases. The explanation is least plausible in the cases involving a plea to murder or felony murder. The entry of such a plea is particularly strong evidence that the defendant perceives a real risk of a capital conviction and a possible death sentence if the case is tried. The reason is that in highly aggravated cases avoidance of the risk of a death sentence may be the only advantage a defendant will gain from a guilty plea, since the sentence imposed for a plea to murder or felony murder is the same as the sentence the defendant would receive if found guilty of capital murder and sentenced to life imprisonment by the jury. Moreover, by entering such a plea, the defendant forgoes the possibility of an acquittal for capital murder. In this regard, while about 25% of the clearly death-eligible cases end with such a plea, the comparable rate among the clearly non death-eligible cases is only about 2%. The possible advantages of a plea to murder or felony murder for defendants with no risk of a death sentence are a reduction of charges for contemporaneous offenses, avoidance of a trial, prompt removal from crowded local jails, and the beginning of certain credit for time served which does not accrue while the prisoner is in a local jail awaiting trial. Since these factors may also apply in capital cases, it is possible that a few of the murder and felony murder pleas among the clearly death-eligible cases might have pled in the absence of a perceived threat of a death sentence.

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sought only when the prosecutor is satisfied that the state will be able to prove beyond a reasonable doubt that the "aggravating factor(s) outweigh the mitigating factor(s)."<sup>19/</sup> This rule clearly calls for a prosecutorial judgment of death-worthiness based on a prediction of a likely jury penalty-trial sentencing decision.<sup>20/</sup> Thus, even if a case could support a capital murder conviction, a prosecutor might reasonably determine that a death sentence was not a likely result and that a murder or felony murder plea would produce the same result as a penalty-trial life decision, i.e., a minimum of 30 years. To the extent those prosecutorial judgments are guided by predictions of jury sentencing behavior, they clearly reflect the values of their respective communities. Therefore, one would naturally expect a decline in penalty-trial rates during a period of decline in penalty-trial death-sentencing rates. That same period of time has also paralleled a perceived need to allocate prosecutorial resources to other sorts of serious crime, e.g., illegal drug transactions.<sup>21/</sup>

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19. Guidelines For The Designation For Capital Prosecutions, Guideline No. 6.

20. Similar guidelines are applied elsewhere, e.g., a guideline for prosecutors in Los Angeles calls for the service of the equivalent of a notice of factors in New Jersey only if the relevant evidence "is of such convincing force" that a reasonable jury "would conclude that the aggravating circumstances outweigh the mitigating circumstances." County of Los Angeles, Legal Policies Manual, Sec. IIC.5ii (June 1985).

21. There is also statistical support for the hypothesis that prosecutors are guided by expected jury sentencing behavior. An examination of the data in table 7 (section VII.A. of this  
(continued...)

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Prosecutorial decisions not to proceed to a capital trial in a clearly death-eligible case might also be explained by a personal belief that a death sentence would be inappropriate in the case even if a capital conviction and death sentence were a likely outcome.

In all, the data indicate that prosecutorial decisions play a prominent role in determining which death-eligible cases advance to a penalty trial in New Jersey. The data also suggest that those prosecutorial decisions are influenced in part by prosecutorial perceptions of likely sentencing outcomes had the cases been tried as capital cases.

D. The Geographic Distribution of Charging and Sentencing Decisions

The geographic distribution of New Jersey's capital charging and sentencing decisions is relevant to the issue of the universe of cases that the Court should routinely consult in a proportionality review. First, the extent to which the exercise of discretion by sentencing juries varies from place to place is relevant to the issue of whether the universe should include penalty-trial cases or be limited to death-sentenced cases.

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21. (...continued)  
report), which presents a salient factors analysis of the cases, indicates that in some main categories of cases there appears to be a distinct correlation between the proportion of cases that result in a capital murder conviction and advance to a penalty trial, and the likelihood the jury will return a death verdict. See infra at p. 80. The typology of cases underlying table 7 is described in section VII.A., table 6, and appendix E of this report.

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Second, the extent to which the exercise of prosecutorial discretion to seek death sentences varies from one county to the next is relevant to the issue of whether the universe should include non-penalty trial cases.<sup>22/</sup> In this section, we examine on three geographic dimensions unadjusted differences in the rates at which death sentences are sought and imposed: urban versus nonurban, three major regions of the state, and all counties.

Table 4 presents the unadjusted results. Column A presents the overall rates. The table also indicates the rates at which prosecutors seek (column C) and jurors impose death sentences (column B). Part I of the table focuses on urban/nonurban differences. It indicates that the overall death-sentencing rate among death-eligible offenses is more than twice as high in nonurban than in urban areas -- .24 (nonurban) v. .10 (urban). This is explained by both higher jury death-sentencing rates and higher penalty-trial rates in the nonurban counties.

Part II of the table breaks down the rates by region. It indicates that substantially higher juror death-sentencing rates in the southern part of the state makes the overall rate (column A) there approximately 2 times higher than it is in the north and northwest. It is interesting to note that the penalty-trial rate in the northwest is the highest of all three regions (.71), but the quite low jury death-sentencing rate in that region gives it a

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22. See infra, part V.B., note 57, and accompanying text.

quite low overall death-sentencing rate.

Finally, table 5 focuses on differences among the counties. It presents a distribution of penalty-trial and death-sentencing rates according to the frequency with which we observe these outcomes in the different counties. The proportions were calculated only for counties with three or more cases under the respective case disposition categories indicated in columns B, C, and D.

Column B presents the range of overall death-sentencing rates -- 40 percentage points -- from five counties with .0 rates to one county with a rate of .40. The median county is in the .10-.19 range. Column C, which lists the juror death-sentencing rates, shows a slightly larger range, with three counties showing zero rates and three counties with a rate of .50. The median county is in the .30-.39 range.

Column D presents a distribution for the proportion of cases advancing to a penalty trial. It shows about a 68-percentage-point spread, from the low county with a penalty-trial rate of .32 (plus three others in the .30-range) to two counties in which all death-eligible cases advanced to a penalty trial. The county with the median penalty-trial rate falls in the .40-.49 range.

#### IV. Basic Approaches to Proportionality Review

Proportionality review is a partial response to the concerns expressed in Furman v. Georgia, 408 U.S. 238 (1972), that the pre-Furman capital-sentencing systems failed to deliver evenhanded justice. Several Justices stated that many of the

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death-sentenced cases they routinely observed could not be distinguished in any meaningful way from the many other cases in which lesser sentences were imposed. Accordingly, the goals of proportionality review are (a) to insure that the cases in which death sentences are carried out can be meaningfully distinguished from those cases in which lesser penalties are normally imposed and (b) to limit death sentencing to categories of death-eligible cases that are the most aggravated and in which death sentences are the usual, routine result.<sup>23/</sup> Realization of these objectives will ensure "the consistent and fair application of the death penalty."<sup>24/</sup>

At first blush, the determination required by the first of these goals can be made strictly by reference to the death-sentenced case under review for proportionality. Specifically, does it have a statutory aggravating circumstance which thereby distinguishes it from the vast majority of homicides which are not death-eligible and may not result in a death sentence under controlling law? For example, our research indicates that about 80% of New Jersey homicides, excluding those involving death by

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23. A capital-sentencing system operating in this sort of evenhanded fashion serves three broad goals. First, routine death-sentencing among cases that are similarly situated promotes general deterrence among those cases. Second, such a system insures that death sentences are only imposed in categories of cases on which there is a clear societal consensus as to their death-worthiness. Third, a death-sentencing system so operating is principled in that the death sentences actually imposed can be justified in terms of objective case characteristics that distinguish them from cases which routinely result in lesser sentences.

24. Tichnell v. State, 297 Md. 432, 485, 468 A.2d 1, 28 (1983) (Davidson, J., dissenting).



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auto, are clearly not death-eligible. Thus, one could argue that the presence of a single statutory aggravating factor distinguishes any death-sentenced case from the vast majority of homicide cases in which a death sentence may not be imposed as a matter of law.

Furman, however, focused on the distribution of death sentences among all death-eligible cases -- including those that resulted in both life and death sentences. The expressed concerns of the Justices plainly rested on a perception (a) that only a small proportion of those eligible to receive a death sentence were condemned and (b) there was no meaningful basis for distinguishing those cases from the many in which lesser sentences were imposed.<sup>25/</sup> Georgia's proportionality review statute was included in its post-Furman reforms to alleviate the concerns about arbitrariness expressed in Furman. Moreover, when the United States Supreme Court affirmed Georgia's new death-sentencing law in Gregg v. Georgia, 428 U.S. 153 (1976), it observed that the Georgia Court's standard for evaluating the disproportionality of a death sentence rested on a factual assessment of death-sentencing patterns. Gregg quoted with

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25. The death sentences examined by the Court in Furman were "cruel and unusual in the same way that being struck by lightning is cruel and unusual. For, of all the people convicted of [capital crimes], many just as reprehensible as these, the petitioners [in Furman were] among a capriciously selected random handful upon which the sentence of death has in fact been imposed. . . . [T]he Eighth and Fourteenth Amendments cannot tolerate the infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed." Furman, 408 U.S. at 309-310 (Stewart, J., concurring).

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approval the Georgia court's statement that it was duty bound "to assure that no death sentence is affirmed unless in similar cases throughout the state the death penalty has been imposed generally. . . ."<sup>26/</sup>

Over 20 states have adopted proportionality review provisions comparable to Georgia's. Since Furman, two basic approaches to proportionality review have emerged in the various states. The first approach, which may be called the relative frequency approach, focuses on the frequency with which death sentences are imposed among categories of similar cases. Ideally, it requires data on all death-eligible cases and the availability of measures which can define categories of similar cases. The threshold question is factual, i.e., what is the sentencing frequency among similar cases?<sup>27/</sup> More specifically how have jurors and prosecutor's handled similar cases and how are such cases likely to be sentenced in the future. There are two basic methods for assessing empirical questions of this type. (a) the clinical and (b) the actuarial or statistical. In the clinical method, the decision-maker combines and processes in his or her head information about the characteristics of the cases and their outcomes; judgments are based ultimately on the decision-maker's prior experience and knowledge. In the actuarial or statistical method the judgment is based on

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26. Gregg, 428 U.S. at 205 (citation omitted).

27. State v. Jeffries, 105 Wash.2d 398, 437, 717 P.2d 722, 744 (1986) (Utter, J., dissenting) (describing a two-step process: (1) identification of a group of similar cases and (2) computation of "the frequency of death sentences within the pool of similar cases").

empirically established relationships between case characteristics and case outcomes.<sup>28/</sup> In most legal contexts calling for predictions, decision-makers rely exclusively on the clinical method for the simple reason that no actuarial data are available to inform their judgment. The leading exceptions are parole and bail decisions where the utility of actuarial methods has been recognized.<sup>29/</sup> As a result of the empirical study we conducted as part of the proportionality review project, the New Jersey Court is in a position to base its judgments of sentencing frequency among similar cases on both clinical and actuarial methods. Because of the strong tradition in the legal profession of reliance on clinical rather than actuarial methods, we recommend that the results of our empirical study provide merely a point of departure. The validity of all the predictions based on those empirical findings can be validated by close factual

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28. Dawes, Faust & Meehl, "Clinical Versus Actuarial Judgment" 243 Science 1668 (31 March 1989) (hereinafter "Dawes et al.") ("A life insurance agent uses the clinical method if data on risk factors are combined through personal judgment. The agent uses the actuarial method if data are entered into a formula, or tables and charts that contain empirical information relating these background data to life expectancy. Clinical judgments should not be equated with a clinical setting or a clinician. A clinician in psychiatry or medicine may use the clinical or actuarial method. . . . Virtually any type of data is amenable to actuarial interpretation. For example, interview observations can be coded quantitatively (patient appears withdrawn: [1] yes, [2] no). It is thereby possible to incorporate qualitative observations and quantitative data into the predictive mix. Actuarial output statements, or conclusions, can address virtually any type of diagnosis, description, or prediction of human interest.")

29. See e.g., Goldkamp & Gottfredson Policy Guidelines for Bail: An Experiment in Court Reform (1985); Fischer "Better Protection With Fewer Inmates" Corrections Today 16 (Dec. 1983) (parole).

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comparison of the cases deemed similar to the case under review. Specifically, all the actuarial methods we report either (a) classify specific groups of cases as similar or (b) rank order cases in terms of their relative criminal culpability. When such results become relevant, the cases deemed similar to the death sentence case under review can be compared with one another and with the review case to assess the extent to which they share a comparable level of criminal culpability.<sup>30/</sup> In such an analysis, we recommend that the Court consider "all of the evidence" related to prosecutorial and jury decision-making in cases that appear to share with the review case comparable, greater, and lesser degrees of criminal culpability.<sup>31/</sup>

Once the Court determines the death sentencing frequency among similar cases, it will be in a position to consider the ultimate legal issue of the frequency or infrequency among similar cases that should distinguish between proportionate and

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30. In a proportionately review actuarial methods may not be needed at all if there is a sufficiently large pool of cases that are factually comparable to the death sentenced case under review. Also the probative force of the actuarial results will vary from case to case depending on the extent to which either the review case or individual comparison cases exhibit unique features (which weaken their relevance) or share common features with many other cases (which strengthen the predictive power of the actuarial methods). Dawes et al. supra note 28 at 1672; Meehl "When Shall we use Our Heads instead of the Formula" in PSYCHODIAGNOSIS: SELECTED PAPERS 81 (P. Meehl ed. 1973) (consideration of when unique features of a "special case" justify substitution of a clinical judgment for actuarial results)

31. The "all of the evidence" in the record standard is drawn from Bazemore v. Friday 478 US 385, 400, 404 (1986) a title VII employment discrimination case in which the United States Supreme Court adopted this standard for combining both qualitative and quantitative evidence as a basis for decision.

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disproportionate sentences.<sup>32/</sup> This determination may be informed by judgments about (a) the appropriate level of fairness and consistency required of the system, (b) the likely effect of sentencing frequencies on general deterrence, and (c) the required level of community consensus on the deathworthiness of given categories of offenses that should be required to legitimate a death sentence.<sup>33/</sup>

Pennsylvania is the leading example of the handful of states that apply a frequency approach to proportionality review. For example, Commonwealth v. Pirela, 507 A.2d 23, 32 (Pa. 1986), sustained a death sentence in a case with one aggravating and one mitigating factor, on the ground that, among the cases with those same aggravating and mitigating factors, the "death penalty has been imposed in six of eight cases."<sup>34/</sup>

The alternative approach, which can be described as a comparative culpability or precedent seeking method, takes several forms. In its narrowest form, the only question is

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32. See, e.g., Jeffries, 717P.2d at 744. ("If the frequency is less than 'generally,' the death sentence should be reversed.")

33. See infra section VI for further discussion of this issue.

34. See also Commonwealth v. Morales, 494 A.2d 367, 379 (Pa. 1985) (in which a death sentence was sustained on the ground that, in cases showing the aggravating factor present in defendant's case, "the death penalty has been imposed in seven of seven cases."); Commonwealth v. Smith, 511 Pa. 343, 359, 513 A.2d 1371, 1379 (1986), cert. denied, 107 S.Ct. 1617 (1987); Commonwealth v. Whitney, 511 Pa. 232, 254, 512 A.2d 1152, 1161-62 (1986)); Moore v. State, 213 S.E.2d 829, 832 (Georgia, 1975); State v. Welcome, 458 So.2d 1235, 1255-56 (La. 1983); Poyner v. Commonwealth, 329 S.E.2d 815, 834-35 (Vir. 1985); State v. Campbell, 691 P.2d 929, 945 (Wash. 1984).

whether the case under review is sufficiently comparable to other death-sentenced cases to support its legitimacy.<sup>35/</sup> Thus, if one or more death sentences of equal or lesser culpability can be located, the death sentence is sustained as not excessive or disproportionate. Only if the death-sentenced case under review is less aggravated than all other death-sentenced cases is the sentence held to be disproportionate.<sup>36/</sup> The answer is primarily informed by the Court's moral judgment<sup>37/</sup> of the relative criminal culpability of the defendant in the case under review and the defendants in the other cases that resulted in death sentences.

A broader form of comparative culpability review includes

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35. See Henderson v. State, 279 Ark. 414, 422, 652 S.W.2d 26, 31, cert. denied, 464 U.S. 1012 (1983); Skaggs v. Commonwealth, 694 S.W.2d 672, 681 (Ky. 1985), cert. denied, 476 U.S. 1130 (1986); Gray v. State, 472 So.2d 409, 423 (Miss. 1985); State v. Malone, 694 S.W.2d 723, 728 (Mo. 1985), cert. denied, 476 U.S. 1165 (1986); State v. Mapes, 19 Ohio St. 3d 108, 118-19, 484 N.E.2d 140, 149 (1985), cert. denied, 476 U.S. 1178 (1986); State v. Singleton, 284 S.C. 388, 394, 326 S.E.2d 153, 157, cert. denied, 471 U.S. 1111 (1985); State v. Copeland, 278 S.C. 572, 595, 300 S.E.2d 63, 77 (1982), cert. denied, 460 U.S. 1103 (1983); State v. Smith, 695 S.W.2d 954, 960 (Tenn. 1985). When the court is unable to find any other case that it considers comparable, some courts indulge a presumption that the death sentence under review is not excessive. See, e.g., State v. Plath, 281 S.C. 1, 20, 313 S.E.2d 619, 630 (1984), cert. denied, 467 U.S. 1265 (1984); State v. Groseclose, 615 S.W.2d 142, 150 (Tenn. 1981), cert. denied, 454 U.S. 882 (1981).

36. We have found only one decision in which a court applying this approach has held a death sentence to be disproportionate. Cf. Coleman v. State, 378 So.2d 640, 650 (Miss. 1979) (no comparable cases, but death sentence held excessive because less aggravated than death cases with which it was compared).

37. Some courts have decided the excessiveness issue on the merits without reference to any prior decisions. See, e.g., Callahan v. State, 471 So.2d 447, 457 (Ala. Crim. App. 1983), rev'd, 471 So.2d 463 (Ala. 1985); State v. Buell, 22 Ohio St. 3d 124, 144, 489 N.E.2d 795, 813 (1986), cert. denied, 479 U.S. 871 (1986); State v. Cone, 665 S.W.2d 87, 95-96 (Tenn. 1984), cert. denied, 467 U.S. 1210 (1984).

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both life- and death-sentenced cases in the analysis. In this form, the question is whether the case under review is more like the life-sentenced cases or more like the death-sentenced cases in the review pool. More specifically, when the death sentence under review is compared to life-sentenced cases, the question is (a) whether the criminal culpability of the defendant before the Court so far exceeds that of the defendants in the life-sentenced cases to justify the death sentence, or (b) whether the culpability is either comparable to or less than that of the defendants in the life-sentenced cases, thereby justifying a sentence reduction in the case under review. When the case under review is compared to other death-sentenced cases, the question is whether the defendant's criminal culpability is (a) comparable to or greater than that of the defendants in the death-sentenced comparison cases, or (b) so far less than that of the other death-sentenced defendants to justify a sentence reduction?

In its broader application, the comparative culpability approach begins to resemble the frequency approach in that it may seek (a) to identify life- and death-sentenced cases that are comparable to the review case and (b) to justify the ruling on disproportionality by reference to those cases. However, the approach uses those cases as a form of precedent rather than as a basis for estimating the frequency of prior or likely future death sentencing among all similar cases. Specifically the focus is not on the death sentencing frequency among the comparison pool of similar cases. Rather the question is whether there are life- or death-sentenced cases that will justify the Court's

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proportionality judgment. Moreover, when the review case is held to be distinguishable from a life-sentenced case urged on the Court by the defendant, the basis of the distinction appears to be the Court's moral judgment of whether the case is sufficiently more aggravated than the life-sentenced cases to justify the death sentence rather than by a consideration of evidence suggesting that over the long run cases like the one under review would or would not generally result in death sentences.<sup>38/</sup>

The approach to the assessment of defendant culpability under the two methods also differs somewhat. Under the frequency approach, case characteristics that bear on defendant culpability are used to define groups of "similar" cases. Under the comparative culpability approach, case characteristics serve primarily to distinguish or match comparison cases with the case under review. For example, assume the Court is reviewing a death sentence imposed in an armed robbery murder and has before it six comparison cases with sentences indicated as follows: D1 (life), D2 (death), D3 (life), D4 (death), D5 (life), D6 (life). Under the comparative culpability approach, the Court would look for case characteristics in the review case that would provide the basis for determining that the defendant under review was of

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38. Tichnell, 468 A.2d at 39 (Davidson, J., dissenting) (under the comparative culpability approach, "the focus of the . . . proportionality review necessarily shifts from a determination of whether in similar cases the death penalty has been generally imposed throughout the State, to whether . . . [the] moral culpability [of the defendant in the review case] so far exceeds that of others in similar circumstances sentenced to life imprisonment that the imposition of the death penalty is justified.").



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equal, more, or less culpability than both the life- and death-sentenced comparison cases. If the review case was deemed of comparable or greater culpability than the death-sentenced cases (D2 and D4), the sentence would be affirmed. However, if some features of the review case made it appear less culpable than the two death-sentenced cases or comparable to one or more life-sentenced cases (D1, D3, D5, and D6), the death sentence would be vacated.

Under a frequency approach, in contrast, the first question is whether the six armed robbery cases appear to share a similar level of culpability in the eyes of sentencing jurors, or are they in fact of such distinctly different levels of culpability that they are not properly considered similar for review purposes. For example, one of the two death cases (D2) may be distinguishable in terms of factors that generally influence juries and call for its reclassification into a group of similar cases with a generally higher level of culpability. Under those circumstances, the second question would be whether the culpability of the defendant under review was comparable to the defendants in the five remaining armed robbery cases in the comparison pool (consisting of one death- and four life-sentenced cases). If it was not, a comparison group of cases showing a level of culpability more comparable to the death case under review would be sought. And among the more comparable comparison group, the death-sentencing frequency would be determined.

But what if the Court were unable to find what it deemed to be a suitable group of comparison cases because of a unique or

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rare factor in the review case? Under the comparative culpability approach, the Court would first ask whether, in its judgment, the distinguishing features of the review case made it sufficiently more aggravated than the most comparable life-sentenced cases to justify the death sentence. Second, the Court would ask whether the distinguishing features of the review case made it sufficiently less aggravated than the most comparable death-sentenced cases to justify a sentence reduction. Under the frequency approach, in contrast, the question would be how frequently juries would be likely to return a death sentence over the long run in cases comparable to the review case.<sup>39/</sup> The following excerpt from Justice Davidson's dissenting opinion in Tichnell v. State, a police officer-victim case, concretely illustrates the difference between the two approaches.

I have carefully and conscientiously reviewed the ten cases in the majority's inventory that I deem to be similar to this case. My examination reveals that none of the five similar cases in which the death penalty was imposed, Calhoun, Harris, Stebbing, Colvin, and White, either singly or collectively, establish that the death penalty is generally imposed throughout the State in cases in which a person who had never previously been found guilty of a crime of violence kills a police officer in an attempt to evade arrest when unexpectedly threatened with apprehension during a storehouse break-in. Accordingly, these five cases are not sufficient, either singly or collectively, to justify the imposition of the death penalty in this case. As a result, the focus of my proportionality review necessarily shifts from a determination of whether in similar cases the death penalty has been generally imposed throughout the State, to whether Tichnell's moral culpability so far exceeds that of

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39. See, e.g., State v. Campbell, 691 P.2d 929, 945 (Wash. 1984) (en banc) ("[a] case which involves such a multitude of aggravating factors, we are convinced, would, with great frequency prompt a jury to impose the death penalty").

others in similar circumstances sentenced to life imprisonment that the imposition of the death penalty is justified.

My examination of the five similar cases in which life imprisonment was imposed reveals that in three cases, Monroe, Hughes, and Porter, it is questionable whether Tichnell's moral culpability exceeds that of the respective defendants, while, in two cases, Green and Johnson, Tichnell's moral culpability is less than that of the respective defendants.

Under these circumstances, I am not persuaded that Tichnell's moral culpability so far exceeds that of others in similar circumstances sentenced to life imprisonment that the imposition of the death penalty in this case is justified. Thus, even if I agreed with the majority as to the scope of the relevant inventory of similar cases under § 414(e)(4), I would not find that the death penalty imposed upon Tichnell is justified.<sup>40/</sup>

Tichnell, 468 A.2d at 43-44.

The following is a sample of judicial applications of the comparative culpability approach. In Flamer v. State, 490 A.2d 104 (Del. 1984), the Delaware Supreme Court held that the death sentence under review was not excessive on the basis of a finding that the defendant's culpability exceeded that of the defendants in the life-sentenced comparison cases, and was comparable to that of the defendants in death-sentenced comparison cases.<sup>41/</sup> Harvey v. State, 682 P.2d 1384 (Nev. 1984) (per curiam), focused exclusively on life-sentenced comparison cases, and vacated the death sentence under review on the ground that the criminal culpability of the death-sentenced defendant before the Court was lower than the culpability of defendants in two life-sentenced

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40. Justice Davidson's Tichnell opinion and Justice Utter's opinion in State v. Jeffries, 717 P.2d 722, 742-46 (1986), contain the most lucid discussions of basic approaches to proportionality review of which we are aware.

41. Flamer, 490 A.2d at 138-45.

comparison cases.<sup>42/</sup> In Coleman v. State, 378 So.2d 640 (Miss. 1979), a death sentence was vacated as disproportionate on the basis of a comparison with three death sentences that the Court had earlier affirmed.<sup>43/</sup>

As these cases illustrate, under the comparative culpability approach there is no particular call for an examination of how frequently sentences are imposed among similar cases. This characteristic of the comparative culpability approach is clearly illustrated in Tichnell v. State, 468 A.2d 1 (Md. 1983), the police-victim case referred to earlier. The death sentence under review was affirmed in spite of a record revealing that among the five comparison cases only a single death verdict had been obtained.<sup>44/</sup>

Many states rely exclusively on the comparative culpability approach. However, some courts appear to apply both approaches.

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42. Harvey, 682 P.2d at 1385-87.

43. Coleman, 378 So.2d at 650.

44. Tichnell, 468 A.2d at 20-22. The comparison cases used in the comparative culpability approach may vary considerably in terms of their factual comparability to the death-sentenced case under review. In states with relatively small numbers of homicides, the Court may consider the relative culpability of the life- and death-sentenced defendants in every decided case that fits the Court's "universe" of potentially similar cases. For example, in State v. McIlvoy, 629 S.W.2d 333 (Mo. 1982) (en banc), the Court vacated a death sentence on the basis of a comparison of the defendant under review with the defendants in all of the life- and death-sentenced cases comprising its "universe" of potentially similar cases -- most of which were factually dissimilar from the review case in significant ways. Id. at 341-42. In states with larger numbers of homicides, the Court may restrict its analysis to a more factually comparable group of comparison cases, e.g., "accused has killed a close family member without provocation and raised a reasonable doubt as to his insanity at the time of the crime." Munn v. State, 658 P.2d 482, 487 (Okla. Crim. App. 1983).

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For example, State v. Sonnier, 380 So.2d 1 (La. 1980), vacated a death sentence as excessive on the grounds (a) that three of the four cases the Court deemed similar resulted in life sentences and (b) that the defendant's case was less aggravated than the death-sentenced comparison case.<sup>45/</sup> In State v. Young, 325 S.E.2d 181 (N.C. 1985), the North Carolina Supreme Court vacated a death sentence in which the death-sentencing rate among cases it deemed comparable was .22 (5/23). The court emphasized, however, that the death-sentencing frequency was not the critical consideration.

While we wish to make it abundantly clear that we do not consider this numerical disparity dispositive of our proportionality review, our careful examination of these cases has led us to the conclusion that although the crime here committed was a tragic killing, "it does not rise to the level of those murders in which we have approved the death sentence upon proportionality review." State v. Jackson, 309 N.C. at 46, 305 S.E.2d at 717. The facts presented by this appeal more closely resemble those cases in which the jury recommended life imprisonment than those in which the defendant was sentenced to death.

Id. at 192-93.

Resistance to the use of the frequency approach and the general preference for the comparative culpability method appears to have three sources. The first is the complexity and expense

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45. Sonnier, 380 So.2d at 8-9. See also Lloyd v. State, 524 So.2d 396, 401-02 (Fla. 1988). See, e.g., Riley v. State, 496 A.2d 997, 1027 (Del. 1985), cert. denied, 478 U.S. 1022 (1986); State v. Byrne, 483 So.2d 564, 577 (La. 1986); State v. Welcome, 458 So.2d 1235, 1255-56 (La. 1984); State v. Williams, 205 Neb. 56, 76-77, 287 N.W.2d 18, 29-30 (1979); State v. Garcia, 99 N.M. 771, 780-81, 664 P.2d 969-79 (1983), cert. denied, 462 U.S. 1112 (1983); Poyner v. Commonwealth, 229 Va. 401, 435, 329 S.E.2d 815, 834-35 (1985), cert. denied, 474 U.S. 888 (1985) (court uses the language of a frequency approach; however, it does not document its conclusion).

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involved in collecting and maintaining the data required for a thorough and principled application of the frequency approach. It is no coincidence that it is primarily used in or advocated in states in which the Court collects data for the purpose or data are generally available.<sup>46/</sup> In contrast, most courts using the comparative culpability approach rely on appellate reports as their data source.

The second concern with the frequency approach is that quantification of the review process may create difficult interpretive and line-drawing issues and limit unduly the Court's discretion. The comparative culpability approach, in contrast, relies on methods of analogical reasoning with which lawyers and judges are quite familiar. The third concern with the frequency approach relates to the difficulty of identifying groups of cases that are truly "similar" to the death-sentenced case under review. Consequently, although they exist, decisions based on an explicit frequency analysis are not the norm.

In spite of the difficulties associated with the frequency approach, we recommend it as the initial basis for the Court's proportionality reviews. It has the potential of ensuring that death-sentenced cases can be meaningfully distinguished from the death-eligible cases that usually result in lesser punishments. It also has the potential to limit death sentencing to the most serious offenses on which there is a strong community consensus on the appropriateness of the death penalty. Second, the

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46. Georgia, Pennsylvania, Maryland, Nebraska, Washington.

frequency approach is based more on the values of the community reflected by the state's death-sentencing pattern(s) than on the individual justice's assessments of the relative culpability of individual defendants and whether those differences justify the imposition of the death penalty. Third, it promotes a more reliable basis for assessing the evenhandedness of a capital-sentencing system as a whole.<sup>47</sup>

The major drawback of the comparative culpability approach, particularly in its narrower form, is its failure to address directly the question of comparative excessiveness in capital sentencing, i.e. to what degree are similarly situated death-eligible defendants receiving comparable punishments. It is for this reason that, in states that rely strictly on the comparative proportionality approach, one has no way of knowing whether the system is operating in an evenhanded fashion. This is particularly the case when one has no idea whether the prior death sentences invoked to justify a death sentence under review were themselves excessive in a comparative sense. Having said that, however, we believe that once the Court identifies the aggravation level and death-sentencing frequency among comparable cases that is required to justify a death sentence as not excessive, the comparative culpability approach would be an appropriate supplemental approach and would likely produce

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47. It is worth noting that the tasks of data collection and retrieval that appear to deter some courts from applying the frequency approach has been completed by the New Jersey Proportionality Review project. The Court's administrative burden in this regard will become considerably less if an ongoing system of data collection is established.

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results comparable to those obtained with the frequency approach. For example, if the case under review were deemed to be more like the affirmed death-sentenced cases in the universe, one would be confident that it was comparable to cases in which death sentences were imposed with sufficient frequency to meet the Court's frequency standards. Similarly, if a review case were deemed to have a culpability level comparable to a group of life-sentenced cases in which the death-sentencing rate fell below the standard set by the Court, one would have confidence that the sentence under review was excessive. But until the system is subjected to a system of proportionality review capable of initially identifying comparatively excessive death sentences, the comparative culpability approach is incapable of systematically achieving that goal.<sup>48/</sup>

Also, if the Court undertakes a frequency analysis, a comparative culpability analysis may provide the Court some assurance that its judgments based on the frequency information are both internally coherent and consistent with the Court's own notions of criminal culpability and responsibility.

The appeal of the comparative culpability approach is strongest when the Court is confronted with (a) a relatively small number of cases that are factually similar to the review case, and (b) there are arguable grounds for distinguishing them

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48. Application of the frequency approach will also reveal which defendants received life sentences in highly aggravated cases that routinely receive death sentences. Under the comparative culpability approach, such cases should provide scant precedent for reducing to life a death sentence imposed in a comparable case.



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all from each other and from the case under review. In short, it may be argued that there is no basis for finding a group of truly similar cases in which to assess relative frequencies, and the only alternative is for the Court to determine if the review case is more like the death cases or the life cases in the comparison pool of cases, without regard to whether the death sentence cases in the comparison pool fall in a category of cases in which death sentences are generally imposed. In our judgment this situation does not justify abandonment of the frequency approach. Rather the question should be with what frequency are future cases with characteristics like the review case likely to result in death sentences. Insight on this question can be obtained by asking, for example, how often do other cases sharing aggravating features of the defendant's case result in a death sentence. Insight can also be obtained from the measures discussed in Section VII.B. below that assess culpability on grounds other than strict factual comparability. To be sure, these approaches involve speculation about jury conduct over the long run. But the inquiry goes to the heart of comparative excessiveness.

Our endorsement of the frequency approach does not carry with it, however, a recommendation that the Court quantify mathematically its judgments of the death-sentencing frequency among similar cases. Several courts have expressed concern that the application of a strictly quantitative approach to the subject could lead to arbitrary line drawing and limit the legitimate exercise of judicial discretion. More importantly, such an approach may inappropriately suggest that the complex

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judgments involved in proportionality determinations can be expressed with mathematical precision. For one thing, as we discuss below, measures of defendant criminal culpability lack precision. There are also features of the process unique to New Jersey that call for the exercise of nonquantifiable judicial judgment. First, if the Court uses nonpenalty trial cases in its universe, it may, for reasons discussed below, give them somewhat less weight in its analysis than it gives the penalty trial decisions. Also, the interpretation of death-sentence cases decided before the changes in New Jersey law that have occurred since 1987 will require distinctly nonquantifiable judgments. Accordingly, we propose an analytic framework that addresses the ultimate issues of death-sentencing frequency in such terms (with frequency ranges indicated) as rarely (0-5%), infrequently (6-25%), somewhat less than half the time (26-40%), about half the time (41-60%), regularly (61-85%), nearly always (86-100%).

A concern about excessive quantification should not, however, obscure the fact that the Court's ultimate judgments about death-sentencing frequency will be significantly informed by factual information about how the state's death-sentencing system has operated since 1982. And the most useful way to describe its operation is in terms of the frequency with which death sentences are sought and imposed in various categories of similar cases. We also recommend that the Court disclose in its opinions, by way of an appendix or otherwise, the full distribution of sentences among the cases it deems comparable to the case under review. The publication of those data will put an

important gloss on the ultimate verbal characterizations of death-sentencing frequency on which the Court rests its proportionality decisions.

V. The Universe Issue

A. The Death-Sentenced-Cases Only Issue

Our discussion of basic approaches to proportionality review contemplates an initial application of the frequency approach and a secondary application of the comparative culpability method. The frequency approach cannot be applied to a universe without life-sentenced cases. Without knowledge of the life-sentenced cases, the Court would be unable to determine whether there is a "meaningful basis" for distinguishing the death sentences it reviews from the "many cases" in which lesser sentences are imposed.<sup>49/</sup> Moreover, a comparative culpability approach limited to death cases would have little utility. Without life-sentenced cases in the universe, the Court would be unable to determine whether the case under review more closely resembles other life- or death-sentenced cases.

A further basis for including, at a minimum, life-sentenced penalty trial cases is the evidence presented in section III of this report indicating that a considerable intercounty disparity may exist in the frequency with which similarly situated defendants are sentenced to death in penalty trials. If death-eligible penalty-trial cases that result in life sentences are

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49. Furman v. Georgia, 408 U.S. 238, 313 (1972) (White, J., concurring).

excluded from the universe, a death-sentenced defendant who committed a capital murder in a county with a high death-sentencing rate would be deprived of a realistic comparison with similar cases that received life sentences in counties with substantially lower death-sentencing rates.

For all of these reasons, we believe penalty-trial cases are the narrowest universe that could support a coherent proportionality review system. At least nine state courts have adopted this policy.<sup>50/</sup>

B. The Non-Penalty-Trial Cases Issue

The more difficult issue is whether the universe should include cases that do not advance to a penalty trial. And if it should, by what standards should they be identified? In considering this issue, it is helpful to distinguish between desirability and feasibility. In an ideal world, a court's system of proportionality review would maintain complete and accurate data on all homicide cases processed through the system. Such a system would provide insight into the exercise of

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50. See, e.g., Flamer v. State, 490 A.2d 104, 138-39 (Del. 1984); Tichnell v. State, 297 Md. 432, 468 A.2d 1, 16-17 (1983); State v. McIlvoy, 629 S.W.2d 333, 334-42 (Mo. 1982); State v. Coleman, 185 Mont. 299, 605 P.2d 1000 (1979); State v. Moore, 210 Neb. 457, 316 N.W.2d 33 (1982); Petrocelli v. State, 101 Nev. 46, 692 P.2d 503, 511 (1985); State v. Williams, 308 N.C. 47, 301 S.E.2d 335 (1983); Cartwright v. State, 695 P.2d 548, 555 (Okla. Cr. App. 1985); Whitley v. Commonwealth, 223 Va. 66, 286 S.E.2d 162 (1982).

In spite of its limitations, some states consistently limit the universe to death-sentenced cases (e.g., Ark., Ala., Ky., Miss., Ohio, S.C., Tenn.). See supra note 35 at p. 31. For useful inventories of the different universes in other states, see Tichnell v. State, 297 Md. 432, 468 A.2d 1, 16-18 (Md. 1983); State v. Jeffries, 105 Wash. 2d 398, 717 P.2d 722, 742-43 (Wash. 1986) (Utter, J., dissenting).

discretion at all levels, from the point of arrest through penalty-trial sentencing.

However, an ideal system of proportionality review is not feasible. The three obstacles blocking its attainment are cost, efficiency, and validity. First, maintenance of detailed data on all homicide cases processed through the New Jersey system since 1982 would be both expensive and inefficient. It would bring into the system many cases that are not death-eligible under the statute and that involved no judgments of deathworthiness at any point in their prosecution. The first goal of a realistic system of proportionality review, therefore, is to limit its focus to cases in which there was an identifiable judgment as to the defendant's deathworthiness. The most obvious point at which this occurs is the penalty trial. It is apparently for this reason that several courts limit their universe to penalty-trial cases in which the sentencing authority has found and weighed aggravating and mitigating circumstances and/or pronounced a life or death judgment.<sup>51/</sup> A penalty-trial universe also meets the criterion of validity, since in most such cases the penalty-trial judgment is based on explicit findings as to the existence of aggravating and mitigating circumstances.

It is well known, however, that prosecutorial decisions in death-eligible cases are sometimes informed by judgments about the likelihood that a jury would return a death sentence in the

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51. See supra note 50 at p. 45, and accompanying text.

case.<sup>52/</sup> Thus, even if a case could support a capital murder conviction, a prosecutor might reasonably determine that a death sentence was not a likely result and that a murder or felony murder plea would produce the same result as a penalty trial life sentence or term of years, each with a minimum of 30 years. To the extent those prosecutorial judgments are guided by predictions of jury sentencing behavior, they clearly reflect the values of their respective communities.<sup>53/</sup>

As a result, the inclusion in the universe of clearly death-eligible cases that do not advance to a penalty trial as a result of prosecutorial decisions on defendant deathworthiness may shed important light on community values concerning the deathworthiness of given categories of offenders.<sup>54/</sup> Two features of the New Jersey capital charging and sentencing system give added force to this consideration. The first is the declining rate at which death-eligible cases are advanced to penalty trial.<sup>55/</sup> The second is the evidence of intercounty disparities

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52. This is explicitly authorized by the guidelines of the New Jersey County Prosecutors Association. Supra note 19 at p.21. In New Jersey, these judgments may be reflected in a prosecutorial decision (a) not to charge the defendant with capital murder, (b) not to file a notice of factors, or (c) to withdraw a notice of factors filed earlier.

53. Moreover, such decisions have the further advantage of simplifying the case and saving the additional resources that would be required for a capital prosecution.

54. In addition, the inclusion of non-penalty-trial cases in the universe can also shed light on the question of whether the level of death-sentencing in a given category of cases is principally the product of jury or prosecutorial decision-making.

55. See supra section III.C., table 3 at p. 18.

with respect to the rates at which cases advance to penalty trial.<sup>56/</sup> Both the declining penalty-trial rate and the intercounty disparities support the inclusion of non-penalty-trial cases in the universe in exactly the way disparities in jury penalty-trial death-sentencing rates support the inclusion of life-sentenced penalty-trial cases. In Tichnell v. State, the 1986 Maryland case discussed earlier, Justice Eldridge, in a concurring opinion, persuasively develops this argument under a proportionality review statute that is virtually identical to New Jersey's:

Nothing in the language of the statute supports the view that our consideration should be further limited to those cases in which the prosecutor has exercised his discretion to seek the death penalty. The crime and defendant in another case may be similar to the crime and defendant in the case under review even though the prosecuting attorney in the former case decided, for whatever reason, not to seek the death penalty.

Consideration of cases in which the State did not seek the death penalty permits our proportionality review to serve as a check against the aberrant actions of a prosecutor. For example, if in a particular type of murder case the State's Attorneys throughout Maryland generally do not seek the death penalty, but if the State's Attorney in one county regularly does seek and obtain the death penalty in the same type of case, the result would be an arbitrary imposition of the death penalty. In appeals from that one county, we would be confronted with the imposition of the death penalty in a type of case in which the penalty is not generally imposed. Unless we were willing to consider similar cases from the other counties in which the death penalty was not sought, this aberration would not be cured by our proportionality review.

. . . In Maryland, however, we now have facts demonstrating that prosecutors throughout the State do not employ common standards in deciding to seek the death penalty. . . . , the Public Defender's Office made a record which convincingly demonstrated that

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56. See supra section III.D., table 4 at p. 23.

there are no common standards guiding the prosecutors in this State. Anyone who reads Baltimore city newspapers or pays attention to Baltimore city news broadcasts is fully aware of the completely divergent policies concerning capital cases adhered to by different State's Attorneys Offices in the Baltimore metropolitan area.

Tichnell v. State, 468 A.2d 1, 23-25 (1983).

We believe, therefore, that the addition to the universe of non-penalty-trial cases selected in the manner described above clearly is desirable. Although the use of non-penalty-trial cases in other states is not a common practice, there is clear precedent supporting its use.<sup>57/</sup> Moreover, dissenting judges have either criticized the penalty-trial-only policy<sup>58/</sup> or have used

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57. The Georgia Court has interpreted its "similar cases" provision to "compare cases as to which the death penalty could have been sought by the prosecutor but was not." Horton v. State, 249 Ga. 871, 880, n. 9, 295 S.E.2d 281 (1982). See also Castell v. State, 250 Ga. 776, 795 n. 12, 301 S.E.2d 234 (1983). The Pennsylvania Court considers "all cases of murder of the first degree convictions which were prosecuted or could have been prosecuted" under the state capital statute, though it is not known what role they play in the review process. Commonwealth v. Frey, 475 A.2d 700, 707 (Pa. 1984). Maryland considers nonpenalty trial cases if they are presented by the defendant. Tichnell v. State, 468 A.2d 1, 18, 27, 29 (Md. 1983). Washington considers them when no penalty-trial cases are available for review. State v. Harris, 725 P.2d 975, 982-83 (Wash. 1986) (en banc). Nebraska considers all cases involving a first-degree murder conviction. State v. Williams, 287 N.W. 2d 18, 29 (Neb. 1979). Oklahoma considers them on occasion, e.g., Brogie v. State, 695 P.2d 538, 547 (Okla. Crim. App. 1985). The National Center for State Courts Project on Comparative Proportionality Review in Death Sentence Cases (1982-84) recommends a universe that contains "as a minimum, all cases in which an indictment included a death-eligible charge, and a homicide conviction was obtained" by plea or at trial. Van Duizend, "Comparative Proportionality Review in Death Sentence Cases: What? How? Why," 8 State Ct.J 9, 11 (Summer 1984).

58. See, e.g., Tichnell, 468 A.2d at 29 (Davidson, J., dissenting).



non-penalty-trial cases in their opinions.<sup>59/</sup> All this suggests that the reluctance to consider non-penalty-trial cases flows more from concerns about feasibility than principle.

The inclusion of non-penalty-trial cases in the universe will have relatively little effect on proportionality review in highly aggravated cases, such as police officer killings, which are nearly always prosecuted as capital cases.<sup>60/</sup> But among less aggravated cases, such as armed robbery murders, penalty trial rates are considerably lower.<sup>61/</sup> When death sentences are imposed in these case categories, non-penalty-trial cases will play a considerably more significant role.<sup>62/</sup>

There still remains, however, the question of feasibility. The difficulty is that a prosecutorial decision not to seek a death sentence in a given case that appears to be death-eligible may, in fact, be based on evidentiary rather than deathworthiness considerations.<sup>63/</sup> Specifically, it may reflect a prosecutorial

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59. State v. Jeffries, 717 P.2d 722, 745-46 (Wash. 1986) (Utter, J., dissenting).

60. For example, the rates are 1.0 (4/4) for police officer-victim cases; .73 (8/11) for pecuniary motive and contract murder cases, and .86 (12/14) for defendants with prior murder convictions. See infra section VII.A., table 7 at pp. 80-84.

61. For those cases the rate is .40 (30/75). It is .25 (2/8) for arson cases and .12 (1/8) for cases in which burglary is the only statutory aggravating circumstance implicated.

62. See, e.g., Jeffries, 717 P.2d at 745 (Utter, J., dissenting) (among 13 multiple-victim cases, .42 (5/12) advanced to a penalty trial with 3 death sentenced returned; the death-sentencing rate was .60 (3/5) among the penalty-trial cases and .25 (3/12) among all death-eligible cases).

63. Approximately 25% of the early New Jersey capital murder prosecutions resulted in a complete acquittal or a conviction for a lesser included offense. Bienen et al. supra note 1 at 160.

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concern that the evidence in the case concerning mens rea and/or the defendant's "own conduct" may be insufficient to support a capital murder conviction. There may also be a concern about whether the evidence can persuade a penalty-trial jury on the presence of an aggravating circumstance.<sup>64/</sup>

Is it possible and feasible, therefore, to distinguish validly between two categories of the non-penalty-trial homicide cases -- those in which the decision not to seek a death sentence was based on a deathworthiness judgment and those in which the decision was based on evidentiary concerns. One might question the feasibility of such an undertaking on four grounds. First, that the information required for the decision is either unknown or unavailable. Second, that even if all relevant information is known, the judgment called for is hopelessly speculative. And third, that even if valid judgments were possible, the information gained is not sufficiently helpful to justify the considerable expense involved in collecting the data required to make them. These arguments have some force and appear to have persuaded some courts either to decline entirely the invitation to expand their universe beyond penalty-trial cases or to place the responsibility for the collection of information about non-penalty-trial cases on defense counsel rather than on the court's

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64. Our current data indicate that in 9 of the 132 penalty trials which we have identified, the jury found there were no aggravating circumstances in the case or hung on the issue. At that stage in the proceedings, it is often difficult to determine whether such a judgment is based on evidentiary considerations or deathworthiness judgments.

own staff.<sup>65/</sup>

During the course of our research, we have had an opportunity to test the strength of these claims in New Jersey. As we described in part II of this report, we have scrutinized over 1,500 homicide cases that did not reach a penalty trial with a conservative set of standards which evaluate the facts of the case supporting death-eligibility and the strength of the evidence in the case. Fewer than 1% of the non-penalty-trial cases subjected to a factual screen emerged as clearly "death-eligible." We expect, however, that if the AOC staff eventually obtains the cooperation of the County Prosecutors, it will learn that the key decisions in a presently unknown proportion of those cases were in fact based on evidentiary concerns. Our experience in informal discussion with prosecutors who handled certain cases was that they could readily and ably distinguish death-eligible cases from cases with evidentiary problems. For the moment, however, we believe a very high proportion of the non-penalty-trial cases we classify as death-eligible were death-eligible.

On the question of cost, we note that the major case screening expense is behind us. On the issue of relevance, as noted above, the non-penalty-trial cases will be most relevant in

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65. See, e.g., Tichnell, 468 A.2d at 25-26 (Eldridge, J., concurring) ("I know of no workable and valid procedure by which the Court itself could maintain an inventory of all murder cases which may have been "death-eligible" and could select from such inventory the sufficiently similar cases for consideration in our proportionality review. The defendant's attorney, with the resources of the State Office of Public Defender, is in a much better position to determine which non-capital murder cases should be called to the Court's attention for purposes of proportionality review.").

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evaluating death sentences imposed among the less aggravated cases -- e.g., those involving only a single aggravating circumstance.

We further recommend that the universe not include cases that do not meet the factual and evidentiary standards described above. We consider it appropriate, however, to maintain for screened cases abbreviated data on those excluded cases and to make them available to defense counsel and the state for possible use.

We also consider it appropriate for the Court to consider any non-penalty-trial case brought to the Court's attention by defense counsel or otherwise identified by the AOC staff as death-eligible, regardless of the procedural outcome of the case -- so long as it clearly appears that the prosecutorial decision to waive the death penalty in the case is based on a deathworthiness judgment.<sup>66/</sup> Thus, even a decision not to prosecute a death-eligible defendant might appropriately be considered by the Court if the decision were clearly based on a deathworthiness rather than an evidentiary consideration.

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66. See, e.g., Tichnell v. State, 468 A.2d 1, 18 (Md. 1983). The recommendation that the screening be limited to cases with the outcomes noted in the text above is based on considerations of cost and efficiency. We found that the vast majority of non-penalty-trial cases that presently qualify for entry into the universe result in a murder conviction, and we found fewer than 20 such cases with aggravated manslaughter pleas and only one with a conviction for a lesser offense. These results informed the adoption of our first case-screening criterion.

C. The Prospective or "Post-Gerald" Universe Issue

Another issue concerns the role that death-sentenced cases from the 1982-1988 period should play in a proportionality review. The State argues that the universe should be limited to cases decided after State v. Gerald, 113 N.J. 40 (October 25, 1988). The rationale of this position is that the rules concerning the scope of the death penalty and the height of the state's burden of proof were sufficiently different before and after October 1988 to make a comparison of cases decided in the two periods inappropriate. There is some force to this argument, and we would recommend it if there were a significantly large number of cases from the post-Gerald period from which one could validly assess community values about the deathworthiness of different categories of capital murder.

In fact, however, the application of this approach would reduce the universe to 25 penalty-trial cases (3 of which resulted in a death sentence) and about an equal number of non-penalty trials. This would leave the Court in the position that many other courts found themselves in the first few years after the reinstatement of the death penalty.

Faced with a lack of information about sentencing practices in their own states, some courts looked to decisions in other states or to pre-Furman decisions. The more common approaches were to engage in highly speculative judgments involving intuitive comparison of factually disparate cases or to rely on the justices' personal assessments of deathworthiness under the new law. In contrast, as the New Jersey Court approaches its

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early proportionality reviews, it has a substantive body of information about sentencing practices during the 1982-88 period that is highly relevant in 1991. To be sure, this information cannot be accepted at face value without regard for the 1987-88 changes in the law. The information is, however, superior to no information about community values during the 1982-88 period. It is also superior to the information that can be obtained from pre-Furman New Jersey death-sentence cases or from the death-sentencing decisions in other states. Indeed, New Jersey's penalty-trial death-sentencing trend since 1982 indicates how sensitive jury decision-making in penalty trial cases is likely to be to different procedural rules or to different community values (that are likely to exist in other states or to have existed at earlier times in New Jersey).

The available information on the earlier cases is particularly relevant with respect to defendants not deemed deserving of a death sentence by New Jersey's prosecutors and juries. Moreover, as the passing years produce an increasing number of decisions under the new rules, the need for reliance on the earlier penalty-trial verdicts will steadily diminish.

The important question is how validly to use the decisions from the 1982-88 period as a basis for assessing how prosecutors and jurors are likely to act over the long run in given categories of cases. In our judgment, the contemporary relevance of the earlier cases depends on three things -- the facts of the case, the sentencing outcome, and, for the vacated death sentences, post-1987/88, penalty-trial decisions in the same or

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similar cases. First, earlier cases that are not death-eligible under the current rules have no relevance in a given proportionality review, i.e., cases that are not death-eligible under current law cannot by definition be "similar" to a death-sentence case which is death-eligible under the new rules. For this reason, the universe of cases is defined in terms of death-eligibility under the current rules, and the sentencing frequencies we report throughout this report among similar cases are generally limited to those that are death-eligible under current law. For the penalty trial case, this pool of cases is further limited to those in which the sentencing authority found one or more statutory aggravating circumstances present in the case.

There is one qualification to this rule, however. Because of the small number of penalty trials that have been conducted to date, particularly those resulting in a death penalty, we have included in the statistical analyses designed to identify the case characteristics that appear to be most important to penalty-trial jurors, all penalty trial cases in which the jury found one or more aggravating circumstances present in the case.<sup>67/</sup> We have two reasons for including all of these cases. First, even if a case is not deathworthy under the new rules, its disposition nevertheless sheds some light on the factors that are influencing the system, e.g., a prior murder conviction or multiple victims. Second, the validity of inferences from such an analysis depends

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67. The term "juror" in this analysis includes sentencing judges in bench trials.

upon including the outcomes for all cases that were perceived to be death-eligible at the time of their decision. We have, however, assessed the death-eligibility under current law of each of the penalty trial cases,<sup>68/</sup> and estimate that 5 death-sentenced and 14 life-sentenced cases are not death-eligible under current law.<sup>69/</sup> And as noted above, all frequencies reported later in this report are limited to cases that are death-eligible under current law.

For the pre-Gerald penalty-trial cases that satisfy the new substantive death-eligibility rules, the only legal changes of

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68. See question 141 - variable NJ211 - in the DCI found in technical appendix 5.

69. The 5 death-sentenced cases that are not death-eligible under current law are Bey I (197), Moore, Marie (1717), Perry, Arthur (1917), which the Supreme Court held to be not death-eligible, as well as Davis (595), and Pitts:2d vic. (2809), cases in which the factors were dismissed on remand. The 14 life-sentenced penalty-trial cases that are not death-eligible are (a) Balisnomo (124), Bertino (190), Stone (2403), Thomas (2463), in which a jury finding of 4c as the sole aggravating circumstance was based only on facts that clearly do not meet the Ramseur test, (b) Pitts 1st vic. (1957) in which the factors were dismissed on remand, (c) and Castellano (407), Collier (468), Collins, Darrell (469), Jackson (4037), Keenan:1st vic. (1288), Keenan:2d vic. (3023), King (1315), Reed (2038), and Worlock (2752), cases in which the jury found no aggravating circumstances. Jeanne Wright's (2761) multiple murder does not satisfy the Ramseur test for factor 4c, which her jury found, but she is clearly death-eligible under current law as a multiple-victim 4g case. In the three death sentences referred to by the Public Advocate at our May 16, 1991, meeting, (Hunt, Ramseur, and Lodato), the jury penalty-trial verdict sheet indicates that the jurors knowingly voted for a death sentence. The trial court's erroneous instruction or ruling in these cases weakens their precedential value in a proportionality review, but they are nonetheless death-eligible under current law. In the projects DCI data base, Variable NJ211=1 for cases that are death-eligible under current law and NJ211=0 for cases that are not death-eligible under current law. The penalty trial cases in which the jurors found no aggravating circumstances present are coded PTWEIGH=0. See supra note 9 at p. 11 for an overview of the cases in the project study.



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concern are the new procedural rules (e.g., those affecting jury instructions), all of which reduce the likelihood that a death sentence will be imposed. Because of this effect, the present relevance of the earlier decisions is quite different in life- and death-sentenced cases. First, consider the life-sentenced cases. Because the effect of the new penalty-trial procedural rules has been to lower the likelihood of a death sentence, we can be confident that had the new procedural rules been applied in the earlier penalty trials that resulted in life sentences the life-sentencing outcome would have been the same. As a result, the earlier penalty-trial cases that resulted in a life sentence are highly relevant to proportionality reviews in 1991 and beyond.<sup>70/</sup>

The same thing cannot be said, however, for the earlier death-sentence cases. Because the new procedural rules have reduced the risk of a death sentence, we cannot safely assume a death sentence would have been imposed had the new rules been applied to the earlier case. Indeed, it is precisely for this reason that most of the earlier death sentences have been vacated by the Court. It does not follow, however, that all the earlier death-sentenced cases must be completely written off.<sup>71/</sup> A

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70. This assumes there is no additional evidence of a change in community values in a more punitive direction.

71. The penalty-trial sentences imposed under the old rules are also a valuable source of information about the factors that are important to prosecutors and jurors -- and as noted above, this applies even to cases that are not death-eligible under the new rules. Regardless of the burden of proof imposed on the state at the penalty trial or the requirements of death-eligibility in force at the time of the earlier decisions, a

(continued...)

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subsequent death sentence imposed in the same case on a retrial conducted under the current rules will have a strong rehabilitative effect on the earlier decision since it strongly suggests that the earlier death-sentencing decision would likely have been the same had the new procedural rules been applied earlier. The subsequent decision will have a similar effect on earlier decisions in other cases of equal or greater culpability. More generally, any death sentences imposed under the new rules in cases that are factually comparable to earlier vacated death sentences may have a rehabilitative effect on the earlier vacated death sentences if the more recent cases are of equal or lesser culpability than the earlier decisions. Death-sentence decisions under the new rules, therefore, may provide a basis for believing that the earlier death-sentencing decisions would have been the same under the new rules. Such a rehabilitative effect is most likely to occur in highly aggravated cases (in which death sentences could be expected under proper jury instructions) and least likely in less aggravated cases where, for example, the required jury instruction about a 30-year minimum life sentence could be expected to make a difference. For example, the recent imposition of death sentences in a highly aggravated multiple-victim murder would suggest that earlier death-sentencing decisions in comparable cases would have been the same had the

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71. (...continued)  
quantitative analysis of all cases can shed useful light on the influence that particular aggravating and mitigating factors have in the system. As discussed more fully below, this information is highly relevant to the development of measures of defendant culpability.

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new procedural rules been applied earlier.

It also follows from this analysis that a strong pattern of life-sentence verdicts under the new rules will further reduce the relevance of earlier death sentences imposed in earlier cases of comparable or lesser culpability. Specifically, a more recent life-sentence decision in the same case on remand or in a case of comparable or greater culpability strengthens the perception that the earlier death verdict would have been decided differently had the case been tried under the new rules.

The foregoing analysis carries important implications for the interpretation of earlier penalty-trial decisions.

First, it suggests that they should all be included in the universe if they are death-eligible under the new rules. Second, it suggests that the relevance of those earlier cases will vary. For the reasons stated above, the relevance of life-sentence decisions from the earlier period has not been affected by the new procedural rules. Accordingly, in categories of cases in which death sentences were never or only rarely imposed under both the old and new rules, the data provide little or no evidence of community values supportive of death sentences in those cases.

A further implication is that the relevance and weight to be afforded death sentences imposed under the old rules will require interpretive judgments in the light of more recent penalty-trial decisions taken under the new procedural rules in similar cases.

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D. The Treatment of Reversed or Vacated Post-Gerald Cases

Another universe issue is whether post-Gerald death-sentenced cases that are reversed/reviewed for errors at the guilt or penalty trial should be included in the universe.

There are at least three general ways of treating such cases in a proportionality review. One is to ignore the outcome of appellate review and to focus solely on the jury death-sentence decisions. Under this approach, the Court treats vacated and affirmed death-sentence cases identically. We do not recommend this policy because legal error at either the guilt or penalty trial may inappropriately skew the jury's exercise of discretion.

A second approach is to exclude all reversed or vacated death sentences from the universe regardless of the reason for the reversal. If there were numerous affirmed New Jersey death sentences to guide the Court, this might be a defensible decision and, at some later time, when more death-sentenced cases are available to inform its judgment, the Court may see fit to adopt that position. For now, we recommend that the Court adopt a compromise position on this issue as have some other state courts. Specifically, we recommend that the Court examine the reason for the reversal of each reversed death sentence that is invoked as relevant and evaluate, on a case-by-case basis, the likelihood that the error involved substantially influenced the jury's exercise of discretion.

1. Guilt-Trial Error

A finding of reversible legal error in a New Jersey capital guilt trial is predicated on the assumption that the error may have inappropriately enhanced the jurors' perception that the defendant's behavior satisfied the mens rea or own-conduct requirements for capital murder. Such an error may also enhance the perceived blameworthiness of the defendant at the penalty trial. While this concern will justify reversal of the capital conviction, it does not necessarily vitiate the relevance of the case for future proportionality reviews if the penalty trial in the case was otherwise free of error. The reason is that the earlier decision in such a case does reflect the jury's assessment of the death-worthiness of a defendant with the culpability level they perceived to exist in that case. That judgment may be highly relevant in the review of a subsequent case in which the defendant's culpability, based upon legally admissible evidence, was comparable to that perceived by the jurors in the earlier case that was reversed. For example, if death-sentence case #1 is reversed because a confession admitted at trial was taken without a Miranda warning, that case may be quite relevant in the review of a future death-sentence case in which a comparable confession was properly admitted because the appropriate Miranda warning had been given. Because in both cases the jurors' perception of the defendant's culpability was likely to have been comparable, the first penalty-trial decision is quite relevant in the review of the second death-sentencing decision.

## 2. Penalty-Trial Error

Death sentences vacated because of errors at the penalty trial present a somewhat different issue. Such errors are reversible because of a perceived risk that they unduly influenced the jurors' discretion in the direction of a death sentence. For this reason, there should be a presumption against the use of such cases in future proportionality reviews. That presumption should be rebuttable, however. Here also, the first decision may be relevant if it can be demonstrated that the jurors in case #1 perceived the defendant in the same way as did the jurors in case #2 that was free of penalty-trial error. I expect that such an analysis will often not be feasible. For example, how can one estimate the impact on juror perception in the earlier case of an erroneous instruction on juror weighing of aggravating and mitigating circumstances? However, as suggested above, earlier cases of this type might be rehabilitated if it can be shown that subsequent cases with comparable levels of aggravation resulted in a death sentence in an error-free penalty trial. Of course, the reimposition of a death sentence at a retrial of the same case would have a particularly strong rehabilitative effect on the relevance of the earlier decision.

Also, for the reason noted in the previous section, the imposition of life sentences in later comparable and error-free penalty trials will further diminish the relevance of earlier cases in which death sentences were vacated for penalty trial error. It is also possible that the importance of life sentences in later comparable cases may simply reflect changing community

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values about the deathworthiness of comparable defendants. However, either possible explanation argues against using the earlier vacated death-sentenced case in a future proportionality review.

### 3. Death Sentences Vacated as Disproportionate

Death verdicts reversed on grounds of disproportionality raise a further issue. We recommend that such cases be kept in the universe with the reversal duly noted. This approach will allow the Court to take into account changing community values moving in a more punitive direction. For example, assume that in a given category of cases, the Court finds one or two death sentences disproportionate. Assume further that community attitudes toward such murders become more punitive and death sentencing becomes routine in such cases. Under those circumstances, the Court may begin to affirm those more recent death sentences as not excessive. In making that decision, the Court may properly consider relevant the early death sentences which it had earlier vacated as disproportionate. This policy will permit the proportionality review system to respond to community sentiments demanding either a more punitive or a less punitive punishment in given categories of death-eligible murders.

#### E. The Retrospective Universe Issue

The final universe issue concerns the dates of cases in the universe that are compared to the death-sentenced case under review. The state's position is that the comparison pool in a given review should be limited to similar cases that were decided

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before the date that sentence was imposed in the review case; the inquiry should be strictly retrospective and backward looking from the date of sentence in the review case. According to this view, if a police-officer victim case results in a death sentence on October 1, 1992, but does not result in a proportionately review until October 1, 1994, the universe of potentially similar cases should be limited to cases decided prior to October 1, 1992; the outcome of police-victim cases or any other cases with similar levels of criminal culpability decided after October 1, 1992, would be excluded from consideration. The rationale for the state's position appears to be that the proportionality of a death-sentencing decision should be assessed strictly in terms of community values as they appeared on the day the review case was sentenced. An alternative view, which we consider more consistent with the purposes of proportionality review, is that the court should consider all relevant evidence that is suggestive of what juries are likely to do over the long run in a given category of cases. This concern has particular relevance in states, like New Jersey, with small samples of death-eligible cases. Thus, in the hypothetical police-victim case referred to above, if the cases decided between October 1, 1992, and October 1, 1994, suggested the continuation of a past trend or indicated a new trend toward a more or less punitive treatment of police-victim cases, that information would be highly relevant in assessing how police-victim cases would likely be sentenced over the long term. Accordingly, we believe that the consideration of such cases would enhance the validity of the review process.



## VI. The Level of Frequency Issue

An important issue in a proportionality review system employing a frequency approach concerns the level of infrequency that is required to justify the reduction of a death sentence on grounds of disproportionality. One approach would consider a death sentence to be excessive only if it had a lightning-strike quality, i.e., a very low frequency among a group of similar cases. An alternative approach would hold any death sentence excessive unless death sentences were routinely imposed among other similar cases.

The frequency test most often invoked is whether juries "generally" throughout the state have imposed the death penalty "for that kind of offense."<sup>72/</sup> Support for the standard comes from Gregg v. Georgia's citation, with approval, of a Georgia case in which the standard was stated to be: "no death sentence is affirmed unless in similar cases through the State the death penalty has been imposed generally." Gregg v. Georgia, 428 U.S. 153, 205, 96 S.Ct. 2909, 2940 (1976) (plurality opinion). The balance of Justice Stewart's discussion of the issue provides insight into his understanding of the "generally imposed" test and suggests a quite low lightning-strike standard. Specifically, he quotes the Georgia Court as saying that death sentences are vacated as disproportionate only "if the death

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72. Tichnell, 415 A.2d at 853; State v. Coleman, 605 P.2d 1000, 1020 (Mont. 1979); Coppola v. Commonwealth, 257 S.E.2d 797, 808 (Va. 1979); State v. Jeffries, 717 P.2d at 743.

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penalty is only rarely imposed for an act or it is substantially out of line with sentences imposed" in similar cases. Also, his characterization of the Georgia system appears to endorse a standard aimed at the type of death sentences he condemned in Furman v. Georgia.

The provision for appellate review in the Georgia capital-sentencing system serves as a check against the random or arbitrary imposition of the death penalty. In particular, the proportionality review substantially eliminates the possibility that a person will be sentenced to die by the action of an aberrant jury. If a time comes when juries generally do not impose the death sentence in a certain kind of murder case, the appellate review procedures assure that no defendant convicted under such circumstances will suffer a sentence of death. (Emphasis added)

Gregg v. Georgia, 428 U.S. 153, 206 (plurality opinion) (emphasis added).

Justice White's opinion in Furman v. Georgia, in contrast, suggests a standard calling for a considerably higher level of death sentencing among similar cases. In Justice White's view, the death penalty could not serve as an effective (and, therefore, constitutional) deterrent "unless imposed with sufficient frequency. . . ." Furman, 408 U.S. at 312 (White, J., concurring). Similarly, when concurring in Gregg, Justice White asserted that if Georgia juries imposed the death penalty in "a substantial portion" of capital cases involving statutory aggravating circumstances, the sanction would demonstrate its usefulness and, therefore, its constitutionality. Gregg, 428 U.S. at 222. Implicit in this deterrence-oriented approach, however, is the notion that, if the frequency of death sentences within an identifiable class of murder cases is less than

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substantial, the constitutional concerns that Justice White expressed in Furman would remain unsatisfied. In other words, unless the death penalty is regularly imposed in identifiable classes of cases, its usefulness as a deterrent remains suspect.

This concern with regularity of imposition, which characterizes Justice White's concurring opinion, takes on added force when one also considers the Court's repeated reference to "evenhanded" sentencing in capital cases as a constitutional goal. In a variety of opinions, a number of different justices have identified the absence of evenhandedness as the central defect condemned in Furman v. Georgia. In this respect, Justice White's concern with regularity in the imposition of the death penalty was more consistent with the "evenhandedness" mode of analysis than Justice Stewart's apparent concern with preventing only aberrant death sentences.

The potential tension between Justice Stewart's notion of what constitutes impermissible excessiveness and that implicit in both Justice White's opinions and the "evenhandedness" approach emerges when one considers a case like Eberheart v. State, 206 S.E.2d 12 (Ga. 1974), vacated, 433 U.S. 917 (1977), a case in which the Georgia Court sustained a death sentence in a rape case when the death-sentencing frequency among comparable cases was .50. Certainly, from Justice Stewart's perspective, Eberheart's death sentence would not be aberrant. But, conceivably, Justice White might not regard a .50 death-sentencing rate as sufficiently regular to make the death penalty in that class of case a viable deterrent. And, certainly, imposing the death

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penalty in only one out of every two factually similar cases arguably does not satisfy the conventional notion of evenhandedness.<sup>73/</sup>

We have found only two decisions outside Georgia in which the reviewing court addressed the frequency issue in the context of proportionality review. In State v. Jeffries, 717 P.2d 722, 744 (Wash. 1986), cert. denied, 479 U.S. 922 (1986), a case involving a death-sentencing rate of .60 (3/5) among multiple-victim penalty-trial cases and a rate of .25 (3/10) among all death-eligible multiple-victim cases, Justice Utter argued in dissent that the "generally" imposed standard implied a rate significantly greater than .50.

The second step [in a proportionality review] would then be to compute the frequency of death sentences within the pool of similar cases. If the frequency is less than "generally," the death sentence should be reversed. Use of the word "generally" suggests that the "threshold frequency" at which a death sentence becomes appropriate is significantly greater than 50 percent. See Webster's Third New Int'l Dictionary 944 (1971) (defining "general" as "applicable or pertinent to the majority of individuals involved" or "prevalent, usual, widespread").

Id. at 744.

Applying this standard, Justice Utter concluded:

I cannot find that the death penalty has been generally imposed, as that term is commonly defined, in

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73. One other early Georgia case provides some support for a low standard of frequency. In Coley v. State, 204 S.E.2d 612 (Ga. 1974), which also involved a nonfatal rape, the Georgia court vacated the death penalty as excessive based upon the results of twelve other cases involving fourteen defendants, of whom only 36% (5/14) received death sentences. Although by no means conclusive, Coley suggests that the Georgia court has classified a death sentence as excessive if the death-sentencing frequency in "similar" cases is somewhat less than .25.

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similar cases and believe the manner in which multiple murders have been prosecuted in this state during the legislative time period we are to consider makes this sentence constitutionally disproportionate.

Id. at 746.

Also relevant is State v. Young, mentioned earlier, in which the North Carolina Court vacated a death sentence as excessive when the death-sentencing rate among similar cases was .18 (5/23). The Court was at pains to point out, however, that sentencing frequency was not the dispositive consideration informing its judgment.<sup>74/</sup>

The experience of other states provides, therefore, relatively little guidance. In setting standards on the issue, we suggest that the Court consider the question of deterrence, as did Justice White. Also relevant is the Court's judgment of the strength of the community consensus it must see expressed in statewide patterns of prosecutorial decisions to seek, and jury decisions to impose, death verdicts in similar cases to legitimate the punishment. Finally, the standard may appropriately reflect the Court's judgment of the level of consistency and fairness it deems necessary to satisfy the Court that the State's capital charging and sentencing system is operating in a principled and coherent fashion.

## VII. Measuring Defendant Culpability

In a comparative proportionality review, a major issue

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74. 325 S.E.2d 181, 192-93 (N.C. 1985). See supra at p.38 for the Court's language.

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concerns the concepts and measures used to define categories of offenders one can characterize as "similar" to the case under review. This issue arises regardless of the basic approach to proportionality review, measures of defendant culpability define the population of similar cases in which death-sentencing frequencies are assessed. Under the comparative culpability approach, additional measures of culpability provide the basis for the Court's judgment, for example, that the death case under review is sufficiently distinguishable from other life-sentenced cases to sustain the proportionality of the death sentence.

The New Jersey statute directs the Court to evaluate similarity in terms of "both the crime and the defendant." N.J.S.A. 2C:11-3e. But what aspects of the crime and the defendant are most relevant?

The touchstone of relevance, we believe, is the criminal culpability of the defendant.<sup>75/</sup> Recent opinions of the United States Supreme Court on proportionality in death sentencing, informed by notions of retribution as a justification for the death penalty, suggest three elements of an offense which bear on the defendant's overall level of criminal culpability.<sup>76/</sup> Figure

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75. Enmund v. Florida, 458 U.S. 782, 800 (1982) (degree of defendant's "criminal culpability").

76. Courts conducting proportionality reviews have been guided by similar conceptual frameworks. See, e.g., Jeffries, 717 P.2d at 745 (Utter, J., dissenting) ("In this case, and probably in most cases this court will review for proportionality, I believe the salient factors include (1) the number of victims; (2) the conscious amount of suffering imposed on the victim; (3) the degree of premeditation; (4) the aggravating circumstances found; and (5) the personal background of the accused.").

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1 presents an outline of the relevant considerations, which fall generally under the "circumstances of the crime" and the "character of the individual."<sup>77/</sup>

The first circumstance of the crime is the defendant's moral blameworthiness.<sup>78/</sup> It is determined by such factors as (a) the degree and duration of both premeditation and a settled intent to kill or cause suffering, (b) the defendant's motive,<sup>79/</sup> (c) the defendant's involvement in planning the murder, (d) the defendant's expectations<sup>80/</sup> and knowledge of the consequences of his actions,<sup>81/</sup> and (e) extenuating circumstances which may explain or justify the defendant's actions. Considerations of moral blameworthiness underlie several aggravating and mitigating circumstances in New Jersey's sentencing provisions, both capital and noncapital.<sup>82/</sup>

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77. Booth v. Maryland, 482 U.S. 496, 502 (1987); Lockett v. Ohio, 438 U.S. 586, 589 (1978). The model of culpability presented here is consistent with the general discussion in State v. Ramseur, 106 N.J. 123, 330 (1987), of relevant factors.

78. Enmund v. Florida, 458 U.S. 782, 815 (1982) (O'Connor, J., dissenting opinion) ("degree of blameworthiness"); Booth v. Maryland, 482 U.S. 496, 505 (1987). Equivalent concepts are also used, e.g.: Enmund v. Florida, 458 U.S. 782, 801 (1982) ("moral guilt"); Godfrey v. Georgia, 446 U.S. 420, 433; Enmund v. Florida, 458 U.S. 782, 800 (1982) (depraved consciousness); Booth v. Maryland, 482 U.S. 496, 505 (1987) ("moral culpability").

79. Enmund v. Florida, 458 U.S. 782, 800 (1982).

80. Id.

81. Booth v. Maryland, 482 U.S. 496, 505 (1987) ("a defendant's degree of knowledge of the probable consequences of his actions may increase his moral culpability in a constitutionally significant manner.").

82. Three statutory aggravating factors in the State's capital sentencing law relate to motive: 4d (pecuniary value); 4f (escape detection); and 4c (no motive or thrill kill; Ramseur, (continued...))

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The second circumstance of the crime bearing on the overall level of criminal culpability is the degree of victimization (i.e., the suffering and terror inflicted).<sup>82/</sup> In New Jersey, this concept is the basis for several aggravating circumstances used to evaluate capital<sup>84/</sup> and noncapital<sup>85/</sup> crimes.

Our study of penalty-trial sentencing decisions, which we describe below, suggests that the degree both of blameworthiness and victimization are very important to sentencing jurors. Numerous non-statutory factors and variables that relate to blameworthiness and victimization emerge in the statistical models designed to explain the penalty-trial sentencing decisions. Similar factors are also important in explaining prosecutorial decision making. This is reflected in both the

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82. (...continued)  
106 N.J. at 209). That statute's mitigating circumstances refer to: (1) the defendant's "mental or emotional disturbance" (5a); (2) victim solicited/consented (5b); (3) defendant's age (5c); (4) defendant's impaired capacity to conform conduct to law because of "mental disease or defect or intoxication" (5d); and (5) defendant duress (5e). The non-capital-sentencing criteria (NJSA 2C:44-1) include additional provisions such as defendant's knowledge that the victim was vulnerable (a2), defendant acted under strong provocation (b3), and that grounds exist to excuse or justify his conduct (b4). Godfrey, 446 U.S. at 433, also recognizes the relevance of this factor.

83. Payne v. Tennessee, 111 S.Ct. 2597, 2606 (1991) (both "the subjective guilt of the defendant" and "the harm caused by his acts"); Enmund v. Florida, 458 U.S. 782, 815 (1982) (O'Connor, J., dissenting) ("degree of the harm inflicted on the victim, as well as to the degree of the defendant's blameworthiness.").

84. The following New Jersey statutory aggravating circumstances relate to harm knowingly or intentionally caused by defendant: 4g (multiple victims); 4b (grave risk of death); and 4c (wanton/vile).

85. The aggravating and mitigating factors for noncapital crimes relate to "harm inflicted on the victim" (a2).



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statistical models explaining which cases advanced to a penalty trial and the models explaining which defendants among all death-eligible offenders received a death sentence.<sup>86/</sup>

The third element of an offense bearing on a defendant's criminal culpability is his character and prior record.<sup>87/</sup> This factor is also reflected in New Jersey's capital and noncapital sentencing provisions.<sup>88/</sup> However, New Jersey standards for weighing aggravating and mitigating circumstances in noncapital sentencing suggest that the defendant's character should weigh less heavily than the characteristics of the offense.<sup>89/</sup> Also, the statistical analyses referred to above suggest that the principal character-related mitigating circumstance, 5f (no significant prior criminal record) is not particularly

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86. See infra note 107 and accompanying text at p. 97 as well as technical appendix 10, schedule 6 (penalty trial sentencing), schedule 15 (cases advancing to penalty trial), and schedule 12 (death-eligible offenders receiving a death sentence). All of the factors are listed infra technical appendix 8.

87. See Lockett v. Ohio, 438 U.S. 586, 604-605 (Burger, C.J., plurality) (1978).

88. New Jersey's capital punishment mitigating factor N.J.S.A. 2C:11-3c (5)(f) is the absence of a "significant history of prior criminal activity." Character also is reflected in the (5)(g) (assisting authorities) and may be the basis of the (5)(h) (catchall) mitigating factors. Godfrey, 446 U.S. at 433, views the defendant's acknowledgement of his responsibility as a mitigating factor. Character is also covered by the noncapital aggravating and mitigating factors in N.J.S.A. 2C:44-1: a(4) (defendant took advantage of a position of trust); a(5) (defendant involved in organized crime); a(6) (defendant's prior record); b(6) (defendant compensated victim); b(7) (no prior record); and b(12) (cooperation with authorities).

89. State v. Roth, 95 N.J. 335, 368 (1984) ("The factors are not interchangeable on a one to one basis. The proper weight to be given to each is a function of its gravity in relation to the severity of the offense."); State v. Hodge, 95 N.J. 369, 379 (1984) ("offense-oriented sentencing standards").

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influential with sentencing jurors.

The potential scope of the foregoing conception of criminal culpability raises two issues that apply to the measures used in a proportionality review. The first arises in states, like New Jersey, whose statutes limit the jury's weighing process to a consideration of statutory aggravating and mitigating circumstances. Specifically, to what extent should this limitation on jury decision-making limit the appellate court's use of other relevant case characteristics to identify similar cases? For example, is it appropriate to consider that a defendant intentionally created great risk of harm to other people, even though the 4b factor wasn't charged or found in the defendant's case? Similarly, if the defendant under review had a prior murder conviction of which the jury was aware but the 4a factor had not been served by the prosecutor, would its consideration in the proportionality review be appropriate?<sup>90/</sup>

The same question arises with respect to nonstatutory aggravating circumstances. If a death-sentenced case under review (or a comparison case) involved a level of defendant violence that aggravated the case but did not satisfy the Ramseur test for the 4c (wanton/vile) statutory aggravating circumstance,

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90. Or suppose the defendant in a comparison case similarly had a prior murder conviction (of which the jury was aware). Should that defendant, all other things being equal, be treated as a defendant without a prior murder conviction? To ignore the prior murder conviction in the comparison case, if it had not been found as an identified aggravating circumstance, would create the potential of making a first-offense defendant in a death-sentenced case under review appear comparable in aggravation level to the case of a repeat offender.

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should that evidence be considered for the purpose of assessing a defendant's criminal culpability?

Similar issues exist with respect to mitigating case characteristics that were not charged or were charged and not found. For example, a number of courts treat as relevant any impairment of defendant's judgment from a mental disease or defect, or drugs or alcohol. But an issue may arise in New Jersey (a) if the defendant did not serve the 5d mitigating circumstance, which covers this case characteristic, or (b) if that factor was charged to and rejected by the jury. For example, what if the jury failed to find the 5d (not appreciate wrongfulness/conform to the law) mitigating factor, even though the defendant had an IQ of only 60. Would it be appropriate to consider his IQ when comparing his case to a defendant with above-average intelligence?

The statutory limitations on the factors that juries may consider in their decision-making could arguably be viewed as limiting the factors the Court may use in defining subgroups of cases to statutory factors that either have been found by the jury or are incidental to or closely related to the statutory factors actually found. For three reasons, however, we recommend a more expansive approach that may use for the purpose of defining similar cases any case characteristic that (a) is related to the "crime and the defendant," (b) is clearly established by the evidence, and (c) bears on the defendant's criminal culpability to a sufficient degree that it would likely influence the possibility that a reasonable jury would impose a

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death penalty. First, the statutory aggravating language providing for proportionality review does not define the "crime and the defendant" in terms of the statutory aggravating and mitigating factors. Second, any attempt to identify case characteristics that are incidental to or clearly related to the aggravating and mitigating circumstances (found or not found) would substantially complicate the analysis.<sup>91/</sup> Third, the more expansive approach recognizes that jurors may be influenced in their decision-making (a) by nonstatutory aggravating and mitigating factors and (b) by evidence that implicates statutory aggravating and mitigating circumstances that may not have been charged or found. Indeed, our statistical analyses suggest this may be the case, i.e., such factors may have independent weight, or they may influence the weight jurors place on the statutory factors. Moreover, they may raise an issue about the rationality of the system. But we do not see how the Court in its consideration of individual cases in a proportionality review can unravel the extent to which, for example, nonstatutory aggravating factors (a) may have had an independent influence on a given decision, (b) may have had no effect on it, or (c) may have influenced the weight the jurors placed on a statutory aggravating or mitigating circumstance. Accordingly, we believe the more feasible and prudent course is to assume that any factor in a case that would influence a reasonable juror's assessment of

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91. It would require the application of vague standards to both the death-sentenced case under review and the comparison cases.

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a defendant's deathworthiness should be used by the Court in identifying groups of similar cases. Finally, the more expansive approach is clearly supported by the weight of authority in other jurisdictions.<sup>92/</sup>

There is a second threshold issue that influences both the choice and evaluation of case characteristics used to identify similar cases. It is whether these decisions should be based strictly on criteria that, from a legal or moral perspective, the Court believes should govern the appropriate sentence (the a priori approach). Or should that judgment also be influenced by evidence that the factor is or is not influential with prosecutors and jurors in their evaluation of death-eligible cases (the empirical approach). For example, should the significance placed on a particular statutory or nonstatutory aggravating or mitigating circumstance (such as a prior murder conviction or the nature of the defendant/victim relationship) be colored by evidence indicating the weight prosecutors and jurors generally place on such factors.

We believe that the answer depends in part on the basic approach to proportionality review being applied and the case characteristics involved. Under the comparative proportionality approach, the weight prosecutors and jurors place on given

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92. See, e.g., State v. Bracy, 703 P.2d 464, 482 (Ariz. 1985) (en banc); Castell v. State, 301 S.E.2d 234, 250 (Ga. 1983); People v. Bean, 560 N.E.2d 258, 290 (Ill. 1990); Evans v. State, 499 A.2d 1261, 1288 (Md. 1985); State v. Bannister, 680 S.W.2d 141, 149 (Mo. 1984) (en banc); Commonwealth v. Frey, 475 A.2d 700, 708 (Pa. 1984); State v. Coker, 746 S.W.2d 167, 174 (Tenn. 1987); Clark v. Commonwealth, 257 S.E.2d 784, 794 (Va. 1979); State v. Harris, 725 P.2d 975, 982-83 (Wash. 1986) (en banc).

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factors would appear to have less relevance than they would under the frequency approach. The reason is that under this approach the moral judgments of the individual justices are a more important ingredient of the decision, and it would appear appropriate that such judgments be based on their notions of the factors that are relevant to criminal culpability. Under the frequency approach, by contrast, where the focus is on how similarly situated cases are being decided, evidence of the importance jurors place on a given factor is highly relevant. For example, if we knew for certain that the great risk statutory factor (4b) or the defendant/victim relationship had no influence whatever on jury sentencing decisions, there would be no justification for using such factors to identify similar cases in a frequency analysis. Of course, we can never know for certain why jurors act as they do in a given case. Therefore, even if a case characteristic does not appear to be an important factor overall in explaining the results, it may have had some influence in a given case and should not be completely ignored. Nevertheless, evidence that in general a case characteristic has great influence or little or no influence should affect the weight one places on it in defining groups of similar cases in a frequency analysis.

A distinction might also be drawn between evidence concerning the weight jurors place on statutory versus nonstatutory aggravating and mitigating circumstances. Because jurors are instructed to assess the deathworthiness issue strictly in terms of the statutory factors, it is more likely

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that a statutory factor which appears to have little impact in general may have been more important in a given case than a nonstatutory factor on which the evidence of systematic impact was equally weak.

In some cases, the AOC staff will be in a position to assist the Court in this regard. Specifically, if data are available in the AOC's machine-readable data file concerning a case characteristic deemed relevant in a specific proportionality review, the staff can advise the Court about the influence it appears to be having in the system as a whole. The parties in a given case will also be in a position to address this issue.

Given the complexity of these issues, it is not surprising that there is no single, uniformly accepted measure of a defendant's criminal culpability. Rather, we see in both the literature and the case law of other jurisdictions a variety of approaches in use. Given this lack of consensus, we have developed alternative measures for measuring defendant culpability duly recognizing the strengths and weaknesses of each. The use of different methods serves as a cross-check on the results of each. One's confidence in the ultimate conclusion in a given case will often depend on the consistency or inconsistency of results produced by the alternative methods.

A. The Salient Factors Measure

The first measure we developed defines similar cases in terms of factual comparability. It is based on both a priori and empirical considerations, and we expect it will evolve in light of experience. The principal case categories are described in

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table 6, while appendix E describes its underlying rationale in more detail. Table 7 provides frequency results using the measure. The salient factors measure is organized initially around specific statutory aggravating circumstances and subdivides the cases under each according to case characteristics that may enhance or mitigate the aggravation level of the cases.

In cases involving multiple statutory aggravating circumstances, we established a primary statutory classification and used additional aggravating and mitigating factors, both statutory and nonstatutory, to establish subcategories under the primary categories. For example, we treat the presence of multiple-victims (row A of table 7) as a principal salient factor and use particular violence or terror to create a subcategory. We then use other aggravating and mitigating factors, such as the grave-risk-of-death factor (4b), to rank-order cases within the subcategories. Each case in a principal category is listed under only one case subcategory in the typology.

The order of ranking of the principal salient factors in table 7 was informed in part by the aggravation level of the cases and whether the statutory aggravating factor was based on objective or subjective factors. The table first presents the cases with objective aggravating factors (categories A through H). And, because multiple-victim and prior-murder cases involve more than one life, they are listed first on a priori grounds. Categories C (sexual assault) and D (public servant) appear next because of the above-average rate at which either prosecutors seek or jurors impose the death sentence in these cases.



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Categories E (robbery) through H (kidnapping) reflect no judgment concerning the relative aggravation level of the cases involved. Among the remaining statutory aggravating circumstances which are based on more subjective case characteristics, pecuniary motive (4d and 4e) is listed first because of the uncommonly high rate at which prosecutors seek death sentences in these cases. The remaining categories, J through M, reflect no judgment of relative culpability.<sup>93/</sup>

The strength of the salient factors measure is its close link to the statutory aggravating circumstances and its

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93. As noted above, all multiple-victim cases are classified under category A without regard to the presence of other statutory aggravating circumstances. Next under category B are the prior murder cases without regard to the presence of other factors, unless they were already classified under the multiple-victim category. Similarly, a sexual assault case is classified under category C unless it involved a multiple victim or prior murder. Similarly, public servant-victim cases (4h) are included under category D unless they involved one of the preceding objective factors.

We then consider the remaining 4g subcategories -- robbery, arson, burglary, and kidnapping -- in cases that did not fall into categories A through D. The robbery cases are first classified under E, with the presence of a burglary, kidnapping, or arson serving to aggravate the robbery under subcategories E1 through E3. Subcategories E4 (nonbusiness holdup) through E7 (an illegal drug transaction) simply mirror distinct factual patterns without regard to their relative culpability.

The next three case categories isolate arson murder cases and burglary and kidnapping murder cases not involving a robbery or sexual assault.

This left us with cases involving the more subjective statutory aggravating factors that have not been classified under any of the preceding categories defined with more objective case characteristics. After the pecuniary motive murders that do not involve robbery or burglary (4d, 4e) are murders involving torture/aggravated assault, depravity of mind (4c), and none of the preceding statutory aggravating circumstances. Finally, we examine the grave-risk-of-death (4b) cases and the avoidance of detection, conviction, or confinement (4f) cases that were not included under any of the preceding primary categories.

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sensitivity to nuances of the cases which appear to be statistically and practically important in explaining the decisions of prosecutors and jurors. Good examples are sub-Ramseur violence and terror (which fall short of Ramseur's 4c requirements), the relationship between the defendant and the victim, and the vulnerability of the victim.<sup>94/</sup>

Table 7 and appendix F present the distribution of the cases under each main category and subcategory according to death-sentencing outcome and whether the case resulted in a capital murder conviction and advanced to a penalty trial. Column A of table 7 indicates the various categories and subcategories, while column B indicates the penalty-trial death-sentencing rate for the cases that resulted in a capital murder conviction. By way of contrast, column C indicates the death-sentencing rate among all death-eligible cases, whether or not they advanced to a penalty trial. Finally, column D indicates the rates at which prosecutors succeeded in obtaining capital murder convictions (with a resulting penalty trial). As noted above, the data in table 7 clearly highlight the statutory aggravating circumstances

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94. Sub-Ramseur violence refers to a fairly common situation in which there is extreme violence over a relatively brief time period, e.g., 25 stab wounds in 3-5 minutes, but no additional evidence beyond the stabbing to support an inference that the defendant intended, in addition to killing the victim, to cause severe suffering. See State v. Ramseur, 106 N.J. 123, 286 (1987).

The concept of "particular violence and terror" used throughout table 7 reflects violence and terror which involved severe suffering but may or may not meet the Ramseur intent test. Evidence of the impact of particular violence and terror is seen in the sexual assault cases where the overall death-sentencing rate (col. C) is .25 (6/24) when it is present and .0 (0/6) when it is not.

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that most substantially aggravate New Jersey murder cases in the eyes of its prosecutors and jurors:

- \* 4g: Multiple victims
- \* 4a: A prior defendant murder conviction
- \* 4g: A violent sexual assault
- \* 4g: A highly aggravated residential burglary and robbery
- \* 4h: A police officer victim
- \* 4d/4e: A contract killing

The cases under each principal factor in table 7 were further rank-ordered with a statistically based index which we describe in more detail below.<sup>95/</sup> The index includes information on the 16 statutory aggravating and mitigating factors, as well as 13 nonstatutory aggravating and mitigating circumstances which are important conceptually or statistically. The results of this ranking process for each death-eligible case are shown in appendix F, which presents for each case the defendant's name, case number, year of conviction, whether it advanced to a penalty trial, sentence, and the predicted probability of a death sentence.

The principal factors in table 7 define groups of presumptively "similar" cases within the meaning of the proportionality review statute. It and the case rankings in appendix F provide a good point of departure for a proportionality review. Once the parties focus on the relevant subgroup, one can expect them to go beyond the narrative summaries and extract from the case records any information that might justify an alteration of the case rankings in appendix F.

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95. See infra note 107 and accompanying text at p.97.

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B. Measures for Assessing the Relative Culpability  
of Defendants in Cases That are not Factually  
Comparable

A major drawback of measures like the salient factors measure, which assess culpability strictly in terms of factual comparability, is that there are often too few comparable cases to support a confident judgment about how prosecutors and jurors are likely to charge and sentence similar cases over the long run.<sup>96/</sup> The result is a classic example of the risk of drawing inferences from small samples. Even in jurisdictions with large numbers of capital cases, the number of factually similar cases is nearly always too small to permit a reliable judgment about the kinds of cases that usually result in death sentences. Furthermore, this reliance on factual comparability as the exclusive measure of defendant culpability totally deprives the appellate court of the ability to compare the case under review to factually different cases with comparable levels of criminal culpability.

Our reading of the state supreme court opinions suggests that some courts do use an overall measure of case culpability

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96. See, e.g., Jeffries, 717 P.2d at 743-44 (Utter, J., dissenting) ("How then should this court compare cases? Several problems arise. One is the problem of comparing 'apples' and 'oranges.' How many multiple victims . . . makes such a case comparable to murder-for-hire . . . ? How much worse, or less worse, is a robbery murder . . . compared to the killing of a police officer . . . ? The 'similar cases' chosen for proportionality review could be limited to only those cases with the same characteristics; if more than a very few characteristics are considered, however, no exactly similar cases are likely to exist.").

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that does not demand strict factual comparability.<sup>97/</sup> These opinions, however, do not explain the rationale and basis for the approach when it is used.

To overcome this limitation of the salient factors measure, we have turned to measures that serve to rank cases according to a single dimension that incorporates a variety of case characteristics. These procedures range from quite straightforward case matching techniques to measures based on statistical indices that are commonly used in other contexts. For example, employment-discrimination cases frequently require an estimation of the individual productivity of workers based on

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97. See, e.g., State v. Scroggins, 110 Idaho 380, 386-89, 716 P.2d 1152, 1158-61 (1985), cert. denied, 479 U.S. 989, 107 S.Ct. 582 (1986), and State v. Windsor, 110 Idaho 410, 421-22, 716 P.2d 1182, 1193-94 (1985), cert. denied, 479 U.S. 964 (1986) (using culpability measure when comparing intracase sentences); State v. Williams, 205 Neb. 56, 77, 287 N.W.2d 18, 29 (1979), cert. denied, 449 U.S. 891, 101 S.Ct. 255 (1980); State v. Gaskins, 284 S.C. 105, 130, 326 S.E.2d 132, 147 (1985), cert. denied, 471 U.S. 1120, 105 S.Ct. 2368 (1985) ("The facts are not the same in any two cases and, accordingly, our review of the facts relate largely to degree of culpability of the defendants and the viciousness of the killing" [emphasis added]); State v. Carter, 714 S.W.2d 241, 251 (Tenn. 1986) (using an assessment of culpability to distinguish accomplice's life sentence); Watkins v. Commonwealth, 229 Va. 469, 494, 331 S.E.2d 422, 440 (1985), cert. denied, 475 U.S. 1099, 106 S.Ct. 1503 (1986) (compared defendant's future dangerousness and vileness of the crime with previous defendants'); State v. Jeffries, 105 Wash. 2d 398, 430, 717 P.2d 722, 740 (1986), cert. denied, 479 U.S. 922, 107 S.Ct. 2906 (1986).

Other states may be making comparisons based on overall measures of culpability but do not declare so explicitly. Such comparisons may be inferred from the fact that the "similar" cases used are not identified as factually similar; therefore, one might assume them to be of similar culpability. See, e.g., Harper v. Commonwealth, 694 S.W.2d 665, 671 (Ky. 1985), cert. denied, 476 U.S. 1178, 106 S.Ct. 2906 (1986); Gallego v. State, 101 Nev. 782, 793, 711 P.2d 856, 864 (1985), cert. denied, 479 U.S. 871 (1986).

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such characteristics as age, education, job type, experience, and supervisory ratings. By using statistical techniques to analyze the data for each of these variables, one can develop a measure for ranking the productivity of each employee.<sup>98/</sup>

With such actuarial methods, it is possible to determine the relative culpability of different defendants based on the case characteristics that, on a statistical basis, best explain which defendants actually received death sentences. If, for example, the presence of aggravating factors A1, A2, and A3 statistically increased the risk of a death sentence, the presence of those characteristics in an offender's case would suggest that he was relatively more culpable than otherwise. Conversely, if mitigating factors M1, M2, and M3 statistically reduced the risk of a death sentence, the presence of one or more of those factors in a given case would tend to reduce the culpability ranking of that defendant.

We want to emphasize that one need not have a sophisticated understanding of statistics to use and interpret the rankings

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98. The science of epidemiology offers numerous examples of the usefulness of such quantitative measures. One important study examined whether a particular anesthetic, halothane, was more dangerous than other widely used anesthetics. J. Bunker, W. Forrest, F. Mosteller, B. L. Vandam, The National Halothane Study (1969). Because the risk of death associated with an operation depends on many factors besides the type of anesthetic used, the investigators developed a composite measure of this risk, using such variables as the patient's age, prior health, weight, and type of surgery. This measure permitted them to estimate the risk of death for each operation without regard to the anesthetic used. The investigators then identified groups of cases with similar risk levels and compared, within these groups, the mortality rate for the patients who received halothane as opposed to the other anesthetics.

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produced with these actuarial measures. Nor need one place blind faith in the results of any statistical analysis. The statistical procedures merely provide case sorts and rankings that serve as a point of departure. Moreover, the validity of those results can be verified by persons with no knowledge whatever of the statistical procedures that produced them. Specifically, the task of verification depends strictly on techniques of case comparison and distinction with which law-trained persons are familiar, e.g., is case A ranked at level 3 really less aggravated than the case at level 4, or should their rankings be changed?<sup>99/</sup>

1. Matching Cases in Terms of the Number of Aggravating and Mitigating Factors Found and Present

One useful composite measure of this type defines culpability in terms of the number of aggravating and mitigating circumstances found by the sentencing authority.

An analysis of the role of aggravating and mitigating circumstances in penalty-trial cases is important in New Jersey, since the capital-sentencing statute limits juror decision-making to finding and weighing those statutory factors. The frequency with which penalty-trial juries return death verdicts in cases

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99. State v. Williams, 205 Neb. 56, 84, 287 N.W.2d 18, 33 (1979) (Krivosh, C.J., dissenting) (" . . . it seems clear to me that not only is this court required to examine aggravating and mitigating circumstances, but in addition to that we are supposed to in some manner place each first degree murder case one on top of the other to see whether or not they all conform. While I may be the first to concede that imposing such a duty upon the court is at best difficult and perhaps impossible, nevertheless, I cannot find how I can ignore that requirement.").

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with different combinations of aggravating and mitigating circumstances therefore sheds important light on how, over the long run, juries are likely to sentence defendants with any given number of aggravating and mitigating circumstances. Such an analysis would be particularly relevant if the number of aggravating and mitigating circumstances found by the sentencing authority discriminated well between the cases in which death sentences were frequent and the cases in which they were infrequent.

Reviewing courts not infrequently define cases as similar if they share (a) the same aggravating factors or (b) the same aggravating and mitigating factors, and (c) more commonly, share the same number of aggravating factors.<sup>100/</sup> The Pennsylvania Court appears to use the approach most consistently.<sup>101/</sup> That court also generally combines an explicitly frequency approach with a search

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100. See, e.g., Commonwealth v. Morales, 508 Pa. 51, 75, 494 A.2d 367, 379 (1985) (in cases with a particular aggravating factor found, (d)(10), "the death penalty has been imposed in seven of seven cases"); Commonwealth v. Pirela, 510 Pa. 43, 60, 507 A.2d 23, 32 (1986) (in cases with the (d)(10) and (d)(4) factors present, "the death penalty has been imposed in six of eight cases"); Commonwealth v. Maxwell, 505 Pa. 152, 169, 477 A.2d 1309, 1318 (1984) (the court noted that in cases in which no mitigating factors and "at least one, and in most cases two or more, aggravating circumstances" are found, "the sentence of death has always been imposed"; the court also focused on cases with no mitigating factors and "the same two aggravating circumstances."); Williams, 205 Neb. at 77, 287 N.W.2d at 29, ("In all the death penalty cases previously affirmed or now pending in this court, each has involved at least three separate and distinct statutory aggravating factors. The case now before us also fits that pattern, . . .").

101. This Pennsylvania practice may reflect that the court appears to have a data base which permits its staff easily to produce frequency analyses of this type.



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of the records of comparison cases, not only for the relevant statutory factors but also for other salient factors bearing on the defendant's character, e.g., "intelligence, family background, psychiatric history, previous criminal record."<sup>102/</sup>

The combined effects of the aggravating and mitigating factors in New Jersey's aggravating and mitigating circumstances is shown in table 8. It presents penalty-trial death-sentencing rates among subgroups of cases with the same number of aggravating and mitigating circumstances present. For example, the cell in the lower right corner of the table includes one case with one aggravating factor and six mitigating circumstances found by the jury. It resulted in a life sentence.

Column E of table 8 reveals that in cases with a single aggravating factor, the death-sentencing rate declines sharply in the presence of one or more mitigating factors (the average rate among those cases is .10 (5/50)). In cases involving two statutory aggravating factors (column D), three mitigating factors are required for their presence to be felt strongly. In cases with three or four aggravating factors, the mitigating factors appear to have less weight, although the pattern is not strong.

Table 8 also reveals that the number of aggravating and mitigating circumstances present in the cases roughly divides the cases into two broad categories -- those with generally high (50% or higher) death-sentencing rates and those with generally low

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102. Commonwealth v. Travaglia, 502 Pa. 474, 505, 467 A.2d 288, 304 (1983).

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(under 50%) rates. Among the cases with the lower death-sentencing rates, the average rate is .16 (12/76), while among the cases with the higher death-sentencing rate, which are noted in bold type, the average is .59 (22/37).

Finally, in table 9 we present a similar analysis of death-sentencing rates among both penalty-trial and nonpenalty-trial cases. It reveals patterns similar to those in table 8 but with generally lower death-sentencing rates.

Appendix G lists the names of each case in table 9 according to the number of statutory aggravating and mitigating factors present in the case. Each subgroup of these cases is further ranked according to the multiple-regression based index described above in connection with appendix F.

It is also possible to sharpen the focus of an analysis matching cases in terms of statutory aggravating and mitigating factors to provide greater factual comparability or to provide greater comparability in terms of overall culpability levels. For example, in appendix H, we present tables similar to table 9 for the cases that are death-eligible under each of the statutory aggravating circumstances. The analyses provide greater factual comparability, and they reveal that the patterns in table 9 generally hold across the aggravating factors, particularly for those in which there are significant numbers of cases involved. Also, table 9 in appendix H focuses on important groups of cases, each of which contains relatively small numbers of defendants, i.e., those involving a prior murder conviction (4a), contract murder (4d and 4e), and a police-officer victim (4h). When all

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of these cases are viewed together, the data give one an idea of the sentencing pattern New Jersey is likely to see over the long run in cases of this type.

Both these analyses provide presumptively similar groups of cases which may be subjected to closer scrutiny in an individual proportionality review.

## 2. Measures of Defendant Culpability Based on Multiple-Regression Indices and Scales

One drawback of the measure based on a count of aggravating and mitigating circumstances is that it assumes an equal weight for all aggravating and mitigating circumstances. Table 10 indicates that penalty-trial juries place different weights on the different aggravating and mitigating circumstances. For example, there is a penalty-trial death-sentencing rate of only .12 in the grave risk (4b) cases versus a rate of .67 in the pecuniary gain killer (4d) and police-victim (4h) cases. The impacts of the individual mitigating factors also vary. The defendant's age (5c) has the greatest mitigating effect, while in contrast, the 5b factor, victim contribution to the homicide, may have an aggravating effect.

To estimate the differing weights that prosecutors and jurors place on the various aggravating and mitigating circumstances, we conducted three logistic multiple-regression analyses. The first was an analysis of the penalty-trial sentencing decisions. With it, we produced an index which reflects the differential weights placed by jurors on the different statutory and nonstatutory aggravating and mitigating

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circumstances. We conducted a similar analysis of death-sentencing outcomes among all of the clearly death-eligible cases. That analysis reflects the combined effects of both prosecutorial decisions to seek a death sentence and jury decisions to convict and sentence at the penalty trial.<sup>103/</sup> With these indices, we were able to rank-order the cases according to overall defendant culpability, as measured by the presence or absence in the cases of factors that appear to influence prosecutorial and jury decision-making.

Table 11 presents the results of the analysis of penalty-trial sentencing decisions. The index on which it is based includes variables that indicate the presence or absence of each of the sixteen statutory aggravating and mitigating circumstances, plus eleven nonstatutory aggravating variables and factors that were conceptually important individually, and statistically important as a group, in distinguishing the defendants who did and did not receive a death sentence. Six of the nonstatutory "factors" were developed in a statistical procedure known as factor analysis which identifies and weights clusters of variables that appear to represent a particular characteristic of the cases. In this instance the factors related to the defendant's blameworthiness and the level of

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103. A third analysis focused on the death-eligible cases that did and those that did not advance to a penalty trial, an outcome determined by a prosecutorial decision to seek a death sentence and the jury's capital murder conviction. This analysis provides a basis for comparison of the factors deemed important by the prosecutors and the sentencing jurors.

victimization.<sup>104/</sup>

The resulting statistical model conformed to what one would expect from jurors who attempted to base their decisions on a balancing of aggravating and mitigating circumstances. All of the statutory aggravating circumstances except one, (4F), had an aggravating effect and all the statutory mitigating circumstances had a mitigating effect. Moreover, variables for six of the

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104. The five factors with their labels were as follows:

1. THREAT1 = DTHRWIT \* (1.678416)  
+ DTHRFAM \* (2.311604);  
LABEL=THREATS FACTOR (PT DEATH MODEL);
2. BLAME1 = DNOREMOR \* (1.052782)  
+ MAX (0,0,DPLEASUR) \* (2.228000);  
LABEL=BLAMEWORTHINESS FACTOR #1 (PTDEATH MODEL);
3. BLAME2 = COPERP \* (1.162835)  
+ EXECUTON \* (1.918016);  
LABEL=BLAMEWORTHINESS FACTOR #2 (PTDEATH MODEL);
4. VICTIM1 = LONGATAK \* (.572277)  
+ WHYSUFR \* (.180102)  
+ VICMSUF \* (.582653);  
LABEL=VICTIMIZATION FACTOR #1 (PTDEATH MODEL);
5. VICTIM2 = TORTURE \* (2.555169)  
+ NDVP4X \* (1.37043269);  
LABEL=VICTIMIZATION FACTOR #2 (PTDEATH MODEL);
6. RPRIOR1 = DPARPROB \* (1.019992)  
+ DUNCTSUP \* (1.005834);  
LABEL=RECENT PRIOR/RELEASE (PTDEATH MODEL);

The remaining nonstatutory aggravating variables in the model were:

7. CLUB BRUTAL CLUBBING
8. MUTILATE MUTILATION DURING KILLING
9. PAINATK PAINFUL METHOD OF ATTACH
10. RAGE IMMEDIATE RAGE/FRUSTRATION MOTIVE
11. HIDEBODY ATTEMPT TO DISPOSE/CONCEAL BODY

The full model is presented in schedules 5 and 6, technical appendix 10. Further descriptions of the variables used to constitute the factors are presented in technical appendices 7 and 8. The methodology is described more fully in technical appendix 9.

statutory aggravating and mitigating circumstances were statistically significant beyond the .05 level. <sup>105/</sup>

Column A of table 11 indicates the level of culpability of the cases estimated with the index, while column B indicates death-sentencing rates among the groups of cases deemed similar. For example, row 1 of the table indicates that in more than one-half of the penalty trials, death sentences were infrequently imposed, i.e., only 5% of the time. In contrast, among the most aggravated cases at level five of the table, death sentences were imposed 95% of the time.

Part IIA of table 11 indicates that the measure discriminates quite well between the majority of cases in which the death-sentencing rates are low (rows 1 & 2), cases with middling death sentencing rates (rows 3 & 4 combined), and those with very high rates (row 5). Also, Part IIB (row 1) indicates that 59% of the death-sentenced cases fall into categories where the death-sentencing rate among similar cases is above .85.

Figure 2 presents an overview of the predicted probabilities for all penalty trial cases. The symbols under the figure's caption and the darkness of the bar for each case indicate whether it resulted in a life- or death-sentence. The points on the horizontal axis indicate the predicted likelihood of a death

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105. Five were significant beyond the .001 level. A complete listing of the factors with their components and weights is found infra technical appendix 8 at pp. 29-31. The factors were estimated in three different statistical analyses using different cases or outcomes. Thus, factors with similar names may have different components and weights in the three different analyses.

sentence for each person. The bar for each defendant represents a confidence interval indicating the uncertainty of the prediction for each case: the longer the bar, the greater the uncertainty. The cases with the broadest confidence intervals associated with them tend to be those in which there are few other offenders sharing the same aggravating circumstances found in their cases, e.g., police officer victim cases. Also, the general uncertainty of many of the predictions reflects the large number of variables in the statistical model that do not have a high level of statistical significance. This uncertainty is a price we pay for our desire not to omit from the models any case characteristic that may be important. Because of the uncertainty connected with the case-specific predictors, we believe that the broader classifications and frequencies shown in table 11 probably provide a more reliable basis for predicting how those cases are likely to be handled over the long run. Table 12 lists the cases in column B of table 11, sorted alphabetically with the estimated death sentencing probabilities from both the statistical model and table 11 indicated.<sup>106/</sup>

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106. Readers accustomed to symmetric confidence intervals may be puzzled by the asymmetric intervals depicted in Figures 2 and 3. The explanation is this: the confidence intervals depicted in Figures 2 and 3 were originally expressed as log odds, in which terms they were symmetric. However, when log odds were converted to probabilities the intervals were no longer symmetric due to the nonlinear nature of the conversion process. Suppose for example, that a particular case had a predicted log odds of 1.9 with a standard error of .25, so that the symmetric 95% confidence interval would extend from 1.4 to 2.4 (i.e., the predicted value plus or minus two standard errors). To convert these numbers into the more easily interpretable probability scale, they are first converted to the odds of an adverse outcome  
(continued...)

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The subcategories of cases in table 11 provide groups of presumptively similar cases. In a given proportionality review, the defendant and the state can use them and the death sentencing frequencies in table 12 as a point of departure and a basis for claiming that the rank order in the index does or does not account adequately for salient factors not included in the actuarial formula which produced the rank ordering.

If the Court decides to include non-penalty-trial cases in the universe, the data in table 13 will be relevant. It presents death-sentencing frequencies among all cases in the proposed universe. They are sorted with an index based on a statistical index designed to identify the characteristics of the defendants, among all those in the universe, that received a death sentence. That index includes the sixteen aggravating and mitigating factors that were found or were present in the cases. It also includes eight additional variables and five factors developed in a factor analysis.<sup>107/</sup> The resulting index is only slightly less

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106. (...continued)  
by means of the exponential function:  $\text{odds} = \exp(\log \text{odds})$ ; then the odds are converted to probabilities of an adverse outcome:  $\text{probability} = \text{odds} / (1 + \text{odds})$ . The following data illustrate these computations for a hypothetical case:

	<u>Log-odds</u>	<u>Odds</u>	<u>Probability</u>
Lower conf. limit	1.4	4.01:1	4.01/ 5.01 = .801
Estimate	1.9	6.69:1	6.69/ 7.69 = .870
Upper conf. limit	2.4	11.02:1	11.02/12.02 = .917

107. The additional variables and factors in the analysis were as follows:

1. VICTIM 3 = PAINATK \* (.301999)

(continued...)



107. (...continued)
- + LONGATAK \* (.739568)
  - + WHYSUFR \* (.18543072)
  - + VICSUFFIX \* (.19002996)
  - + VBEAT \* (.285337)
2. VICTIM 4 LABEL=VICTIMIZATION FACTOR #1 (DEATH MODEL);  
 = CLUB \* (1.295963)  
 + BIZWEAP \* (1.561595);  
 LABEL=VICTIMIZATION FACTOR #2 (DEATH MODEL);
3. VICTIM 5 = COPERP \* (1.205181)  
 + CONROB \* (.734886);  
 LABEL=VICTIMIZATION FACTOR #3 (DEATH MODEL);
4. BLAME 6 = WANTON \* (2.912533)  
 + THRILKIL \* (2.011697);  
 LABEL=BLAMEWORTHINESS FACTOR #3 (DEATH MODEL);
5. BLAME 7 = DPLEASUR \* (1.861109)  
 + DNOVSUF2 \* (1.716909)  
 + PROWESS \* (3.552361);  
 LABEL=BLAMEWORTHINESS FACTOR #4 (DEATH MODEL);
6. DMENTAL1 = DMILDRET \* 2.346842)  
 + DMENTRET \* (1.525684);  
 LABEL=DEFENDANT MENTAL FACTOR (DEATH MODEL);
7. THREAT2 = DTHRFAM \* (2.366304)  
 + DTHRWIT \* (1.715854);  
 LABEL=THREAT FACTOR (DEATH MODEL);

The other nonstatutory factors were:

- 8. CONARSON = CONTEMPORANEOUS ARSON;
- 9. DNOREMRC = DEFENDANT SHOWED NO REMORSE;
- 10. LOVERS = LOVERS OR EX LOVERS QUARREL;
- 11. UNECESRC = UNNECESSARY KILLING;
- 12. DHDABRC = DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE;
- 13. DAMBRC = DEFENDANT AMBUSHED VICTIM

Further descriptions of the variables used to constitute the factors are presented in technical appendices 7 and 8. Details on the model and scale underlying table 13 are presented in technical appendix 10, schedule 12.

In our analysis of all death eligible cases, (dependent variables DEATH and PTRIAL) the coding for the presence of aggravating and mitigating circumstances in the non-penalty trial cases reflects the combined judgment of the senior AOC staff and me. In contrast, the codes for the aggravating and mitigating circumstances in the penalty trial cases reflect the actual findings of the sentencing jurors. In the interest of consistency, we considered a coding rule for the DEATH and PTRIAL models that would have disregarded the jury findings in the penalty trial cases and determined the presence of the factors on the basis of our judgment as to their presence in the case in the

(continued...)

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satisfactory then the jury sentencing model. All but one of the statutory aggravating circumstances, 4g, had an aggravating effect, and all but three of the statutory mitigating circumstances (5a, 5b, 5f) had a statistically mitigating effect. Moreover, the model predicted which offenders were sentenced to death nearly as well as the model of jury sentencing decisions. Table 14 lists the cases in Column B of table 13 sorted alphabetically with the estimated probabilities from both the statistical model and table 13 indicated.

Figure 3 presents an overview of those probabilities comparable to figure 2.

If the Court determines that similar cases should be defined only in terms of the statutory aggravating and mitigating circumstances of the cases, the data in table 15 will be

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107. (...continued)  
same way that we coded the non-penalty trial cases. At our September 6, 1991 meeting, the State argued that this was the preferable coding rule. However, in the interests of validity, we rejected the approach. To the extent possible, our goal was to code the statutory circumstances in the way that they were perceived by the decision maker who determined each defendant's deathworthiness. In the penalty trial cases, the findings of the jurors are the most valid evidence of how the juror's perceived the cases. They are clearly more valid than our after the fact judgments of what statutory circumstances were present in the cases. For the non-penalty trial cases, the most valid codes would reflect the perceptions of the prosecutors who handled each case. In the absence of prosecutorial cooperation, as a matter of necessity, we used our judgment as a proxy for how the prosecutors perceived the case. Because we know how the jurors perceived each penalty trial case, there is no necessity to substitute our judgment for theirs. For this reason we consider the procedure we adopted, which combines our judgments on the non-penalty trial cases with the juror findings in the penalty trial cases, to be the most valid basis for assessing the weight that both prosecutors and jurors placed on the statutory aggravating and mitigating circumstances.

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relevant. The two tables are based on an index produced with an analysis limited to the statutory aggravating and mitigating circumstances found in the penalty-trial cases and present in the non-penalty-trial cases.<sup>108/</sup>

Tables 16 and 17 list the cases with estimated probabilities of a death sentence from both the statistical model and table 15 indicated.

### 3. The Implications of Possible Racial Effects for Proportionality Review

The Supreme Court did not request the Proportionality Review project to undertake an analysis of arbitrariness and discrimination in New Jersey's capital charging and sentencing system. We were asked, however, to develop a reliable data base with which the parties could address those issues if they chose to do so. Moreover, in the development of the statistically based indices described earlier in this section, we included race variables in the culpability models to ensure that variables for legitimate case characteristics were not carrying any possible race effects. It was in the course of this work that we observed

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108. In contrast to the models that also include nonstatutory aggravating and mitigating circumstances, these two models do somewhat less well in defining subgroups in cases in which death sentences are frequently imposed. Compare, for example, the results in column B with the results in table 11. Also, table 13 is the counterpart to the results among all death eligible cases shown in column C of table 15. Nevertheless, the penalty trial model based only on the aggravating and mitigating circumstances (column B of table 15) does quite well in distinguishing between the cases with low death sentencing rates (levels 1 & 2) and these with rates well above .50 (levels 3, 4 & 5). Another advantage of the approach reflected in table 15 is that it avoids the legal issues raised with the use of culpability indices based on factors that are not explicitly authorized or sanctioned by law.

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the race effects reported in this section. Because discrimination was not the primary mandate in this project, we consider these results to be strictly preliminary. More work will be required to determine if they persist under closer scrutiny and alternative analyses, to determine, for example, whether they are statistical artifacts or flukes, and to assess their legal and practical significance. In this regard, the representatives of the Attorney General's office stated at the September 6, 1991 meeting of the parties, that because of their preliminary nature these findings should not be included in this report. The State also argued that questions of possible racial discrimination were irrelevant to the question of proportionality review.

Our analysis of the penalty-trial sentencing decisions suggests that black offenders may be at greater risk of receiving a death sentence than similarly situated white and Hispanic defendants.<sup>109/</sup> The first item of evidence suggesting this may be the case is the logistic regression coefficient for the race-of-defendant variable, estimated by discriminant analysis, which included variables for (a) all statutory aggravating and mitigating circumstances found by the penalty-trial jurors, (b) eleven other variables for nonstatutory factors that are conceptually or statistically important,<sup>110/</sup> (c) the defendant's

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109. These same data showed no race-of-victim effects in the penalty-trial decisions. The model shows a logistic coefficient of 1.1 for the race of victim variable but it is not statistically significant ( $p = .27$ ).

110. See supra note 104 and accompanying text at p. 94.

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gender, and (d) four variables relating to the socioeconomic status of the defendant and the victim. The logistic regression coefficient for the race-of-defendant variable was 2.92, significant at the .008 level.<sup>111/</sup>

The second piece of evidence is the cross-tabulation presented in table 18. The index on which it is based was also developed in a multiple-regression analysis comparable to the one just described. The only difference was that it did not include the variables for the defendant's and victim's race.<sup>112/</sup> The data in table 18 suggest that, on average, after controlling for the aggravation level of the cases, black defendants may have a 19-percentage-point higher risk ( $p = .0001$ ) of receiving a death sentence than do other defendants<sup>113/</sup>

We also examined these racial disparities separately for the

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111. The full logistic multiple regression model is found in technical appendix 10, schedule 5.

112. To validate the index ranking of cases in the categories of cases where the race-of-defendant effects are observed, we had raters rank the cases on the basis of the facts in the narrative summaries. In doing so they were unaware of the race or outcome of the cases and the index ranking. They scored the cases on the three dimensions of the culpability model described in section VII, pp. 70-74 and rank-ordered them. The averages of these rankings were then compared with the index rankings. Black defendants who received death sentences on average were given lower culpability ratings by the raters than they were given by the statistically derived index.

113. The unadjusted race disparities in the penalty trial decisions are as follows: Black defendants .36 (21/58) - other defendants .24 (18/74) = 12 percentage points. White victim cases .27 (21/76) - other cases .32 (18/56) = -5 percentage points. Among cases that are death eligible under current law the race of defendant disparity is 13 percentage points [.37 (19/51) - .24 (15/62)] and the race of victim disparity is -5 percentage points [.28 (18/65) - .33 (16/48)].

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pre- and post-Gerald periods. The disparities were clearly apparent in the pre-Gerald decisions. In the post-Gerald data, there were too few penalty-trial death-verdict cases involving black and non-black defendants with comparable levels of culpability to support any finding at all.

The model we developed to explain which cases advanced to a penalty trial showed no race of defendant effects. It did suggest, however, that cases with white victims may be at greater risk of advancing to a penalty trial than cases involving black or hispanic victims. The first item of evidence suggesting this may be the case, is the logistic regression coefficient for the race of victim variable, estimated by discriminant analyses, which included variables (a) all statutory aggravating and mitigating circumstances found or present (b) five other variables for nonstatutory factors that are conceptually or statistically important (c) the defendant's gender, and (d) four variables relating to the socioeconomic status of the defendant and the victim. The logistic regression coefficient for the race-of-victim variable was 1.24 significant at the .01 level.

The second piece of evidence is the cross-tabulation presented in table 18A. The index on which it is based is identical to the one just described except that it did not include the variables for the defendant's and the victim's race. The data in table 18A suggest that on average, cases with a white victim may have a 14 percentage point or higher risk of advancing to a penalty trial than do other cases.

Separate analyses of the pre- and post-Gerald cases showed a

slightly stronger race-of-victim effect in the post-Gerald period than in the pre-Gerald period.<sup>114/</sup>

114. When the analysis is limited to cases from the pre-Gerald period (n=164), the estimated a logistic coefficient is 1.74 ( $p = .03$ ) for the WHITVIC variable. In the post-Gerald period (n=73) the logistic coefficient estimated for WHITVIC was 2.15 ( $p = .02$ ).

In the pre-Gerald model, the race of defendant variable (BLACKD) showed a small positive coefficient (.29) that was not statistically significant ( $p = .69$ ). In contrast, the post-Gerald model produced a race of defendant effect that was negative, considerably larger, and statistically significant ( $b = -2.8$ ,  $p = .04$ ). The full PTRIAL model is presented in technical appendix 10, schedule 14 at p. 11.

It should be noted that the race of victim effects we have observed in these data for the PTRIAL dependant variable (cases advancing to penalty trial) are less stable than the effects we observe for the race of defendant variable in the penalty trial decisions (PTDEATH). First, a statistically significant race of defendant effect is observed in the preliminary PTDEATH model which includes only the statutory aggravating and mitigating circumstances and the SES variables. See schedule 2, technical appendix 10. The comparable model for the PTRIAL model shows a smaller and not statistically significant effect race of victim effect (.60,  $p = .12$ ). See schedule 12A, technical appendix 10. Second, the full PTRIAL model we reported in the draft of this report that was circulated to the parties showed for the race of victim variable a smaller coefficient that was not statistically significant (.64,  $p = .11$ ).

The difference between that coefficient and the coefficient for race of victim presented in technical appendix 10, schedule 14 of this report is explained by the different statistical "factors" and other variables in the model for non statutory aggravating and mitigating circumstances rather than the differences between the data sets from which the two different models were developed. The new model developed with the August 12, 1991 data set (schedule 14 of this report) shows the same race of victim effect when estimated with the earlier July 16, 1991 data set ( $b = 1.32$ ,  $p = .005$ ). And the earlier model developed with the July 16, 1991 data set shows a comparable race of victim effect when estimated on the later August 12 data set ( $b = .83$ ,  $p = .07$ ). It is also worth noting that in terms of statistical explanatory power the earlier PTRIAL model and the one reported in this report are almost identical. However, when the factors and variables for non statutory aggravating and mitigating circumstances from the earlier model are added to the model in schedule 14, the race of victim coefficient estimated in the expanded model is 1.18 ( $p = .02$ ).

The unadjusted racial disparities in the analysis of the  
(continued...)

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The third analysis focused on the combined effects of all decisions in the system, i.e., which defendants among all the death-eligible cases actually received a death sentence. That model showed no statistically significant race effects.<sup>115/</sup>

If these data reflect the influence of race in penalty trial sentencing decisions or the decisions that advance cases to a penalty trial, they raise two questions about the proportionality review system that we are proposing. The first is whether our measures of defendant culpability based on an analysis of actual jury and prosecutorial death-sentencing decisions are tainted by the possible influence of race. For two reasons, we believe the answer to that question is no. The first reason is that race variables are not included in the models used to estimate defendant culpability. Defendant culpability is based solely on the apparent importance of legitimate case characteristics, like aggravating and mitigating circumstances in explaining who is

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114. (...continued)

cases that advanced to a penalty trial are: (White victim cases .67 (76/114)) - (Other cases .42 (56/132) = 25 percentage points. (Black defendant cases .44 (58/132)) - (Other cases .65 (74/114)) = -21 percentage points. Among the cases that are death-eligible under current law, the race of victim disparity is 24 percentage points [.63 (65/103) - .39 (48/124)] and the race of defendant disparity is -20 percentage points [.41 (51/125) - .61 (62/102)].

115. The dependent variable in this model is DEATH. The logistic regression coefficient for the "black defendant" variable was 1.28 ( $p = .36$ ) and the coefficient for the "white victim" variable was .89 ( $p = .50$ ). The model is shown in technical appendix 10, schedule 11 at p. 8. In spite of the race-of-defendant effect in the jury decisions, the overall race-of-defendant effect in the DEATH model is offset by the absence of such an effect in the PTRIAL model of prosecutorial decisions. Moreover, the race of victim effect in the PTRIAL model is offset in the DEATH model by the absence of a statistically significant race of victim effect in the jury penalty trial decisions.



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sentenced to death. The second reason is that the weights placed on the legitimate case characteristics in these measures is estimated after controlling for the influence of race. Thus, to the extent there is a correlation between race and any of the legitimate case characteristics, the models attribute to the legitimate case characteristics only explanatory effects that cannot also be explained by racial variables.

A finding that race is influencing prosecutorial or jury decision making would, however, draw into question the type of analysis which we are proposing. One problem is that within a given category of "similar" penalty trial cases, death sentences imposed in black-defendant cases and life sentences imposed in white- and Hispanic-defendant cases would be suspect, particularly in case categories where the race effects are strong. Similarly, if white victim cases are more likely to advance to a penalty trial than other cases, a cloud would exist over such cases that result in a death sentence particularly if they fall into case categories where race of victim effects are observed. One simply could not tell whether the decisions in those cases reflected the influence of race or deathworthiness judgments based on legitimate case characteristics. The problem would exist under both the frequency and comparative culpability methods of analysis.

C. A Comparison of Death-Sentencing Frequencies  
Estimated With Different Measures

As the final step in our analysis, we compared the relative frequency results produced with the different measures.

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Specifically, for each death-sentenced case, we estimated death-sentencing frequencies among similar cases as defined with the following five measures: (1) the salient factors method, (2) the number of aggravating and mitigating circumstances, (3) the penalty-trial statistical index based strictly on the statutory aggravating and mitigating factors, and (4) the penalty-trial statistical index based on the statutory circumstances factors plus additional nonstatutory aggravating and mitigating circumstances. Those results are shown in table 19 based on a universe of penalty-trial cases, while table 20 presents a similar analysis on the basis of a universe that includes all death-eligible cases.

VIII. A Recommended System for Contemporaneous Data Collection, Case Classification, Data Storage and Retrieval, and AOC Advice

An effective proportionality review process requires an ongoing system of data collection, procedures for case classification, data entry, and retrieval in the AOC. It might also usefully involve a technical advisory function in the AOC to assist the Court in the proportionality review of individual death-sentence cases.

The future role of the AOC in proportionality review needs to be considered in light of the project's first few year's experience. The original proposal was for a collaborative effort with full participation by defense and prosecution. On the basis of presentence reports and other available information, the project would propose an initial classification of cases, prepare

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thumbnail sketches, and for death-eligible cases, write detailed narrative summaries and encode a set of case factors for computer analysis. Thereafter, these products would be enhanced or corrected by input from the parties, particularly trial counsel, or from review of other documents, including appellate opinions as they became available. However, input from the parties has generally not been sufficient. The State Public Defender has been quite helpful, particularly Dale Jones, Esq., and Leigh Bienen, Esq., but input from trial counsel has varied greatly. All narrative summaries were forwarded to trial counsel. Some of the comments we received were detailed, but most others were quite minimal. A substantial majority of our requests were ignored. The prosecutors offered no assistance, even as to death cases. The Attorney General provided appellate briefs when they were available and requested. He also provided jury verdict sheets both for the death sentence cases and a residual group of life sentence penalty trial cases for which we had been unable to obtain the sheets through our normal channels.

As a result, project staff generally have had to resort to reading trial transcripts in order to assure accurate and relevant information, particularly for those cases which will be considered in the Marshall proportionality review. We are especially indebted to Public Defender Judith Borman for her assistance on a number of narrative summaries.

Our experience has been that trial counsel can be quite helpful in rendering an accurate summary of the record. Occasionally, at project meetings, attending assistant

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prosecutors have had occasion to reflect upon facts of and provide useful insight into cases they have personally been involved with. This experience has clearly demonstrated that a collaborative process can be quite workable and that trial counsel possess rich insight into matters of interest to proportionality review. However, unless we will be able to obtain such assistance in the future, the staff will need to carefully review trial transcripts in all cases, and sufficient resources will need to be made available. In either event, a strong central role will be needed to ensure a minimal level of consistency in data collection.

A. Penalty-Trial Cases

Presentencing reports on penalty-trial cases are regularly received at the AOC from the counties. To obtain data on facts relating to the defendant's death-eligibility and the penalty-trial proceedings, we propose an addition to the presentence report which will present a series of questions concerning the facts and evidence concerning the defendant's mens rea and own conduct as well as the statutory aggravating circumstances, all mitigating factors, and the strength of the evidence. This recommendation applies to both life- and death-sentenced cases. Currently, presentence reports are completed in death-sentenced cases only when the defendant is also convicted of a contemporaneous noncapital offense.

At the close of each case, the completed presentence report should be submitted to the trial judge, defense counsel, and the prosecutor for amendment concerning any matter they may deem

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appropriate regarding the relative aggravation level of the case. The amended presentence report should then be transmitted to the AOC in the usual manner.

B. Non-Penalty-Trial Cases

If the Court decides to include death-eligible non-penalty-trial cases in the universe, we recommend that the AOC screen all homicide presentencing reports to identify them. We propose that the AOC staff identify death-eligible non-penalty-trial cases with the procedures and standards developed for this project.<sup>116/</sup> We estimate that approximately 250-300 non-penalty-trial cases per year will result in a factual case screen for proportionality review purposes.

Of the 250-300 cases screened for proportionality purposes, we predict that approximately 10-20 non-penalty-trial cases will be categorized as prima facie eligible for inclusion in the universe. On a quarterly basis, progress reports including classification decisions will be forwarded to defense and prosecution for comment or challenge to the classifications.

C. Data Collection Entry and Retrieval

For all penalty-trial cases and clearly death-eligible non-penalty-trial cases, a Data Collection Instrument (DCI) containing the facts of the case and a detailed narrative summary

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116. See supra section II.B, at pp. 4-11, for a description of those procedures and standards.

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will be prepared.<sup>117/</sup> In addition to the PSI, death certificates, trial transcripts, and, in penalty-trial cases, jury verdict sheets will be utilized to code the DCI. Additionally, an effort will be made in all penalty-trial cases for an AOC staff person to attend closing arguments and the penalty trial.

The narrative summaries will be forwarded to all counsel on the case for review and, if necessary, amendment. To encourage cooperation in data collection, we consider it important that any request for information from the Court or counsel be deferred in non-penalty-trial cases until all appeals in state court have been concluded or the time for such appeals has passed.

Following the above procedure, the cases will be filed and tracked through the appellate system. Review and possible revision and supplementation to the file will continue until appellate review is complete.

In death-sentence cases involving proportionality review, we recommend that the following information be made available to the parties:

1. The master file of homicide cases. This will give the parties access to all non-penalty-trial cases screened in the AOC, regardless of their classification with respect to death-eligibility.
2. Case culpability rankings (including the defendant's name, date of offense, and sentencing outcome) produced with the

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117. We contemplate a reduced version of the DCI used for the proportionality review project.

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alternate measures of case culpability approved by the Court.

3. Progress reports with brief narrative case summaries for any cases requested.
4. Detailed narrative summaries for any cases requested.

D. AOC Advisory Function in Proportionality Review Cases

Because of the expertise of the AOC staff in classifying and rank-ordering cases in terms of case aggravation levels, the Court may deem it appropriate from time to time to request it to classify a death-sentence case under review in terms of its relative aggravation level under the various measures approved by the Court. In a given death-sentencing case, the Court may also consider it appropriate to submit such AOC reports to the parties before the proportionality review issue is briefed and argued. Such a practice, particularly in the first few cases, may help the parties sharpen the proportionality issues and arguments.

Toward that goal, we also recommend, particularly in the early cases, that the Court's review of death-sentence cases be bifurcated, i.e., only after the Court finds no reversible legal error in the guilt or penalty trial should it request the parties to address the proportionality of the death sentence under review. This practice, which is being applied in the Marshall case, will save the time and effort devoted to the proportionality issue in cases reversed for legal error where the proportionality issue is never reached.

A bifurcated proceeding would also sharpen the proportionality issues and arguments. In many states, the

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perfunctory treatment of proportionality issues at the close of the parties' briefs, which primarily focus on legal issues in the case, weakens the quality of advocacy on the proportionality question.



Glossary

*aggravation level of cases.* See *blameworthiness of a defendant.*

*AOC.* New Jersey Administrative Office of the Courts.

*bivariate regression.* A computational procedure which produces a formula (the regression formula or regression equation) describing how the average value of a *dependent variable* or *outcome variable* relates to differences in the level of a single *independent variable* or *predictor variable*.

*blameworthiness of a defendant.* The degree of criminal culpability associated with a defendant in a death-eligible case as a result of the case's aggravating and mitigating circumstances.

*case culpability.* See *blameworthiness of a defendant.*

*clearly death-eligible.* There is strong or overwhelming evidence in the case establishing its death-eligibility.

*correlation coefficient r.* A measure of the strength of the association or linear correlation between two quantities measured on a collection of observed units. This measure is known more precisely as the Pearsonian product moment correlation coefficient.

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*culpability/aggravation scale.* A system which identifies subgroups of cases in terms of the aggravation levels.

*culpability index.* A quantitative ranking system designed to measure defendant culpability.

*DCI.* Data collection instrument.

*death-eligible case.* A case is death-eligible when the facts of the case concerning mens rea, own conduct, and the presence of a statutory aggravating factor would authorize the imposition of a death sentence.

*death-worthiness of a case or defendant.* Death-worthiness of a case or defendant refers to the extent to which prosecutors or jurors believe a death sentence should be imposed in a death-eligible case.

*dependent variable (also, outcome variable).* The variable representing the outcome (e.g., the sentencing result) in a mathematical model depicting a decision process. The dependent variable is frequently denoted by *y*.

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*distribution.* Most generally, a collection of numbers; more particularly, a collection of numbers described in a manner that emphasizes where the numbers fall on a numerical scale, through the use of a frequency table or frequency polygon, for example.

*frequency table.* A table describing a distribution of numbers by indicating how many of the numbers in the distribution occur at each of several specified numerical values or in each of several specified ranges of values.

*independent variables (in a mathematical model describing a decision process).* Variables that represent factors (e.g., robbery, sexual assault) which may influence the outcomes of the decision process or alter the influence of other factors. The independent variables are sometimes denoted by  $x$  or by  $x_1$ ,  $x_2$ , etc., but more often by acronyms like "VBEAT".

*interaction term.* A term in a regression equation which measures the degree to which the combination of two or more independent variables (e.g., sub-Ramseur violence and sexual assault) influence the outcome variable.

*level of statistical significance.* See *test of significance.*

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*measure.* A concept or rule which is used to assign numbers to relevant objects or events in a case, e.g, selection rate. A measure may also refer to the number that results when such a concept or rule is applied to the facts of a particular case, e.g., a 0.85 female conviction rate.

*multiple regression (also, multivariate regression).* A computational procedure which produces a formula (the regression formula or regression equation) describing how the average value of a dependent or outcome variable relates to differences in the levels of two or more predictor or independent variables. *Logistic multiple regression* is designed for the analysis of dichotomous (yes/no) outcomes, e.g., whether or not a death sentence was imposed.

*not death-eligible case.* The facts and/or procedure in the case indicate that the case is not death-eligible under controlling law.

*p value (also, p level).* The probability value produced in a *test of significance* which indicates the likelihood that an observed result is the product of chance. See also *test of significance*.

*particular violence and/or terror.* The case involves either Ramseur or sub-Ramseur and/or terror.

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*preliminary case screening.* A procedure established in the AOC to identify death-eligible homicides.

*questionable as to death-eligibility.* Although there is strong evidence concerning some elements required for a classification of death-worthiness in a case, there are also legal or evidentiary issues concerning one or more of those elements.

*Ramseur violence and/or terror.* Violence and/or terror under circumstances that satisfy both the conduct and mens rea requirements of State v. Ramseur for establishing the torture/aggravated assault branch of statutory aggravating factor 4c.

*regression.* The use of an algebraic formula to express the influence of one or more independent variables (e.g., robbery, sexual assault, one or more qualifications) on the average level of a dependent variable (e.g., death-sentencing rate). Also, the computational procedure through which the terms of this formula are estimated. See *multiple regression*.

*regression coefficient.* A number estimate as part of a bivariate or multivariate regression formula that indicates how the average value of the *dependent variable* (or *outcome variable*) varies with changes in the level of the *independent* or *predictor variable* that is associated with the regression coefficient. When independent variables take values of one or zero to reflect the

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presence or absence of particular characteristics, regression coefficients estimated for them can be interpreted as the weights attached to those characteristics.

*significance level.* See *test of significance.*

*statistically significant.* Having a *p* value small enough to support the conclusion that a null hypothesis is not true. Typically, if the *p* value associated with a result is less than 0.05, the result is considered statistically significant. If the *p* value is sufficiently small, say less than 0.01 or 0.001, the result is considered highly statistically significant.

*strength-of-evidence screening.* A system of case evaluation in the AOC to identify cases with overwhelming or strong evidence concerning death-eligibility.

*sub-Ramseur violence and/or terror.* Violence and/or terror that produces extreme physical or mental suffering but there is an issue in the case whether the defendant intended to cause that suffering.

*test of significance.* A statistical tool which can be used to evaluate disparities observed in a sample of decisions, e.g., a 20-percentage-point difference in death-sentencing rates between cases with and without sexual assault. The test of significance provides an estimate of the probability that the observed level

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of disparity would result from chance variation if no such disparity exists in the capital sentencing system. The term "test of significance" is used interchangeably with "significance test," "hypothesis test," "test of hypothesis," and "test of statistical significance."

*threshold qualifications.* Qualifications which are conditions precedent to further consideration in the selection process.

*universe.* The pool of previously decided cases involving a death-eligible offense that an appellate court routinely consults in the conduct of a proportionality review of a death sentence.

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Pl. 2

## DEATH PENALTY PROPORTIONALITY REVIEW PROJECT

### FINAL REPORT TO

### THE NEW JERSEY SUPREME COURT

### APPENDICES AND TABLES

U.S. Department of Justice  
National Institute of Justice

139358  
(part II)

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New Jersey Supreme Court

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Table 1. Distribution of Death-Sentencing Rates Among All Death-Eligible Cases by Year of Penalty Trial or Conviction (in Non-Penalty-Trial Cases): 1983-91<sup>a</sup>

<u>Year</u>	<u>Death-Sentencing Rate</u>
1983	.22 (2/9)
1984	.25 (7/28)
1985	.15 (5/33)
1986	.18 (7/38)
1987	.25 (8/32)
1988	.04 (1/23)
1989	.03 (1/30)
1990	.11 (3/27)
1991	.0 (0/7)
<hr/>	<hr/>
Average	.15 (34/227)

---

a. This table includes only defendants who are death-eligible under current law. It also counts as a separate case each verdict sheet that was returned for multiple victims in eight penalty trials. See supra note 8 for a listing of these cases. The ninth such case (Pitts (2809)) is classified as not death-eligible under current law. See infra note 69.

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Table 2. Distribution of Penalty Trial Cases and Death Sentencing Rates: 1983-91<sup>a/</sup>

<u>Year</u>	<u>A</u> Death-Sentencing Rates - All Penalty Trials	<u>B</u> Death-Sentencing Rates Among Cases That Are Death-Eligible Under Current Law
1983	.50 (3/6)	.40 (2/5)
1984	.33 (8/24)	.35 (7/20)
1985	.29 (7/24)	.28 (5/18)
1986	.35 (7/20)	.37 (7/19)
1987	.43 (9/21)	.42 (8/19)
1988	.09 (1/11)	.09 (1/11)
1989	.07 (1/15)	.08 (1/12)
1990	.38 (3/8)	.43 (3/7)
1991	.0 (0/3)	.0 (0/2)
<hr/> Average	<hr/> .30 (39/132)	<hr/> .30 (34/113)

a. This tabulation includes all penalty trials of which we are aware through June 15, 1991. Multiple penalty trial jury verdicts in multiple victim cases are each counted as a separate penalty trial. There are nine such cases in column A and eight in column B. (Pitts (2809) is classified as not death-eligible under current law.) Cases in which the jury found no aggravating circumstances are also classified as not death-eligible. This explains why some cases that advanced to a penalty trial since 1987 are classified as not death eligible under current law. The eight cases in that category are listed infra note 65.

Column A includes all penalty trials while column B is limited to cases that are death-eligible under current law. See infra note 69 for a listing of penalty trial cases (five death- and fourteen life-sentenced cases) classified as not death-eligible under current law.

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Table 3. Rates at Which Death-Eligible Cases Advanced to Penalty Trial: 1983-1991

<u>Year</u>	<u>A</u> Penalty-Trial Rates Among All Cases	<u>B</u> Penalty-Trial Rates Among Cases That Are Death-Eligible Under Current Law
1983	.60 (6/10)	.56 (5/9)
1984	.75 (24/32)	.71 (20/28)
1985	.62 (24/39)	.55 (18/33)
1986	.51 (20/39)	.50 (19/38)
1987	.62 (21/34)	.59 (19/32)
1988	.48 (11/23)	.48 (11/23)
1989	.45 (15/33)	.40 (12/30)
1990	.29 (8/28)	.26 (7/27)
1991 (thru 6/91)	.37 (3/8)	.29 (2/7)
<hr/> Average	<hr/> .53 (132/246)	<hr/> .50 (113/227)

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Table 4. Geographic Distribution of New Jersey's Capital Charging and Sentencing Decisions: 1983-91<sup>1/</sup>

<u>Location</u>	<u>A</u> Overall Death- Sentencing Rate	<u>B</u> Penalty- Trial Death- Sentencing Rate	<u>C</u> Penalty Trial Rate
I. Urban/Nonurban <sup>1/</sup>			
A. Urban	.10 (14/142)	.24 (14/58)	.41 (58/142)
B. Nonurban	.24 (20/85)	.36 (20/55)	.65 (55/85)
II. Regions <sup>2/</sup>			
A. North	.11 (14/131)	.25 (14/57)	.43 (57/132)
B. Northwest	.12 (2/17)	.17 (2/12)	.71 (12/17)
C. South	.23 (18/79)	.41 (18/44)	.56 (44/79)
<hr/>			
Statewide Average	.15 (34/227)	.30 (34/113)	.50 (113/227)

a. This table includes only cases that are death-eligible under current law.

1. Urban counties include those with a major urban center, i.e. Camden, Essex, Hudson, Mercer, Middlesex, Passaic, and Union counties. All other counties are considered nonurban.

2. The Northern Region consists of Bergen, Essex, Hudson, Mercer, Middlesex, Passaic, and Union counties. The Northwestern Region consists of Hunterdon, Morris, Somerset, Sussex, and Warren counties. The Southern Region consists of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean, and Salem counties.

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Table 5. Numbers of Counties With Death-Sentencing and Penalty-Trial Rates Falling in the Ranges Indicated in Column A (each x indicates a county within the range shown in column A)

A Distribution of Possible Rates	B Overall Death- Sentencing Rate	C Penalty- Trial Death- Sentencing Rate	D Penalty Trial Rate
	(n = 17)	(n = 15)	(n = 17)
.0	xxxxxx	xxx	
.01 to .09			
.10 to .19	xxxxxx	xx	
.20 to .29	xxxxx	x	
.30 to .39	xx	xx	xxxxx
.40 to .49	x	xxxxx	xxxxxxxx
.50 to .59		xxx	
.60 to .69			x
.70 to .79			xxx
.80 to .89			x
.90 to .99			
1.0			xx
<hr/> Statewide Average	<hr/> .15 (34/227)	<hr/> .30 (34/113)	<hr/> .50 (113/227)

1. The table includes only counties with three or more cases at the stages indicated and is limited to the disposition of cases that are death-eligible under current law.

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Table 6. Homicide Case Typology Based on Statutory Aggravating Circumstances and Other Aggravating and Mitigating Circumstances

- A. Multiple-Victim Murder: (4b) before August 1986, (4g) after August 1986
  - 1. Multiple victim murders involving sexual assault or particular violence/terror.<sup>1/</sup>
  - 2. Other multiple-victim cases without (fewer than two) significant mitigating circumstances.
  - 3. Multiple-victim cases with significant (two or more) mitigating circumstances, e.g., psychiatric problem or victim provocation.
  
- B. Murder by a defendant with a prior murder conviction: (4a)
  - 1. With two or more additional aggravating circumstances or particular violence/terror.
  - 2. With a single additional aggravating circumstance or particular violence/terror.
  - 3. With no other aggravating circumstances or particular violence/terror.
  
- C. Sexual Assault Murder: (4g)
  - 1. Sexual assault murder involving particular violence/terror.
  - 2. Other sexual assault murder involving one or more statutory aggravating circumstances.
  - 3. Other sexual assault murders.

---

1. Particular violence/terror refers to physical violence or psychological terror which satisfies the Ramseur 4c intent to cause severe suffering test. It also includes sub-Ramseur violence and terror which may not satisfy the Ramseur intent test.

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Table 6. Homicide Case Typology Based on Statutory Aggravating Circumstances and Other Aggravating and Mitigating Circumstances (Cont.)

D. Victim A Public Servant: (4h)

1. A police officer victim with one or more additional statutory aggravating circumstances or particular violence/terror.
2. A police officer victim with no other statutory aggravating circumstance or particular violence/terror.
3. Other public servant victim.

E. Robbery Murder: (4g)

1. Residential forced or unauthorized entry robbery/murder with particular violence/terror.
2. Other robbery/murder with particular violence/terror or victim vulnerability.
3. Other forced or unauthorized entry robbery/murder.
4. Other holdup murder involving a stranger victim.
5. Other robbery/murder in the course of a business holdup.
6. Robbery/murder between acquaintances or friends without special violence/terror.
7. Robbery/murder in the course of an illegal drug transaction.

F. Arson Murder: (4g)

1. Defendant killed or seriously injured multiple victims and perceived (purpose or knowledge) such a risk.
2. One victim and defendant perceived a risk of death or serious bodily injury to multiple victims.
3. One victim and defendant perceived a risk of death only to the victim.

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Table 6. Homicide Case Typology Based on Statutory Aggravating Circumstances and Other Aggravating and Mitigating Circumstances (Cont.)

- G. Burglary murder not involving a robbery or sexual assault: (4g)
  - 1. Residence with a forced or unauthorized entry and with particular violence or terror.
  - 2. Residence with forced or unauthorized entry without particular violence or terror.
  - 3. Other burglaries.
- H. Murder with a kidnapping not involving a robbery or sexual assault: (4g)
  - 1. Forced abduction with particular violence or terror and stranger victim.
  - 2. Forced abduction with particular violence or terror and other victim.
  - 3. Other abduction murders.
  - 4. Victim initially with the defendant voluntarily, but defendant subsequently holds victim against his or her will before the murder, e.g., in a vehicle or in a room.
- I. Murder involving a pecuniary motive other than robbery or burglary: (4d) and (4e)
  - 1. A contract killing with defendant the killer (4d).
  - 2. A contract killing with defendant the principal (4e).
  - 3. Defendant's motive was to obtain a pecuniary advantage (e.g., inheritance) occurring as a matter of law upon the victim's death.
  - 4. The victim paid the defendant to kill him or her.
- J. Torture/aggravated assault: (4c)



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Table 6. Homicide Case Typology Based on Statutory Aggravating Circumstances and Other Aggravating and Mitigating Circumstances (Cont.)

1. Victim restrained/subdued and physically or mentally tortured with clear intent to cause severe suffering.
2. Extreme unnecessary multiple wounding of different body parts and/or with multiple weapons with clear intent to cause severe pain.
3. Extreme unnecessary multiple wounding with a single weapon with clear intent to cause severe pain.
4. Violence used does not substantially exceed what is needed to inflict immediate death, but it results in severe pain, and defendant's intent to cause extreme pain is clearly established.
5. Multiple wounding in a single transaction with borderline intent to cause severe suffering.

K. Depravity of mind: (4c)

1. Killing for pleasure and a stranger victim.
2. Killing of a random stranger out of frustration or anger over an event unrelated to the victim.
3. Unprovoked and unexplained killing of a victim with whom defendant had a prior relationship.
4. Mutilation of the victim's corpse with full knowledge the victim was dead.
  - (a) Dismemberment of the victim's corpse, or
  - (b) Violent assault upon the victim's corpse.

L. A murder in which the defendant purposely or knowingly created a grave risk of death to another person in a case not involving another primary statutory aggravating circumstance: (4b) and (4g)

1. Defendant attempted to murder another person.<sup>2/</sup>

---

2. Since January 17, 1986, this situation implicates 4g as a killing in the course of an attempted murder.

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Table 6. Homicide Case Typology Based on Statutory Aggravating Circumstances and Other Aggravating and Mitigating Circumstances (Cont.)

2. Defendant randomly fired multiple shots into a crowd with no particular victim in mind.
  3. Defendant's intentional attack on his or her victim knowingly created a great risk of death to another within the zone of danger to whom defendant was otherwise indifferent.
  4. After killing or mortally wounding the victim, defendant intended to injure or terrify another person and employed force in a manner which created a grave risk of death.
- M. A murder committed to escape detection, apprehension, or confinement in a case not involving any other primary statutory aggravating circumstance: (4f)
1. Murder committed to silence a potential informer or witness.
  2. Murder committed in a jail or prison break.

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Table 7. Death-Sentencing and Penalty-Trial Rates Among New Jersey Death-Eligible Cases, 1983-91, Classified with a Salient Factors Measure of Death-Eligible Homicides

A Principal Salient Factors and Subcategories	B Jury Penalty- Trial Death- Sentencing Rate	C Death-Sentencing Rate Among All Death-Eligible Cases <sup>1</sup>	D Proportion of Death-Eligible Cases That Advanced to a Penalty Trial <sup>1</sup>
A. Multiple victims (4g)	.31 (5/16)	.19 (5/26)	.62 (16/26)
1. With sexual assault or particular violence/terror	.45 (5/11)	.45 (5/11)	1.0 (11/11)
2. Other without significant (<2) mitigating circumstances	.0 (0/4)	.0 (0/7)	.57 (4/7)
3. With significant (≥2) mitigating circumstances	.0 (0/1)	.0 (0/8)	.12 (1/8)
B. Prior murder conviction without A above (4a)	.67 (8/12)	.57 (8/14)	.86 (12/14)
1. Two or more additional aggravating circumstances or particular violence/terror	.50 (2/4)	.50 (2/4)	1.0 (4/4)
2. One additional aggravating circumstance or violence/terror	.86 (6/7)	.67 (6/9)	.78 (7/9)
3. With no other aggravating circumstances or particular violence/terror	.0 (0/1)	.0 (0/1)	1.0 (1/1)
C. Sexual assault without A-B above (4g)	.35 (6/17)	.20 (6/30)	.57 (17/30)
1. With particular violence/terror	.46 (6/13)	.25 (6/24)	.54 (13/24)
2. Other with one or more additional statutory aggravating circumstances	.0 (0/4)	.0 (0/5)	.80 (4/5)
3. Other	--	.0 (0/1)	.0 (0/1)
D. Victim a public servant without A-C above (4h)	.50 (2/4)	.50 (2/4)	1.0 (4/4)
1. Police officer vic. w/one or more additional statutory aggravating circumstances or particular violence/terror	.67 (2/3)	.67 (2/3)	1.0 (3/3)
2. Police officer vic. w/no other statutory aggravating circumstances or particular violence/terror	.0 (0/1)	.0 (0/1)	1.0 (1/1)
3. Other	--	--	--

1. This column includes penalty-trial and death-eligible non-penalty-trial cases.

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Table 7. Death-Sentencing and Penalty-Trial Rates Among New Jersey Death-Eligible Cases, 1983-91, Classified with a Salient Factors Measure of Death-Eligible Homicides (Cont.)

A Principal Salient Factors and Subcategories	B Jury Penalty- Trial Death- Sentencing Rate	C Death-Sentencing Rate Among All Death-Eligible Cases <sup>1</sup>	D Proportion of Death-Eligible Cases That Advanced to a Penalty Trial <sup>1</sup>
<b>E. Robbery without A-D above (4g)</b>	<b>.20 (6/30)</b>	<b>.08 (6/75)</b>	<b>.46 (36/75)</b>
1. Residential forced entry with particular violence/terror	.29 (2/7)	.17 (2/12)	.58 (7/12)
2. Other with particular violence/terror	.33 (2/6)	.14 (2/14)	.43 (6/14)
3. Other forced entry	.0 (0/3)	.0 (0/5)	.60 (3/5)
4. Nonbusiness holdup, stranger victim	.0 (0/1)	.0 (0/8)	.12 (1/8)
5. Business holdup	.22 (2/9)	.11 (2/18)	.50 (9/18)
6. Between acquaintances	.0 (0/3)	.0 (0/12)	.25 (3/12)
7. In illegal drug transaction	.0 (0/1)	.0 (0/6)	.17 (1/6)
<b>F. Arson without A-E above (4g)</b>	<b>.0 (0/2)</b>	<b>.0 (0/8)</b>	<b>.25 (2/8)</b>
1. Multiple victims	--	.0 (0/3)	.0 (0/3)
2. One victim and perceived risk to multiple victims	.0 (0/2)	.0 (0/4)	.50 (2/4)
3. One victim and perceived a risk to one victim	--	.0 (0/1)	.0 (0/1)
<b>G. Burglary without A-E above (4g)</b>	<b>.0 (0/1)</b>	<b>.0 (0/8)</b>	<b>.12 (1/8)</b>
1. Residence w/forced entry w/particular viol. or terror	.0 (0/1)	.0 (0/6)	.17 (1/6)
2. Residence w/forced entry w/o particular viol. or terror	--	.0 (0/1)	.0 (0/1)
3. Other	--	.0 (0/1)	.0 (0/1)
<b>H. Kidnapping without A-G above (4g)</b>	<b>.25 (1/4)</b>	<b>.11 (1/9)</b>	<b>.44 (4/9)</b>
1. Abduction w/particular violence/terror and stranger victim	.50 (1/2)	.50 (1/2)	1.0 (2/2)
2. Abduction w/particular violence/terror and other victim	.0 (0/2)	.0 (0/5)	.40 (2/5)
3. Other abduction with no particular viol. or terror	--	.0 (0/2)	.0 (0/2)
4. Victim with defendant voluntarily	--	--	--
<b>I. Pecuniary motive without A-H above (4d and 4e)</b>	<b>.37 (3/8)</b>	<b>.27 (3/11)</b>	<b>.72 (8/11)</b>
1. Contract killing: the killer	.50 (2/4)	.33 (2/6)	.67 (4/6)
2. Contract killing: the principal	.33 (1/3)	.25 (1/4)	.75 (3/4)
3. Other pecuniary advantage	.0 (0/1)	.0 (0/1)	1.0 (1/1)

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Table 7. Death-Sentencing and Penalty-Trial Rates Among New Jersey Death-Eligible Cases, 1983-91, Classified with a Salient Factors Measure of Death-Eligible Homicides (Cont.)

A Principal Salient Factors and Subcategories	B Jury Penalty- Trial Death- Sentencing Rate	C Death-Sentencing Rate Among All Death-Eligible Cases <sup>1/</sup>	D Proportion of Death-Eligible Cases That Advanced to a Penalty Trial <sup>1/</sup>
J. Torture/aggravated assault without A-I above (4c)	.20 (2/10)	.11 (2/18)	.56 (10/18)
1. Victim restrained and tortured	--	.0 (0/1)	1.0 (0/1)
2. Wounding different body parts and/or multiple weapons	.20 (1/5)	.12 (1/8)	.62 (5/8)
3. Extreme multiple wounding with single weapon and clear intent	.33 (1/3)	.20 (1/5)	.60 (3/5)
4. Less violence w/clear intent	--	--	--
5. Borderline intent to cause suffering with multiple wounding in single brief transaction	.0 (0/2)	.0 (0/4)	.50 (2/4)
K. Depravity of mind without A-J above (4c)	.33 (1/3)	.20 (1/5)	.60 (3/5)
1. Killing for pleasure, stranger victim	--	.0 (0/1)	.0 (0/1)
2. Senseless with frustration and stranger victim	--	--	--
3. Senseless with prior victim relationship	--	--	--
4. Mutilate	--	--	--
a. Dismember	.33 (1/3)	.25 (1/4)	.75 (3/4)
b. Other mutilation	--	--	--
L. Grave risk of death as primary statutory aggravating circumstance without A-K above (4b)	.0 (0/6)	.0 (0/16)	.37 (6/16)
1. Defendant attempted to murder another person	.0 (0/3)	.0 (0/7)	.43 (3/7)
2. Defendant fired into a crowd	--	.0 (0/2)	.0 (0/2)
3. Defendant's attack against victim created great risk of death to another	.0 (0/2)	.0 (0/6)	.33 (2/6)
4. After killing the victim, defendant intended to injure or terrify another	.0 (0/1)	.0 (0/1)	1.0 (1/1)
M. Escape detection, etc., as sole factor without A-L above (4f) --	--	.0 (0/3)	.0 (0/3)
1. Silence a potential informer or witness	--	.0 (0/3)	.0 (0/3)
2. Jail or prison break	--	--	--
Average	.30 (34/113)	.15 (34/227)	.50 (113/227)

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Table 8. Penalty Trial Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found by the Penalty-Trial Jury<sup>1</sup>

A Number of Statutory Mitigating Circumstances	C Number of Statutory Aggravating Circumstances				
	B 4	3	D 2	E 1	
0		1.0 (1/1)	1.0 (2/2)		
1	.0 (0/1)	.0 (0/1)	.67 (4/6)	.25 (1/4)	
2		.67 (4/6)	.55 (11/20)	.20 (3/15)	
3		.40 (2/5)	.37 (3/8)	.0 (0/17)	
4		.0 (0/1)	.20 (2/10)	.08 (1/12)	
5			.0 (0/2)	.0 (0/1)	
6				.0 (0/1)	
All Cases	.30 (34/113)	.0 (0/1)	.50 (7/14)	.46 (22/48)	.10 (5/50)

1. This table includes only cases that are death-eligible under current law. It also includes multiple death-sentencing decisions in the eight cases in which a separate penalty-trial verdict was prepared for two or more victims.

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Table 9. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found by the Penalty-Trial Jury or Present in Non-Penalty-Trial Cases<sup>1/</sup>

A Number of Statutory Mitigating Circumstances	B C D E Number of Statutory Aggravating Circumstances			
	4	3	2	1 <sup>B/</sup>
0		1.0 (1/1)	1.0 (2/2)	
1	.0 (0/1)	.0 (0/2)	.33 (4/12)	.06 (1/16)
2		.57 (4/7)	.31 (11/36)	.07 (3/44)
3		.40 (2/5)	.14 (3/21)	.0 (0/32)
4		.0 (0/1)	.15 (2/13)	.04 (1/27)
5			.0 (0/3)	.0 (0/3)
6				.0 (0/1)
Average rate .15 (34/227)	.0 (0/1)	.44 (7/16)	.25 (22/87)	.04 (5/123)

1. This table includes only cases that are death-eligible under current law.

b. For this analysis, the 5h catchall factor, which is found in 25% of all penalty-trial cases, was coded as being present in all non-penalty-trial cases.

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Table 10. Death-Sentencing Rates in Cases in Which Statutory Aggravating and Mitigating Factors Have Been Found by the Sentencing Authority or Were Present in the Case<sup>1/</sup>

A	B Penalty-Trial Death-Sentencing Rate	C Death- Sentencing Rate Among All Cases
<u>A. Aggravating Circumstances</u>		
1. Factor 4a (prior murder)	.64 (9/14)	.50 (9/18)
2. Factor 4b (grave risk)	.12 (2/16)	.05 (2/39)
3. Factor 4c (wanton/vile)	.44 (23/52)	.28 (23/81)
4. Factor 4d (pecuniary gain)	.67 (2/3)	.40 (2/5)
5. Factor 4e (defendant hired the killer)	.33 (1/3)	.25 (1/4)
6. Factor 4f (avoid detection)	.34 (11/32)	.26 (11/42)
7. Factor 4g (contemporaneous felony)	.29 (20/69)	.13 (20/157)
8. Factor 4h (police officer victim)	.67 (2/3)	.67 (2/3)
<u>B. Mitigating Circumstances</u>		
1. Factor 5a (extreme disturbance)	.28 (15/53)	.18 (15/84)
2. Factor 5b (victim contributed to homicide)	.60 (3/5)	.33 (3/9)
3. Factor 5c (defendant's age)	.11 (4/36)	.06 (4/68)
4. Factor 5d (appreciate wrong/conform conduct)	.16 (8/51)	.08 (8/98)
5. Factor 5e (defendant duress)	.30 (3/10)	.23 (3/13)
6. Factor 5f (no significant prior record)	.27 (12/45)	.13 (12/95)
7. Factor 5g (assistance to		

1. Many of these cases involved multiple aggravating and mitigating factors.



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Table 10. Death-Sentencing Rates in Cases in Which Statutory Aggravating and Mitigating Factors Have Been Found by the Sentencing Authority or Were Present in the Case (Cont)

the State)	.20 (1/5)	.17 (1/6)
8. Factor 5h (catchall factor) <sup>2/</sup>	.24 (22/91)	.11 (22/206)
Average rate	<u>.30 (34/113)</u>	<u>.15 (34/227)</u>

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2. The 5h factor was coded as present in all non-penalty-trial cases included in column C.

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Table 11. Death-Sentencing Rates Controlling for a Culpability Index Based Upon a Statistical Analysis of Jury Penalty-Trial Decisions<sup>1</sup>

Part I

A	B
Culpability Level (1) Low to (5) High	Penalty-Trial Death-Sentencing Rates Among Death-Eligible Cases
1	.05 (3/66)
2	.22 (2/9)
3	.67 (8/12)
4	.20 (1/5)
5	.95 (20/21)
<hr/>	
Average	.53 (9/17) <sup>2/</sup>

Part II

A. The average death-sentencing rate for all cases in which the death-sentencing rates among comparable cases in Part I are:

- \* Below .85 .15 (14/92)
- \* Above .85 .95 (20/21)

B. The proportion of all death sentences imposed in cases in which similar cases receive a death sentence:

- \* More than 85% of the time .59 (20/34)
- \* 50% of the time or more .82 (28/34)
- \* Less than 50% of the time .18 (6/34)

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1. This table includes only cases that are death-eligible under current law. It also includes multiple death-sentencing decisions in the eight cases in which a separate penalty-trial verdict was returned for two or more victims.

The predicted probabilities of a death sentence for cases at the different culpability levels are: 1 (<.20), 2 (.20-.39), 3 (.40-.59), 4 (.60-.79), 5 (.80-1.0). See *infra* technical appendix 9 for a further description of the methodology used to produce the index.

2. Because of the small sample of cases at culpability level 4, the estimate for levels 3 & 4 combined is a better basis for estimating the death sentence rate for cases with a predicted rate from .40 to .80.

Table 12. Death-Sentencing Rates Among Similar Penalty-Trial Cases<sup>1/</sup>

CASE	DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 11	
		LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 11	DEATH-SENT. RATE IN TABLE 11
73	ANDERSON BRUCE	0.00	0.01	0.30	1	0.05
140	BARONE JAMIE	0.00	0.04	0.73	1	0.05
177	BENGA JOHN	0.01	0.06	0.33	1	0.05
2801	BERTINO FABRIZIO 2ND VICT	0.00	0.04	0.38	1	0.05
160	BEY MARKO 2A	0.36	0.83	0.98	5	0.95
3000	BEY MARKO 2B	0.22	0.81	0.99	5	0.95
3002	BIEGENWALD RICHARD F 1B	0.51	0.96	1.00	5	0.95
200	BIEGENWALD RICHARD 1A	0.51	0.96	1.00	5	0.95
2800	BIEGENWALD RICHARD 2	0.06	0.45	0.91	3	0.67
209	BLACKMON CRAIG	0.00	0.01	0.17	1	0.05
231	BOOKER GEORGE 1ST VICT	0.06	0.79	1.00	4	0.20
2825	BOOKER GEORGE 2D VIC	0.05	0.56	0.97	3	0.67
305	BRUNSON ALPHONSO	0.00	0.00	0.27	1	0.05
338	BUSBY WAYNE	0.00	0.00	0.13	1	0.05
365	CANCIO GUSTAVIO	0.02	0.15	0.56	1	0.05
394	CARROLL JOHN JAMES	0.03	0.32	0.89	2	0.22
443	CLAUSELL JAMES DOUGLAS 1A	0.44	0.87	0.98	5	0.95
463	COHEN HUMPHREY	0.00	0.00	0.05	1	0.05
506	CORREA NICHOLAS	0.00	0.03	0.29	1	0.05
520	COYLE BRYAN PATRICK	0.73	0.98	1.00	5	0.95
558	CUNNINGHAM BRUCE	0.00	0.01	0.07	1	0.05
576	DARRIAN CHARLES EDWARD	0.00	0.05	0.42	1	0.05
603	DEEVES WILLIAM J	0.00	0.05	0.45	1	0.05
673	DIAZ FELIX R	0.00	0.03	0.41	1	0.05
649	DICKERSON KEITH	0.00	0.00	0.06	1	0.05
119	DIFRISCO ANTHONY	0.43	0.89	0.99	5	0.95
662	DIXON PHILLIP A	0.00	0.10	0.97	1	0.05
679	DOWNIE JOHN WILLIAM	0.00	0.00	0.02	1	0.05
694	DURDEN LARRY	0.00	0.06	0.47	1	0.05
703	EATON OLLIE ROSCOE	0.00	0.00	0.01	1	0.05
716	EDWARDS RALPH	0.00	0.00	0.26	1	0.05
726	ENGEL HERBERT	0.02	0.20	0.74	2	0.22
727	ENGEL WILLIAM	0.00	0.07	0.62	1	0.05
728	ERAZO SAMUEL	0.04	0.48	0.95	3	0.67
618	FRANKS DONALD MICHAEL	0.00	0.03	0.24	1	0.05
868	GERALD WALTER MEIN	0.72	0.99	1.00	5	0.95
964	GUAGENTI JOSEPH M JR	0.00	0.06	0.50	1	0.05
1031	HARVEY MATHANIEL	0.04	0.44	0.93	3	0.67
3022	HERNANDEZ JOSE 2ND VIC	0.00	0.02	0.15	1	0.05
1060	HERNANDEZ JOSE 1ST VIC	0.00	0.02	0.15	1	0.05
y1076	HICKS JOSEPH	0.00	0.06	0.50	1	0.05
1079	HIGHLANDER RICHARD LEE	0.01	0.08	0.58	1	0.05
1080	HIGHTOWER JACINTO	0.00	0.04	0.98	1	0.05
1133	HUFF AARON P	0.00	0.02	0.21	1	0.05
1138	HUNT JAMES IRVING	0.01	0.22	0.89	2	0.22
1158	JACKSON KEVIN	0.06	0.53	0.95	3	0.67
2808	JOHNSON WALTER 1ST VIC	0.08	0.60	0.96	4	0.20
1227	JOHNSON WALTER 2D VICT	0.32	0.83	0.99	5	0.95
1243	JONES JIMMIE LEE	0.00	0.01	0.11	1	0.05
1246	JONES LARRY	0.02	0.15	0.65	1	0.05
1329	KISE RAYMOND 1A	0.00	0.15	0.96	1	0.05
3001	KISE RAYMOND 1B	0.00	0.09	0.90	1	0.05
1337	KOEDATICH JAMES JEROLD 1A	0.59	0.97	1.00	5	0.95
3018	KOEDATICH JAMES JEROLD 1B	0.06	0.75	0.99	4	0.20
1336	KOEDATICH JAMES 2	0.01	0.05	0.36	1	0.05
1391	LAZORISAK GEORGE NICHOLAS	0.00	0.00	0.02	1	0.05
1453	LODATO BENJAMIN	0.59	0.96	1.00	5	0.95
1459	LONG RONALD EUGENE	0.00	0.25	0.97	2	0.22
1476	LUCIANA MARK	0.00	0.01	0.71	1	0.05

1. This table includes only cases that are death eligible under current law.

Table 12. Death-Sentencing Rates Among Similar Penalty-Trial Cases

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 11	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 11	DEATH-SENT. RATE IN TABLE 11
1489 MACHADO JOSE	0.00	0.02	0.51	1	0.05
1510 MANFREDONIA MICHAEL J	0.03	0.74	1.00	4	0.20
1529 MARSHALL ROBERT OAKLEY	0.04	0.50	0.96	3	0.67
1533 MARTIN DANIEL LOUIS	0.00	0.05	0.44	1	0.05
3032 MARTINI JOHN MARTIN	0.04	0.46	0.95	3	0.67
1576 MAYRON GARY JOSEPH	0.05	0.37	0.86	2	0.22
1598 MC DOUGALD ANTHONY 1ST VIC	0.56	0.93	0.99	5	0.95
2811 MC DOUGALD ANTHONY 2D VIC	0.56	0.93	0.99	5	0.95
1612 MCKENZIE CLIFTON	0.01	0.11	0.69	1	0.05
1638 MELENDEZ MIGUEL	0.03	0.18	0.60	1	0.05
1640 MENDEZ INCENZIO B	0.02	0.16	0.65	1	0.05
1658 MICHELICHE HENRY	0.00	0.05	0.74	1	0.05
2826 MONTURI SEBASTIAN 1ST VIC	0.08	0.57	0.95	3	0.67
1709 MONTURI SEBASTIAN 2D VIC	0.07	0.37	0.82	2	0.22
1720 MOORE SAMUEL 1ST VIC	0.16	0.54	0.88	3	0.67
2810 MOORE SAMUEL 2D VIC	0.16	0.54	0.88	3	0.67
4031 MUSCIO NICHOLAS PETER	0.00	0.02	0.14	1	0.05
1780 NAPLES DONALD RICHARD J	0.00	0.03	0.43	1	0.05
1783 NEAPOLITANO ANTHONY	0.01	0.12	0.65	1	0.05
1791 NICELY RENE	0.00	0.04	0.38	1	0.05
1793 NIEVES ALBERTO	0.05	0.34	0.84	2	0.22
1823 OGLESBY WALTER EDWARD	0.07	0.45	0.90	3	0.67
1880 PARSONS DOUGLAS	0.00	0.00	0.01	1	0.05
1914 PENNINGTON FRANK	0.26	0.89	0.99	5	0.95
1918 PERRY HAROLD EDWARD	0.01	0.05	0.35	1	0.05
1946 PIERCE RONALD WILLIAM	0.60	0.01	0.22	1	0.05
1958 PLOPPERT CHARLES MATTHEW	0.00	0.01	0.49	1	0.05
1974 PRATER MICHAEL ANTHONY	0.08	0.38	0.81	2	0.22
2026 PURNELL BRAYNARD ANDRA	0.50	0.98	1.00	5	0.95
2015 RAMSEUR THOMAS C	0.37	0.99	1.00	5	0.95
2030 REDDEN RICHARD JOSEPH	0.00	0.00	0.10	1	0.05
2040 REESE JOHN SEYMOUR JR	0.00	0.04	0.31	1	0.05
2044 REIGLE THOMAS	0.00	0.06	0.44	1	0.05
2053 REYES JOSE LUIS	0.05	0.49	0.95	3	0.67
2091 RIVERA RAFAEL M	0.02	0.16	0.69	1	0.05
2170 ROSE MICHAEL	0.00	0.03	0.60	1	0.05
2172 ROSE TEDDY 1A	0.03	0.95	1.00	5	0.95
3003 ROSE TEDDY 1B	0.01	0.80	1.00	5	0.95
2190 RUSSO DAVID MARK	0.00	0.04	0.36	1	0.05
2195 SAINVALLIER REMY	0.00	0.05	0.57	1	0.05
2228 SAVAGE ROY	0.18	0.77	0.98	4	0.20
2235 SCALES TERRENCE ROBERT	0.03	0.32	0.88	2	0.22
2241 SCHIAVO DOMINICK RICHARD	0.08	0.95	1.00	5	0.95
2270 SETTE MARK JOHN	0.00	0.04	0.45	1	0.05
2318 SLAUGHTER RAFAEL	0.00	0.05	0.41	1	0.05
2375 SPRAGGINS JERRY JEROME	0.00	0.01	0.33	1	0.05
2381 STAMPS AARON	0.00	0.01	0.11	1	0.05
2627 WASHINGTON DELANO	0.00	0.01	0.10	1	0.05
2647 WESTON ELISHA	0.00	0.01	0.25	1	0.05
2687 WILLIAMS JAMES EDWARD 1A	0.44	0.97	1.00	5	0.95
2715 WILLIAMS WALTER L	0.00	0.00	0.16	1	0.05
2722 WILSON JOSEPH LEE	0.00	0.00	0.07	1	0.05
2761 WRIGHT JEANNE ANNE	0.00	0.01	0.21	1	0.05
2795 ZOLA JAMES EDWARD 1A	0.37	0.88	0.99	5	0.95

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Table 13. Death-Sentencing Rates Controlling for A Culpability Index Based Upon a Statistical Analysis Designed to Explain Which Defendants Received Death Sentences Among All Cases in the Proposed Universe

Part I

A	B
Culpability Level (1) Low to (5) High <sup>1/</sup>	Overall Death-Sentencing Rate Among <u>Death-Eligible Cases</u>
1	.03 (5/178)
2	.10 (1/10)
3	.70 (7/10)
4	.53 (8/15)
5	.93 (13/14)
<hr/>	
Average	.15 (34/227) <sup>2/</sup>

Part II

A. The average death-sentencing rate for cases in which the death-sentencing rates among comparable cases in Part I are:

- \* Below .85                      .10 (21/213)
- \* Above .85                      .93 (13/14)

B. Proportion of all death sentences in which similar cases receive a death sentence:

- \* More than 85% of the time                      .38 (13/34)
- \* 50% of the time or more                      .82 (28/34)
- \* Less than 50% of the time                      .18 (6/34)

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1. The predicted probabilities of a death sentence for cases at the different culpability levels are: 1 (<.20), 2 (.20-.39), 3 (.40-.59), 4 (.60-.79), 5 (.80-1.0). See technical appendix 9 for a further description of the methodology used to provide the index.

2. This table includes only cases that are death-eligible under current law. It also includes multiple death-sentencing decisions in the eight cases in which a separate penalty-trial verdict was returned for two or more victims.

Table 14. Death-Sentencing Rates Among All Similar Cases<sup>1/</sup>

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 13	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 13	DEATH-SENT. RATE IN TABLE 13
52 ALLEN KAREN	0.00	0.01	0.13	1	0.03
93 ANDERSON ANTOINE	0.00	0.01	0.15	1	0.03
73 ANDERSON BRUCE	0.00	0.02	0.30	1	0.03
4004 ARMSTRONG JOSEPH	0.00	0.02	0.41	1	0.03
140 BARONE JAMIE	0.00	0.06	0.49	1	0.03
4014 BASHA ABDULLA	0.00	0.00	0.04	1	0.03
177 BENGA JOHN	0.06	0.31	0.77	2	0.10
2801 BERTINO FABRIZIO 2ND VICT	0.00	0.01	0.32	1	0.03
160 BEY MARKO 2A	0.61	0.94	0.99	5	0.93
3000 BEY MARKO 2B	0.32	0.83	0.98	5	0.93
3002 BIEGENWALD RICHARD F 1B	0.21	0.65	0.93	4	0.53
200 BIEGENWALD RICHARD 1A	0.21	0.65	0.93	4	0.53
2800 BIEGENWALD RICHARD 2	0.03	0.15	0.53	1	0.03
209 BLACKSON CRAIG	0.00	0.01	0.20	1	0.03
226 BOLINGER ROBERT	0.03	0.61	0.98	4	0.53
231 BOOKER GEORGE 1ST VICT	0.12	0.67	0.97	4	0.53
2825 BOOKER GEORGE 2D VIC	0.07	0.53	0.94	3	0.70
4038 BRAND FRANCIS	0.01	0.24	0.91	2	0.10
4003 BROOKS KEVIN	0.00	0.01	0.13	1	0.03
4019 BROWN VINCENT E	0.00	0.00	0.02	1	0.03
305 BRUNSON ALPHONSO	0.00	0.00	0.08	1	0.03
321 BURROUGHS RANDY	0.00	0.01	0.30	1	0.03
338 BUSBY WAYNE	0.00	0.01	0.17	1	0.03
350 CALDWELL LAWRENCE STEVEN	0.00	0.00	0.02	1	0.03
356 CALLOWAY DERRICK	0.00	0.01	0.10	1	0.03
365 CANCIO GUSTAVIO	0.00	0.01	0.20	1	0.03
382 CARR CARLTON DENNIS JR	0.00	0.01	0.06	1	0.03
394 CARROLL JOHN JAMES	0.07	0.67	0.98	4	0.53
388 CARROZZA ANTHONY RAMON	0.00	0.01	0.22	1	0.03
402 CAVINESS DWAYNE VANCE	0.00	0.03	0.31	1	0.03
4021 CLARK HASEOMA	0.00	0.02	0.20	1	0.03
439 CLARK REGINALD	0.00	0.01	0.10	1	0.03
443 CLAUSELL JAMES DOUGLAS 1A	0.09	0.68	0.98	4	0.53
3007 CLAUSELL JAMES DOUGLAS 1B	0.09	0.68	0.98	4	0.53
447 CLEARY MICHAEL DENNIS	0.00	0.00	0.04	1	0.03
463 COHEN HUMPHREY	0.00	0.00	0.03	1	0.03
470 COLLINS DAVID ANDREW	0.04	0.28	0.79	2	0.10
506 CORREA NICHOLAS	0.00	0.02	0.14	1	0.03
520 COYLE BRYAN PATRICK	0.89	1.00	1.00	5	0.93
544 CULLEY CARL	0.00	0.01	0.08	1	0.03
558 CUNNINGHAM BRUCE	0.00	0.01	0.12	1	0.03
576 DARRIAN CHARLES EDWARD	0.00	0.02	0.42	1	0.03
4006 DEAN JOHN	0.01	0.13	0.72	1	0.03
603 DEEVES WILLIAM J	0.00	0.03	0.43	1	0.03
624 DELVALLE EFRAIN MANGUAL	0.00	0.01	0.24	1	0.03
673 DIAZ FELIX R	0.01	0.12	0.64	1	0.03
649 DICKENSON KEITH	0.00	0.01	0.21	1	0.03
119 DIFRISCO ANTHONY	0.24	0.72	0.96	4	0.53
658 DINKINS ROBERT LEE	0.00	0.00	0.02	1	0.03
662 DIXON PHILLIP A	0.03	0.56	0.97	3	0.70
4027 DOLLARD THOMAS DAMAR	0.00	0.01	0.19	1	0.03
679 DOWNIE JOHN WILLIAM	0.00	0.00	0.07	1	0.03
684 DREHER JOHN W	0.03	0.24	0.76	2	0.10
694 DURDEN LARRY	0.00	0.00	0.08	1	0.03
703 EATON OLLIE ROSCOE	0.00	0.00	0.10	1	0.03
712 EDWARDS EUGENE EVERSON	0.01	0.09	0.48	1	0.03
716 EDWARDS RALPH	0.00	0.01	0.18	1	0.03
726 ENGEL HERBERT	0.01	0.10	0.64	1	0.03
727 ENGEL WILLIAM	0.02	0.20	0.77	2	0.10
728 KRAZO SAMUEL	0.11	0.64	0.96	4	0.53

1. This table includes only cases that are death eligible under current law.

Table 14. Death-Sentencing Rates Among All Similar Cases

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 13	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 13	DEATH-SENT. RATE IN TABLE 13
742 EHRIDGE WILLIE DANIEL	0.00	0.00	0.07	1	0.03
754 FAINS ALBERT CARROW	0.00	0.01	0.13	1	0.03
4024 FARROW RICHARD	0.00	0.00	0.22	1	0.03
772 FERRARI SALVATORE	0.00	0.00	0.03	1	0.03
791 FLOYD LAMONT DAVID	0.00	0.00	0.07	1	0.03
618 FRANKS DONALD MICHAEL	0.00	0.01	0.17	1	0.03
828 FREEMAN JONATHAN	0.00	0.00	0.04	1	0.03
826 FULLARD ISSAAC	0.00	0.01	0.05	1	0.03
4020 GAINER FRED	0.00	0.03	0.25	1	0.03
868 GERALD WALTER MEIN	0.55	0.96	1.00	5	0.93
889 GLOVER DAVID	0.00	0.02	0.36	1	0.03
917 GRAY CLIFFORD JOSEPH	0.00	0.01	0.24	1	0.03
4001 GRANT MICHAEL	0.00	0.00	0.05	1	0.03
964 GUAGENTI JOSEPH M JR	0.03	0.16	0.55	1	0.03
1027 HART CRAIG	0.00	0.00	0.06	1	0.03
1031 HARVEY MATHANIEL	0.63	0.95	1.00	5	0.93
4033 HENDERSON JAMES	0.16	0.80	0.99	5	0.93
3022 HERNANDEZ JOSE 2ND VIC	0.00	0.00	0.05	1	0.03
1060 HERNANDEZ JOSE 1ST VIC	0.00	0.00	0.05	1	0.03
1076 HICKS JOSEPH	0.00	0.01	0.09	1	0.03
1079 HIGHLANDER RICHARD LEE	0.00	0.00	0.27	1	0.03
1080 HIGHTOWER JACINTO	0.00	0.08	0.80	1	0.03
1110 HOLMES GREGORY LAMONT	0.00	0.01	0.06	1	0.03
1103 HUDSON FRANKLIN FLOWERS JR	0.00	0.04	0.31	1	0.03
1133 HUFF AARON P	0.00	0.01	0.11	1	0.03
1138 HUNT JAMES IRVING	0.09	0.55	0.94	3	0.70
1158 JACKSON KEVIN	0.39	0.93	1.00	5	0.93
1163 JACOBY-IRWIN BARBARA ANN	0.01	0.05	0.33	1	0.03
1164 JALIL NELSON	0.00	0.05	0.37	1	0.03
1193 JAMES DARRYL LEE	0.00	0.03	0.17	1	0.03
3008 JAMES MARVIN AUGUSTUS	0.00	0.00	0.02	1	0.03
1177 JEFFERSON RICHARD	0.00	0.00	0.04	1	0.03
1219 JOHNSON MATHANIEL	0.00	0.01	0.05	1	0.03
2808 JOHNSON WALTER 1ST VIC	0.07	0.38	0.83	2	0.10
1227 JOHNSON WALTER 2D VICT	0.16	0.68	0.96	4	0.53
1243 JONES JIMMIE LEE	0.00	0.01	0.17	1	0.03
1246 JONES LARRY	0.00	0.02	0.17	1	0.03
1251 JONES MICHAEL SPENCER	0.00	0.01	0.07	1	0.03
1257 JONES TRAZY LATIF	0.00	0.00	0.06	1	0.03
4012 KERESTY WALTER	0.00	0.02	0.15	1	0.03
4005 KERSHAW ALBERT ERLE	0.00	0.05	0.61	1	0.03
1329 KISE RAYMOND 1A	0.03	0.37	0.92	2	0.10
3001 KISE RAYMOND 1B	0.03	0.28	0.83	2	0.10
1332 KLATZKIN GERALD MATTHEW	0.00	0.00	0.19	1	0.03
1337 KOEDATICH JAMES JEROLD 1A	0.72	0.98	1.00	5	0.93
3018 KOEDATICH JAMES JEROLD 1B	0.07	0.56	0.96	3	0.70
1336 KOEDATICH JAMES 2	0.01	0.07	0.43	1	0.03
1377 LAPOINTE PIERRE NORMAN	0.00	0.00	0.04	1	0.03
1391 LAZORISAK GEORGE NICHBOLAS	0.00	0.00	0.03	1	0.03
4034 LIPPEN GARY HOWARD	0.00	0.01	0.24	1	0.03
1453 LODATO BENJAMIN	0.25	0.76	0.97	4	0.53
1459 LONG DONALD EUGENE	0.00	0.04	0.77	1	0.03
1476 LUCIANA MARK	0.03	0.01	0.22	1	0.03
1489 MACHADO JOSE	0.00	0.01	0.12	1	0.03
1509 MANDICH JOHN FRANCISCO	0.00	0.01	0.08	1	0.03
1510 MANFREDONIA MICHAEL J	0.06	0.42	0.89	3	0.70
1529 MARSHALL ROBERT OAKLEY	0.00	0.17	0.92	1	0.03
1533 MARTIN DANIEL LOUIS	0.00	0.03	0.23	1	0.03
3032 MARTINI JOHN MARTIN	0.01	0.16	0.86	1	0.03
1576 MAYRON GARY JOSEPH	0.00	0.03	0.24	1	0.03
1598 MC DOUGALD ANTHONY 1ST VIC	0.47	0.80	0.95	5	0.93
2811 MC DOUGALD ANTHONY 2D VIC	0.47	0.80	0.95	5	0.93

Table 14. Death-Sentencing Rates Among All Similar Cases

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 13	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 13	DEATH-SENT. RATE IN TABLE 13
1611 MC IVER VERNON	0.00	0.00	0.02	1	0.03
1624 MC NEIL KEITH BURTON	0.00	0.01	0.26	1	0.03
2819 MCCOLLUM WILLIAM	0.00	0.02	0.35	1	0.03
1588 MCCOY JAMES LONNIE	0.00	0.00	0.04	1	0.03
1612 MCKENZIE CLIFTON	0.00	0.00	0.00	1	0.03
1637 MELENDEZ ANGEL	0.00	0.01	0.12	1	0.03
1638 MELENDEZ MIGUEL	0.01	0.09	0.54	1	0.03
1640 MENDEZ INCENZIO B	0.00	0.05	0.41	1	0.03
4002 MENDEZ OSCAR	0.01	0.14	0.69	1	0.03
1648 MEROLA THOMAS ANTHONY	0.00	0.02	0.29	1	0.03
1650 MESSAM GLADSTONE	0.00	0.00	0.05	1	0.03
1658 MICHELICHE HENRY	0.00	0.01	0.23	1	0.03
4009 MINCEY SAMUEL	0.01	0.11	0.51	1	0.03
1705 MONTALVO ORLANDO	0.00	0.02	0.22	1	0.03
2826 MONTURI SEBASTIAN 1ST VIC	0.01	0.06	0.33	1	0.03
1709 MONTURI SEBASTIAN 2D VIC	0.01	0.07	0.47	1	0.03
1720 MOORE SAMUEL 1ST VIC	0.06	0.42	0.89	3	0.70
2810 MOORE SAMUEL 2D VIC	0.06	0.42	0.89	3	0.70
1738 MORTON ADRIAN	0.00	0.01	0.14	1	0.03
4028 MUHAMMAD ABDUL	0.00	0.02	0.14	1	0.03
1750 MUHAMMAD JIHAD	0.03	0.21	0.68	2	0.10
1753 MUJAHID RASHEED A	0.00	0.03	0.27	1	0.03
4031 MUSCIO NICHOLAS PETER	0.01	0.06	0.32	1	0.03
1771 MUSGROVE IRA	0.00	0.03	0.16	1	0.03
1780 NAPLES DONALD RICHARD J	0.00	0.01	0.07	1	0.03
1783 NEAPOLITANO ANTHONY	0.03	0.24	0.75	2	0.10
1791 NICKLY RENEE	0.00	0.01	0.17	1	0.03
1793 NIEVES ALBERTO	0.02	0.13	0.58	1	0.03
4011 NORMAN ANTHONY M	0.00	0.01	0.25	1	0.03
1828 O'NEAL LOUIS ERIC	0.00	0.01	0.11	1	0.03
1823 OGLESBY WALTER EDWARD	0.11	0.48	0.88	3	0.70
1880 PARSONS DOUGLAS	0.00	0.00	0.04	1	0.03
1914 PENNINGTON FRANK	0.07	0.45	0.90	3	0.70
1918 PERRY HAROLD EDWARD	0.00	0.01	0.18	1	0.03
1946 PIERCE RONALD WILLIAM	0.00	0.01	0.07	1	0.03
1951 PINERO EDWIN	0.00	0.00	0.02	1	0.03
1958 PLOPPERT CHARLES MATTHEW	0.00	0.00	0.14	1	0.03
4018 POMALES DENNIS	0.00	0.00	0.02	1	0.03
1974 PRATER MICHAEL ANTHONY	0.01	0.07	0.30	1	0.03
1976 PRESHER JOSEPH	0.00	0.01	0.41	1	0.03
1977 PRESTON JOHNNIE	0.00	0.01	0.11	1	0.03
2026 FURNELL BRAYNARD ANDRA	0.07	0.51	0.94	3	0.70
2015 RAMSEUR THOMAS C	0.55	0.95	1.00	5	0.93
2030 REDDEN RICHARD JOSEPH	0.00	0.00	0.11	1	0.03
2040 REESE JOHN SEYMOUR JR	0.01	0.15	0.72	1	0.03
2044 REIGLE THOMAS	0.00	0.02	0.20	1	0.03
2053 REYES JOSE LUIS	0.05	0.68	0.99	4	0.53
2061 RICHARDSON ARTHUR JUNIOR	0.00	0.00	0.11	1	0.03
2091 RIVERA RAFAEL M	0.00	0.04	0.29	1	0.03
2146 ROGERS MARCUS ORLANDO	0.00	0.04	0.53	1	0.03
2170 ROSE MICHAEL	0.00	0.00	0.17	1	0.03
2172 ROSE TEDDY 1A	0.08	0.85	1.00	5	0.93
3003 ROSE TEDDY 1B	0.03	0.72	1.00	4	0.53
2182 RUANO HERIBERTO SANCHEZ	0.00	0.02	0.19	1	0.03
2183 RUGGS HARRY LEE	0.00	0.02	0.16	1	0.03
2190 RUSSO DAVID MARK	0.00	0.00	0.03	1	0.03
2195 SAINVALLIER REMY	0.00	0.05	0.45	1	0.03
2202 SANABRIA HECTOR	0.00	0.01	0.11	1	0.03
2228 SAVAGE ROY	0.38	0.85	0.98	5	0.93
2230 SAXTON CALVIN	0.01	0.05	0.32	1	0.03
2235 SCALES TERRENCE ROBERT	0.00	0.02	0.19	1	0.03
2241 SCILAVO DOMINICK RICHARD	0.45	0.99	1.00	5	0.93



Table 14. Death-Sentencing Rates Among All Similar Cases

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 13	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 13	DEATH-SENT. RATE IN TABLE 13
	-----	-----	-----	-----	-----
2270 SETTE MARK JOHN	0.00	0.00	0.08	1	0.03
2318 SLAUGHTER RAFAEL	0.00	0.04	0.69	1	0.03
4008 SLOVER JOSEPH CHRISTOPHER	0.00	0.01	0.11	1	0.03
2362 SOSSIN MARK WILLIAM	0.00	0.00	0.03	1	0.03
4007 SOTO JOSE	0.00	0.01	0.07	1	0.03
2372 SPILLANE RICHARD J	0.00	0.03	0.37	1	0.03
2375 SPRAGGINS JERRY JEROME	0.01	0.14	0.65	1	0.03
2389 SPRUELL QUINCY HAYWARD	0.00	0.06	0.51	1	0.03
2381 STAMPS AARON	0.00	0.01	0.17	1	0.03
2387 STATEN ROBERT	0.00	0.04	0.22	1	0.03
2391 STEVENS LARRY	0.00	0.00	0.03	1	0.03
4029 SULLIVAN ROY	0.00	0.00	0.01	1	0.03
2445 TAYLOR LEROY	0.01	0.12	0.68	1	0.03
2448 TAYLOR WILEY DUANE	0.00	0.01	0.09	1	0.03
4030 TELFORD MARK	0.00	0.05	0.38	1	0.03
2453 THAMMAN MARESH	0.00	0.04	0.50	1	0.03
4013 THOMAS CHRISTOPHER	0.00	0.02	0.13	1	0.03
2471 THOMPSON HOWARD RATHAMIEL	0.00	0.01	0.19	1	0.03
2500 TIMPSON ALFONSO DEAN	0.00	0.00	0.11	1	0.03
4025 TORO WILLIAM	0.00	0.00	0.11	1	0.03
2535 TREADWAY JOHN	0.00	0.00	0.09	1	0.03
2545 TUCKER STANLEY	0.00	0.02	0.18	1	0.03
2549 TURNER JOHN HENREY	0.00	0.02	0.30	1	0.03
4016 VALDEZ GILBERTO	0.00	0.05	0.36	1	0.03
2574 VASQUEZ PEDRO LOUIS	0.00	0.01	0.17	1	0.03
4035 WASHINGTON COREY	0.00	0.05	0.41	1	0.03
2627 WASHINGTON DELANO	0.00	0.01	0.11	1	0.03
4017 WATKINS RICKY	0.00	0.04	0.37	1	0.03
2647 WESTON ELISHA	0.00	0.03	0.48	1	0.03
2649 WHEELER RONALD LEON	0.00	0.02	0.17	1	0.03
2675 WIDER JAMES	0.00	0.00	0.02	1	0.03
2684 WILLIAMS GERALD E	0.00	0.01	0.06	1	0.03
2685 WILLIAMS HERMAN	0.00	0.02	0.28	1	0.03
2687 WILLIAMS JAMES EDWARD 1A	0.22	0.67	0.94	4	0.53
3005 WILLIAMS JAMES EDWARD 1B	0.22	0.67	0.94	4	0.53
2715 WILLIAMS WALTER L	0.00	0.01	0.16	1	0.03
2722 WILSON JOSEPH LEE	0.00	0.00	0.06	1	0.03
2723 WILSON LESTER ALLEN	0.00	0.00	0.05	1	0.03
4032 WORTHINGTON EARL JUNIOR	0.00	0.00	0.02	1	0.03
2761 WRIGHT JEANNE ANNE	0.01	0.09	0.47	1	0.03
2780 YOUNG CARL JR	0.00	0.01	0.11	1	0.03
2795 ZOLA JAMES EDWARD 1A	0.01	0.18	0.82	1	0.03
3006 ZOLA JAMES EDWARD 1B	0.01	0.18	0.82	1	0.03

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Table 15. Death-Sentencing Rates Controlling for a Culpability Index Based Upon a Statistical Analysis of Statutory Aggravating and Mitigating Circumstances Only<sup>1</sup>

<u>A</u> Culpability Level (1) Low to (5) High	<u>B</u> Penalty-Trial Death-Sentencing Rate	<u>C</u> Overall Death- Sentencing Rate Among Death-Eligible Cases
1	.05 (3/58)	.04 (7/178)
2	.24 (4/17)	.52 (12/23)
3	.71 (12/17)	.40 (2/5)
4	.64 (7/11)	.50 (5/10)
5	.80 (8/10)	.73 (8/11)
	<hr/>	<hr/>
	.30 (34/113)	.15 (34/227)

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1. The predicted probabilities at the different culpability levels are the same as in tables 11 and 13.

Table 16. Death-Sentencing Rates Among Similar Penalty-Trial Cases<sup>1/</sup>

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 15	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 15 (COL.B)	DEATH-SENT. RATE IN TABLE 15 (COL.B)
73 ANDERSON BRUCE	0.00	0.06	0.53	1	0.05
140 BARONE JAMIE	0.01	0.08	0.41	1	0.05
177 BENGAL JOHN	0.06	0.26	0.65	2	0.24
2801 BERTINO FABRIZIO 2ND VICT	0.03	0.13	0.40	1	0.05
160 BEY MARKO 2A	0.53	0.82	0.95	5	0.80
3000 BEY MARKO 2B	0.14	0.65	0.96	4	0.64
3002 BIEGENWALD RICHARD F 1B	0.16	0.60	0.92	3	0.71
200 BIEGENWALD RICHARD 1A	0.16	0.60	0.92	3	0.71
2800 BIEGENWALD RICHARD 2	0.04	0.17	0.55	1	0.05
209 BLACKMON CRAIG	0.03	0.15	0.50	1	0.05
231 BOOKER GEORGE 1ST VICT	0.39	0.93	1.00	5	0.80
2825 BOOKER GEORGE 2D VIC	0.14	0.79	0.99	4	0.64
305 BRUNSON ALPHONSO	0.00	0.03	0.21	1	0.05
338 BUSBY WAYNE	0.01	0.07	0.27	1	0.05
365 CANGIO GUSTAVIO	0.06	0.26	0.66	2	0.24
394 CARROLL JOHN JAMES	0.03	0.17	0.58	1	0.05
443 CLAUSELL JAMES DOUGLAS 1A	0.26	0.76	0.97	4	0.64
463 COHEN HUMPHREY	0.00	0.03	0.15	1	0.05
506 CORREA NICHOLAS	0.03	0.11	0.34	1	0.05
520 COYLE BRYAN PATRICK	0.69	0.94	0.99	5	0.80
558 CUNNINGHAM BRUCE	0.01	0.03	0.16	1	0.05
576 DARRIAN CHARLES EDWARD	0.01	0.06	0.28	1	0.05
603 DEEVES WILLIAM J	0.09	0.27	0.58	2	0.24
673 DIAZ FELIX R	0.00	0.03	0.34	1	0.05
649 DICKERSON KEITH	0.01	0.03	0.16	1	0.05
119 DIFRISCO ANTHONY	0.21	0.83	0.99	5	0.80
662 DIXON PHILLIP A	0.05	0.24	0.66	2	0.24
679 DOWNIE JOHN WILLIAM	0.00	0.03	0.13	1	0.05
694 DURDEN LARRY	0.05	0.17	0.41	1	0.05
703 KATON OLLIE ROSCOE	0.00	0.02	0.11	1	0.05
716 EDWARDS RALPH	0.00	0.03	0.21	1	0.05
726 ENGEL HERBERT	0.06	0.29	0.72	2	0.24
727 ENGEL WILLIAM	0.06	0.29	0.72	2	0.24
728 KRAZO SAMUEL	0.21	0.68	0.94	4	0.64
618 FRANKS DONALD MICHAEL	0.01	0.03	0.16	1	0.05
868 GERALD WALTER MEIN	0.09	0.29	0.64	2	0.24
964 GUAGENTI JOSEPH M JR	0.19	0.49	0.80	3	0.71
1031 HARVEY MATHANIEL	0.48	0.83	0.96	5	0.80
3022 HERNANDEZ JOSE 2ND VIC	0.01	0.04	0.19	1	0.05
1060 HERNANDEZ JOSE 1ST VIC	0.01	0.04	0.19	1	0.05
1076 HICKS JOSEPH	0.01	0.07	0.29	1	0.05
1079 HIGHLANDER RICHARD LEE	0.01	0.04	0.27	1	0.05
1080 HIGHTOWER JACINTO	0.19	0.54	0.86	3	0.71
1133 HUFF AARON P	0.13	0.35	0.66	2	0.24
1138 HUNT JAMES IRVING	0.02	0.11	0.44	1	0.05
1158 JACKSON KEVIN	0.19	0.63	0.92	4	0.64
2808 JOHNSON WALTER 1ST VIC	0.26	0.59	0.86	3	0.71
1227 JOHNSON WALTER 2D VICT	0.24	0.58	0.86	3	0.71
1243 JONES JIMMIE LEE	0.02	0.08	0.33	1	0.05
1246 JONES LARRY	0.04	0.16	0.48	1	0.05
1329 KISE RAYMOND 1A	0.05	0.31	0.80	2	0.24
3001 KISE RAYMOND 1B	0.02	0.16	0.67	1	0.05
1337 KOEDATICH JAMES JEROLD 1A	0.43	0.87	0.98	5	0.80
3018 KOEDATICH JAMES JEROLD 1B	0.39	0.93	1.00	5	0.80
1336 KOEDATICH JAMES 2	0.04	0.17	0.49	1	0.05
1391 LAZORISAK GEORGE NICHOLAS	0.02	0.07	0.21	1	0.05
1453 LODATO BENJAMIN	0.29	0.63	0.88	4	0.64

1. This table includes only cases that are death eligible under current law.

Table 16. Death-Sentencing Rates Among Similar Penalty-Trial Cases

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 15	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 15 (COL.B)	DEATH-SENT. RATE IN TABLE 15 (COL.B)
	-----	-----	-----	-----	-----
1459 LONG RONALD EUGENE	0.04	0.14	0.42	1	0.05
1476 LUCIANA MARK	0.00	0.03	0.21	1	0.05
1489 MACHADO JOSE	0.02	0.11	0.44	1	0.05
1510 MANFREDONIA MICHAEL J	0.17	0.61	0.92	4	0.64
1529 MARSHALL ROBERT OAKLEY	0.10	0.52	0.92	3	0.71
1533 MARTIN DANIEL LOUIS	0.02	0.11	0.39	1	0.05
3032 MARTINI JOHN MARTIN	0.01	0.08	0.41	1	0.05
1576 MAYRON GARY JOSEPH	0.12	0.34	0.65	2	0.24
1598 MC DOUGALD ANTHONY 1ST VIC	0.24	0.58	0.86	3	0.71
2811 MC DOUGALD ANTHONY 2D VIC	0.24	0.58	0.86	3	0.71
1612 MCKENZIE CLIFTON	0.01	0.06	0.24	1	0.05
1638 MELENDEZ MIGUEL	0.07	0.59	0.97	3	0.71
1640 MENDEZ INCENZIO B	0.23	0.53	0.81	3	0.71
1658 MICHELICHE HENRY	0.00	0.02	0.17	1	0.05
2826 MONTURI SEBASTIAN 1ST VIC	0.10	0.28	0.58	2	0.24
1709 MONTURI SEBASTIAN 2D VIC	0.07	0.28	0.68	2	0.24
1720 MOORE SAMUEL 1ST VIC	0.21	0.52	0.82	3	0.71
2810 MOORE SAMUEL 2D VIC	0.21	0.52	0.82	3	0.71
4031 MUSCIO NICHOLAS PETER	0.05	0.16	0.39	1	0.05
1780 MAPLES DONALD RICHARD J	0.02	0.07	0.21	1	0.05
1783 NEAPOLITANO ANTHONY	0.21	0.61	0.90	4	0.64
1791 NICELY RENEE	0.04	0.12	0.35	1	0.05
1793 NIEVES ALBERTO	0.12	0.59	0.94	3	0.71
1823 OGLESBY WALTER EDWARD	0.19	0.49	0.80	3	0.71
1880 PARSONS DOUGLAS	0.00	0.02	0.16	1	0.05
1914 PENNINGTON FRANK	0.30	0.72	0.94	4	0.64
1918 PERRY HAROLD EDWARD	0.02	0.08	0.33	1	0.05
1946 PIERCE RONALD WILLIAM	0.01	0.06	0.24	1	0.05
1958 FLOPPERT CHARLES MATTHEW	0.02	0.18	0.64	1	0.05
1974 PRATER MICHAEL ANTHONY	0.05	0.17	0.41	1	0.05
2026 PURNELL BRAYNARD ANDRA	0.26	0.71	0.94	4	0.64
2015 RAMSEUR THOMAS C	0.36	0.82	0.97	5	0.80
2030 REDDEN RICHARD JOSEPH	0.00	0.03	0.34	1	0.05
2040 REESE JOHN SEYMOUR JR	0.13	0.35	0.66	2	0.24
2044 REIGLE THOMAS	0.01	0.06	0.24	1	0.05
2053 REYES JOSE LUIS	0.05	0.19	0.53	1	0.05
2091 RIVERA RAFAEL M	0.13	0.35	0.66	2	0.24
2170 ROSE MICHAEL	0.00	0.04	0.49	1	0.05
2172 ROSE TEDDY 1A	0.08	0.91	1.00	5	0.80
3003 ROSE TEDDY 1B	0.03	0.80	1.00	4	0.64
2190 RUSSO DAVID MARK	0.01	0.05	0.19	1	0.05
2195 SAINVALLIER REMY	0.00	0.04	0.35	1	0.05
2228 SAVAGE ROY	0.09	0.33	0.71	2	0.24
2235 SCALES TERRENCE ROBERT	0.00	0.02	0.19	1	0.05
2241 SCHIAVO DOMINICK RICHARD	0.10	0.89	1.00	5	0.80
2270 SETTE MARK JOHN	0.02	0.10	0.34	1	0.05
2318 SLAUGHTER RAFAEL	0.02	0.08	0.33	1	0.05
2375 SPRAGGINS JERRY JEROME	0.02	0.17	0.65	1	0.05
2381 STAMPS AARON	0.02	0.08	0.33	1	0.05
2627 WASHINGTON DELANO	0.03	0.10	0.31	1	0.05
2647 WESTON ELISHA	0.08	0.37	0.81	2	0.24
2687 WILLIAMS JAMES EDWARD 1A	0.32	0.58	0.81	3	0.71
2715 WILLIAMS WALTER L	0.00	0.04	0.33	1	0.05
2722 WILSON JOSEPH LEE	0.01	0.03	0.18	1	0.05
2761 WRIGHT JEANNE ANNE	0.09	0.27	0.60	2	0.24
2795 ZOLA JAMES EDWARD 1A	0.28	0.57	0.82	3	0.71

Table 17. Death-Sentencing Rates Among All Similar Cases<sup>1/</sup>

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 15	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 15 (COL.C)	DEATH-SENT. RATE IN TABLE 15 (COL.C)
52 ALLEN KAREN	0.03	0.11	0.32	1	0.04
93 ANDERSON ANTOINE	0.01	0.03	0.13	1	0.04
73 ANDERSON BRUCE	0.01	0.04	0.26	1	0.04
4004 ARMSTRONG JOSEPH	0.02	0.09	0.36	1	0.04
140 BARONE JAMIE	0.01	0.07	0.29	1	0.04
4014 BASHA ABDULLA	0.01	0.05	0.20	1	0.04
177 BENGA JOHN	0.12	0.44	0.82	3	0.40
2801 BERTINO FABRIZIO 2ND VICT	0.01	0.05	0.20	1	0.04
160 BEY MARKO 2A	0.41	0.73	0.91	4	0.50
3000 BEY MARKO 2B	0.08	0.33	0.75	2	0.52
3002 BIEGENWALD RICHARD F 1B	0.07	0.33	0.76	2	0.52
200 BIEGENWALD RICHARD 1A	0.07	0.33	0.76	2	0.52
2800 BIEGENWALD RICHARD 2	0.02	0.10	0.37	1	0.04
209 BLACKMON CRAIG	0.02	0.10	0.34	1	0.04
226 BOLINGER ROBERT	0.03	0.11	0.32	1	0.04
231 BOOKER GEORGE 1ST VICT	0.23	0.71	0.95	4	0.50
2825 BOOKER GEORGE 2D VIC	0.20	0.72	0.96	4	0.50
4038 BRAND FRANCIS	0.03	0.31	0.86	2	0.52
4003 BROOKS KEVIN	0.01	0.02	0.06	1	0.04
4019 BROWN VINCENT E	0.01	0.05	0.18	1	0.04
305 BRUNSON ALPHONSO	0.01	0.05	0.23	1	0.04
321 BURROUGHS RANDY	0.02	0.12	0.50	1	0.04
338 BUSBY WAYNE	0.02	0.06	0.22	1	0.04
350 CALDWELL LAWRENCE STEVEN	0.01	0.03	0.09	1	0.04
356 CALLOWAY DERRICK	0.01	0.03	0.13	1	0.04
365 CANCIO GUSTAVIO	0.02	0.06	0.19	1	0.04
382 CARR CARLTON DENNIS JR	0.01	0.03	0.11	1	0.04
394 CARROLL JOHN JAMES	0.09	0.38	0.79	2	0.52
388 CARROZZA ANTHONY RAMON	0.00	0.05	0.33	1	0.04
402 CAVINESS DWAYNE VANCE	0.01	0.07	0.29	1	0.04
4021 CLARK HARBONA	0.01	0.03	0.13	1	0.04
439 CLARK REGINALD	0.01	0.02	0.08	1	0.04
443 CLAUSELL JAMES DOUGLAS 1A	0.05	0.41	0.91	3	0.40
3007 CLAUSELL JAMES DOUGLAS 1B	0.05	0.41	0.91	3	0.40
447 CLEARY MICHAEL DENNIS	0.00	0.02	0.07	1	0.04
463 COHEN HUMPHREY	0.01	0.02	0.06	1	0.04
470 COLLINS DAVID ANDREW	0.04	0.14	0.39	1	0.04
506 CORREA NICHOLAS	0.01	0.05	0.19	1	0.04
520 COYLE BRYAN PATRICK	0.79	0.96	0.99	5	0.73
544 CULLEY CARL	0.01	0.07	0.29	1	0.04
558 CUNNINGHAM BRUCE	0.01	0.02	0.09	1	0.04
576 DARRIAN CHARLES EDWARD	0.01	0.04	0.17	1	0.04
4006 DEAN JOHN	0.02	0.04	0.12	1	0.04
603 DEEVES WILLIAM J	0.03	0.11	0.33	1	0.04
624 DELVALLE EFRAIN MANGUAL	0.01	0.05	0.24	1	0.04
673 DIAZ FELIX R	0.00	0.03	0.43	1	0.04
649 DICKERSON KEITH	0.01	0.02	0.09	1	0.04
119 DIFRISCO ANTHONY	0.51	0.88	0.98	5	0.73
658 DINKINS ROBERT LEE	0.01	0.03	0.10	1	0.04
662 DIXON PHILLIP A	0.04	0.19	0.56	1	0.04
4027 DOLLARD THOMAS DAMAR	0.01	0.03	0.13	1	0.04
679 DOWNIE JOHN WILLIAM	0.01	0.02	0.09	1	0.04
684 DREHER JOHN W	0.03	0.10	0.29	1	0.04
694 DURDEN LARRY	0.02	0.04	0.12	1	0.04
703 EATON OLLIE ROSCOE	0.00	0.01	0.06	1	0.04
712 EDWARDS EUGENE EVERSON	0.01	0.04	0.14	1	0.04
716 EDWARDS RALPH	0.01	0.04	0.19	1	0.04
726 ENGEL HERBERT	0.02	0.18	0.67	1	0.04

1. This table includes only cases that are death eligible under current law.

Table 17. Death-Sentencing Rates Among All Similar Cases

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 15	
	LOWER	ESTIMATE	UPPER	CULPABILITY LEVEL IN TABLE 15 (COL.C)	DEATH-SENT. RATE IN TABLE 15 (COL.C)
	LIMIT		LIMIT		
727 ENGEL WILLIAM	0.02	0.18	0.67	1	0.04
728 KRAZO SAMUEL	0.47	0.88	0.98	5	0.73
742 ETHRIDGE WILLIE DANIEL	0.02	0.06	0.21	1	0.04
754 FAINS ALBERT CARROW	0.02	0.04	0.12	1	0.04
4024 FARROW RICHARD	0.01	0.05	0.20	1	0.04
772 FERRARI SALVATORE	0.01	0.03	0.11	1	0.04
791 FLOYD LAMONT DAVID	0.01	0.03	0.13	1	0.04
618 FRANKS DONALD MICHAEL	0.01	0.02	0.09	1	0.04
828 FREEMAN JONATHAN	0.00	0.01	0.04	1	0.04
826 FULLARD ISSAAC	0.02	0.04	0.12	1	0.04
4020 GAINER FRED	0.01	0.04	0.12	1	0.04
868 GERALD WALTER MEIN	0.03	0.13	0.40	1	0.04
889 GLOVER DAVID	0.01	0.03	0.11	1	0.04
917 GRAF CLIFFORD JOSEPH	0.01	0.04	0.14	1	0.04
4001 GRANT MICHAEL	0.01	0.04	0.17	1	0.04
964 GUAGENTI JOSEPH M JR	0.25	0.60	0.87	4	0.50
1027 HART CRAIG	0.01	0.02	0.09	1	0.04
1031 HARVEY MATHANIEL	0.52	0.85	0.97	5	0.73
4033 HENDERSON JAMES	0.04	0.12	0.33	1	0.04
3022 HERNANDEZ JOSE 2ND VIC	0.00	0.02	0.06	1	0.04
1060 HERNANDEZ JOSE 1ST VIC	0.00	0.02	0.06	1	0.04
1076 HICKS JOSEPH	0.01	0.03	0.12	1	0.04
1079 HIGHLANDER RICHARD LEE	0.01	0.04	0.18	1	0.04
1080 HIGHTOWER JACINTO	0.09	0.33	0.72	2	0.52
1110 HOLMES GREGORY LAMONT	0.01	0.03	0.10	1	0.04
1103 HUDSON FRANKLIN FLOWERS JR	0.01	0.02	0.08	1	0.04
1133 HUFF AARON P	0.04	0.11	0.33	1	0.04
1138 HUNT JAMES IRVING	0.02	0.09	0.24	1	0.04
1158 JACKSON KEVIN	0.18	0.61	0.92	4	0.50
1163 JACOBY-IRWIN BARBARA ANN	0.03	0.10	0.29	1	0.04
1164 JALIL NELSON	0.06	0.18	0.44	1	0.04
1193 JAMES DARRYL LEE	0.02	0.04	0.12	1	0.04
3008 JAMES MARVIN AUGUSTUS	0.02	0.06	0.16	1	0.04
1177 JEFFERSON RICHARD	0.01	0.03	0.09	1	0.04
1219 JOHNSON MATHANIEL	0.02	0.04	0.12	1	0.04
2808 JOHNSON WALTER 1ST VIC	0.12	0.33	0.63	2	0.52
1227 JOHNSON WALTER 2D VICT	0.12	0.37	0.72	2	0.52
1243 JONES JIMMIE LEE	0.01	0.03	0.13	1	0.04
1246 JONES LARRY	0.01	0.04	0.15	1	0.04
1251 JONES MICHAEL SPENCER	0.01	0.02	0.06	1	0.04
1257 JONES TRACY LATIF	0.00	0.02	0.10	1	0.04
4012 KERESTY WALTER	0.01	0.03	0.12	1	0.04
4005 KERSHAW ALBERT ERLE	0.01	0.05	0.24	1	0.04
1329 KISE RAYMOND 1A	0.02	0.20	0.71	1	0.04
3001 KISE RAYMOND 1B	0.02	0.16	0.65	1	0.04
1332 KLATZKIN GERALD MATTHEW	0.00	0.02	0.15	1	0.04
1337 KOEDATICH JAMES JEROLD 1A	0.46	0.83	0.97	5	0.73
3018 KOEDATICH JAMES JEROLD 1B	0.32	0.82	0.98	5	0.73
1336 KOEDATICH JAMES 2	0.03	0.09	0.27	1	0.04
1377 LAPOINTE PIERRE NORMAN	0.00	0.01	0.06	1	0.04
1391 LAZORISAK GEORGE NICHOLAS	0.01	0.03	0.09	1	0.04
4034 LIPPEN GARY HOWARD	0.01	0.04	0.25	1	0.04
1453 LOCATO BENJAMIN	0.31	0.63	0.87	4	0.50
1459 LONG RONALD EUGENE	0.01	0.04	0.14	1	0.04
1476 LUCIANA MARK	0.01	0.04	0.19	1	0.04
1489 MACHADO JOSE	0.02	0.09	0.34	1	0.04
1509 MANDICH JOHN FRANCISCO	0.02	0.04	0.12	1	0.04
1510 MANFREDONIA MICHAEL J	0.36	0.84	0.98	5	0.73
1529 MARSHALL ROBERT OAKLEY	0.02	0.27	0.86	2	0.52
1533 MARTIN DANIEL LOUIS	0.01	0.04	0.15	1	0.04
3032 MARTINI JOHN MARTIN	0.01	0.07	0.29	1	0.04

Table 17. Death-Sentencing Rates Among All Similar Cases

CASE DEFENDANT NAME	A			B	
	BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 15	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 15 (COL.C)	DEATH-SENT. RATE IN TABLE 15 (COL.C)
1576 MAYROM GARY JOSEPH	0.04	0.12	0.33	1	0.04
1598 MC DOUGALD ANTHONY 1ST VIC	0.12	0.37	0.72	2	0.52
2811 MC DOUGALD ANTHONY 2D VIC	0.12	0.37	0.72	2	0.52
1611 MC IVER VERNON	0.01	0.02	0.06	1	0.04
1624 MC NEIL KEITH BURTON	0.01	0.03	0.13	1	0.04
2819 MCCOLLUM WILLIAM	0.03	0.11	0.33	1	0.04
1588 MCCOY JAMES LONNIE	0.02	0.06	0.21	1	0.04
1612 MCKENZIE CLIFTON	0.01	0.02	0.08	1	0.04
1637 MELENDEZ ANGEL	0.01	0.03	0.10	1	0.04
1638 MELENDEZ MIGUEL	0.05	0.21	0.56	2	0.52
1640 MENDEZ INCENZIO B	0.06	0.18	0.44	1	0.04
4002 MENDEZ OSCAR	0.01	0.03	0.12	1	0.04
1648 MEROLA THOMAS ANTHONY	0.02	0.11	0.41	1	0.04
1650 MESSAM GLADSTONE	0.03	0.10	0.29	1	0.04
1658 MICHELICHE HENRY	0.00	0.02	0.18	1	0.04
4009 MINCEY SAMUEL	0.12	0.33	0.65	2	0.52
1705 MONTALVO ORLANDO	0.02	0.10	0.37	1	0.04
2826 MONTURI SEBASTIAN 1ST VIC	0.03	0.09	0.27	1	0.04
1709 MONTURI SEBASTIAN 2D VIC	0.04	0.19	0.53	1	0.04
1720 MOORE SAMUEL 1ST VIC	0.05	0.21	0.56	2	0.52
2810 MOORE SAMUEL 2D VIC	0.05	0.21	0.56	2	0.52
1738 MORTON ADRIAN	0.02	0.07	0.23	1	0.04
4028 MUHAMMAD ABDUL	0.02	0.04	0.12	1	0.04
1750 MUHAMMED JIBAD	0.03	0.16	0.53	1	0.04
1753 MUJAHID RASHEED A	0.01	0.03	0.10	1	0.04
4331 MUSCIO NICHOLAS PETER	0.02	0.05	0.16	1	0.04
1771 MUSGROVE IRA	0.01	0.02	0.08	1	0.04
1780 NAPLES DONALD RICHARD J	0.01	0.03	0.09	1	0.04
1783 NEAPOLITANO ANTHONY	0.27	0.71	0.94	4	0.50
1791 NICELY RENEE	0.02	0.06	0.21	1	0.04
1793 NIEVES ALBERTO	0.09	0.35	0.74	2	0.52
4011 NORMAN ANTHONY M	0.01	0.03	0.13	1	0.04
1828 O'NEAL LOUIS ERIC	0.08	0.18	0.36	1	0.04
1823 OGLESBY WALTER EDWARD	0.25	0.60	0.87	4	0.50
1880 PARSONS DOUGLAS	0.01	0.03	0.16	1	0.04
1914 PENNINGTON FRANK	0.33	0.73	0.94	4	0.50
1918 PERRY HAROLD EDWARD	0.01	0.03	0.13	1	0.04
1946 PIERCE RONALD WILLIAM	0.01	0.02	0.08	1	0.04
1951 PINERO EDWIN	0.02	0.04	0.12	1	0.04
1958 FLOPPERT CHARLES MATTHEW	0.01	0.12	0.55	1	0.04
4018 POMALES DENNIS	0.01	0.04	0.14	1	0.04
1974 PRATER MICHAEL ANTHONY	0.02	0.04	0.12	1	0.04
1976 FRESHER JOSEPH	0.04	0.17	0.50	1	0.04
1977 PRESTON JOHNNIE	0.01	0.03	0.13	1	0.04
2026 PURNELL BRAYNARD ANDRA	0.14	0.47	0.82	3	0.40
2015 RAMSEUR THOMAS C	0.56	0.88	0.98	5	0.73
2030 REDDEN RICHARD JOSEPH	0.00	0.01	0.19	1	0.04
2040 REESE JOHN SEYMOUR JR	0.04	0.11	0.27	1	0.04
2044 REIGLE THOMAS	0.01	0.02	0.08	1	0.04
2053 REYES JOSE LUIS	0.08	0.26	0.58	2	0.52
2061 RICHARDSON ARTHUR JUNIOR	0.08	0.18	0.36	1	0.04
2091 RIVERA RAFAEL M	0.04	0.11	0.27	1	0.04
2146 ROGERS MARCUS ORLANDO	0.23	0.71	0.95	4	0.50
2170 ROSE MICHAEL	0.00	0.02	0.31	1	0.04
2172 ROSE TEDDY 1A	0.06	0.90	1.00	5	0.73
3003 ROSE TEDDY 1B	0.02	0.83	1.00	5	0.73
2182 RUANO HERIBERTO SANCHEZ	0.01	0.04	0.14	1	0.04
2183 RUGGS HARRY LEE	0.01	0.03	0.12	1	0.04
2190 RUSSO DAVID MARK	0.01	0.03	0.11	1	0.04
2195 SAINVALLIER REMY	0.01	0.10	0.47	1	0.04
2202 SANABRIA HECTOR	0.01	0.03	0.10	1	0.04

Table 17. Death-Sentencing Rates Among All Similar Cases

CASE DEFENDANT NAME	A BASED ON INDIVIDUAL PREDICTED PROBABILITY OF A DEATH SENTENCE			B BASED ON SENTENCES IMPOSED FOR COMPARABLE CASES IN TABLE 15	
	LOWER LIMIT	ESTIMATE	UPPER LIMIT	CULPABILITY LEVEL IN TABLE 15 (COL.C)	DEATH-SENT. RATE IN TABLE 15 (COL.C)
	-----	-----	-----	-----	-----
2228 SAVAGE ROY	0.14	0.40	0.73	2	0.52
2230 SAXTON CALVIN	0.02	0.06	0.22	1	0.04
2235 SCALES TERRENCE ROBERT	0.00	0.03	0.15	1	0.04
2241 SCHIAVO DOMINICK RICHARD	0.08	0.88	1.00	5	0.73
2270 SETTE MARK JOHN	0.01	0.05	0.20	1	0.04
2318 SLAUGHTER RAPAEL	0.01	0.03	0.13	1	0.04
4008 SLOVER JOSEPH CHRISTOPHER	0.01	0.04	0.19	1	0.04
2362 SOSSIN MARK WILLIAM	0.00	0.02	0.06	1	0.04
4007 SOTO JOSE	0.01	0.02	0.06	1	0.04
2372 SPILLANE RICHARD J	0.03	0.12	0.34	1	0.04
2375 SPRAGGINS JERRY JEROME	0.09	0.40	0.82	2	0.52
2389 SPRUELL QUINCY HAYWARD	0.04	0.14	0.39	1	0.04
2381 STAMPS AARON	0.01	0.03	0.13	1	0.04
2387 STATEN ROBERT	0.00	0.02	0.06	1	0.04
2391 STEVENS LARRY	0.01	0.02	0.07	1	0.04
4029 SULLIVAN ROY	0.01	0.02	0.07	1	0.04
2445 TAYLOR LEROY	0.08	0.29	0.66	2	0.52
2448 TAYLOR WILEY DUANE	0.02	0.06	0.19	1	0.04
4030 TELFORD MARK	0.01	0.03	0.11	1	0.04
2453 THAMMAN NARESH	0.01	0.07	0.26	1	0.04
4013 THOMAS CHRISTOPHER	0.04	0.11	0.27	1	0.04
2471 THOMPSON HOWARD MATHANIEL	0.01	0.02	0.09	1	0.04
2500 TIMPSON ALFONSO DEAN	0.02	0.10	0.34	1	0.04
4025 TORO WILLIAM	0.01	0.05	0.20	1	0.04
2535 TREADWAY JOHN	0.01	0.04	0.17	1	0.04
2545 TUCKER STANLEY	0.04	0.11	0.27	1	0.04
2549 TURNER JOHN HENREY	0.01	0.04	0.14	1	0.04
4016 VALDEZ GILBERTO	0.03	0.11	0.32	1	0.04
2574 VASQUEZ PEDRO LOUIS	0.03	0.11	0.36	1	0.04
4035 WASHINGTON COREY	0.01	0.07	0.29	1	0.04
2627 WASHINGTON DELAWO	0.02	0.06	0.22	1	0.04
4017 WATKINS RICKY	0.04	0.11	0.27	1	0.04
2647 WESTON ELISHA	0.06	0.31	0.74	2	0.52
2649 WHEELER RONALD LEON	0.06	0.18	0.44	1	0.04
2673 WIDER JAMES	0.01	0.04	0.15	1	0.04
2684 WILLIAMS GERALD E	0.01	0.02	0.07	1	0.04
2685 WILLIAMS HERMAN	0.02	0.04	0.12	1	0.04
2687 WILLIAMS JAMES EDWARD 1A	0.08	0.18	0.36	1	0.04
3005 WILLIAMS JAMES EDWARD 1B	0.08	0.18	0.36	1	0.04
2715 WILLIAMS WALTER L	0.01	0.05	0.24	1	0.04
2722 WILSON JOSEPH LEE	0.00	0.02	0.07	1	0.04
2723 WILSON LESTER ALLEN	0.01	0.05	0.22	1	0.04
4032 WORTHINGTON EARL JUNIOR	0.01	0.02	0.07	1	0.04
2761 WRIGHT JEANNE ANNE	0.17	0.45	0.76	3	0.40
2780 YOUNG CARL JR	0.02	0.04	0.12	1	0.04
2795 ZOLA JAMES EDWARD 1A	0.07	0.21	0.48	2	0.52
3006 ZOLA JAMES EDWARD 1B	0.07	0.21	0.48	2	0.52



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Table 18. Race-of-Defendant Disparities in Penalty-Trial Death-Sentencing Decisions After Adjustment for Case Culpability Levels: 1983-91<sup>1/</sup>

A Culpability Level (1) Low to (5) High	Penalty-Trial Death-Sentencing Rates		D Disparity in Percentage Points <sup>2/</sup> <u>Col B - Col C</u>
	B Black Defendants	C Other Defendants	
1	.0 (0/13)	.0 (0/10)	0
2	.0 (0/13)	.0 (0/12)	0
3	.30 (3/10)	.0 (0/15)	30 <sup>3/</sup>
4	.87 (7/8)	.23 (4/17)	64 <sup>4/</sup>
5	1.0 (11/11)	1.0 (14/14)	0
<hr/>			
Average <sup>5/</sup>	.38 (21/55)	.26 (18/68)	

1. The index underlying this culpability scale is presented infra technical appendix 10, schedule 6A. It is the model in schedule 5 purged of the coefficients for race of the defendant and race of victims.

2. The overall average race-of-defendant disparity is 19 percentage points, statistically significant at the .0001 level. The overall disparity is the sum for each culpability level of the disparity in column D times the number of cases at each of the five levels on the culpability scale divided by the total sample size, i.e.,  $23.5/123 = .19$ . The levels of statutory significance were calculated in a Mantel-Haenszel procedure.

3. The statistical significance of this disparity was estimated to be .02 using the PROC FREQ procedure in SAS, version 6.

4. The statistical significance of this disparity was estimated to be .003 using the PROC FREQ procedure in SAS, version 6.

5. This sample of penalty trial cases differs from the sample in table 2, column 2, because it does not include nine cases in which the jury found no aggravating factors. Without that finding it was impossible to apply the index underlying the scale. The cases excluded are listed supra note 69.

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Table 18A Race-of-Victim Disparities in Rates at Which Cases Advance to a Penalty Trial After Adjustment for Case Culpability Levels: 1983-91<sup>1/</sup>

A Culpability Level (1) Low to (5) High	Rates at Which Cases Advance to a Penalty Trial		D Disparity in Percentage Points <sup>2/</sup> Col B - Col C
	B White Victim Cases	C Other Cases	
1	.17 (4/24)	.04 (2/45)	13
2	.50 (8/16)	.33 (5/15)	17
3	.67 (10/15)	.20 (3/15)	47
4	.78 (14/18)	.56 (10/18)	22
5	.97 (34/35)	.92 (33/36)	5
Average <sup>3/</sup> .51 (120/237)	.65 (70/108)	.41 (53/129)	

1. The index underlying this culpability scale is presented infra technical appendix 10, schedule 15a. It is the model in schedule 15 purged of the coefficients for race of the defendant and race of the victim.

2. The overall average race-of-victim disparity is at least 14 percentage points. The overall disparity is the sum, for each culpability level, of the disparity in column D times the number of cases at each of the five levels on the culpability scale divided by the total sample size. The overall disparity on the 5 level scale in this table was 17 percentage points (39.73/237),  $p = .001$ . On a 10 level scale, the overall disparity was 14 percentage points (33.11/237),  $p = .004$ . The levels of statistical significance were calculated in a Mantel-Haenszel procedure.

3. This sample of cases does not include nine cases in which a penalty trial found no aggravating factors. Without that finding it was impossible to apply the index underlying the culpability scale. The cases excluded are listed supra note 69.

TABLE 19. Rates at Which Death Sentences Are Imposed Among Comparable Penalty-Trial Cases Estimated with Four Measures of Defendant Culpability for Death-Sentenced Cases That Are Death-Eligible Under Current New Jersey Law

CASE#	NAME	PEN. TRIAL SENT	DEATH-SENTENCING RATES AMONG SIMILAR CASES <sup>1/</sup>			
			SALIENT FACTORS MEASURE <sup>2/</sup>	AGG/MIT CIR. W/AGG/MIT MEASURE <sup>3/</sup>	INDEX PREDICTION W/AGG/MIT CIR. <sup>4/</sup>	INDEX PREDICTION W/STAT. CIR. & FACTORS <sup>5/</sup>
1	73 ANDERSON BRUCE	YES LIFE	0.00	0.05	0.06	0.01
2	140 BARONE JAMIE	YES LIFE	0.50	0.57	0.08	0.04
3	177 BENCA JOHN	YES LIFE	0.00	0.20	0.26	0.06
4	2801 BERTINO FABRIZIO 2ND VICT	YES LIFE	0.00	0.05	0.13	0.04
5	2800 BIEGENWALD RICHARD 2	YES LIFE	0.00	0.19	0.17	0.45
6	209 BLACKMON CRAIG	YES LIFE	0.50	0.00	0.15	0.01
7	231 BOOKER GEORGE 1ST VICT	YES LIFE	0.46	0.67	0.93	0.79
8	2825 BOOKER GEORGE 2D VIC	YES LIFE	0.46	0.67	0.79	0.56
9	305 BRUNSON ALPHONSO	YES LIFE	0.38	0.20	0.03	0.00
10	338 BUSBY WAYNE	YES LIFE	0.00	0.44	0.07	0.00
11	365 CANCIO GUSTAVIO	YES LIFE	0.00	0.57	0.26	0.15
12	394 CARROLL JOHN JAMES	YES LIFE	0.20	0.05	0.17	0.32
13	463 COHEN HUMPHREY	YES LIFE	0.00	0.07	0.03	0.00
14	506 CORREA NICHOLAS	YES LIFE	0.33	0.05	0.11	0.03
15	558 CUNNINGHAM BRUCE	YES LIFE	0.50	0.07	0.03	0.01
16	576 DARRIAN CHARLES EDWARD	YES LIFE	0.50	0.07	0.06	0.05
17	603 DEEVES WILLIAM J	YES LIFE	0.20	0.19	0.27	0.05
18	673 DIAZ FELIX R	YES LIFE	0.46	0.20	0.03	0.03
19	649 DICKERSON KEITH	YES LIFE	0.50	0.07	0.03	0.00
20	679 DOWNIE JOHN WILY AM	YES LIFE	0.22	0.00	0.03	0.00
21	694 DURDEN LARRY	YES LIFE	0.00	0.20	0.17	0.06
22	703 EATON OLLIE MOSCOE	YES LIFE	0.00	0.05	0.02	0.00
23	716 EDWARDS RALPH	YES LIFE	0.00	0.20	0.03	0.00
24	726 ENGEL HERBERT	YES LIFE	0.33	0.07	0.29	0.20
25	727 ENGEL WILLIAM	YES LIFE	0.33	0.07	0.29	0.07
26	618 FRANKS DONALD MICHAEL	YES LIFE	0.00	0.07	0.03	0.03
27	964 GUAGENTI JOSEPH M JR	YES LIFE	0.20	0.19	0.49	0.06
28	3022 HERNANDEZ JOSE 2ND VIC	YES LIFE	0.46	0.05	0.04	0.02
29	1060 HERNANDEZ JOSE 1ST VIC	YES LIFE	0.46	0.05	0.04	0.02
30	1076 HICKS JOSEPH	YES LIFE	0.50	0.05	0.07	0.06
31	1079 HIGHLANDER RICHARD LEE	YES LIFE	0.00	0.44	0.04	0.08
32	1133 HUFF AARON P	YES LIFE	0.00	0.57	0.35	0.02
33	2808 JOENSON WALTER 1ST VIC	YES LIFE	0.46	0.00	0.59	0.60
34	1243 JONES JIMMIE LEE	YES LIFE	0.22	0.19	0.08	0.01
35	1246 JONES LARRY	YES LIFE	0.22	0.57	0.16	0.15
36	3001 KIGE RAYMOND 1B	YES LIFE	0.29	0.50	0.16	0.09
37	3018 KOEDATICH JAMES JEROLD 1B	YES LIFE	0.50	0.00	0.93	0.75
38	1336 KOEDATICH JAMES 2	YES LIFE	0.50	0.67	0.17	0.05
39	1391 LAZORISAK GEORGE NICHOLAS	YES LIFE	0.00	0.05	0.07	0.00
40	1476 LUCIANA MARK	YES LIFE	0.00	0.20	0.03	0.01
41	1489 MACHADO JOSE	YES LIFE	0.20	0.07	0.11	0.02
42	1510 MANFREDONIA MICHAEL J	YES LIFE	0.00	0.40	0.61	0.74
43	1533 MARTIN DANIEL LOUIS	YES LIFE	0.00	0.20	0.11	0.05
44	1576 MAYRON GARY JOSEPH	YES LIFE	0.00	0.44	0.34	0.37
45	1612 MCKENZIE CLIFTON	YES LIFE	0.00	0.05	0.06	0.11
46	1638 MELENDEZ MIGUEL	YES LIFE	0.50	0.19	0.59	0.18
47	1640 MENDEZ INCENZIO B	YES LIFE	0.38	0.57	0.53	0.16
48	1658 MICHELICHE HENRY	YES LIFE	0.33	0.00	0.02	0.05

1. The life-sentenced cases are listed first in alphabetical order, followed by a similar listing of the death-sentenced cases.

2. The source is table 7, column 2.

3. The source is table 8.

4. The source is table 16.

5. The source is table 12.

TABLE 19. Rates at Which Death Sentences Are Imposed Among Comparable Penalty-Trial Cases Estimated with Four Measures of Defendant Culpability for Death-Sentenced Cases That Are Death-Eligible Under Current New Jersey Law

OBS CASE#	NAME	PEN.	TRIAL	SENT	DEATH-SENTENCING RATES AMONG SIMILAR CASES			
					SALIENT FACTORS MEASURE	AGG/MIT CIR. MEASURE	INDEX PREDICTION W/AGG/MIT CIR.	INDEX PREDICTION W/STAT.CIR. & FACTORS
49	2826 MONTURI SEBASTIAN 1ST VIC	YES	LIFE	0.00	0.20	0.28	0.57	
50	1709 MONTURI SEBASTIAN 2D VIC	YES	LIFE	0.00	0.67	0.28	0.37	
51	4031 MUSCIO NICHOLAS PETER	YES	LIFE	0.38	0.19	0.16	0.02	
52	1780 MAPLES DONALD RICHARD JOSEPH	YES	LIFE	0.00	0.05	0.07	0.03	
53	1783 NEAPOLITANO ANTHONY	YES	LIFE	0.00	0.44	0.61	0.12	
54	1791 NICKLY RENEK	YES	LIFE	0.00	0.05	0.12	0.04	
55	1793 NIKVES ALBERTO	YES	LIFE	0.86	0.57	0.59	0.34	
56	1880 PARSONS DOUGLAS	YES	LIFE	0.00	0.05	0.02	0.00	
57	1918 PERRY HAROLD EDWARD	YES	LIFE	0.29	0.19	0.08	0.05	
58	1946 PIERCE RONALD WILLIAM	YES	LIFE	0.00	0.05	0.06	0.01	
59	1958 FLOPPERT CHARLES MATTHEW	YES	LIFE	0.38	0.40	0.18	0.01	
60	197A PRATER MICHAEL ANTHONY	YES	LIFE	0.50	0.20	0.17	0.38	
61	2030 REDDEN RICHARD JOSEPH	YES	LIFE	0.29	0.20	0.03	0.00	
62	2040 REESE JOHN SEYMOUR JR	YES	LIFE	0.50	0.57	0.35	0.04	
63	2044 REIGLE THOMAS	YES	LIFE	0.38	0.05	0.06	0.06	
64	2053 REYES JOSE LUIS	YES	LIFE	0.00	0.19	0.19	0.49	
65	2091 RIVERA RAFAEL M	YES	LIFE	0.50	0.57	0.35	0.16	
66	2170 ROSE MICHAEL	YES	LIFE	0.50	0.07	0.04	0.03	
67	3003 ROSE TEDDY 1B	YES	LIFE	0.67	0.44	0.80	0.80	
68	2190 RUSSO DAVID MARK	YES	LIFE	0.22	0.00	0.05	0.04	
69	2195 SAINVALLIER REMY	YES	LIFE	0.00	0.07	0.04	0.05	
70	2233 SCALES TERENCE ROBERT	YES	LIFE	0.29	0.19	0.02	0.32	
71	2270 SETTE MARK JOHN	YES	LIFE	0.25	0.20	0.10	0.04	
72	2318 SLAUGHTER RAFAEL	YES	LIFE	0.22	0.19	0.08	0.05	
73	2375 SPRAGGINS JERRY JEROME	YES	LIFE	0.00	0.57	0.17	0.01	
74	2381 STAMPS AARON	YES	LIFE	0.22	0.19	0.08	0.01	
75	2627 WASHINGTON DELAWO	YES	LIFE	0.25	0.07	0.10	0.01	
76	2647 WESTON ELISHA	YES	LIFE	0.00	0.40	0.37	0.01	
77	2715 WILLIAMS WALTER L	YES	LIFE	0.00	0.19	0.04	0.00	
78	2722 WILSON JOSEPH LEE	YES	LIFE	0.22	0.05	0.03	0.00	
79	2761 WRIGHT JEANNE ANNE	YES	LIFE	0.00	0.05	0.27	0.01	
80	160 BEY MARKO 2A	YES	DEATH	0.50	1.00	0.82	0.83	
81	3000 BEY MARKO 2B	YES	DEATH	0.50	0.57	0.65	0.81	
82	3002 BIEGENWALD RICHARD F 1B	YES	DEATH	0.86	0.57	0.60	0.96	
83	200 BIEGENWALD RICHARD 1A	YES	DEATH	0.86	0.57	0.60	0.96	
84	443 CLAUSELL JAMES DOUGLAS 1A	YES	DEATH	0.50	0.44	0.76	0.87	
85	520 COYLE BRYAN PATRICK	YES	DEATH	0.86	0.67	0.94	0.98	
86	119 DIFRISCO ANTHONY	YES	DEATH	0.50	0.67	0.83	0.89	
87	652 DIXON PHILLIP A	YES	DEATH	0.29	0.57	0.24	0.10	
88	728 ERAZO SAMUEL	YES	DEATH	0.86	0.20	0.68	0.48	
89	868 GERALD WALTER MEIN	YES	DEATH	0.38	0.20	0.29	0.99	
90	1031 HARVEY NATHANIEL	YES	DEATH	0.38	1.00	0.82	0.44	
91	1080 HIGHTOWER JACINTO	YES	DEATH	0.22	0.67	0.54	0.04	
92	1138 HUNT JAMES IRVING	YES	DEATH	0.25	0.07	0.11	0.22	
93	1158 JACKSON KEVIN	YES	DEATH	0.50	0.57	0.63	0.53	
94	1227 JOHNSON WALTER 2D VICT	YES	DEATH	0.46	0.67	0.58	0.85	
95	1329 KISE RAYMOND 1A	YES	DEATH	0.29	0.40	0.31	0.15	
96	1337 KOEDATICH JAMES JEROLD 1A	YES	DEATH	0.50	1.00	0.87	0.97	
97	1453 LODATO BENJAMIN	YES	DEATH	0.50	0.57	0.63	0.96	
98	1459 LONG RONALD EUGENE	YES	DEATH	0.22	0.19	0.14	0.25	
99	1529 MARSHALL ROBERT OAKLEY	YES	DEATH	0.33	0.19	0.52	0.50	
100	3032 MARTINI JOHN MARTIN	YES	DEATH	0.50	0.57	0.08	0.46	
101	1598 MC DOUGALD ANTHONY 1ST VIC	YES	DEATH	0.46	0.67	0.58	0.93	
102	2811 MC DOUGALD ANTHONY 2D VIC	YES	DEATH	0.46	0.67	0.58	0.93	
103	1720 MOORE SAMUEL 1ST VIC	YES	DEATH	0.46	0.44	0.52	0.54	
104	2810 MOORE SAMUEL 2D VIC	YES	DEATH	0.46	0.44	0.52	0.54	
105	1823 OGLESBY WALTER EDWARD	YES	DEATH	0.20	0.19	0.49	0.45	
106	1914 PENNINGTON FRANK	YES	DEATH	0.50	0.67	0.72	0.89	
107	2026 FURNELL BRAYNARD ANDRA	YES	DEATH	0.86	0.57	0.71	0.98	
108	2015 RAMSEUR THOMAS C	YES	DEATH	0.86	0.57	0.82	0.99	
109	2172 ROSE TEDDY 1A	YES	DEATH	0.67	0.57	0.91	0.95	
110	2228 SAVAGE ROY	YES	DEATH	0.33	0.20	0.33	0.77	
111	2241 SCHIAVO DOMINICK RICHARD	YES	DEATH	0.67	0.40	0.89	0.95	
112	2687 WILLIAMS JAMES EDWARD 1A	YES	DEATH	0.50	0.67	0.58	0.97	
113	2795 ZOLA JAMES EDWARD 1A	YES	DEATH	0.50	0.57	0.57	0.88	

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Table 20. Rates at Which Death Sentences Are Imposed Among All Comparable Cases (Both Penalty-Trial and Non-Penalty-Trial) Estimated with Four Measures of Defendant Culpability for Death-Sentenced Cases That Are Death-Eligible Under Current New Jersey Law

OBS CASE#	NAME	PEN. TRIAL	SENT	DEATH-SENTENCING RATES AMONG SIMILAR CASES <sup>1/</sup>			
				SALIENT FACTORS MEASURE <sup>2/</sup>	ACC/MIT CIR. MEASURE <sup>3/</sup>	INDEX PREDICTION W/ACC/MIT CIR. <sup>4/</sup>	INDEX PREDICTION W/STAT.CIR. & FACTORS <sup>5/</sup>
1	52 ALLEN KAREN	NO	LIFE	0.13	0.18	0.11	0.01
2	93 ANDERSON ANTOINE	NO	LIFE	0.00	0.07	0.03	0.01
3	73 ANDERSON BRUCE	YES	LIFE	0.00	0.03	0.04	0.02
4	4004 ARMSTRONG JOSEPH	NO	LIFE	0.00	0.07	0.09	0.02
5	140 BARONE JAMIE	YES	LIFE	0.50	0.32	0.07	0.06
6	4014 BASHA ABDULLA	NO	LIFE	0.00	0.03	0.05	0.00
7	177 BENGA JOHN	YES	LIFE	0.00	0.15	0.44	0.31
8	2801 BERTINO FABRIZIO 2ND VICT	YES	LIFE	0.00	0.03	0.05	0.01
9	2800 BIEGENWALD RICHARD 2	YES	LIFE	0.00	0.07	0.10	0.15
10	209 BLACIMON CRAIG	YES	LIFE	0.28	0.00	0.10	0.01
11	226 BOLINGER ROBERT	NO	LIFE	0.28	0.18	0.11	0.61
12	231 BOOKER GEORGE 1ST VICT	YES	LIFE	0.46	0.57	0.71	0.67
13	2825 BOOKER GEORGE 2D VIC	YES	LIFE	0.46	0.57	0.72	0.53
14	4038 BRAND FRANCIS	NO	LIFE	0.25	0.03	0.31	0.24
15	4003 BROOKS KEVIN	NO	LIFE	0.00	0.03	0.02	0.01
16	4019 BROWN VINCENT E	NO	LIFE	0.00	0.32	0.05	0.00
17	305 BRUNSON ALPHONSO	YES	LIFE	0.23	0.15	0.05	0.00
18	321 BURROUGHS RANDY	NO	LIFE	0.33	0.03	0.12	0.01
19	338 BUSBY WAYNE	YES	LIFE	0.00	0.18	0.06	0.01
20	350 CALDWELL LAWRENCE STEVEN	NO	LIFE	0.11	0.03	0.03	0.00
21	356 CALLOWAY DERRICK	NO	LIFE	0.00	0.07	0.03	0.01
22	365 CANCIO GUSTAVIO	YES	LIFE	0.00	0.32	0.06	0.01
23	382 CARR CARLTON DENNIS JR	NO	LIFE	0.00	0.03	0.03	0.01
24	394 CARROLL JOHN JAMES	YES	LIFE	0.13	0.03	0.38	0.67
25	388 CARROZZA ANTHONY RAMON	NO	LIFE	0.17	0.03	0.05	0.01
26	402 CAVINESS DWAYNE VANCE	NO	LIFE	0.23	0.18	0.07	0.03
27	4021 CLARK HASBONA	NO	LIFE	0.11	0.07	0.63	0.02
28	439 CLARK REGINALD	NO	LIFE	0.00	0.03	0.02	0.01
29	3007 CLAUSELL JAMES DOUGLAS 1B	NO	LIFE	0.33	0.18	0.41	0.68
30	447 CLEARY MICHAEL DENNIS	NO	LIFE	0.14	0.03	0.02	0.00
31	463 COHEN HUMPHREY	YES	LIFE	0.00	0.03	0.02	0.00
32	470 COLLINS DAVID ANDREW	NO	LIFE	0.28	0.18	0.14	0.28
33	506 CORREA NICHOLAS	YES	LIFE	0.25	0.03	0.05	0.02
34	544 CULLEY CARL	NO	LIFE	0.11	0.32	0.07	0.01
35	550 CUNNINGHAM BRUCE	YES	LIFE	0.28	0.03	0.02	0.01
36	576 DARRIAN CHARLES EDWARD	YES	LIFE	0.28	0.03	0.04	0.02
37	4006 DEAN JOHN	NO	LIFE	0.00	0.06	0.04	0.13
38	603 DEEVES WILLIAM J	YES	LIFE	0.13	0.07	0.11	0.05
39	624 DELVALLE EFRAIN MANGUAL	NO	LIFE	0.00	0.07	0.05	0.01
40	673 DIAZ FELIX R	YES	LIFE	0.46	0.15	0.03	0.12
41	649 DICKERSON KEITH	YES	LIFE	0.28	0.03	0.02	0.01
42	658 DINKINS ROBERT LEE	NO	LIFE	0.00	0.07	0.03	0.00
43	4027 DOLLARD THOMAS DAMAR	NO	LIFE	0.00	0.07	0.03	0.01
44	679 DOWNIE JOHN WILLIAM	YES	LIFE	0.11	0.00	0.02	0.00
45	684 DREHER JOHN W	NO	LIFE	0.50	0.07	0.10	0.24

1. The life-sentenced cases are listed first in alphabetical order, followed by a similar listing of the death-sentenced cases.

2. The source is table 7, column C.

3. The source is table 9.

4. The source is table 17.

5. The source is table 14.

September 24, 1991

Table 20. Rates at Which Death Sentences Are Imposed Among All Comparable Cases (Both Penalty-Trial and Non-Penalty-Trial) Estimated with Four Measures of Defendant Culpability for Death-Sentenced Cases That Are Death-Eligible Under Current New Jersey Law

		DEATH-SENTENCING RATES AMONG SIMILAR CASES					
						INDEX	INDEX
OBS CASE#	NAME	PEN.	SALIENT	AGG/MIT	PREDICTION	PREDICTION	
		TRIAL	FACTORS	CIR.	W/AGG/MIT	W/STAT.CIR.	& FACTORS
		SENT	MEASURE	MEASURE	CIR.		
46	694 DURDEN LARRY	YES	LIFE	0.00	0.06	0.04	0.00
47	703 KATON OLLIE ROSCOE	YES	LIFE	0.00	0.03	0.01	0.00
48	712 EDWARDS EUGENE EVERSON	NO	LIFE	0.00	0.07	0.04	0.09
49	716 EDWARDS RALPH	YES	LIFE	0.00	0.15	0.04	0.01
50	726 ENGEL HERBERT	YES	LIFE	0.25	0.03	0.18	0.10
51	727 ENGEL WILLIAM	YES	LIFE	0.25	0.03	0.18	0.20
52	742 ETHRIDGE WILLIE DANIEL	NO	LIFE	0.13	0.03	0.06	0.00
53	754 FAINS ALBERT CARROW	NO	LIFE	0.23	0.06	0.04	0.01
54	4024 FARROW RICHARD	NO	LIFE	0.00	0.03	0.05	0.00
55	772 FERRARI SALVATORE	NO	LIFE	0.00	0.03	0.03	0.00
56	791 FLOYD LAMONT DAVID	NO	LIFE	0.00	0.07	0.03	0.00
57	618 FRANKS DONALD MICHAEL	YES	LIFE	0.00	0.03	0.02	0.01
58	828 FREEMAN JONATHAN	NO	LIFE	0.00	0.03	0.01	0.00
59	826 FULLARD ISSAAC	NO	LIFE	0.28	0.06	0.04	0.01
60	4020 GAINER RED	NO	LIFE	0.00	0.18	0.04	0.03
61	889 GLOVER DAVID	NO	LIFE	0.00	0.03	0.03	0.02
62	917 GRAF CLIFFORD JOSEPH	NO	LIFE	0.00	0.07	0.04	0.01
63	4001 GRANT MICHAEL	NO	LIFE	0.00	0.03	0.04	0.00
64	964 GUAGENTI JOSEPH M JR	YES	LIFE	0.13	0.07	0.60	0.16
65	1027 HART CRAIG	NO	LIFE	0.11	0.00	0.02	0.00
66	4033 HENDERSON JAMES	NO	LIFE	0.28	0.18	0.12	0.80
67	3022 HERNANDEZ JOSE 2ND VIC	YES	LIFE	0.46	0.03	0.02	0.00
68	1060 HERNANDEZ JOSE 1ST VIC	YES	LIFE	0.46	0.03	0.02	0.00
69	1076 HICKS JOSEPH	YES	LIFE	0.14	0.03	0.03	0.01
70	1079 HIGHLANDER RICHARD LEE	YES	LIFE	0.00	0.18	0.04	0.00
71	1110 HOLMES GREGORY LAMONT	NO	LIFE	0.00	0.32	0.03	0.01
72	1103 HUDSON FRANKLIN FLOWERS JR	NO	LIFE	0.23	0.07	0.02	0.04
73	1133 HUFF AARON P	YES	LIFE	0.00	0.32	0.11	0.01
74	1163 JACOBY-IRWIN BARBARA ANN	NO	LIFE	0.13	0.07	0.10	0.05
75	1164 JALIL NELSON	NO	LIFE	0.00	0.32	0.18	0.05
76	1193 JAMES DARRYL LEE	NO	LIFE	0.00	0.06	0.04	0.03
77	3008 JAMES MARVIN AUGUSTUS	NO	LIFE	0.00	0.33	0.06	0.00
78	1177 JEFFERSON RICHARD	NO	LIFE	0.00	0.03	0.03	0.00
79	1219 JOHNSON MATHANIEL	NO	LIFE	0.00	0.06	0.04	0.01
80	2808 JOHNSON WALTER 1ST VIC	YES	LIFE	0.46	0.00	0.33	0.38
81	1243 JONES JIMMIE LEE	YES	LIFE	0.11	0.07	0.03	0.01
82	1246 JONES LARRY	YES	LIFE	0.11	0.32	0.04	0.02
83	1251 JONES MICHAEL SPENCER	NO	LIFE	0.13	0.03	0.02	0.01
84	1257 JONES TRACY LATIF	NO	LIFE	0.00	0.07	0.02	0.00
85	4012 KERESTY WALTER	NO	LIFE	0.00	0.07	0.03	0.02
86	4005 KERSHAW ALBERT ERLE	NO	LIFE	0.00	0.07	0.05	0.05
87	3001 KISE RAYMOND 1B	YES	LIFE	0.13	0.50	0.16	0.28
88	1332 KLATZKIN GERALD MATTHEW	NO	LIFE	0.00	0.00	0.02	0.00
89	3018 KOEDATICH JAMES JEROLD 1B	YES	LIFE	0.50	0.00	0.82	0.56
90	1336 KOEDATICH JAMES 2	YES	LIFE	0.50	0.33	0.09	0.07
91	1377 LAPOINTE PIERRE NORMAN	NO	LIFE	0.00	0.07	0.01	0.00
92	1391 LAZORISAK GEORGE NICHOLAS	YES	LIFE	0.00	0.03	0.03	0.00
93	4034 LIPPEN GARY HOWARD	NO	LIFE	0.28	0.00	0.04	0.01
94	1476 LUCIANA MARK	YES	LIFE	0.00	0.15	0.04	0.01
95	1489 MACHADO JOSE	YES	LIFE	0.13	0.03	0.09	0.01
96	1509 MANDICH JOHN FRANCISCO	NO	LIFE	0.00	0.06	0.04	0.01
97	1510 MANFREDONIA MICHAEL J	YES	LIFE	0.00	0.40	0.84	0.42
98	1533 MARTIN DANIEL LOUIS	YES	LIFE	0.00	0.15	0.04	0.03
99	1576 MAYRON GARY JOSEPH	YES	LIFE	0.00	0.18	0.12	0.03
100	1611 MC IVER VERNON	NO	LIFE	0.00	0.03	0.02	0.00
101	1624 MC NEIL KEITH BURTON	NO	LIFE	0.13	0.07	0.03	0.01
102	2819 MCCOLLUM WILLIAM	NO	LIFE	0.00	0.32	0.11	0.02
103	1588 MCCOY JAMES LONNIE	NO	LIFE	0.00	0.03	0.06	0.00
104	1612 MCKENZIE CLIFTON	YES	LIFE	0.00	0.03	0.02	0.00
105	1637 MELENDEZ ANGEL	NO	LIFE	0.00	0.32	0.03	0.01
106	1638 MELENDEZ MIGUEL	YES	LIFE	0.33	0.07	0.21	0.09
107	1640 MENDEZ INCENZIO B	YES	LIFE	0.23	0.32	0.18	0.05
108	4002 MENDEZ OSCAR	NO	LIFE	0.00	0.07	0.03	0.14
109	1648 MEROLA THOMAS ANTHONY	NO	LIFE	0.14	0.32	0.11	0.02

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Table 20. Rates at Which Death Sentences Are Imposed Among All Comparable Cases (Both Penalty-Trial and Non-Penalty-Trial) Estimated with Four Measures of Defendant Culpability for Death-Sentenced Cases That Are Death-Eligible Under Current New Jersey Law

		DEATH-SENTENCING RATES AMONG SIMILAR CASES							
OBS CASE#	NAME	PEN. TRIAL	SENT	SALIENT FACTORS MEASURE	AGG/MIT CIR. MEASURE	INDEX	INDEX		
						PREDICTION W/AGG/MIT CIR.	PREDICTION W/STAT.CIR. & FACTORS		
110	1650	MESSAM	GLADSTONE	NO	LIFE	0.17	0.07	0.10	0.00
111	1658	MICHELICHE	HENRY	YES	LIFE	0.25	0.00	0.02	0.01
112	4009	MINCEY	SAMUEL	NO	LIFE	0.28	0.00	0.33	0.11
113	1705	MONTALVO	ORLANDO	NO	LIFE	0.67	0.07	0.10	0.02
114	2826	MONTURI	SEBASTIAN 1ST VIC	YES	LIFE	0.00	0.06	0.09	0.06
115	1709	MONTURI	SEBASTIAN 2D VIC	YES	LIFE	0.00	0.33	0.19	0.07
116	1738	MORTON	ADRIAN	NO	LIFE	0.00	0.32	0.07	0.01
117	4028	MUHAMMAD	ABDUL	NO	LIFE	0.14	0.06	0.04	0.02
118	1750	MUHAMMED	JIHAD	NO	LIFE	0.67	0.06	0.16	0.21
119	1753	MUJAHID	RASHEED A	NO	LIFE	0.00	0.32	0.03	0.03
120	4031	MUSCIO	MICHOELAS PETER	YES	LIFE	0.23	0.07	0.05	0.06
121	1771	MUSGROVE	IRA	NO	LIFE	0.13	0.03	0.02	0.03
122	1780	NAPLES DONALD	RICHARD JOSEPH	YES	LIFE	0.00	0.03	0.03	0.01
123	1783	NEAPOLITANO	ANTHONY	YES	LIFE	0.00	0.18	0.71	0.24
124	1791	NICELY	RENEE	YES	LIFE	0.00	0.03	0.06	0.01
125	1793	NIEVES	ALBERTO	YES	LIFE	0.67	0.32	0.35	0.13
126	4011	NORMAN	ANTHONY M	NO	LIFE	0.00	0.07	0.03	0.01
127	1828	O'NEAL	LOUIS ERIC	NO	LIFE	0.00	0.33	0.18	0.01
128	1880	PARSONS	DOUGLAS	YES	LIFE	0.00	0.03	0.03	0.00
129	1918	PERRY	HAROLD EDWARD	YES	LIFE	0.13	0.07	0.03	0.01
130	1946	PIERCE	RONALD WILLIAM	YES	LIFE	0.00	0.03	0.02	0.01
131	1951	PINERO	EDWIN	NO	LIFE	0.00	0.06	0.04	0.00
132	1958	PLOPPERT	CHARLES MATTHEW	YES	LIFE	0.23	0.40	0.12	0.00
133	4018	POMALES	DEMNIS	NO	LIFE	0.00	0.18	0.04	0.00
134	1974	PRATER	MICHAEL ANTHONY	YES	LIFE	0.28	0.06	0.04	0.07
135	1976	FRESHER	JOSEPH	NO	LIFE	0.00	0.18	0.17	0.01
136	1977	FRESTON	JOHNNIE	NO	LIFE	0.11	0.07	0.03	0.01
137	2030	REDDEN	RICHARD JOSEPH	YES	LIFE	0.13	0.15	0.01	0.00
138	2040	REESE JOHN	SKYMOOR JR	YES	LIFE	0.28	0.32	0.11	0.13
139	2044	REIGLE	THOMAS	YES	LIFE	0.23	0.03	0.02	0.02
140	2053	REYES JOSE	LUIS	YES	LIFE	0.00	0.07	0.26	0.68
141	2061	RICHARDSON	ARTHUR JUNIOR	NO	LIFE	0.00	0.33	0.18	0.00
142	2091	RIVERA	RAFAEL M	YES	LIFE	0.28	0.32	0.11	0.04
143	2146	ROGERS	MARCUS ORLANDO	NO	LIFE	0.00	0.57	0.71	0.04
144	2170	ROSE	MICHAEL	YES	LIFE	0.33	0.03	0.02	0.00
145	3003	ROSE	TEDDY 1B	YES	LIFE	0.67	0.18	0.83	0.72
146	2182	RUANO	HERIBERTO SANCHEZ	NO	LIFE	0.14	0.07	0.04	0.02
147	2183	RUGGS	HARRY LEE	NO	LIFE	0.00	0.03	0.03	0.02
148	2190	RUSO	DAVID MARK	YES	LIFE	0.11	0.00	0.03	0.00
149	2195	SAINVALLIER	REMY	YES	LIFE	0.00	0.03	0.10	0.05
150	2202	SANABRIA	HECTOR	NO	LIFE	0.00	0.06	0.03	0.01
151	2230	SAXTON	CALVIN	NO	LIFE	0.13	0.03	0.06	0.05
152	2235	SCALES	TERRENCE ROBERT	YES	LIFE	0.13	0.07	0.03	0.02
153	2270	SETTE	MARK JOHN	YES	LIFE	0.17	0.13	0.05	0.00
154	2318	SLAUGHTER	RAFAEL	YES	LIFE	0.11	0.07	0.03	0.04
155	4008	SLOVER	JOSEPH CHRISTOPHER	NO	LIFE	0.11	0.15	0.04	0.01
156	2362	SOSSIN	MARK WILLIAM	NO	LIFE	0.00	0.03	0.02	0.00
157	4007	SOTO	JOSE	NO	LIFE	0.11	0.03	0.02	0.01
158	2372	SPILLANE	RICHARD J	NO	LIFE	0.00	0.33	0.12	0.03
159	2375	SPRAGGINS	JERRY JEROME	YES	LIFE	0.00	0.32	0.40	0.14
160	2389	SPRUELL	QUINCY HAYWARD	NO	LIFE	0.14	0.18	0.14	0.06
161	2381	STAMPS	AARON	YES	LIFE	0.11	0.07	0.03	0.01
162	2387	STATEN	ROBERT	NO	LIFE	0.00	0.03	0.02	0.04
163	2391	STEVENS	LARRY	NO	LIFE	0.00	0.07	0.02	0.00
164	4029	SULLIVAN	ROY	NO	LIFE	0.00	0.07	0.02	0.00
165	2445	TAYLOR	LEROY	NO	LIFE	0.28	0.33	0.29	0.12
166	2448	TAYLOR	WILEY DUANE	NO	LIFE	0.00	0.32	0.06	0.01
167	4030	TELFORD	MARK	NO	LIFE	0.00	0.03	0.03	0.05
168	2433	THAMMAN	MARESH	NO	LIFE	0.00	0.18	0.07	0.04
169	4013	THOMAS	CHRISTOPHER	NO	LIFE	0.13	0.32	0.11	0.02
170	2471	THOMPSON	HOWARD MATHANIEL	NO	LIFE	0.13	0.03	0.02	0.01
171	2500	TIMPSON	ALFONSO DEAN	NO	LIFE	0.28	0.15	0.10	0.00
172	4025	TORO	WILLIAM	NO	LIFE	0.00	0.03	0.05	0.00
173	2535	TREADWAY	JOHN	NO	LIFE	0.00	0.03	0.04	0.00

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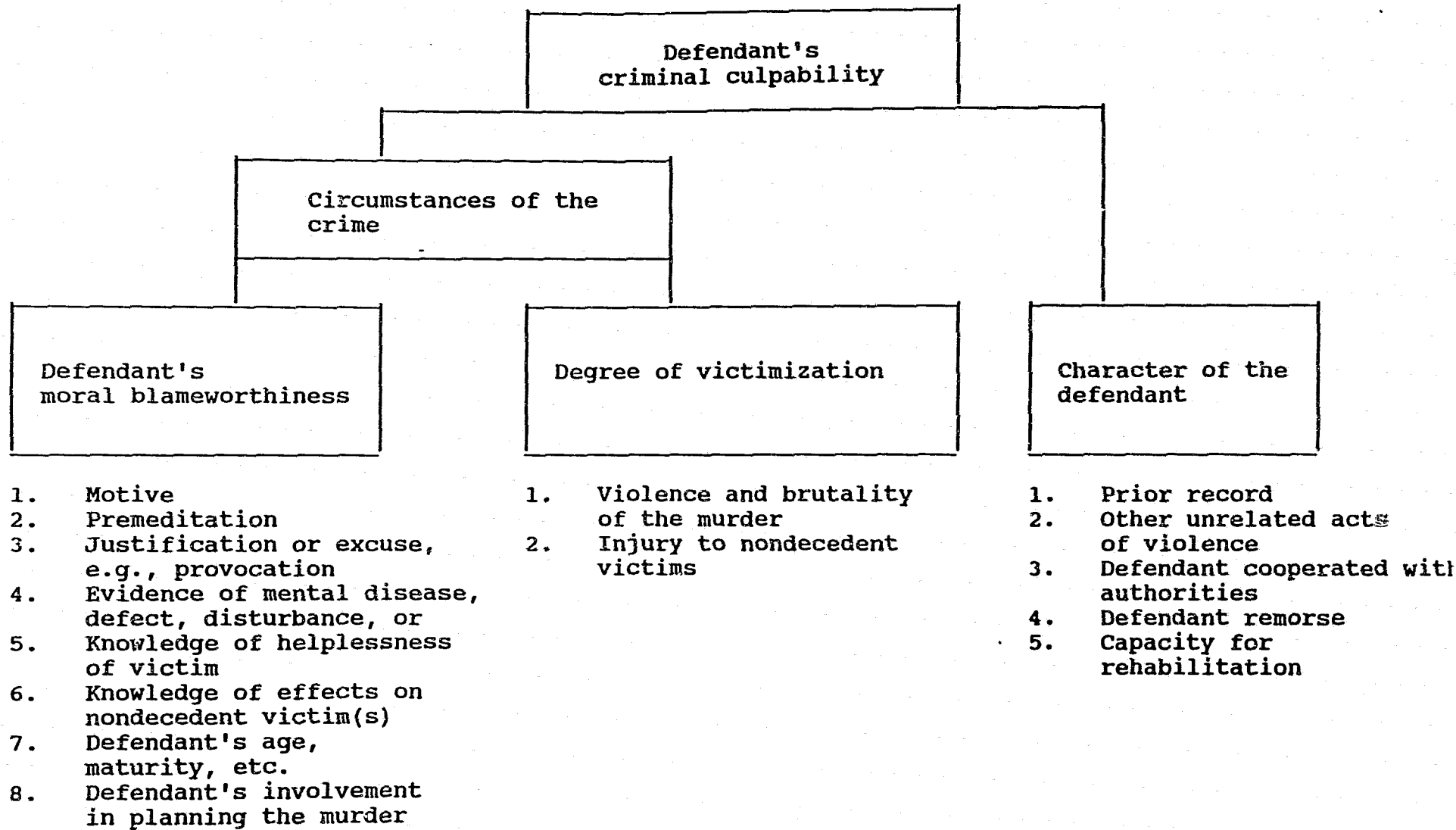
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		DEATH-SENTENCING RATES AMONG SIMILAR CASES					
OBS CASE#	NAME	PEN. TRIAL	SENT	SALIENT FACTORS MEASURE	AGG/MIT CIR. MEASURE	INDEX	INDEX
						PREDICTION W/AGG/MIT CIR.	PREDICTION W/STAT.CIR. & FACTORS
174	2345 TUCKER STANLEY	NO	LIFE	0.13	0.32	0.11	0.02
175	2549 TURNER JOHN HENRY	NO	LIFE	0.00	0.07	0.04	0.02
176	4016 VALDEZ GILBERTO	NO	LIFE	0.00	0.18	0.11	0.05
177	2574 VASQUEZ PEDRO LOUIS	NO	LIFE	0.25	0.03	0.11	0.01
178	4035 WASHINGTON COREY	NO	LIFE	0.11	0.32	0.07	0.03
179	2627 WASHINGTON DELANO	YES	LIFE	0.17	0.03	0.06	0.01
180	4017 WATKINS RICKY	NO	LIFE	0.00	0.32	0.11	0.04
181	2647 WESTON ELISHA	YES	LIFE	0.00	0.40	0.31	0.03
182	2649 WHEELER RONALD LEON	NO	LIFE	0.13	0.32	0.18	0.02
183	2673 WIDER JAMES	NO	LIFE	0.00	0.15	0.04	0.00
184	2684 WILLIAMS GERALD E	NO	LIFE	0.23	0.07	0.02	0.01
185	2685 WILLIAMS HERMAN	NO	LIFE	0.23	0.06	0.04	0.02
186	3005 WILLIAMS JAMES EDWARD 1B	NO	LIFE	0.28	0.33	0.18	0.67
187	2715 WILLIAMS WALTER L	YES	LIFE	0.00	0.07	0.05	0.01
188	2722 WILSON JOSEPH LEE	YES	LIFE	0.11	0.03	0.02	0.00
189	2723 WILSON LESTER ALLEN	NO	LIFE	0.28	0.18	0.05	0.00
190	4032 WORTHINGTON EARL JUNIOR	NO	LIFE	0.11	0.07	0.02	0.00
191	2761 WRIGHT JEANNE ANNE	YES	LIFE	0.00	0.03	0.45	0.09
192	2780 YOUNG CARL JR	NO	LIFE	0.00	0.06	0.04	0.01
193	3006 ZOLA JAMES EDWARD 1B	NO	LIFE	0.28	0.32	0.21	0.18
194	160 BEY MARKO 2A	YES	DEATH	0.28	1.00	0.73	0.94
195	3000 BEY MARKO 2B	YES	DEATH	0.28	0.32	0.33	0.83
196	3002 BIEGENWALD RICHARD F 1B	YES	DEATH	0.67	0.32	0.33	0.65
197	200 BIEGENWALD RICHARD 1A	YES	DEATH	0.67	0.32	0.33	0.65
198	443 CLAUSELL JAMES DOUGLAS 1A	YES	DEATH	0.33	0.18	0.41	0.68
199	520 COYLE BRYAN PATRICK	YES	DEATH	0.67	0.33	0.96	1.00
200	119 DIPRISCO ANTHONY	YES	DEATH	0.33	0.33	0.88	0.72
201	662 DIXON PHILLIP A	YES	DEATH	0.13	0.32	0.19	0.56
202	728 ERAZO SAMUEL	YES	DEATH	0.67	0.15	0.88	0.84
203	868 GERALD WALTER MEIN	YES	DEATH	0.23	0.15	0.13	0.96
204	1031 HARVEY NATHANIEL	YES	DEATH	0.23	1.00	0.85	0.95
205	1080 HIGHTOWER JACINTO	YES	DEATH	0.11	0.57	0.33	0.08
206	1138 HUNT JAMES IRVING	YES	DEATH	0.17	0.03	0.09	0.55
207	1158 JACKSON KEVIN	YES	DEATH	0.28	0.32	0.61	0.93
208	1227 JOHNSON WALTER 2D VICT	YES	DEATH	0.46	0.57	0.37	0.68
209	1329 KISE RAYMOND 1A	YES	DEATH	0.13	0.40	0.20	0.37
210	1337 KOEDATICH JAMES JEROLD 1A	YES	DEATH	0.50	1.00	0.83	0.98
211	1453 LODATO BENJAMIN	YES	DEATH	0.28	0.32	0.63	0.76
212	1459 LONG RONALD EUGENE	YES	DEATH	0.11	0.07	0.04	0.04
213	1529 MARSHALL ROBERT OAKLEY	YES	DEATH	0.25	0.07	0.27	0.17
214	3032 MARTINI JOHN MARTIN	YES	DEATH	0.50	0.32	0.07	0.16
215	1598 MC DOUGALD ANTHONY 1ST VIC	YES	DEATH	0.46	0.57	0.37	0.80
216	2811 MC DOUGALD ANTHONY 2D VIC	YES	DEATH	0.46	0.57	0.37	0.80
217	1720 MOORE SAMUEL 1ST VIC	YES	DEATH	0.46	0.18	0.21	0.42
218	2810 MOORE SAMUEL 2D VIC	YES	DEATH	0.46	0.18	0.21	0.42
219	1823 OGLESBY WALTER EDWARD	YES	DEATH	0.13	0.07	0.60	0.48
220	1914 PENNINGTON FRANK	YES	DEATH	0.50	0.33	0.73	0.45
221	2026 PURNELL BRAYNARD ANDRA	YES	DEATH	0.67	0.32	0.47	0.51
222	2015 RAMSEUR THOMAS C	YES	DEATH	0.67	0.32	0.88	0.95
223	2172 ROSE TEDDY 1A	YES	DEATH	0.67	0.32	0.90	0.85
224	2228 SAVAGE ROY	YES	DEATH	0.25	0.06	0.40	0.85
225	2241 SCHIAVO DOMINICK RICHARD	YES	DEATH	0.67	0.40	0.88	0.99
226	2687 WILLIAMS JAMES EDWARD 1A	YES	DEATH	0.28	0.33	0.18	0.67
227	2795 ZOLA JAMES EDWARD 1A	YES	DEATH	0.28	0.32	0.21	0.18



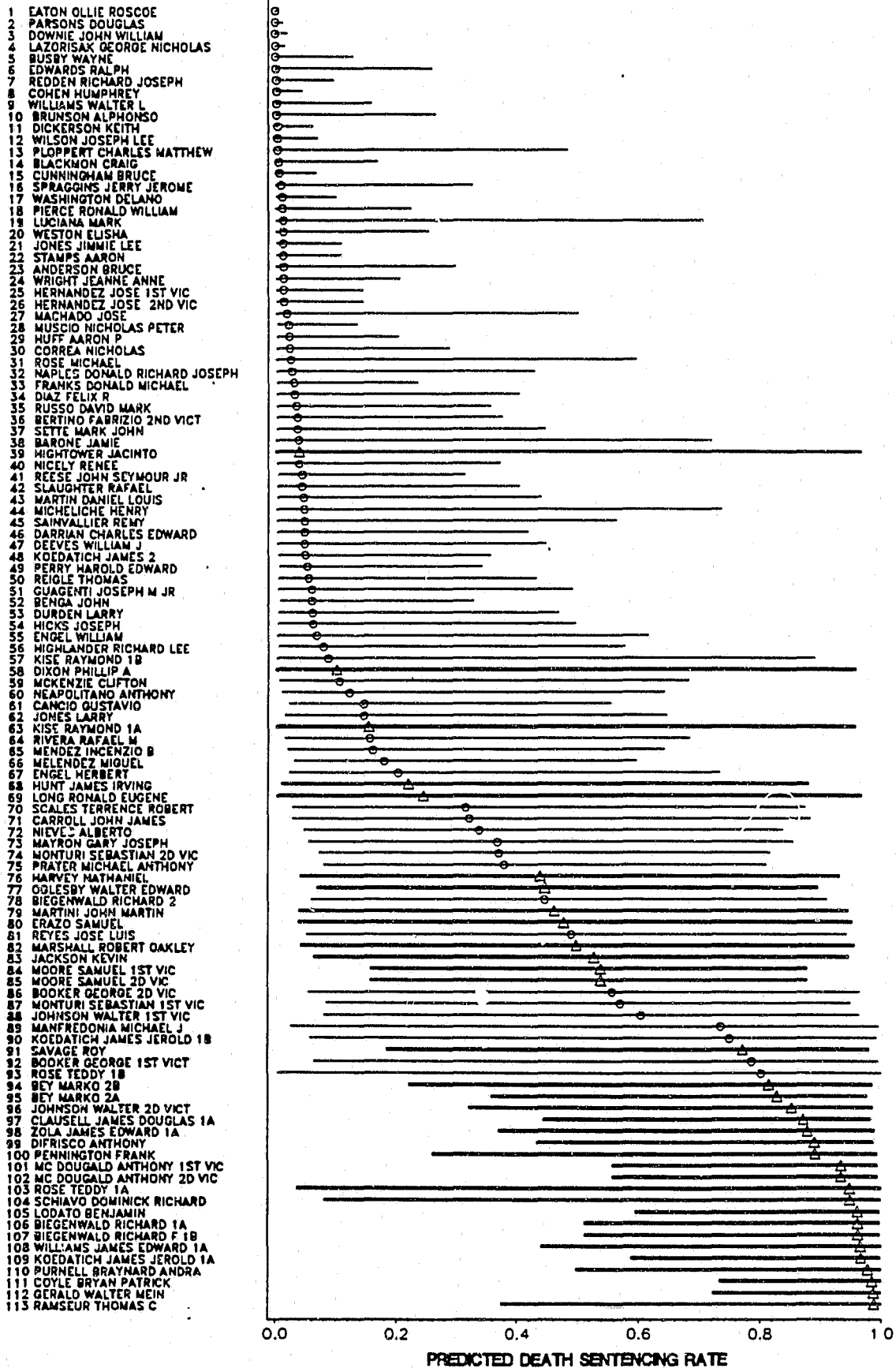
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Figure 1. Culpability Model for Comparative Proportionality Review



**FIGURE 2. PREDICTED DEATH SENTENCE RATES FOR PENALTY TRIAL CASES: 1983-91<sup>1</sup>**

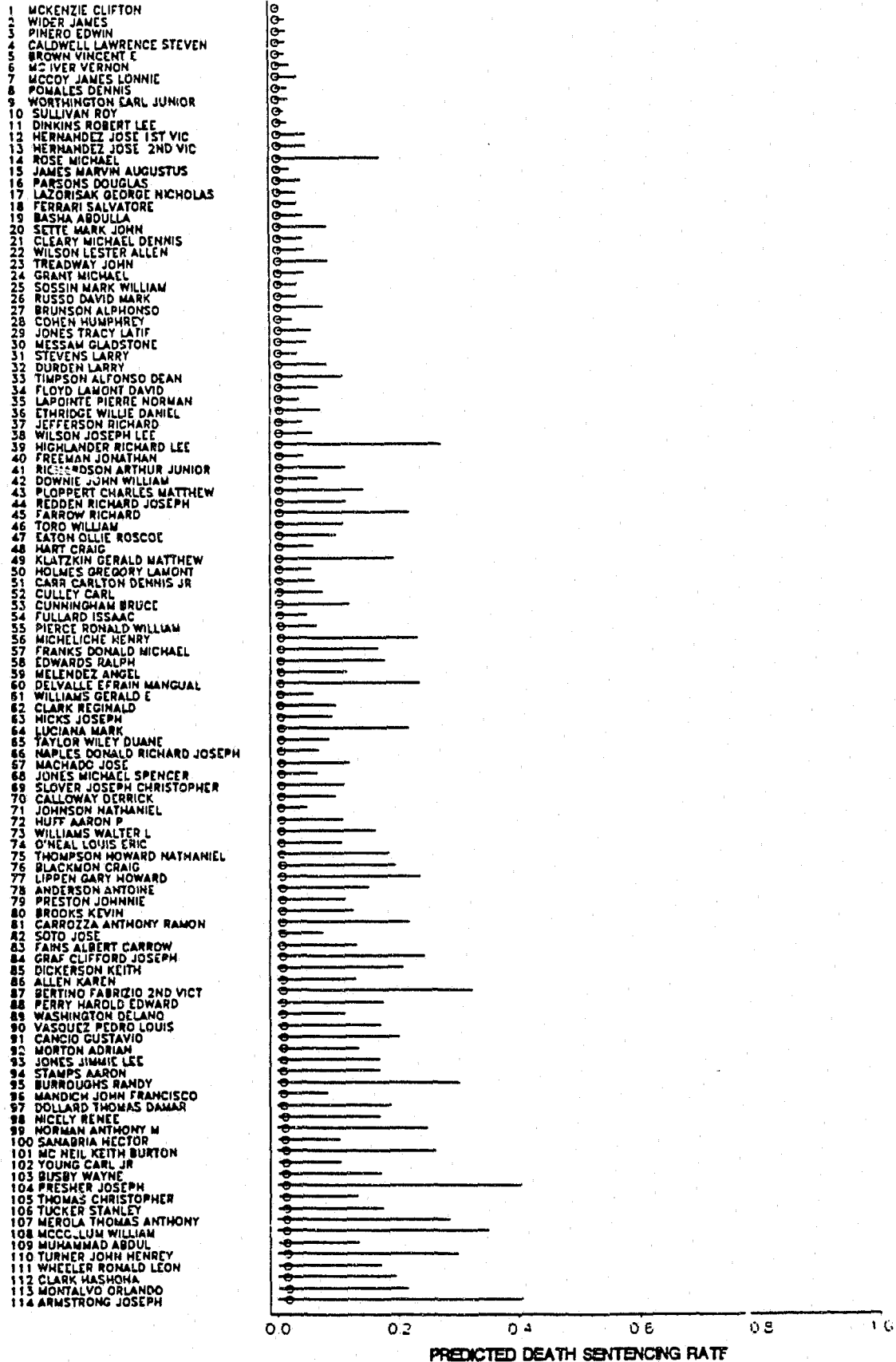
—△ = DEATH SENTENCED CASE  
 —○ = LIFE SENTENCED CASE



<sup>1</sup> The cases are sorted down the page by the predicted probability of a death sentence. The length of the line for each case represents 95% confidence limits for each prediction.

**FIGURE 3. PREDICTED DEATH SENTENCE RATES  
FOR ALL DEATH ELIGIBLE CASES: 1983-91<sup>1/2</sup>**

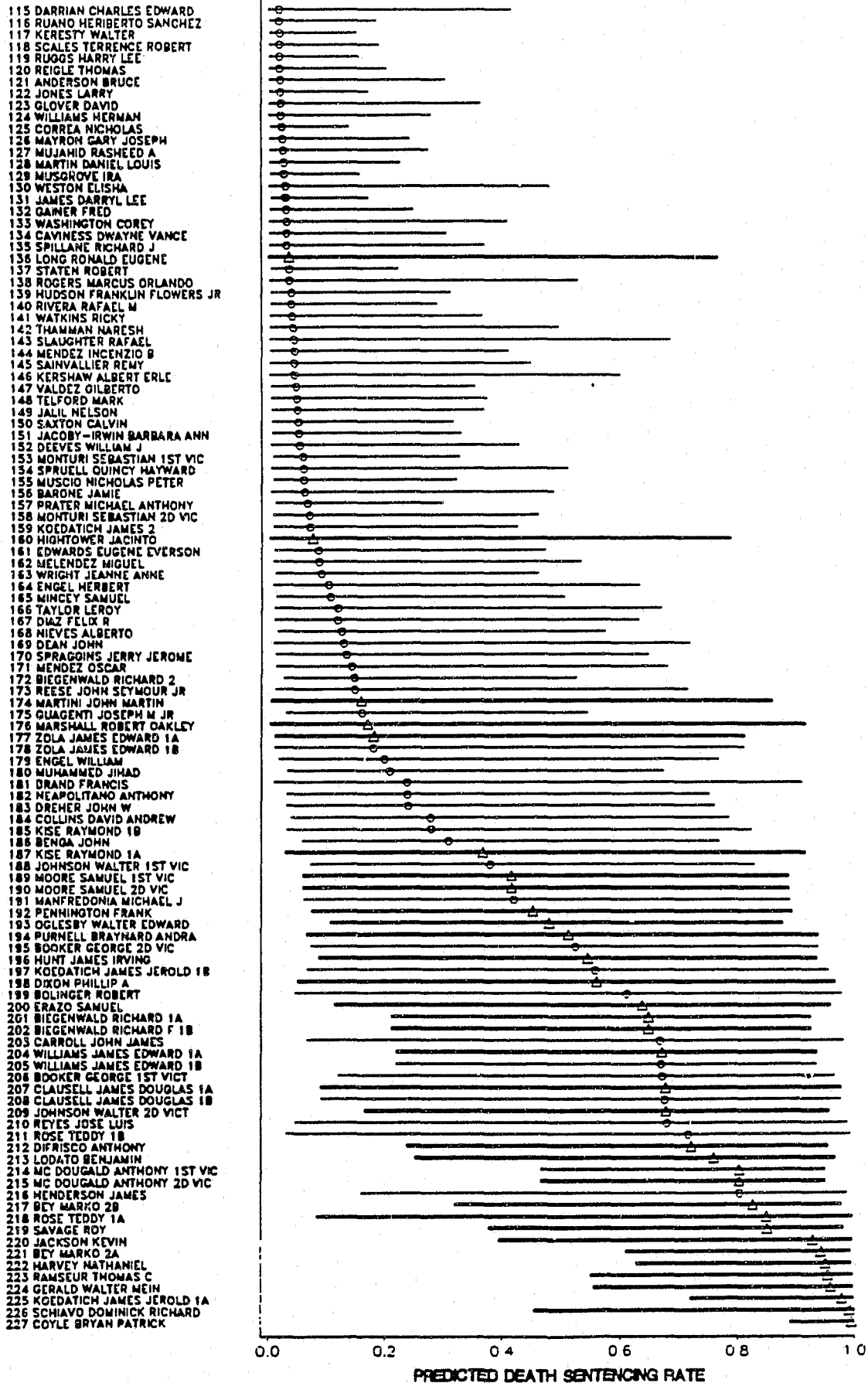
—△— = DEATH SENTENCED CASE  
—○— = LIFE SENTENCED CASE



<sup>1/2</sup> The cases are sorted down the page by the predicted probability of a death sentence. The length of the line for each case represents 95% confidence limits for each predictor.

FIGURE 3. (CONTINUED)

—△— = DEATH SENTENCED CASE  
 —○— = LIFE SENTENCED CASE



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Appendix A. A FOUR-LEVEL TYPOLOGY OF STRENGTH-OF-EVIDENCE CONCERNING DEATH-ELIGIBILITY, i.e., Purposeful or Knowing Killing, (b) Own Conduct, and (c) Statutory Aggravating Factors(s) Present<sup>1/</sup>

1. An Overwhelming Case

Examples:

- A. Full confession (i.e., to all elements of capital murder) plus witness(es) and/or forensic or physical evidence.
- B. Full confession with rich detail on all elements of capital murder.
- C. Admission to a witness and strong circumstantial evidence from witness and/or forensic/physical.
- D. Eyewitness(es) without credibility problems and good circumstantial evidence.
- E. Strong circumstantial evidence (see category 2.C. below) plus fingerprints on the murder weapon.

2. A Strong Case

Examples:

- A. A qualified confession/admission (i.e., denying or equivocating on some element of capital murder) with witness(es) concerning motive, and/or preparation, opportunity.
- B. Multiple eyewitnesses to the killing without credibility problems.
- C. Strong circumstantial evidence (e.g., witness(es) concerning motive, preparation, and/or opportunity, and physical evidence).

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1. The presence of any one of the examples listed under each of the four levels is sufficient to support that classification, e.g., a case is classified as overwhelming if any one of the five examples from A through E is present. Also, the examples are not intended to be exhaustive. We expect more recurring evidentiary patterns will emerge over time.

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- D. Qualified confession without witness(es) but circumstantial evidence.
- E. Eyewitness(es) with credibility problems but circumstantial evidence.
- F. Single eyewitness with prior knowledge of defendant.

3. A Clearly Defensible Case

Examples:

- A. Qualified confession with little other evidence.
- B. Admission of defendant denied or qualified but circumstantial evidence on the point at issue.
- C. Eyewitness(es) or confession as to own conduct but a mens rea issue with defendant denying it.
- D. Coperpetrator(s) and the only evidence of defendant's own conduct is testimony of coperpetrator(s) and defendant denies own conduct.

4. A Clearly Insufficient Case

Examples:

- A. Witness(es) can only place defendant at scene of crime to establish own conduct but weak evidence on mens rea.
- B. Coperpetrator(s) involved -- witness(es) places defendant at crime scene with coperpetrator(s) but unknown who is killer.

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APPENDIX B. PROJECT CASES LISTED BY OUTCOME

I. DEATH-SENTENCE CASES

OBS	CASE	NAME	CONSENYR
1	197	BEY MARKO 1	83
2	160	BEY MARKO 2A	84
3	3000	BEY MARKO 2B	90
4	3002	BIEGENWALD RICHARD F 1B	89
5	200	BIEGENWALD RICHARD 1A	83
6	443	CLAUSELL JAMES DOUGLAS 1A	86
7	520	COYLE BRYAN PATRICK	85
8	595	DAVIS STEVEN R	85
9	119	DIFRISCO ANTHONY	88
10	662	DIXON PHILLIP A	87
11	728	ERAZO SAMUEL	87
12	868	GERALD WALTER MEIN	84
13	1031	HARVEY NATHANIEL	86
14	1080	HIGHTOWER JACINTO	86
15	1138	HUNT JAMES IRVING	84
16	1158	JACKSON KEVIN	87
17	1227	JOHNSON WALTER 2D VICT	85
18	1329	KISE RAYMOND 1A	87
19	1337	KOEDATICH JAMES JEROLD 1A	84
20	1453	LODATO BENJAMIN	84
21	1459	LONG RONALD EUGENE	85
22	1529	MARSHALL ROBERT OAKLEY	86
23	3032	MARTINI JOHN MARTIN	90
24	1598	MC DOUGALD ANTHONY 1ST VIC	86
25	2811	MC DOUGALD ANTHONY 2D VIC	86
26	1717	MOORE MARIE	84
27	1720	MOORE SAMUEL 1ST VIC	87
28	2810	MOORE SAMUEL 2D VIC	87
29	1823	OGLESBY WALTER EDWARD	86
30	1914	PENNINGTON FRANK	87
31	1917	PERRY ARTHUR	87
32	2809	PITTS DARRYL LEE 2D VIC	85
33	2026	PURNELL BRAYNARD ANDRA	90
34	2015	RAMSEUR THOMAS C	83
35	2172	ROSE TEDDY 1A	85
36	2228	SAVAGE ROY	85
37	2241	SCHIAVO DOMINICK RICHARD	87
38	2687	WILLIAMS JAMES EDWARD 1A	84
39	2795	ZOLA JAMES EDWARD 1A	84

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II. PENALTY-TRIAL LIFE-SENTENCE CASES

OBS	CASE	NAME	CONSENYR
1	73	ANDERSON BRUCE	83
2	124	BALISNOMO BENJAMIN	84
3	140	BARONE JAMIE	89
4	177	BENGA JOHN	86
5	190	BERTINO FABRIZIO 1ST VICT	87
6	2801	BERTINO FABRIZIO 2ND VICT	87
7	2800	BIEGENWALD RICHARD 2	84
8	209	BLACKMON CRAIG	88
9	231	BOOKER GEORGE 1ST VICT	87
10	2825	BOOKER GEORGE 2D VIC	87
11	305	BRUNSON ALPHONSO	90
12	338	BUSBY WAYNE	89
13	365	CANCIO GUSTAVIO	88
14	394	CARROLL JOHN JAMES	88
15	407	CASTELLANO STEPHEN	84
16	463	COHEN HUMPHREY	84
17	468	COLLIER RICHARD	85
18	469	COLLINS DARRELL	90
19	506	CORREA NICHOLAS	85
20	558	CUNNINGHAM BRUCE	84
21	576	DARRIAN CHARLES EDWARD	88
22	603	DEEVES WILLIAM J	84
23	673	DIAZ FELIX R	89
24	649	DICKERSON KEITH	88
25	679	DOWNIE JOHN WILLIAM	89
26	694	DURDEN LARRY	85
27	703	EATON OLLIE ROSCOE	84
28	716	EDWARDS RALPH	86
29	726	ENGEL HERBERT	86
30	727	ENGEL WILLIAM	86
31	618	FRANKS DONALD MICHAEL	90
32	964	GUAGENTI JOSEPH M JR	87
33	3022	HERNANDEZ JOSE 2ND VIC	85
34	1060	HERNANDEZ JOSE 1ST VIC	85
35	1076	HICKS JOSEPH	83
36	1079	HIGHLANDER RICHARD LEE	89
37	1133	HUFF AARON P	86
38	4037	JACKSON SHAWN	91
39	2808	JOHNSON WALTER 1ST VIC	85
40	1243	JONES JIMMIE LEE	88
41	1246	JONES LARRY	86
42	1288	KEENAN JOSEPH JAY 1ST VIC	89
43	3023	KEENAN JOSEPH JAY 2D VIC	89
44	1315	KING HUBERT	84
45	3001	KISE RAYMOND 1B	87
46	3018	KOEDATICH JAMES JEROLD 1B	90



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II. PENALTY-TRIAL LIFE-SENTENCE CASES (Cont)

OBS	CASE	NAME	CONSENYR
47	1336	KOEDATICH JAMES 2	85
48	1391	LAZORISAK GEORGE NICHOLAS	87
49	1476	LUCIANA MARK	89
50	1489	MACHADO JOSE	85
51	1510	MANFREDONIA MICHAEL J	86
52	1533	MARTIN DANIEL LOUIS	84
53	1576	MAYRON GARY JOSEPH	89
54	1612	MCKENZIE CLIFTON	88
55	1638	MELENDEZ MIGUEL	87
56	1640	MENDEZ INCENZIO B	84
57	1658	MICHELICHE HENRY	85
58	2826	MONTURI SEBASTIAN 1ST VIC	84
59	1709	MONTURI SEBASTIAN 2D VIC	84
60	4031	MUSCIO NICHOLAS PETER	91
61	1780	NAPLES DONALD RICHARD JOSEPH	90
62	1783	NEAPOLITANO ANTHONY	84
63	1791	NICELY RENEE	83
64	1793	NIEVES ALBERTO	88
65	1880	PARSONS DOUGLAS	85
66	1918	PERRY HAROLD EDWARD	88
67	1946	PIERCE RONALD WILLIAM	87
68	1957	PITTS DARRYL LEE 1ST VIC	85
69	1958	PLOPPERT CHARLES MATTHEW	89
70	1974	PRATER MICHAEL ANTHONY	89
71	2030	REDDEN RICHARD JOSEPH	87
72	2038	REED JOHN ROBERT	89
73	2040	REESE JOHN SEYMOUR JR	89
74	2044	REIGLE THOMAS	85
75	2053	REYES JOSE LUIS	86
76	2091	RIVERA RAFAEL M	86
77	2170	ROSE MICHAEL	84
78	3003	ROSE TEDDY 1B	91
79	2190	RUSSO DAVID MARK	87
80	2195	SAINVALLIER REMY	85
81	2235	SCALES TERRENCE ROBERT	87
82	2270	SETTE MARK JOHN	89
83	2318	SLAUGHTER RAFAEL	85
84	2375	SPRAGGINS JERRY JEROME	86
85	2381	STAMPS AARON	84
86	2403	STONE LEONARD	86
87	2463	THOMAS LOUIS	85
88	2627	WASHINGTON DELANO	85
89	2647	WESTON ELISHA	86
90	2715	WILLIAMS WALTER L	86
91	2722	WILSON JOSEPH LEE	88
92	2752	WORLOCK CARL EDWARD	85
93	2761	WRIGHT JEANNE ANNE	84

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III. NON-PENALTY-TRIAL CASES

OBS	CASE	NAME	CONSENYR
1	52	ALLEN KAREN	89
2	93	ANDERSON ANTOINE	89
3	4004	ARMSTRONG JOSEPH	90
4	4014	BASHA ABDULLA	90
5	226	BOLINGER ROBERT	86
6	4038	BRAND FRANCIS	91
7	4003	BROOKS KEVIN	90
8	4019	BROWN VINCENT E	90
9	321	BURROUGHS RANDY	90
10	350	CALDWELL LAWRENCE STEVEN	86
11	356	CALLOWAY DERRICK	86
12	382	CARR CARLTON DENNIS JR	89
13	388	CARROZZA ANTHONY RAMON	89
14	402	CAVINESS DWAYNE VANCE	85
15	4021	CLARK HASHONA	91
16	439	CLARK REGINALD	87
17	3007	CLAUSELL JAMES DOUGLAS 1B	86
18	447	CLEARY MICHAEL DENNIS	87
19	470	COLLINS DAVID ANDREW	83
20	544	CULLEY CARL	84
21	4006	DEAN JOHN	89
22	624	DELVALLE EFRAIN MANGUAL	84
23	658	DINKINS ROBERT LEE	86
24	4027	DOLLARD THOMAS DAMAR	91
25	684	DREHER JOHN W	89
26	712	EDWARDS EUGENE EVERSON	88
27	742	ETHRIDGE WILLIE DANIEL	87
28	754	FAINS ALBERT CARROW	85
29	4024	FARROW RICHARD	90
30	772	FERRARI SALVATORE	90
31	791	FLOYD LAMONT DAVID	88
32	828	FREEMAN JONATHAN	89
33	826	FULLARD ISSAAC	85
34	4020	GAINER FRED	87
35	889	GLOVER DAVID	87
36	917	GRAF CLIFFORD JOSEPH	86
37	4001	GRANT MICHAEL	90
38	1027	HART CRAIG	85
39	4033	HENDERSON JAMES	87
40	1110	HOLMES GREGORY LAMONT	85
41	1103	HUDSON FRANKLIN FLOWERS JR	86
42	1163	JACOBY-IRWIN BARBARA ANN	88
43	1164	JALIL NELSON	88
44	1193	JAMES DARRYL LEE	89
45	3008	JAMES MARVIN AUGUSTUS	90
46	1177	JEFFERSON RICHARD	87
47	1219	JOHNSON NATHANIEL	84

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III. NON-PENALTY-TRIAL CASES (Cont)

OBS	CASE	NAME	CONSENYR
48	1251	JONES MICHAEL SPENCER	89
49	1257	JONES TRACY LATIF	85
50	4012	KERESTY WALTER	83
51	4005	KERSHAW ALBERT ERLE	89
52	1332	KLATZKIN GERALD MATTHEW	87
53	1377	LAPOINTE PIERRE NORMAN	85
54	4034	LIPPEN GARY HOWARD	88
55	1509	MANDICH JOHN FRANCISCO	86
56	1611	MC IVER VERNON	85
57	1624	MC NEIL KEITH BURTON	83
58	2819	MCCOLLUM WILLIAM	85
59	1588	MCCOY JAMES LONNIE	86
60	1637	MELLENDEZ ANGEL	84
61	4002	MENDEZ OSCAR	90
62	1648	MEROLA THOMAS ANTHONY	84
63	1650	MESSAM GLADSTONE	89
64	4009	MINCEY SAMUEL	90
65	1705	MONTALVO ORLANDO	86
66	1738	MORTON ADRIAN	86
67	4028	MUHAMMAD ABDUL	91
68	1750	MUHAMMED JIHAD	85
69	1753	MUJAHID RASHEED A	88
70	1771	MUSGROVE IRA	85
71	4011	NORMAN ANTHONY M	90
72	1828	O'NEAL LOUIS ERIC	88
73	1951	PINERO EDWIN	86
74	4018	POMALES DENNIS	90
75	1976	FRESHER JOSEPH	89
76	1977	PRESTON JOHNNIE	86
77	2061	RICHARDSON ARTHUR JUNIOR	87
78	2146	ROGERS MARCUS ORLANDO	86
79	2182	RUANO HERIBERTO SANCHEZ	86
80	2183	RUGGS HARRY LEE	87
81	2202	SANABRIA HECTOR	86
82	2230	SAXTON CALVIN	88
83	4008	SLOVER JOSEPH CHRISTOPHER	90
84	2362	SOSSIN MARK WILLIAM	84
85	4007	SOTO JOSE	91
86	2372	SPILLANE RICHARD J	86
87	2389	SPRUELL QUINCY HAYWARD	85
88	2387	STATEN ROBERT	85
89	2391	STEVENS LARRY	88
90	4029	SULLIVAN ROY	90
91	2445	TAYLOR LEROY	88
92	2448	TAYLOR WILEY DUANE	88
93	4030	TELFORD MARK	90
94	2453	THAMMAN NARESH	89
95	4013	THOMAS CHRISTOPHER	90
96	2471	THOMPSON HOWARD NATHANIEL	85

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III. NON-PENALTY-TRIAL CASES (Cont)

OBS	CASE	NAME	CONSENYR
97	2500	TIMPSON ALFONSO DEAN	85
98	4025	TORO WILLIAM	90
99	2535	TREADWAY JOHN	83
100	2545	TUCKER STANLEY	89
101	2549	TURNER JOHN HENREY	87
102	4016	VALDEZ GILBERTO	89
103	2574	VASQUEZ PEDRO LOUIS	88
104	4035	WASHINGTON COREY	90
105	4017	WATKINS RICKY	89
106	2649	WHEELER RONALD LEON	84
107	2673	WIDER JAMES	89
108	2684	WILLIAMS GERALD E	86
109	2685	WILLIAMS HERMAN	84
110	3005	WILLIAMS JAMES EDWARD 1B	89
111	2723	WILSON LESTER ALLEN	86
112	4032	WORTHINGTON EARL JUNIOR	87
113	2780	YOUNG CARL JR	87
114	3006	ZOLA JAMES EDWARD 1B	90

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APPENDIX C. PROJECT CASES LISTED BY OUTCOME

I. DEATH-SENTENCE CASES

# 197 STATE V. BEY (1)

D, a 17-year-old male, met V, a female acquaintance, on the boardwalk. D and V share a marijuana joint, have sexual intercourse. V refuses D's further advances, D beats V with a 2x4, causing several fractures to her face and skull. D then strangles V. Jury verdict: murder 12/13/83. Penalty trial. Two aggravating factors: 4c, 4g. Three mitigating factors: 5a, 5c, 5h. Death.

# 160 STATE V. BEY (2) (3000:2B)

D, an 18-year-old male, approached V to rob her. D took V to a shed and stole \$8. Once V saw his face, D beat V severely, raped her, and strangled her. D also stole V's car. Jury verdict: murder 9/27/84. Penalty trial. Two aggravating factors found: 4c, 4g. No mitigating factors found. Death. Retrial of penalty phase. Two aggravating factors found: 4a, 4g. Two mitigating factors found: 5a, 5h. Death.

# 200 STATE V. BIEGENWALD (I) (3002:1B)

D drove up to V, who was walking on the boardwalk, and offered her marijuana. V got in D's car. Later, D shot V four times in the head. Jury verdict: murder 12/8/83. Penalty trial. Two aggravating factors found: 4a, 4c. Two mitigating factors found: 5d, 5h. Death. Retrial of penalty phase. Two aggravating factors found: 4a, 4c. Two mitigating factors found: 5d, 5h. Death.

# 443 STATE V. CLAUSELL (3007:1B)

D and Co-D1 were paid \$1,000 each to shoot V. They went to V's house, and when V answered the door, Co-D1 asked for [redacted], V said "You have the wrong guy," and tried to close the door. D fired two shots through the door hitting V once in the chest. Jury verdict: murder 4/18/86. Penalty trial. Two aggravating factors found: 4b, 4d. Three mitigating factors found: 5c, 5f, 5h. Death.

# 520 STATE V. COYLE

D (age 28) lived next door to V (age 26). D had sex with V's wife. V went to D's house to retrieve wife after argument. Wife ran up street and V pursued her. D pursued V with a gun and shot V 3x, including once in the head. One prior murder. Jury verdict: murder 3/14/85. Penalty trial. Two aggravating factors found: 4a, 4c. One mitigating factor found: 5b. Death.

# 595 STATE V. DAVIS

D, drunk, wanted to talk to V about \$1,500 he owed her. D broke into V's home, began strangling her, and hit V 2 times in the head with a blunt object. D also tried stabbing V with a screwdriver and then stabbed V 49 times with a knife. Several wounds occurred after V's death. D pled guilty to murder 9/14/83. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5f, 5h. Death.

# 119 STATE V. DI FRISCO

D was offered \$3,000 by a person he met in jail to kill V because V was going to inform about the person's drug business. D shot V in the head in V's pizzeria. Murder plea 1/88. Bench penalty trial. Two aggravating factors found: 4d, 4f. 1 mitigating factor found: 5g. Death. Reversed. Pending.

# 662 STATE V. DIXON

During an alleged robbery attempt, D struggled with V (age 14). When V told D that she knew him, D stabbed V in the head with a nail or a spike. Her partially nude body had been dragged to a creek and lodged in the water under a car seat. Jury verdict: murder 1/30/87. Penalty trial. Two aggravating factors found: 4c, 4f. Two mitigating factors found: 5f, 5h. Death.

# 728 STATE V. ERAZO

D and V (husband and wife) had a party. Both drank heavily. D and V argued and fought. V tried to leave, D brought her back. They continued fighting. D stabbed V 8x. D had a prior murder. Jury verdict: murder 10/14/87. Penalty trial. Two aggravating factors found: 4a, 4c. Four mitigating factors found: 5a, 5b, 5d, 5e. Death. Vacated 8/8/91.

# 868 STATE V. GERALD

D and Co-Ds break into Vs' home to rob them. They hit V in face with a golf trophy, stomped on V's face, and threw a large television on his head. NV1 beaten badly, later dies. NV2 also beaten. D and Co-Ds leave with money and property. Jury verdict: murder 5/16/84. Penalty trial. Two aggravating factors found: 4c, 4g. Four mitigating factors found: 5a, 5d, 5f, 5h. Death.

#1031 STATE V. HARVEY

D burglarized V's apartment while V was asleep, and was stealing things when V awakened and confronted him. D hit V 15 times with a hammer-like object. Jury verdict: murder 10/10/86. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. No mitigating factors found. Death.

#1080 STATE V. HIGHTOWER

D robbed a convenience store. D shot V, a female clerk in the chest, neck and head. Jury verdict: murder 10/30/86. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Two mitigating factors found: 5f, 5h. Death.

#1138 STATE V. HUNT

D stabbed V, the boyfriend of D's sister, 24 times after D found out that V was beating his sister. Jury verdict: murder 2/15/84. Penalty trial. One aggravating factor found: 4c. Four mitigating factors found: 5a, 5c, 5f, 5h. Death.

#1158 STATE V. JACKSON (Kevin)

D broke into V's apartment, raped her, then stabbed her 53 times. Murder plea 9/19/86. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5a, 5e. Death.

#1227 STATE V. JOHNSON (Walter) (2808:1ST)

D had done some carpentry work for V1 and V2, a married couple. D went back to their house and asked to use the phone. V2 caught D stealing jewelry. D shot V1 in the head and beat V2 to death with a poker. Jury verdict: murder 8/2/85. Penalty trial. For both murders, three aggravating factors found: 4c, 4f, 4g. Two mitigating factors found for V2: 5a, 5h. Death. One mitigating factor found for V1: 5h. Life.

#1329 STATE V. KISE (3001:1B)

D, Co-D1, Co-D2, and Co-D3 were drinking in V's apartment. D heard V call D's girlfriend a "slut". D and Co-D1 severely beat V then brought him to the edge of a river. D held V's head under water. Jury verdict: murder 2/26/87. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Three mitigating factors found: 5e, 5f, 5h. Death. Trial court vacated death sentence. New penalty trial. Three aggravating factors found: 4c, 4f, 4g. Four mitigating factors found: 5c, 5e, 5f, 5h. Life.

#1337 STATE V. KOEDATICH (I) (3018:1B)

D kidnapped V from a shopping mall, sexually assaulted her, then stabbed her 2 times in the chest. Jury verdict: murder 10/26/84. Penalty trial. Two aggravating factors found: 4a, 4g. No mitigating factors found. Death. Re-trial, penalty phase. Four aggravating factors found: 4a, 4c, 4f, 4g. One mitigating factor found: 5h. Life.

#1453 STATE V. LODATO

D had raked leaves for V in the past. D went to V's house and asked for a drink of water. V let D in. D sexually assaulted then bound V. D then stabbed and slashed V, torturing her before stabbing her in the heart. Murder plea 7/6/84. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5a, 5d. Death

#1459 STATE V. LONG

D stole his cousin's gun and attempted to sell it to nondecendent victim (NDV). When NDV refused to buy it, D shot NDV one time in the neck. D then robbed a liquor store and shot the clerk (V) in the chest. Jury verdict: Murder 10/18/85. Penalty trial. One aggravating factor found: 4g. Two mitigating factors found: 5f, 5h. Death.

#1529 STATE V. MARSHALL

Co-D1, an acquaintance of D, put him in contact with Co-D2, a private detective, to arrange investigative services. D subsequently agreed to pay Co-D2 \$65,000 to kill [REDACTED] V, so

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that D could collect over \$1 million in life insurance and be free to live with his paramour. On September 7, 1984, as planned, D pulled his car into a highway picnic area, feigning car trouble. V was shot twice in the back while asleep in the car, and D was hit in the head to simulate a robbery. Co-D2 claimed the actual shooting was done by Co-D3. Jury verdict: murder 3/5/86. Penalty trial. One aggravating factor found: 4e. Two mitigating factors found: 5f, 5h. Death.

#3032

STATE V. MARTINI

D and Co-D kidnapped V and held him for \$25,000 ransom. After D received the ransom money, he shot V 3x in the back of the head. Jury verdict: murder 12/4/90. Penalty trial. Two aggravating factors found: 4f, 4g. Two mitigating factors found: 5c, 5h. Death.

#1598

STATE V. McDOUGALD (2811:2D VICT)

D had been dating the 13 year old daughter of V2 (mother) and V1 (father). The Vs fought with D because they didn't want him to continue having sex with their daughter. One night, D and a 13-year-old Co-D kicked in the door of the Vs' home. He attacked V1, cutting his throat, stabbing him and hitting him with a baseball bat. D then hit V2 with a cinderblock and a baseball bat and cut her throat. Jury verdict: murder 3/27/86. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Two mitigating factors found: 5a, 5h. Death.

#1717

STATE V. MOORE (Marie)

D, over a period of more than 2 years, orchestrated the physical and mental abuse of a group of adolescents and an adult woman. D had Co-D, age 14, act as her disciplinarian, and claimed that the punishments were dealt out under the direction of "Billy Joel". One day, while trying to pick up V, who after months of physical and sexual abuse could no longer stand under her own power, Co-D dropped her. V hit her head on the bathtub and the floor and died. D and Co-D hid V's body inside a wall. Jury verdict: murder 11/15/84. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Four mitigating factors found: 5a, 5c, 5d, 5h. Death.

#1720

STATE V. MOORE (Samuel)

D and V1, his wife, were considering divorce. D and V1 fought, and D attacked pregnant V1 and V2 (D's son) with a hammer. Jury verdict: murder 6/25/87. Penalty trial. Two aggravating factors found for V1 and V2: 4c, 4g. Three mitigating factors found for V1 and V2: 5a, 5f, 5h. Death for each victim.

#1823 STATE V. OGLESBY D, with serious mental problems, had an 8 year paramour relationship with V. D and V spend the night in a



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hotel. V is found stabbed 50x over her entire body. Jury verdict: murder 3/13/86. Penalty trial. One Aggravating factor found: 4c. Two mitigating factors found: 5a, 5f. Death.

#1914 STATE V. PENNINGTON

D and look-out Co-D (D's wife) robbed a tavern. When V, the owner of the tavern threw a beer glass at D, D shot V in the chest. D then aimed the gun at V's daughter and demanded money. V's daughter complied with D's demand. Jury verdict: murder 6/9/87. Penalty trial. Two aggravating factors found: 4a, 4g. One mitigating factor found: 5d. Death.

#1917 STATE V. PERRY (Arthur)

D and V (██████████) fought over money that D owed V. D held V in a death grip and killed him. D then shaved the eyebrows off V's face and applied makeup to disguise the corpse. Jury verdict: murder 5/20/87. Penalty trial. One aggravating factor found: 4c. No mitigating factors found. Death.

#2809 STATE V. PITTS (1957:1ST VICT)

D stabbed V2 (D's former lover) and cut her throat. D also stabbed V1 (V2's lover) eight times. Jury verdict: murder 2/19/85. Penalty trial. One aggravating factor found: 4c, for the death of V1. One aggravating factors found: 4c, for the murder of V2. Four mitigating factors found: 5a, 5b, 5f, 5h, for the murder of V1. Three mitigating factors found: 5a, 5f, 5h, for the murder of V2. Death for V2's murder; Life for V1's murder.

#2026 STATE V. PURNELL

D attempts to buy drugs from V. D and V fight. D stabs V 15x, steals V's drugs. D has prior murder. Jury verdict: murder 2/20/90. Penalty trial. Two aggravating factors found: 4a, 4g. Two mitigating factors found: 5b, 5h. Death.

#2015 STATE V. RAMSEUR

D (male) and V (female) were paramours. V had told D not to come around anymore. The next day, D stabbed V several times on the street in front of V's grandchildren. D has a prior murder. Jury verdict: murder 5/12/83. Penalty trial. Two aggravating factors found: 4a, 4c. Two mitigating factors found: 5a, 5d. Death.

#2172 STATE V. ROSE (Teddy) (3003:1B)

D was walking with his friends carrying a shotgun in a canvas bag. Police officer (V) stops to ask D what is in the bag. D panics and shoots V one time in stomach. Jury verdict: murder 6/4/85. Penalty trial. Two aggravating factors found: 4f, 4h. Two mitigating factors found: 5a, 5h. Death. Retrial. Two aggravating factors found: 4f, 4h. Three mitigating factors found: 5a, 5d, 5h. Life.

#2228 STATE V. SAVAGE

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\_\_\_\_\_ V  
was the sister of one of the women, W1. W1 and V were D's paramours. D killed V and dismembered her body. When W1 asked what happened, D said "They were gonna kill you and they were gonna kill me." Jury verdict: murder 1/24/85. Penalty trial. One aggravating factor found: 4c. One mitigating factor found: 5d. Death.

#2241 STATE V. SCHIAVO

D, a drug manufacturer, fired a shotgun at a group of police officers who were executing a search warrant in D's home. V, a police officer, was shot and killed. Jury verdict: murder 5/26/87. Penalty trial. Three aggravating factors found: 4b, 4f, 4h. Three mitigating factors found: 5c, 5f, 5h. Death.

#2687 STATE V. WILLIAMS (James) (3005:1B)

D was drinking beer with friends and he decided to go out and make some money. D and his brother, W1, went in to a nursing home. D sexually assaulted the receptionist then stabbed her 36 times. Jury verdict: murder 1/31/84. Penalty trial. Two aggravating factors found: 4c, 4g. One mitigating factor found: 5h. Death.

#2795 STATE V. ZOLA (3006:1B)

D had worked as a maintenance man in V's apartment building. V filed a complaint against D and, partly for this reason, D was fired. D broke into V's apartment, beat, scalded and then strangled her. Jury verdict: murder 5/31/84. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5a, 5h. Death.

## II. PENALTY-TRIAL LIFE-SENTENCE CASES

# 73 STATE V. ANDERSON (Bruce)

D (20 yr., M) on porch with several others. Argument erupts with V, NDV1 and NDV2. The victims walk up street, porch group follows and shots were fired at Vs. V1 fatally wounded and NDV1 seriously injured in 2nd barrage of shots. \_\_\_\_\_. Jury verdict: murder 10/3/83. Penalty trial. One aggravating factor found: 4b. Three mitigating factors found: 5b, 5c, 5h. Life.

# 124 STATE V. BALISNOMO

V called D to come pick him up. D picked up V who was carrying a bag of cocaine. D drove to a service area. D shot V 4x in the head and stole the drugs. No priors. Jury verdict: murder 8/10/84. Penalty trial. One aggravating found: 4c. One mitigating factor found: 5f. Life.

# 140 STATE V. BARONE

D kidnaps V from a shopping mall. D beats V, fracturing her skull, then takes money, car and credit cards. Jury verdict: murder

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2/22/88. Penalty trial. Two aggravating factors found: 4f, 4g. Two mitigating factors found: 5c, 5h. Life.

# 177 STATE V. BENGA

D (61 yr., M) fired 8 shots in presence of 200 people. Killed V, his former paramour with 4 shots. Hit bystander with bullet. D said V rejected and embarrassed him. No priors. Jury verdict: murder 6/3/86. Penalty trial. Two aggravating factors found: 4(b), 4(c). Four mitigating factors found: 5a, 5c, 5d, and 5f. Life.

# 190 STATE V. BERTINO (2801:2D VICT)

D hit V1 (girlfriend) in head with toy truck and drowned her after she told him to leave apartment. D then drowned V2 (girlfriend's 2 year old son). No priors. Jury verdict: murder 7/14/87. Penalty trial. One aggravating factor found for V1: 4c. Life. One aggravating factor found for V2: 4g. Three mitigating factors: 5a, 5f, 5h.

#2800 STATE V. BIEGENWALD (II)

V (42-year-old male) wanted to hire Co-D to kill someone for \$25,000. D went with Co-D to meet V. V and Co-D argued over terms. V threatened Co-D with a gun and they struggled. The gun went off, wounding V. Co-D tried to shoot V, but could not. D shot V 5 times in the head. Jury verdict: murder 2/15/84. Penalty trial. One aggravating factor found: 4a. Two mitigating factors found: 5d, 5h. Life.

# 209 STATE V. BLACKMON

V's cousin returned home. V dead in pool of blood, no apparent motive. Repeated stabbing, beating, mutilation and sexual assault. ~~\_\_\_\_\_~~ No violent priors. Jury verdict: murder 2/18/88. Penalty trial. Two aggravating factors found: 4c, 4g. Five mitigating factors found: 5a, 5c, 5d, 5f, 5h. Life.

# 231 STATE V. BOOKER (2825:2D VICT)

D goes on three day crime spree. First, D rapes his female neighbor and steals her car. Then D runs down a male pedestrian in the stolen car and steals his wallet. D then enters the home of two lesbian lovers, rapes, sodomizes, gags, strangles and beats one of the lovers; then, when the other comes home, stabs the other lover to death. The following day, D enters the home of an elderly woman and rapes her. Jury verdict: murder 7/1/87. Penalty trial. Three aggravating factors found for V1: 4a, 4c, 4g. Three aggravating factors found for V2: 4a, 4c, 4f. Two mitigating factors found for V1: 5a, 5h. Two mitigating factors found for V2: 5a, 5h. Life.

# 305 STATE V. BRUNSON

D broke into V's house and was surprised by V. D severely beat V. Jury verdict: murder 5/23/90. Penalty trial. Two aggravating

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factors found: 4f, 4g. Four mitigating factors found: 5a, 5c, 5d, 5h. Life.

# 338 STATE V. BUSBY

D strangled V (74 yr., F) during course of burglary. [REDACTED]  
[REDACTED] Jury verdict: murder 3/30/89. Penalty trial. Two  
aggravating factors found: 4f, 4g. Three mitigating factors  
found: 5a, 5d, 5h. Life.

# 365 STATE V. CANCIO

D, angry at building resident who stole \$200 and drugs (Crack) from  
him, sets building on fire, killing V (another resident). No  
priors. Jury verdict: murder 4/21/88. Penalty trial. Two  
aggravating factors found: 4b, 4g. Two mitigating factors found:  
5f, 5h. Life.

# 394 STATE V. CARROLL

D (52-year-old male, stepfather) beat V (stepdaughter). Multiple  
stab wounds, blows with scale, strangulation. Blood throughout  
house. Started upstairs, ended in basement. [REDACTED]  
[REDACTED] Jury verdict: murder 11/11/87. Penalty  
trial. One aggravating factor found: 4c. Three mitigating  
factors found: 5a, 5c, 5d. Life.

# 407 STATE V. CASTELLANO

D killed friend after 3 day Meth. binge. D went to V's home to  
borrow money. V hesitated to give D money. D struck V over head  
with hammer 15 - 20X. D said he snapped and killed V for no  
reason, angry that V had no money to lend him. [REDACTED]  
[REDACTED] Jury verdict: murder 10/10/84.  
Penalty trial. No aggravating factors found. Life.

# 463 STATE V. COHEN

D and 2 Co-Ds accosted V (52 yrs., M) as V left fast food  
restaurant. D knocked V down. As V tried to get up, D shot V 1x  
in chest. V again tried to get up. D shot V again. D took V's  
wallet and fled with Co-D. Jury verdict: murder 3/16/84. Penalty  
trial. One aggravating factor found: 4g. Four mitigating factors  
found: 5c, 5d, 5f, 5h. Life.

# 468 STATE V. COLLIER

D, a 45-year-old male, punished V (boy, 4 yrs.) for misplacing a  
ruler. D punched V approximately 5x in stomach with closed fist  
and pushed V to floor 5-6x (V striking head). [REDACTED]  
[REDACTED] Jury verdict: murder  
6/21/85. Penalty trial. No aggravating factor found. Life.

# 469 STATE V. COLLINS (Darrell)

D stabbed his wife (V2) multiple x and beat and suffocated his  
child (V1). D's apparent motive was to collect insurance benefits  
on the lives of his wife and son. Jury verdict: murder 3/2/90.  
Penalty trial. No aggravating factors found. Life.

# 506 STATE V. CORREA

D & Co-D drinking and doing drugs, meet V in bar. D & Co-D leave with V after bar closes. En route V and Co-D argue, and D and Co-D beat V senseless, stop and dump body in open field. D and Co-D amputate penis and scrotum, stuff in V's mouth. [REDACTED] Murder plea 7/15/85. Penalty trial. Life. One aggravating factor found: 4c. Three mitigating factors found: 5d, 5f, 5h.

# 558 STATE V. CUNNINGHAM

D attempted to rape his ex-wife, but was stopped by his eldest son. D left the house. D met V on the bus. D & V drank Rum. D & V walked for a while, then D forced V to a deserted area. D beat, stabbed and sexually assaulted V. D buried V's body & fled. [REDACTED] Jury verdict: murder 1/5/84. Penalty trial. [REDACTED] aggravating factor found: 4g. Four mitigating factors found: 5a, 5c, 5d, 5h. Life.

# 576 STATE V. DARRIAN

D walked girlfriend (V) home. D sexually assaulted, beat and strangled V with coat hanger. No priors. Jury verdict: murder 11/15/88. Penalty trial. Hung jury. 1 aggravating factor found: 4g. 4 mitigating factors found: 5a, 5c, 5f, 5h. Life.

# 603 STATE V. DEEVES

Intoxicated D kills V (friend) after V invited D to her home. D became angered and stabbed V repeatedly, hit V with small appliances, pushed V down basement stairs. [REDACTED] Jury verdict: murder 11/16/84. Penalty trial. One aggravating factor found: 4c. Two mitigating factors found: 5a, 5h. Life.

# 673 STATE V. DIAZ

D and Co-D need money for drugs. They go to the home of V3 (D's ex-lover) to steal money. V3 lives with V1 and V2. V1 and V2 sleeping when D and Co-D enter. They awaken, and D and Co-D beat, shoot and stab them, and Co-D then wait for V3 to get home, then shoot him too. Jury verdict: murder 6/27/89. Penalty trial. Two aggravating factors found: 4f, 4g. Four mitigating factors found: 5c, 5f, 5g, 5h. Life.

# 649 STATE V. DICKERSON

D broke into V's (D's neighbor's) apartment and beat and sexually assaulted V. D then stabbed V and slit her throat and strangled her. Jury verdict: murder 12/16/88. Penalty trial. 1 aggravating factor found: 4g. 4 mitigating factors found: 5a, 5c, 5d, 5h. Life.

# 679 STATE V. DOWNIE

Early Christmas morning, D, drunk and troubled robbed a gas station & shot V 1x in the chest. D shot at cop who chased him. Jury

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verdict: murder 3/1/89. Penalty trial. One aggravating factor found: 4g. Five mitigating factors found: 5a, 5c, 5d, 5f, 5h. Life.

# 694 STATE V. DURDEN

D (30 yr., M) broke into V's (72 yr., F) apartment along with another. D stabbed V 1x in abdomen and took television, radio and canned goods. [REDACTED] Jury verdict: murder 5/16/85. Penalty Trial. One aggravating factor found: 4g. One mitigating factor found: 5h. Life.

# 703 STATE V. EATON

D (BF) and V (GF) in a bar drinking. Argument ensues and D pulls out a gun and shoots V 1x in the head, then D points gun at V's friend saying "this one's for you". Jury verdict: murder 2/1/84. Penalty trial. One aggravating factor found: 4b. Three mitigating factors found: 5c, 5d, 5h. Life.

# 716 STATE V. EDWARDS (Ralph)

D observed V by railroad tracks. He attempted to sexually assault her, and when she ran, he pursued her and strangled her. Jury verdict: murder 7/2/86. Penalty phase. Two aggravating factors found: 4f, 4g. Four mitigating factors found: 5c, 5d, 5f, 5h. Life.

# 726 STATE V. ENGEL (Herbert)

Co-D2 ordered his younger brother (D) to hire Co-D1 to kill V, Co-D2's wife. Obsessive, passionate relationship between Co-D2 and V, and Co-D2 wanted V dead. Jury verdict: murder 6/17/86. Penalty trial. One aggravating factor found: 4e. Four mitigating factors found: 5a, 5e, 5f, 5h. Life.

# 727 STATE V. ENGEL (William)

D ordered his younger brother (Co-D2) to hire Co-D1 to kill V, D's wife. Obsessive, passionate relationship between D and V, and D wanted V dead. Jury verdict: murder 6/17/86. Penalty trial. One aggravating factor found: 4e. Four mitigating factors found: 5a, 5e, 5f, 5h. Life.

# 618 STATE V. FRANKS

D (M) lived with V (F), a friend of D's mother, because D's mother could not handle D. V threw D out and D returned, broke into V's apartment, stabbed, strangled and beat V with a billy club. Jury verdict: murder 9/24/90. Penalty trial. Life. One aggravating factor found: 4g. Mitigating factors: 5a, 5c, 5d, 5h.

# 964 STATE V. GUAGENTI

D went to bar where ex-girlfriend (V), who had rejected him, was dancing. As V was leaving stage, D grabbed V and began shooting her. D shot V 10x with hollow nosed bullets, which caused excruciating pain. One prior simple assault. Jury verdict:

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murder 4/10/87. Penalty trial. One aggravating factor found: 4c. Two mitigating factors found: 5a, 5f. Life.

#1060 STATE V. HERNANDEZ (3022:2D VICT)

D entered NDV1's (ex-gf) apartment unannounced. D pulled her hair, slapped her face and swung a knife at her, puncturing her breast. When NDV2 entered, D pushed and grabbed her. NDV2 ran upstairs to the apartment of V1 (uncle) and V2 (grandfather). D stabbed V1 1x in the chest and V2 1x in the abdomen. D also stabbed NDV3.

Jury verdict: murder 3/27/85. Penalty trial. One aggravating factor found for both victims: 4b. Three mitigating factors found for both victims: 5a, 5d, 5h. Life for both victims.

#1076 STATE V. HICKS

V and friends requested marijuana from D and Co-Ds. D, Co-D1 and Co-D2 decided to rob V and friends. When D and Co-Ds returned with marijuana, D stuck a rifle into the car and shot V. No priors. Jury verdict: murder 4/16/83. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5c, 5f, 5h. Life.

#1079 STATE V. HIGHLANDER

V (ex-gf) had filed criminal complaint against D. D encounters V in restaurant parking lot walking with a man. D shoots V 1x. Jury verdict: murder 6/28/89. Penalty trial. Two aggravating factors found: 4b, 4f. Three mitigating factors found: 5a, 5d, 5h. Life.

#1133 STATE V. HUFF

D saw V (73 yr., M) coming from liquor store and decided to rob him. D broke into V's back door. V attempted to charge D. D knocked V to floor & V hit his head. D mad at V for charging him, beat V until V stopped moving. D fled with cash and radio. Jury verdict: murder 3/7/86. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5d, 5h. Life.

#4037 STATE V. JACKSON (Shawn)

D, Co-D1 and Co-D2 decide to rob V, drug dealer. They force him to alley at gunpoint. V only had \$50. They put him in his car, wanted his address, V refused. They took V to woods. D shot V 7 or 8 times in head. Nonjury verdict: Murder 5-20-91. Penalty Trial. No aggravating factors found. No mitigating factors found. Life.

#1243 STATE V. JONES (Jimmie Lee)

D and Co-D rob hotel night clerk of more than \$400 and D shoots clerk. Jury verdict: murder 3/22/88. Penalty Trial. One aggravating factor found: 4g. Two mitigating factors found: 5c, 5h. Life.

#1246 STATE V. JONES (Larry)





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Four mitigating factors found: 5a, 5c, 5f, 5h. Life. Reversed on appeal. On remand, manslaughter plea. 10 years. Plea retracted. Pending.

#1510 STATE V. MANFREDONIA

D asked V to go out w/him. V began yelling at D and made insulting remarks that angered D. D got a knife, pushed V to the ground and attacked her. V was sexually assaulted and stabbed 26x in the chest and back area. Bench verdict: murder 6/11/86. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Three mitigating factors found: 5a, 5c, 5f. Life.

#1533 STATE V. MARTIN

D, a 21-year-old male, drinking at party, gets thrown out with friends, starts fire in apartment building, kills V. No adult priors. Jury verdict: murder 3/12/84. Penalty trial. Two aggravating factors found: 4b, 4g. Four mitigating factors found: 5a, 5d, 5f, 5h. Life.

#1576 STATE V. MAYRON

D met V in an arcade. They went to a hotel and had sexual relations. D then beat V, took her to the woods and beat her more, then left her with her head in a pool of water. Jury verdict: murder 10/26/89. Penalty trial. Two aggravating factors found: 4c, 4g. Three mitigating factors found: 5a, 5d, 5h. Life.

#1612 STATE V. MCKENZIE

D (M) V (F) driving. Argument. D put his hand over V's nose and mouth. V rendered unconscious. D put V in trunk of car. V died of cold or oxygen deprivation. Body discovered 1 month later. [REDACTED] 2 nonviolent priors. Jury verdict: murder 5/16/88. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5d, 5f, 5h. Life.

#1638 STATE V. MELENDEZ (Miguel)

Co-D paid D \$5,000 to kill V on behalf of another person. D waited for V in V's apartment building. When V entered, D asked about the car V was selling to identify him. D shot V 2 times in the head. Jury verdict: Murder 6/3/87. Penalty trial. Aggravating factor: 4d. Mitigating factors: 5g, 5h. Hung jury. Life.

#1640 STATE V. MENDEZ (Incenzio)

D (28 yr., M) at V's (95 yr., F) house to burglarize. D surprised by V's arrival, hit V 3x with piece of wood and put knees in V's chest. No priors. Jury verdict: Murder 4/19/84. Penalty trial. Aggravating factors found: 4c, 4g. Mitigating factors found: 5f, 5h. Life.

#1658 STATE V. MICHELICHE

D and Co-D and V drinking at bars, consuming drugs. When bar closed all left. D claims Co-D beat V senseless. Stopped in wooded area. Cut off V's penis and stuffed in V's mouth. No

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priors. Jury verdict: murder 6/5/85. Penalty trial. One aggravating factor found: 4c. Six mitigating factors found: 5a, 5c, 5d, 5e, 5f, 5h. Life. Reversed. Jury verdict: aggravated manslaughter 6/15/89. 20 years/10 minimum.

#1709 STATE V. MONTURI (2826:1ST VICT)

D & Co-Ds try to collect debt which V (D's cousin) owed D. Also dispute over drugs, prostitution. D & Co-Ds execute V1, V2, V3, shooting them in head. [REDACTED]. Jury verdict: Murder 6/22/84. Penalty trial. One aggravating factor found for V1: 4c. One mitigating factor found for V1: 5h. Two aggravating factors found for V2: 4c, 4f. One mitigating factor found for V2: 5h. Life.

#4031 STATE V. MUSCIO

D breaks into V's home, to burglarize. D stabs V 11 times in the arm, chest and side with a knife from V's kitchen. V's daughter asleep, unharmed. Jury Verdict: Murder 5-28-91. [REDACTED] Penalty Trial. Aggravating factor found: 4g. Mitigating factors found: 5a, 5h. Life.

#1780 STATE V. NAPLES

D worked with V2 on a horsefarm. D beats V2 to death, then strangles V1 (V2's wife). Jury verdict: murder 2/14/90. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5a, 5d, 5h. Life.

#1783 STATE V. NEAPOLITANO

D (19 yr., M) broke up with V (15 yr., G.F.) 2 months prior to incident. V dated another boy night before incident. Next morning, D, in a jealous rage, stabbed V 15x in chest and back, and burglarized home. No priors. Jury verdict: murder 8/10/84. Penalty trial. Two aggravating factors found: 4c, 4g. Three mitigating factors found: 5a, 5c, 5f. Life.

#1791 STATE V. NICELY

D and Co-D (paramour) beat 3-1/2 year old son (V) for defecating in his clothes. V became unconscious. D and Co-D try unsuccessfully to revive V in bathtub. [REDACTED] Jury verdict: murder 7/29/83. Penalty trial. One aggravating factor found: 4c. Three mitigating factors found: 5a, 5d, 5h. Life.

#1793 STATE V. NIEVES

D (27 yr., M) was jealous of V (M) because V liked D's g.f. On prior occasion, D threatened V with gun. D shot V at close range 1x in head, while V in car, next to V's son. Bullet went through head, missed son, lodged in seat between them. D had prior murder. Jury verdict: murder 5/25/88. Penalty trial. Two aggravating factors found: 4a, 4b. Two mitigating factors found: 5b, 5h. Life.

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#1880 STATE V. PARSONS D gets pulled over by police officer, pulls out shotgun and shoots officer 1x in the head. Jury verdict: murder 7/31/85. Penalty trial. One aggravating factor found: 4f. Three mitigating factors found: 5a, 5d, 5h. Life.

#1918 STATE V. PERRY (Harold)  
D (apartment maintenance man) invited in apartment of V (90 yr., F). D struck several x with hammer, took items from V's apartment. [REDACTED] Jury verdict: murder 10/14/88. Penalty trial. One aggravating factor found: 4g. Two mitigating factors found: 5c, 5h. Life.

#1946 STATE V. PIERCE  
D and Co-D, giving V a ride, robbed V. V struggles, Co-D drags V out of car. D slashes V's throat. Ds and V drinking. 2 priors. Jury verdict: murder 9/16/86. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5d, 5f, 5h. Life.

#1958 STATE V. PLOPPERT  
D and Co-D entered V's (legally blind, 41 yr., M) home to rob him. D beat V and set him (V) and the house on fire with lighter fluid. D and Co-D left the house with \$1,600.00. Jury verdict: murder 6/13/89. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Three mitigating factors found: 5d, 5e, 5h. Life.

#1974 STATE V. PRATER  
D and Co-D lure V into house with the promise of drugs. D and Co-D take turns raping V. Finally, D stabs V and Co-D strangles her with a belt. Jury verdict: murder 12/15/89. Penalty trial. One aggravating factor found: 4g. One mitigating factor found: 5h. Life.

#2030 STATE V. REDDEN  
D (24 yr., M) and 2 Co-Ds kidnapped V (M) from street. Beat and robbed V. Took V to a house where D shot V in head and nondecendent victim in the eye. [REDACTED]  
Murder plea 9/4/86. Penalty trial. Two aggravating factors found: 4b, 4g. Four mitigating factors found: 5c, 5d, 5g, 5h. Life.

#2038 STATE V. REED  
V was acquaintance of D and D's g.f. D's g.f. goes away on retreat. V allegedly called D over. Fight erupts. D stabs V 40x. Sexually assaults V. [REDACTED] Jury verdict: murder 3/6/89. Penalty trial. No aggravating factors found. Life.

#2040 STATE V. REESE  
D returned to his apartment after a night of drinking. D noticed V's apartment door was ajar. D went into V's apartment and found V asleep. D claimed V made advances toward him. D tied V's hands, covered her head with a shirt and had intercourse with her. D hit V on the head with a claw hammer 17x. Jury verdict: murder

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8/11/89. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5d, 5h. Life.

#2044 STATE V. REIGLE

D breaks into his aunt's (NDV) and uncle's (V) apartment to steal money. D beats V and NDV. Jury verdict: murder 7/17/85. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5d, 5f, 5h. Life.

#2053 STATE V. REYES

D entered the apartment of V, NDV1 (D's ex-G.F.), NDV2 and NDV3. D intended to kill them for interfering in his relationship with NDV1. D stabbed V twice in the heart. D stabbed NDV3 until he played dead. D stabbed, choked and physically and verbally abused NDV1 and NDV2 for a sustained period of time. [REDACTED] Jury verdict: murder 6/25/86. Penalty trial. One aggravating factor found: 4g. Two mitigating factors found: 5a, 5d. Life.

#2091 STATE V. RIVERA

V visiting D and D's wife in adjoining apartment. D left and went to rob V's apartment. V came in, struggle. D hit V repeatedly. D attempted to rape V. D put pillow over V's face. Suffocation. [REDACTED] Jury verdict: murder 5/30/86. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5d, 5h. Life.

#2170 STATE V. ROSE (Michael)

D, age 31, was hired by Co-D1 and Co-D2 to kill V for \$1,000 so she would not inherit his father's money. D stabbed V 83 times, and bludgeoned V approximately 20 times. V was 8 months pregnant when she was killed. D claimed self-defense. Jury verdict: murder 12/21/84. Penalty trial. One aggravating factor found: 4c. Four mitigating factors found: 5e, 5f, 5g, 5h. Life.

#2190 STATE V. RUSSO

D had made friends with 3 gas station employees (V, NDV1, NDV2). D decides to rob station. D makes V, NDV1, and NDV2 lie on floor. D shoots V and NDV1 in head and NDV2 in hand. Jury verdict: murder 5/13/87. Penalty trial. Two aggravating factors found: 4b, 4g. Five mitigating factors found: 5a, 5c, 5d, 5f, 5h. Life.

#2195 STATE V. SAINVALLIER

D and V argued in bar over serving of drink. Argument continued outside. D shot V 3x, then fired 2 shots at V's companions. No violent priors. Jury verdict: murder 3/14/85. Penalty trial. One aggravating factor found: 4b. Four mitigating factors found: 5a, 5d, 5e, 5f. Life.

#2235 STATE V. SCALES

D and Co-D planned to commit robbery. They met V in a bar and lured V to apartment and all used cocaine. Co-D got a clothesline. D and Co-D beat V. Co-D and D strangled V. They took V's car and

credit cards. Jury verdict: murder 10/31/86. Penalty trial. One aggravating factor found: 4f. Two mitigating factors found: 5d, 5h. Life.

#2270 STATE V. SETTE

D (23 yr., M) shared condo with V (23 yr., F). No romantic connection between the two. Two others also shared condo. D's version: D used cocaine, picked up 6" knife and stabbed V multiple times in chest, head and slit throat. NDV1 tried to help. D stabs NDV1. Runs after W5, but police apprehend D. No priors. Jury verdict: murder 4/20/89. Penalty trial. Two aggravating factors found: 4b, 4c. Four mitigating factors found: 5c, 5d, 5f, 5h. Life.

#2318 STATE V. SLAUGHTER

D was at fast food restaurant. D ordered 3 employees to lay on the floor, then demanded combination to safe. They didn't know it, so he shot V 2x in back. Jury verdict: murder 6/28/85. Penalty trial. 1 aggravating factor found: 4g. 2 mitigating factors found: 5c, 5h. Life.

#2375 STATE V. SPRAGGINS

D broke into V's apartment and raped then suffocated her. D took jewelry from the apartment. Jury verdict: murder 1/30/86. Penalty trial. 2 aggravating factors found: 4f, 4g. 2 mitigating factors found: 5d, 5f. Life.

#2381 STATE V. STAMPS

D and 2 Co-Ds conspire to rob bank. While Co-Ds are waiting in line at bank, D enters and shoots V (bank guard). [REDACTED]. Jury verdict: murder 4/23/84. Penalty trial. One aggravating factor found: 4g. Two mitigating factors found: 5c, 5h. Life.

#2403 STATE V. STONE

D hit V in head, face and brain with hatchet. Robbed V at boarding house where V and D lived. No violent priors. Jury verdict: Murder 5/21/86. Penalty trial. One aggravating factor found: 4c. Two mitigating factors found: 5f, 5h. Life.

#2463 STATE V. THOMAS (Louis)

D stabbed former g.f. (V) 22x in V's apartment. No priors. Jury verdict: murder 7/1/85. Penalty trial. One aggravating factor found: 4c. Four mitigating factors found: 5a, 5c, 5f, 5h. Life.

#2627 STATE V. WASHINGTON (Delano)

D (husband) and V (wife) argue as D drives V to work. D sees knife on floor of car, picks up knife and stabs V 30x. D alleges that he blacked out due to his history of epileptic seizures. No priors. Jury verdict: murder 7/26/85. Penalty trial. One aggravating factor found: 4c. Four mitigating factors found: 5a, 5d, 5f, 5h. Life.

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#2647 STATE V. WESTON

D and V (65 yr., F) were acquaintances at bar. Friend drives V and D to V's house. They start to have sex. Argument. D punches V then gets rock and hits her 3x in head, crushing skull. [REDACTED]

[REDACTED] Jury verdict: murder 2/11/86.

Penalty trial. Three aggravating factors found: 4c, 4f, 4g.

Three mitigating factors found: 5a, 5c, 5h. Life.

#2715 STATE V. WILLIAMS (Walter)

D (police officer) poisons wife with cyanide to cover up a bigamous marriage and receive her estate. No priors. Jury verdict: murder 5/9/86. Alleged that D murdered mother-in-law after wife's murder.

Penalty trial. One aggravating factor found: 4f. Two mitigating factors found: 5f, 5h. Life.

#2722 STATE V. WILSON (Joseph)

D and Co-D (look-out) planned to rob store. D went in with gun, put gun to V's (Co-Owner) head. V pushed gun away. D fired one shot. [REDACTED]

Jury verdict: murder 11/4/88. Penalty trial. One aggravating factor found: 4g. Three

mitigating factors found: 5c, 5d, 5h. Life.

#2752 STATE V. WORLOCK

D believed that V1 stole his wallet. He mistook V2 for V1 and shot him in the chest. Then he chased V1 into an apartment and shot him in the back, head, arms and chest. Jury verdict: murder 12/10/84.

Penalty trial. No aggravating factors found. Life.

#2761 STATE V. WRIGHT

D, having mental and emotional problems, drowns her four children. Murder plea 2/21/84. Penalty trial. One aggravating factor found: 4c. Three mitigating factors found: 5a, 5d, 5f. Life.

III. NON-PENALTY-TRIAL CASES

# 52 STATE V. ALLEN

[REDACTED] D went to V's (her mother) apartment to get money [REDACTED] When V refused to give money to D, D pulled out a knife and stabbed V 60x. After the stabbing, D stole V's jewelry. [REDACTED] Felony murder plea 4/4/89. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5d, 5f, 5h.

# 93 STATE V. ANDERSON (Antoine)

V and friend walking. D and Co-D attempt to rob V. V resists. D shoots V once in chest. [REDACTED] Jury verdict: murder 7/13/89. No penalty trial. Life. Aggravating factor: 4g.

Mitigating factors: 5c, 5h.

#4004 STATE V. ARMSTRONG

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D wanted V's guns to use when D started dealing drugs. D, Co-D and V went to rob a house. On the 5th floor, D turned and shot V in the chest. V fell and D shot him in the head. D stole V's guns. Jury Verdict: Murder 3-2-90. [REDACTED] No Penalty Trial. Aggravating Factor: 4g. Mitigating Factor: 5b, 5h. Life.

#4014 STATE V. BASHA

D suspects that V1, D's wife, and V2 are having an affair. D finds them together at D's home. D shoots V1 1x and V2 2x. Jury verdict: murder 6/8/90. No penalty trial. Aggravating factor: 4g. Mitigating factors: 5a, 5f, 5h.

# 226 STATE V. BOLINGER

D (36 yr., M) entered home of V (23 yr., F) through a fire escape. D raped and stabbed V to death. [REDACTED]

Felony murder plea 3/21/86. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5d, 5f, 5h.

#4038 STATE V. BRAND

D wanted his brother killed and reportedly pursued Co-D for at least 17 months to do it, offering increasing sums of money from \$350-\$2000. [REDACTED] Jury verdict: Murder. No penalty trial. Aggravating factor: 4e. Mitigating factors: 5a, 5f, 5h.

#4003 STATE V. BROOKS

D and 2 Co-D's tried to rob V of his coat. D pulls gun. V tries to grab gun. D shoots V 2x. Jury verdict: murder 12/13/90. [REDACTED]. No penalty trial. Life. Aggravating Factor: 4g. Mitigating Factors: 5c, 5d, 5f, 5h.

#4019 STATE V. BROWN

D in motel room [REDACTED] V (10 year old female) stopped by, looking for her aunt (D's paramour). D raped V. D and V left motel, V said she was going to tell her mother what V had done and ran away. D caught V, strangled her. Murder plea: 10/31/90. No penalty trial. Life. Aggravating factors: 4f, 4g. Mitigating factors: 5d, 5h.

# 321 STATE V. BURROUGHS

Co-D wanted his brother killed and reportedly pursued D for at least 17 months to do it, offering increasing sums of money from \$350-\$2000. [REDACTED] Co-D pays D \$2,000. Murder plea 2/14/90. No penalty trial. Life. Aggravating factor: 4d. Mitigating factors: 5e, 5f, 5g, 5h.

# 350 STATE V. CALDWELL

D robbed an A & P as the security guard opened the safe. The guard resisted and reached for D's gun at which time D shot him in chest

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and head. Murder plea 11/20/86. No penalty trial. Life.  
Aggravating factor: 4g. Mitigating factors: 5a, 5d, 5h.

# 356 STATE V. CALLOWAY

D and 2 Co-Ds rob V. D shoots V. Jury verdict: felony murder  
12/17/86. No penalty trial. Life. Aggravating factor: 4g.  
Mitigating factors: 5c, 5h.

# 382 STATE V. CARR

D stabbed V1, a female, and stabbed and shot, 3x, V2, a female, and  
V1's mother after an argument. [REDACTED]

[REDACTED] Murder plea  
10/27/89. No penalty trial. 30 years. Aggravating factor: 4g.  
Mitigating factors: 5a, 5d, 5f, 5h.

# 388 STATE V. CARROZZA

[REDACTED] D kidnapped V, taped his head and  
mouth, and repeatedly hit him over the head. Aggravated  
manslaughter plea 2/8/89. No penalty trial. 18 years/9 minimum.  
Aggravating factor: 4g. Mitigating factors: 5b, 5e, 5h.

# 402 STATE V. CAVINESS

D and 2 Co-D's broke into D's stepfather's building to rob and kill  
D's stepfather, but decided instead to rob V. V had an apartment  
in the building. Co-Ds tied V up and along with D, ransacked the  
apartment. D hit V several times in the head with a baseball bat.  
Felony murder plea 4/26/85. No penalty trial. life. Aggravating  
factors: 4f, 4g. Mitigating factors: 5c, 5f, 5h.

#4021 STATE V. CLARK (Hashona)

D, Co-D1 and Co-D2 conspired to rob a jewelry store. Two weeks  
later, D and Co-D1 enter store, D holds gun on V while Co-D1 took  
\$30,000 in jewelry from this counter. V made a furtive movement, D  
shot V 5x in the abdomen and mid-back, including twice when V was  
lying on the floor. Jury verdict: murder 2/1/91. No penalty  
trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

# 439 STATE V. CLARK (Reginald)

D went to aunt's home (V), asked for \$20.00. V refused. D stabbed  
V 13x in the back and stole from V's purse and home. [REDACTED]  
Aggravated manslaughter plea 6/18/87. 20 years/10 minimum. No  
penalty trial. Aggravating factor: 4g. Mitigating factors: 5d,  
5f, 5h.

# 447 STATE V. CLEARY

D and Co-D drove up to V, [REDACTED] intending to  
rob him. D shot at V 6x, hitting him with one fatal shot in the  
back. D and Co-D fled with a bag of white powder. D was charged  
with murder. Aggravated manslaughter plea 10/16/87. No penalty  
trial. 30 years/15 minimum. Aggravating factor: 4g. Mitigating  
factors: 5c, 5d, 5h.



# 470 STATE V. COLLINS (David)

D killed paramour's mother because she refused to let him come and see paramour's baby. D laid in wait in apartment, beat V with a baseball bat, stabbed, sexually assaulted, and left V to die with head in bathtub. Also stole \$200. Murder plea 6/20/83. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5c, 5f, 5h.

# 544 STATE V. CULLEY

D (19 yr., M) shot V (24 yr., M, gas station attendant) in course of robbery. D stated he did not want V to ID him. [REDACTED] Jury verdict: murder 10/2/84. No penalty trial. Aggravating factors: 4f, 4g. Mitigating factors: 5c, 5h. Life.

#4006 STATE V. DEAN

D and Co-D try to rob V and NDV. Co-D fought with V, D fought with NDV. D pulled a gun, shoots 3 times at NDV as NDV runs, hitting him once. D shoots at V 2 times, hitting V in the eye. Jury Verdict: Murder 11/1/89. No Penalty Trial. [REDACTED] Aggravating Factor: 4g. Mitigating Factor: 5h. Life.

# 624 STATE V. DELVALLE

D [REDACTED] shot V (acquaintance [REDACTED]) in head after V threatened to tell police about D's [REDACTED] activities. [REDACTED] Murder plea 2/6/84. Life. No penalty trial. Aggravating factor: 4f. Mitigating factors: 5f, 5h.

# 658 STATE V. DINKINS

V parked on D's land. D wanted V to move truck. D shot V 4x (1x in head, 2x in abdomen). D then shot 3 witnesses in a U-Haul 5x to eradicate witnesses. Jury verdict: murder 5/23/86. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5f, 5h.

#4027 STATE V. DOLLARD

D, Co-D1 and Co-D2 meet NDV and W1 leaving apartment. D and Co-Ds search W1 and NDV for drugs at gunpoint. NDV and W1 told to knock on V's door. D kicked the door open, D and Co-D1 went in. V got out of bed, so D shot V one time in the chest. Jury Verdict: murder 5-2-91. No Penalty Trial. [REDACTED] Aggravating Factor: 4g. Mitigating Factors: 5c, 5h. Life.

# 684 STATE V. DREHER

D (43 yr., M) and V (39 yr., F) in troubled marriage. Plot by D and paramour (Co-D) to kill V. D drags V to basement, binds her hands, strangles V with cord, stabs V in throat. Paramour hits V over head with cobbler's tool 3x and stabs her 8x after she is dead. [REDACTED] Jury verdict: murder 2/23/89. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5f, 5h.

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# 712 STATE V. EDWARDS (Eugene)

D & Co-D lure V [REDACTED] into D's house [REDACTED]. Co-D and V go upstairs. Co-D holds knife to V and orders her to undress. Co-D has sex with V. D then has sex with V. After D finishes, Co-D stabs V 3 or 4x. D strangles V. D then takes V's purse after concealing her body in basement. Murder plea 11/2/89. No penalty trial. Life. Aggravating factors: 4g. Mitigating factors: 5f, 5h.

# 742 STATE V. ETHRIDGE

D and V (his girlfriend) argue over V dancing with another man. D thinks V wants him dead. Next day, V went to see D. [REDACTED] D and V argue, V confesses to seeing another man. D stabbed V repeatedly in the chest, overpowered others, then stabbed V some more. [REDACTED] Jury verdict: murder 3/11/87. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5a, 5d, 5h.

# 754 STATE V. FAINS

D (26) and V (51) neighbors. D robbed V in V's home, beat V 13x about head with hammer. Stabbed V 1x in back. V in wheelchair. [REDACTED] Jury verdict: murder 7/18/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factor: 5h.

#4024 STATE V. FARROW

D (21 year old male) and other young people lived together. D was awakened at 5:30 a.m. by a friend who wanted to borrow his phone. D, angry, takes his phone back and blocks his door. D's friend leaves with 2 girls to use the phone at a local store. When they return, D was outside watching the house burn. 2 Vs, D's housemates and friends die. D later confesses. Aggravated Manslaughter Plea 2/14/90. No penalty trial. 25 years. Aggravating Factor: 4g. Mitigating Factors: 5a, 5f, 5h.

# 772 STATE V. FERRARI

V (78 years old) refused to give money to her son (D). D stabbed V 7x and strangled her. [REDACTED] Jury verdict: murder 3/7/90. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5a, 5d, 5f, 5h.

# 791 STATE V. FLOYD

D (20 yr., M) robbing V (29 yr., M) of denim jacket, shot V 1x in face. [REDACTED] Jury verdict: murder 11/4/88. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

# 828 STATE V. FREEMAN

D had a dispute with his girlfriend and her brothers (NDV & V). D was forced to leave the house, saying "I'll be back". Approximately 10 minutes later, D returned, banged on the door, pulled out a gun and shot through the door, striking NDV in the hip. D kicked in the door and shot V in the chest. [REDACTED] Aggravated

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manslaughter plea. Aggravating factor: 4b. Mitigating factors: 5c, 5d, 5f, 5h. 30 years.

# 826 STATE V. FULLARD

D stabbed V (D's sister's best friend) 7x during attempted burglary & sexual assault. [REDACTED]  
[REDACTED] Jury verdict: murder 10/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factor: 5h.

#4020 STATE V. GAINER

D sets building on fire. Police try to enter, D threatens to kill, throws chairs out of windows. Police kick door in, D attacks them with a hammer. V killed, NDV injured in the fire. Jury Verdict: Murder 5/6/87. No Penalty Trial. [REDACTED]  
[REDACTED] Aggravating Factors: 4b, 4g. Mitigating Factors: 5a, 5d, 5h.

# 889 STATE V. GLOVER

V & D argued. D went to Florida to get a shot gun. 2 weeks later, D set fire to V's house. As V tried to escape from house, D shot V at close range in front of V's wife, daughter and mother-in-law. [REDACTED] Jury verdict: murder 10/26/87. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5a, 5d, 5f, 5h.

# 917 STATE V. GRAF

D shot V (male driver who gave him ride and allegedly made sexual innuendos at D) 4 or 5x in face. Stole V's auto after the assault. [REDACTED] Jury verdict: murder 2/3/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5f, 5h.

#4001 STATE V. GRANT

D approached V, [REDACTED] and asked if V had robbed D's sister of her drugs. V denied doing so, D and V began fight. V dropped his cash, D shot V 1 time in chest, picked up V's money and fled. Jury verdict: murder 6/8/90. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5a, 5c, 5f, 5h.

#1027 STATE V. HART

D shot V (cab driver) 2x in head as driver was lying face-down in the front seat of cab. D fled with cash, watch and other items. No priors. Murder plea 9/13/85. Penalty trial. One aggravating factor found: 4g. Five mitigating factors found: 5a, 5c, 5d, 5f, 5h. Life.

#4033 STATE V. HENDERSON

Defendant (D) and Co-D picked up V and drove to a secluded area, where V was beaten, raped, strangled, stabbed and tortured with a stick, before being hoisted into a tree, twisted around it, hidden, left to die. Guilty Plea: Murder 6/17/87, Life 30 yrs. No Parole.

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No Penalty Trial. Aggravating factor 4c, 4g. Mitigating factors 5a, 5d, 5h.

#1110 STATE V. HOLMES

D entered house of estranged wife and kids through basement window. Saw his wife and V (her B.F.) asleep on couch. D stabbed his wife 2x and V 6x. [REDACTED]. Aggravated manslaughter plea 5/20/85. No penalty trial. 17 years/7 minimum. Aggravating factors: 4b, 4g. Mitigating factors: 5d, 5h.

#1103 STATE V. HUDSON

D entered home, took NDV1 (homeowner) upstairs at knifepoint and tied her up. V (boarder) returned home, confronted by D, struggle, D stabbed V. V broke free, D pursued him and hit him over the head 2x with a bat. Money taken from NDV1 and V. [REDACTED]. Murder plea 11/21/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5d, 5h.

#1163 STATE V. JACOBY

D (landlady, age 40) alleged that V (boarder) [REDACTED] and awakened her by putting a knife to her throat. D inflicted 124 wounds (40 stab, 84 trauma) using an assortment of kitchen utensils and a chair leg. V died from hemorrhage. D claimed [REDACTED]. Jury verdict: murder 7/24/87. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5f, 5h.

#1164 STATE V. JALIL

D had planned to kill his pregnant wife (V) for five months due to on-going arguments between them. D called V to meet him, they argued. D handcuffed V's hands behind her back, beat her then strangled her. Aggravated manslaughter plea 11/9/89. No penalty trial. 30 years/15 mandatory. Aggravating factors: 4g, 4c. Mitigating factors: 5f, 5h.

#1193 STATE V. JAMES (Darryl)

D shot V2 1x in neck. D then said he would "take V1 out" and shot her 2x. [REDACTED]. Jury verdict: murder 3/10/89. No penalty trial. Life/Life. Aggravating factor: 4g. Mitigating factor: 5h.

#3008 STATE V. JAMES (Marvin)

V and his passenger, W1, picked up D and drove him to a parking lot. D came back to V's car with a gun. D fired 1 shot at the car's floor and told V to "give it up". As he reached for his wallet, D fired another shot into the car. V exited the car and walked to the rear of it. D shot V in the chest. Jury verdict: Murder. No penalty trial. [REDACTED]. Aggravating factors: 4b, 4g. Mitigating factor: 5h. 30 years.

#1177 STATE V. JEFFERSON

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D and V roommates. D and V doing drugs. D hits V several times in the head with a hammer and takes money. Jury verdict: murder 5/22/87. Life. No penalty trial. Aggravating factor: 4g. Mitigating factors: 5a, 5d, 5h.

#1219 STATE V. JOHNSON (Nathaniel)  
Defendant (D), stabbed victim (V), his grandmother, twice in the chest during an argument over money. After stabbing V, D robbed the V's apartment. D charged with felony murder. Felony murder plea 2/1/84. No penalty trial. Life. Aggravating factor: 4g. Mitigating factor: 5h.

#1251 STATE V. JONES (Michael)  
D went to V's home. D had borrowed money from V, and knew V kept lots of money. In V's home, D got a large steak knife and stabbed V 10x in the face and 4x in the hands. As V lay dying, D stole \$300. [REDACTED] Jury verdict: murder 9/15/89. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5d, 5f, 5h.

#1257 STATE V. JONES (Tracy L.)  
D moved in with V1, the former paramour of D's mother, and V2, V1's stepson. D shoots V1 and V2. Jury verdict: murder 12/12/85. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5c, 5h.

#4012 STATE V. KERESTY  
D suffocates V1, V2, V3 (D's children). D then attempts to kill himself. Murder plea 10/20/83. No penalty trial. Aggravating Factor: 4b. Mitigating factor: 5a, 5h. 30 years.

#4005 STATE V. KERSHAW  
D, Co-D1 and Co-D2 and others involved in embezzling scheme. V uncovered the scheme. D shoots V repeatedly as V leaves for work. Jury Verdict: Murder 6/2/89. No Penalty Trial. [REDACTED] Aggravating Factor: 4f. Mitigating Factors: 5f, 5h. Life.

#1332 STATE V. KLATZKIN  
D & V drinking at bar. D & V go to V's apartment. D takes shower, V makes sexual advances at D. D hit V. V grabbed scissors & came at D. D took scissors & stabbed V 3x or 4x in chest & then slit V's throat. D set V's body on fire. Elderly V2 dies in fire. [REDACTED] Murder plea 7/9/87. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5b, 5c, 5d, 5f, 5h.

#1377 STATE V. LaPOINTE  
D & V are business partners. Dispute over the business. D goes to V's apartment & shoots him 4x. One shot passes close to V's roommate and into wall. Jury verdict: murder 6/4/85. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5d, 5h.

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#4034 STATE V LIPPEN

D and Co-D picked up acquaintance V and drove her to a secluded area. V was beaten, raped, strangled, stabbed and tortured with a stick, hoisted into a tree, twisted around it, hidden in the woods and left to die. Plea Aggravated Manslaughter, 30 years, 15 years no parole, No Penalty Trial. Aggravating Factors: 4c, 4g. Mitigating factors: 5c, 5d, 5e, 5f, 5h.

#1509 STATE V. MANDICH

D (B.F.), V (G.F.). V wanted to end relationship. D goes to V's home and sees V's ex-husband. They argue. D breaks in apartment and stabs V multiple x. [REDACTED]  
Jury verdict: murder 10/21/86. No penalty trial. Life.  
Aggravating factors: 4g. Mitigating factor: 5h.

#1611 STATE V. McIVER

D, a male prostitute, went to the home of V, his client, intending to rob V. D spends the evening with V, then stabs V 1 time in the neck and took money and V's car. D charged with felony murder. Guilty plea 3/22/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5d, 5f, 5h.

#1624 STATE V. McNEIL

D (19 yr., M) and Co-D (18) knew V (51 yr., M). They went to V's house to play cards intending to rob him. D strangled V and hit V with hammer on head and beat to death. Took TV, ring, credit card and car. [REDACTED]. Felony murder plea 11/14/83. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

#2819 STATE V. McCOLLUM

V accuses D, her father, of sexual abuse. Three days before the trial is to begin, D enters V's apartment and shoots V 3X in the chest and stomach with a shotgun. Felony murder plea 5/3/85. No penalty trial. Life. Aggravating factors: 4f, 4g. Mitigating factors: 5a, 5h.

#1588 STATE V. McCOY

D (BF, 40 yrs.) and V (GF, 21 yrs.) had violent argument. D attacked V in hallway, grabbed her by hair, stabbed V 12 times in back and chest in presence of V's 6 yr. old son. [REDACTED]  
Jury verdict: murder 6/19/86. No penalty trial. Life.  
Aggravating factor: 4c. Mitigating factors: 5a, 5d, 5h.

#1637 STATE V. MELENDEZ (Angel)

D and V argue. Later D sets fire to V's home, killing V, V2, and V3. D drunk. [REDACTED] Jury verdict: felony murder 5/24/84. No penalty trial. Life. Aggravating factors: 4b, 4g. Mitigating factors: 5d, 5h.

#4002 STATE V. MENDEZ (Oscar)

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D and V argue on a street. D leaves and returns with an Uzi- type machine gun and fires into a crowd, striking and killing V. Jury verdict: murder, life. No penalty trial. Aggravating factor, 4b. Mitigating factors: 5a, 5h.

#1648 STATE V. MEROLA

D and 3 others buy drugs from V and 2 others. Deal goes bad. D shoots V 1x in chest, robs another, 3rd runs and D shoots him 1x in shoulder. Vs were going to rip off D, D claims he was hit 1st. [REDACTED] Jury verdict: murder 9/24/84. No penalty trial. Life. Aggravating factors: 4b, 4g. Mitigating factors: 5b, 5h.

#1650 STATE V. MESSAM

D was having an extra-marital affair with V and V became pregnant. When V refused to abort the child and threatened to expose D, D became enraged, stabbed V 21 times in the face, neck, and chest, and dragged her to an abandoned building. Jury verdict: murder 1/13/89. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5f, 5h.

#4009 STATE V. MINCEY

D (age 27) broke into home of V (73 year old) severely beat, raped and strangled her. D stole 2 dolls and a TV which he gave away as gifts. D was arrested 6 1/2 years later. Jury Verdict: murder 6/25/90. No Penalty Trial. [REDACTED] Aggravating Factors: 4c, 4g, 4f. Mitigating Factors: 5h. Life.

#1705 STATE V. MONTALVO

D (30 yr., M) met V (F) in bar, offered to drive her home. Made sexual advances, but V denied him. Threw V off bridge. Prior murder. [REDACTED] Jury verdict: murder 3/21/86. No penalty trial. Life. Aggravating factor: 4a. Mitigating factors: 5d, 5h.

#1738 STATE V. MORTON

D (28 yr., M) knew V (32 yr., F) and her family for several years. [REDACTED] V found in basement of her house with several stab wounds and blow to head by blunt instrument which fractured skull. D, after murder, stabbed V's 15 yr. daughter several times in chest and choked her to unconsciousness. Murder plea 1/14/86. No penalty trial. Life. Aggravating factors: 4b, 4c. Mitigating factors: 5d, 5h.

#4028 STATE V. MUHAMMAD (Abdul)

D approached V [REDACTED] D and V scuffled. D pushed V into his car and shot V one time in the head. D & Co-D went through V's pockets and took money and jewelry. D shot V again. Aggravated Manslaughter Plea 4/14/91. No penalty trial. [REDACTED] Aggravating Factor: 4g, Mitigating Factor: 5h. Life.

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#1750 STATE V. MUHAMMED (Jihad)

D and Co-D saw V and girlfriend on the street [REDACTED]. V refused and argument began. Co-D took V's girlfriend's pocketbook. Argument. D shoots V with shotgun. [REDACTED]. Murder plea 4/9/85. No penalty trial. Life. Aggravating factor: 4a. Mitigating factor: 5h.

#1753 STATE V. MUJAHID

D argued with 3 residents of boarding house [REDACTED] and threatened to burn house down. D, with Co-D poured flammable liquid and set building on fire. 2 Vs died. Approximately 20 people injured. [REDACTED] Jury verdict: murder 12/19/88. No penalty trial. Life. Aggravating factors: 4b, 4g. Mitigating factors: 5d, 5h.

#1771 STATE V. MUSGROVE

D and Co-Ds force V to withdraw \$2,400 from his bank and then take it from him. They then hold V and tie him up. While riding in V's car, D strangles V and, with Co-D2, throws V down an embankment. Murder plea 12/3/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5d, 5f, 5h.

#4011 STATE V. NORMAN

Co-D3 invites V1 and NDV to apartment where D, Co-D1 and Co-D2 are waiting to retrieve a \$10 loan, related to drugs. The D's were also angry that V had robbed their drug dealers. D chases V1 and NDV, shoots V in stomach and NDV in hand. Jury verdict: murder 2/16/90. No penalty trial. Life. Aggravating Factor: 4g. Mitigating Factors: 5c, 5h.

#1828 STATE V. O'NEAL

D burglarized V's home. V confronted D and D beat V severely, then put a bag over V's head, dragged her downstairs and stuck her head in a furnace. [REDACTED]. Jury verdict: murder 10/20/88. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factor: 5h.

#1951 STATE V. PINERO

V and friend (W1) were standing on corner in front of car. D approached with a shot gun. V jumped into car. D shot V 2x (chest and leg) through passenger window. V exited car and ran up the street. D shot 1x at V again. D then turned and fired 2x at W1, missing. Aggravated manslaughter plea 10/30/86. No penalty trial. 15 years/7 minimum. Aggravating factor: 4g. Mitigating factor: 5h.

#4018 STATE V. POMALES

Apparent confrontation between rival gangs. D shoots into crowd, killing V1 and V2. Aggravating factors: 4b, 4g. Mitigating factors: 5c, 5f, 5h. Aggravated manslaughter plea 4/10/90. No penalty trial. 30 years.



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#1976 STATE V. PRESHER

D waited for V's husband to leave the house, then entered V's home through a window. D tied V to her bed. D got a steak knife and beat, strangled with a telephone cord and stabbed V repeatedly. [REDACTED] Murder plea 12/8/89. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5a, 5c, 5h.

#1977 STATE V. PRESTON

D, Co-D1 and Co-D2 entered V's grocery store to rob V. When V went for a weapon, Co-D1 and then D shot V. V died from his gunshot wounds. Jury verdict: felony murder 12/17/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

#2061 STATE V. RICHARDSON

D, the ex-paramour of V, broke into V's apartment and stabbed V 19 times. The stabbing was witnessed by V's son. Jury verdict: murder 1/6/87. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factor: 5h.

#2146 STATE V. ROGERS

D (B.F., 31), V (G.F., 20). D accused V of infidelity. D went to V's home to seek reconciliation, but they argued instead. D alleged V closed the door on D's hand while he was leaving. D forcibly re-entered. D claimed V attacked him, he took knife from V and stabbed V 11x. [REDACTED] Jury verdict: murder 3/10/86. No penalty trial. Life. Aggravating factors: 4a, 4c, 4g. Mitigating factors: 5a, 5h.

#2182 STATE V. RUANO

D believes that V robbed a person that worked for D. D and Co-D plan to rob V. As V runs away, D shoots V 1x in the head. Aggravated manslaughter plea 7/8/86. No penalty trial. 18 years/9 minimum. Aggravating factor: 4g. Mitigating factors: 5f, 5h.

#2183 STATE V. RUGGS

D and 2 Co-Ds go to rob V on a stairway landing. V moves at D. D shoots V 2 times. Jury verdict: felony murder 3/17/87. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5f, 5h.

#2202 STATE V. SANABRIA (II)

D shot and killed 2 Vs on the street, with a handgun, [REDACTED] Jury verdict: murder 7/15/86. No penalty trial. Life. Aggravating factor: 4b. Mitigating factor: 5h.

#2230 STATE V. SAXTON

D (38 yr., ex-husband of V and father of V's son) came to V's apartment and threatened to break down door if not let in. D stabbed V 13x in neck, chest, lungs and wrapped cord around V's

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neck. 8 yr. old son was a witness. [REDACTED]  
[REDACTED]. Jury verdict: murder 1/13/88. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5a, 5d, 5f, 5h.

#4008 STATE V. SLOVER

D and Co-D rob V, a junkyard watchman of \$41. D hits V over head 3x with flashlight. Co-D hits V 12-15X with a metal pipe. Plea to agg. mans. 4/6/90. No penalty trial. Aggravating Factors: 4g, 4f. Mitigating Factors: 5c, 5d, 5f, 5h. 40 years, 20 without parole.

#2362 STATE V. SOSSIN

D, [REDACTED], shot V1 and V2, D's mother and father, at home. Jury verdict: murder 5/22/84. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5a, 5d, 5f, 5h.

#4007 STATE V. SOTO

D and Co-D attempt to rob chinese restaurant. V tells them there is no money. D shoots V and NDV. Aggravated Manslaughter Plea 2/13/91. No penalty trial. Aggravating factor: 4g. Mitigating factors: 5c, 5d, 5f, 5h. 30 years.

#2372 STATE V. SPILLANE

D (23 yr., M) killed mother (64 yr.) and stepfather (74 yr.) by strangulation (mother) and beating with hammer (stepfather). [REDACTED]  
[REDACTED] Jury verdict: murder 10/3/86. No penalty trial. Life. Aggravating factors: 4b, 4c. Mitigating factor: 5h.

#2389 STATE V. SPRUELL

D and Co-D planned to rob V [REDACTED]. V shot 1X at door. Then 4X more in kitchen. V shot in arm, neck, scalp and head. \$9,000 taken by D and Co-D. Witness claims D said he did shooting. [REDACTED] Jury verdict: murder 10/30/85. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5c, 5f, 5h.

#2387 STATE V. STATEN

D entered a restaurant and randomly fired at patrons seated at the bar. V died, NDV1 shot 4 times, NDV2 shot 5 times. [REDACTED]  
[REDACTED] Jury verdict: murder 11/7/85. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5a, 5d, 5h.

#2391 STATE V. STEVENS

D and Co-D1 set out to rob V, [REDACTED] V tried to run and D and Co-D1 chased him and beat him up. As D and Co-D1 were leaving the scene, D turned and fired one shot and hit V in the chest, killing him. Jury verdict: Felony murder 6/20/88.

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No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5d, 5h.

#4029 STATE V. SULLIVAN

D, [REDACTED], goes to V's apartment to get money [REDACTED]. V refuses to give D money, and screams. D stabs V three times in chest, back and stomach. Jury Verdict: Murder 6/23/90. No penalty trial. [REDACTED] Aggravating factor: 4g. Mitigating factors: 5d, 5h. Life.

#2445 STATE V. TAYLOR (Leroy)

D sexually assaults and strangles V, a 13 year old girl and the niece of D's girlfriend. Felony murder plea 1/13/88. No penalty trial. Life. Aggravating factors: 4a, 4g. Mitigating factors: 5h.

#2448 STATE V. TAYLOR (Wiley Duane)

[REDACTED] D and V scuffle. D shoots V then fires shots at NDV1 and NDV2. Aggravated manslaughter plea 10/21/88. No penalty trial. 25 years/12 minimum. Aggravating factors: 4b, 4g. Mitigating factors: 5f, 5h.

#4030 STATE V. TELFORD

D barricaded himself in his apartment with wife (V) and their 2 kids. D argued with V and stabbed her repeatedly in the chest. [REDACTED] Murder plea 8/3/90. No penalty trial. Aggravating Factor: 4g. Mitigating Factor: 5a, 5d, 5f, 5h. 30 years.

#2453 STATE V. THAMMAN

D, angry because he believed that V's family had destroyed his car, burnt down their building, killing V and injuring NDV1, NDV2 and NDV3. D charged with felony murder. Felony murder plea 2/24/89. No penalty trial. Life. Aggravating factors: 4b, 4g. Mitigating factors: 5a, 5f, 5h.

#4013 STATE V. THOMAS (Christopher)

D [REDACTED], stabs V (89 year old) 77x, strangles and beats her then takes VCR. Felony murder plea 1/29/90. No penalty trial. 30 years. Aggravating factors: 4c, 4g. Mitigating factors 5d, 5h.

#2471 STATE V. THOMPSON

D and Co-D met V in a bar, took him home with them so they could rob him. D and Co-D [REDACTED] V, then beat and strangled him. D and Co-D took V's car and credit cards. Murder plea 11/20/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5a, 5c, 5d, 5h.

#2500 STATE V. TIMPSON

V (12 yr., F) walking home from school when D forced V into wood and assaulted her. V may have kicked D in groin. D struck V unconscious, sexually assaulted her. When V came to, D stuffed

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panties down her throat. V suffocated. D continued sexual assault. D borderline retarded. Murder plea 6/13/85. Penalty trial. Two aggravating factors found: 4c, 4g. Four mitigating factors found: 5a, 5c, 5d, 5h. Life.

#4025 STATE V. TORO

V and NDV broke into D's car several times. D, angered by this, retrieved his shotgun and shot V & NDV. Aggravated Manslaughter Plea 3/1/90. [REDACTED] Aggravating factor: 4g. Mitigating factors: 5a, 5f, 5h. 10 years.

#2535 STATE V. TREADWAY

V's (16 yr., F) ex-boyfriend D threatened to kill her. Complaint filed against D. 2 days later, D abducts V from school. V found strangled in wooded area. [REDACTED] Aggravated manslaughter plea 1/10/83. No penalty trial. 20 years/10 minimum. Aggravating factor: 4g (abduction). Mitigating factors: 5a, 5c, 5f, 5h.

#2545 STATE V. TUCKER

Defendant (D) bound, strangled, stabbed and slashed the victim (V), a 25-year-old female in her apartment. D then robbed the apartment. Jury verdict: murder 7/10/89. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5d, 5h.

#2549 STATE V. TURNER

D (age 23) plans with Co-D to kill V, because V impregnated D's girlfriend, W1. D paid Co-D \$200 to drive D's car. D and Co-D wait for V to leave work. D forces V at gunpoint into his car and forces V to drive to a parking lot behind a medical center. D shot V 4x, left the body in the car, and tried to burn it. No priors. Conspiracy plea 2/23/87. Aggravating factor: 4g. Mitigating factors: 5f, 5h.

#4016 STATE V. VALDEZ

Defendant (D), codefendant (Co-D1), and codefendant (Co-D2) beat up victim. Co-D1 strangled victim with a tie. Defendant stabbed victim. Victim was disrobed and dragged to the railroad tracks. Aggravated manslaughter plea. No penalty trial. August 8, 1989, [REDACTED] Aggravating factors: 4c, 4g. Mitigating factors: 5d, 5f, 5h. 25 years.

#2574 STATE V. VASQUEZ

D argued with V (live-in paramour) who threatened to leave him. D strangled and stabbed V in the chest, then cut up the body into 14 pieces and hid the parts in various locations. Jury verdict: murder 11/28/88. No penalty trial. Life. Aggravating factor: 4c (mutilation). Mitigating factors: 5a, 5f, 5h.

#4035 STATE V. WASHINGTON (Corey)

D, Co-D1, and Co-D2 rob check cashing store, make V and NDV lie face down on the floor. D shoots V 1x in the head, Co-D1 shoots

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NDV 1x in the head. Murder plea 8/3/90. No penalty trial. Life. Aggravating factors: 4f, 4g. Mitigating factors: 5c, 5h.

#4017 STATE V. WATKINS (Ricky)

D, Co-D1, and Co-D2 beat up V. D strangled V with a tie. Co-D(1) stabbed V. V was disrobed and dragged to railroad tracks. Jury verdict: Felony murder October 5, 1989. No penalty trial. [REDACTED] Aggravating factors: 4c, 4g. Mitigating factor: 5d, 5h. 35 years.

#2649 STATE V. WHEELER

D claims that he asked the daughter of his employer (V) for his bonus, and she wouldn't give it to him. D stabbed V 13 times and took her pocketbook. Felony murder plea 7/5/84. No penalty trial. Life. Aggravating factor: 4c, 4g. Mitigating factors: 5f, 5h.

#2673 STATE V. WIDER

D shot V1 in chest and abdomen and V2 (V1's son) in chest during an altercation. [REDACTED] 2 others injured in shooting spree. No violent priors. Aggravated manslaughter plea 2/24/89. No penalty trial. 30 years/10 minimum. Aggravating factors: 4b, 4g. Mitigating factors: 5a, 5d, 5f, 5h.

#2684 STATE V. WILLIAMS (Gerald)

D and Co-D robbed V at home of cash and a TV, then threw V out window. [REDACTED] Jury verdict: felony murder 3/13/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5d, 5h.

#2685 STATE V. WILLIAMS (Herman)

D shot V 1 x in chest in V's home during robbery and burglary. V dies 17 days later of shotgun wounds of chest, stomach, small bowel, kidney and spine. [REDACTED] Jury verdict: Murder 10/17/84. No penalty trial. Life. Aggravating factor: 4g. Mitigating factor: 5h.

#2723 STATE V. WILSON (Lester)

D (40 yr., M) resided in same hotel as V's (14 yr., F) family. D's sexual interest, V's sister, rejected. D strangled and sexually assaulted V. [REDACTED] Jury verdict: murder 6/26/86. Life. No penalty trial. Aggravating factors: 4f, 4g. Mitigating factors: 5d, 5f, 5h.

#4032 STATE V. WORTHINGTON

D went into W1's store to rob V. D shot V in the neck, D then robbed W1. Jury verdict: murder 5/11/87. No penalty trial. [REDACTED] Aggravating factor 4g. Mitigating factors: 5d, 5h. 30 years.

#2780 STATE V. YOUNG

D and Co-D's go out looking for someone to rob. They approach V and try to steal his chains. V resists and D shoots V 1x with a

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shotgun. Aggravated manslaughter plea 12/7/87. No penalty trial.  
20 years/10 minimum. Aggravating factor: 4g. Mitigating factor:  
5h.

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APPENDIX D. PROJECT CASES LISTED ALPHABETICALLY WITH A BRIEF  
FACTUAL SUMMARY

# 52 ALLEN KAREN

[REDACTED] D went to V's (her mother) apartment to get money [REDACTED] When V refused to give money to D, D pulled out a knife and stabbed V 60x. After the stabbing, D stole V's jewelry. [REDACTED] Felony murder plea 4/4/89. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5d, 5f, 5h.

# 93 ANDERSON ANTOINE

V and friend walking. D and Co-D attempt to rob V. V resists. D shoots V once in chest. [REDACTED] Jury verdict: murder 7/13/89. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

# 73 ANDERSON BRUCE

D (20 yr., M) on porch with several others. Argument erupts with V, NDV1 and NDV2. The victims walk up street, porch group follows and shots were fired at Vs. V1 fatally wounded and NDV1 seriously injured in 2nd barrage of shots. [REDACTED] Jury verdict: murder 10/3/83. Penalty trial. One aggravating factor found: 4b. Three mitigating factors found: 5b, 5c, 5h. Life.

#4004 ARMSTRONG JOSEPH

D wanted V's guns to use when D started dealing drugs. D, Co-D and V went to rob a house. On the 5th floor, D turned and shot V in the chest. V fell and D shot him in the head. D stole V's guns. Jury Verdict: Murder 3-2-90. [REDACTED] No Penalty Trial. Aggravating Factor: 4g. Mitigating Factors: 5b, 5h. Life.

# 124 BALISNOMO BENJAMIN

V called D to come pick him up. D picked up V who was carrying a bag of cocaine. D drove to a service area. D shot V 4x in the head and stole the drugs. No priors. Jury verdict: murder 8/10/84. Penalty trial. One aggravating found: 4c. One mitigating factor found: 5f. Life.

# 140 BARONE JAMIE

D kidnaps V from a shopping mall. D beats V, fracturing her skull, then takes money, car and credit cards. Jury verdict: murder 2/22/88. Penalty trial. Two aggravating factors found: 4f, 4g. Two mitigating factors found: 5c, 5h. Life.

#4014 BASHA ABDULLA

D suspects that V1, D's wife, and V2 are having an affair. D finds them together at D's home. D shoots V1 1x and V2 2x. Jury verdict: murder 6/8/90. No penalty trial. Aggravating factor: 4g. Mitigating factors: 5a, 5f, 5h.

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# 177 BENGA JOHN

D (61 yr., M) fired 8 shots in presence of 200 people. Killed V, his former paramour with 4 shots. Hit bystander with bullet. D said V rejected and embarrassed him. No priors. Jury verdict: murder 6/3/86. Penalty trial. Two aggravating factors found: 4(b), 4(c). Four mitigating factors found: 5a, 5c, 5d, and 5f. Life.

# 190 BERTINO FABRIZIO 1ST VICT

D hit V1 (girlfriend) in head with toy truck and drowned her after she told him to leave apartment. D then drowned V2 (girlfriend's 2 year old son). No priors. Jury verdict: murder 7/14/87. Penalty trial. One aggravating factor found for V1: 4c. Life. One aggravating factor found for V2: 4g. Three mitigating factors: 5a, 5f, 5h.

# 197 BEY MARKO 1

D, 17-year-old male, met V, a female acquaintance, on the boardwalk. D and V share a marijuana joint, have sexual intercourse. V refuses D's further advances, D beats V with a 2x4, causing several fractures to her face and skull. D then strangles V. Jury verdict: murder 12/13/83. Penalty trial. Two aggravating factors: 4c, 4g. Three mitigating factors: 5a, 5c, 5h. Death.

# 160 BEY MARKO 2A

D, an 18-year-old male, approached V to rob her. D took V to a shed and stole \$8. Once V saw his face, D beat V severely, raped her, and strangled her. D also stole V's car. Jury verdict: murder 9/27/84. Penalty trial. Two aggravating factors found: 4c, 4g. No mitigating factors found. Death. Retrial of penalty phase. Two aggravating factors found: 4a, 4g. Two mitigating factors found: 5a, 5h. Death.

# 200 BIEGENWALD RICHARD 1A

D drove up to V, who was walking on the boardwalk, and offered her marijuana. V got into D's car. Later, D shot V four times in the head. Jury verdict: murder 12/8/83. Penalty trial. Two aggravating factors found: 4a, 4c. Two mitigating factors found: 5d, 5h. Death. Retrial of penalty phase. Two aggravating factors found: 4a, 4c. Two mitigating factors found: 5d, 5h. Death.

#2800 BIEGENWALD RICHARD 2

V (42-year-old male) wanted to hire Co-D to kill someone for \$25,000. D went with Co-D to meet V. V and Co-D argued over terms. V threatened Co-D with a gun and they struggled. The gun went off, wounding V. Co-D tried to shoot V, but could not. D shot V 5 times in the head. Jury verdict: murder 2/15/84. Penalty trial. One aggravating factor found: 4a. Two mitigating factors found: 5d, 5h. Life.



# 209 BLACKMON CRAIG

V's cousin returned home. V dead in pool of blood, no apparent motive. Repeated stabbing, beating, mutilation and sexual assault. [REDACTED] No violent priors. Jury verdict: murder 2/18/88. Penalty trial. Two aggravating factors found: 4c, 4g. Five mitigating factors found: 5a, 5c, 5d, 5f, 5h. Life.

# 226 BOLINGER ROBERT

D (36 yr., M) entered home of V (23 yr., F) through a fire escape. D raped and stabbed V to death. [REDACTED]

[REDACTED] Felony murder plea 3/21/86. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5d, 5f, 5h.

# 231 BOOKER GEORGE 1ST VICT

D goes on three-day crime spree. First, D rapes his female neighbor and steals her car. Then D runs down a male pedestrian in the stolen car and steals his wallet. D then enters the home of two lesbian lovers, rapes, sodomizes, gags, strangles and beats one of the lovers; then, when the other comes home, stabs the other lover to death. The following day, D enters the home of an elderly woman and rapes her. Jury verdict: murder 7/1/87. Penalty trial. Three aggravating factors found for V1: 4a, 4c, 4g. Three aggravating factors found for V2: 4a, 4c, 4f. Two mitigating factors found for V1: 5a, 5h. Two mitigating factors found for V2: 5a, 5h. Life.

#4038 BRAND FRANCIS

D wanted his brother killed and reportedly pursued Co-D for at least 17 months to do it, offering increasing sums of money from \$350-\$2000. [REDACTED]

Jury verdict: Murder. No penalty trial. Aggravating factor: 4e. Mitigating factors: 5a, 5f, 5h.

#4003 BROOKS KEVIN

D and 2 Co-D's tried to rob V of his coat. D pulls gun. V tries to grab gun. D shoots V 2x. Jury verdict: murder 12/13/90. [REDACTED]

[REDACTED] No penalty trial. Life. Aggravating Factor: 4g. Mitigating Factors: 5c, 5d, 5f, 5h.

#4019 BROWN VINCENT E

D in motel room [REDACTED] V (10 year old female) stopped by, looking for her aunt (D's paramour). D raped V. D and V left motel, V said she was going to tell her mother what V had done and ran away. D caught V, strangled her. Murder plea: 10/31/90. No penalty trial. Life. Aggravating factors: 4f, 4g. Mitigating factors: 5d, 5h.

# 305 BRUNSON ALPHONSO

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D broke into V's house and was surprised by V. D severely beat V. Jury verdict: murder 5/23/90. Penalty trial. Two aggravating factors found: 4f, 4g. Four mitigating factors found: 5a, 5c, 5d, 5h. Life.

# 321 BURROUGHS RANDY

Co-D wanted his brother killed and reportedly pursued D for at least 17 months to do it, offering increasing sums of money from \$350-\$2000. [REDACTED] Co-D pays D \$2,000. Murder plea 2/14/90. No penalty trial. Life. Aggravating factor: 4d. Mitigating factors: 5e, 5f, 5g, 5h.

# 338 BUSBY WAYNE

D strangled V (74 yr., F) during course of burglary. [REDACTED] Jury verdict: murder 3/30/89. Penalty trial. Two aggravating factors found: 4f, 4g. Three mitigating factors found: 5a, 5d, 5h. Life.

# 350 CALDWELL LAWRENCE STEVEN

D robbed an A & P as the security guard opened the safe. The guard resisted and reached for D's gun at which time D shot him in chest and head. Murder plea 11/20/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5a, 5d, 5h.

# 356 CALLOWAY DERRICK

D and 2 Co-Ds rob V. D shoots V. Jury verdict: felony murder 12/17/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

# 365 CANCIO GUSTAVIO

D, angry at building resident who stole \$200 and drugs (Crack) from him, sets building on fire, killing V (another resident). No priors. Jury verdict: murder 4/21/88. Penalty trial. Two aggravating factors found: 4b, 4g. Two mitigating factors found: 5f, 5h. Life.

# 382 CARR CARLTON DENNIS JR

D stabbed V1, a female, and stabbed and shot, 3x, V2, a female, and V1's mother after an argument. [REDACTED] Murder plea 10/27/89. No penalty trial. 30 years. Aggravating factor: 4g. Mitigating factors: 5a, 5d, 5f, 5h.

# 394 CARROLL JOHN JAMES

D (52-year-old male, stepfather) beat V (stepdaughter). Multiple stab wounds, blows with scale, strangulation. Blood throughout house. Started upstairs, ended in basement. [REDACTED] Jury verdict: murder 11/11/87. Penalty trial. One aggravating factor found: 4c. Three mitigating factors found: 5a, 5c, 5d. Life.

# 388 CARROZZA ANTHONY RAMON

[REDACTED]  
[REDACTED] D kidnapped V, taped his head and mouth, and repeatedly hit him over the head. Aggravated manslaughter plea 2/8/89. No penalty trial. 18 years/9 minimum. Aggravating factor: 4g. Mitigating factors: 5b, 5e, 5h.

# 407 CASTELLANO STEPHEN

D killed friend after 3 day Meth. binge. D went to V's home to borrow money. V hesitated to give D money. D struck V over head with hammer 15 - 20X. D said he snapped and killed V for no reason, angry that V had no money to lend him. [REDACTED]

[REDACTED] Jury verdict: murder 10/10/84. Penalty trial. No aggravating factors found. Life.

# 402 CAVINESS DWAYNE VANCE

D and 2 Co-D's broke into D's stepfather's building to rob and kill D's stepfather, but decided instead to rob V. V had an apartment in the building. Co-Ds tied V up and along with D, ransacked the apartment. D hit V several times in the head with a baseball bat. Felony murder plea 4/26/85. No penalty trial. life. Aggravating factors: 4f, 4g. Mitigating factors: 5c, 5f, 5h.

#4021 CLARK HASHONA

D, Co-D1 and Co-D2 conspired to rob a jewelry store. Two weeks later, D and Co-D1 enter store, D holds gun on V while Co-D1 took \$30,000 in jewelry from this counter. V made a furtive movement, D shot V 5x in the abdomen and mid-back, including twice when V was lying on the floor. Jury verdict: murder 2/1/91. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

# 439 CLARK REGINALD

D went to aunt's home (V), asked for \$20.00. V refused. D stabbed V 13x in the back and stole from V's purse and home. [REDACTED] Aggravated manslaughter plea 6/18/87. 20 years/10 minimum. No penalty trial. Aggravating factor: 4g. Mitigating factors: 5d, 5f, 5h.

# 443 CLAUSELL JAMES DOUGLAS 1A

D and Co-D1 were paid \$1,000 each to shoot V. They went to V's house, and when V answered the door, Co-D1 asked for [REDACTED], V said "You have the wrong guy," and tried to close the door. D fired two shots through the door hitting V once in the chest. Jury verdict: murder 4/18/86. Penalty trial. Two aggravating factors found: 4b, 4d. Three mitigating factors found: 5c, 5f, 5h. Death.

# 447 CLEARY MICHAEL DENNIS

D and Co-D drove up to V, [REDACTED] intending to rob him. D shot at V 6x, hitting him with one fatal shot in

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the back. D and Co-D fled with a bag of white powder. D was charged with murder. Aggravated manslaughter plea 10/16/87. No penalty trial. 30 years/15 minimum. Aggravating factor: 4g. Mitigating factors: 5c, 5d, 5h.

# 463 COHEN HUMPHREY

D and 2 Co-Ds accosted V (52 yrs., M) as V left fast food restaurant. D knocked V down. As V tried to get up, D shot V 1x in chest. V again tried to get up. D shot V again. D took V's wallet and fled with Co-D. Jury verdict: murder 3/16/84. Penalty trial. One aggravating factor found: 4g. Four mitigating factors found: 5c, 5d, 5f, 5h. Life.

# 468 COLLIER RICHARD

D (a 45-year-old male) punished V (boy, 4 yrs.) for misplacing a ruler. D punched V approximately 5x in stomach with closed fist and pushed V to floor 5-6x (V striking head). [REDACTED] Jury verdict: murder 6/21/85. Penalty trial. No aggravating factor found. Life.

# 469 COLLINS DARRELL

D stabbed his wife (V2) multiple x and beat and suffocated his child (V1). D's apparent motive was to collect insurance benefits on the lives of his wife and son. Jury verdict: murder 3/2/90. Penalty trial. No aggravating factors found. Life.

# 470 COLLINS DAVID ANDREW

D killed paramour's mother because she refused to let him come and see paramour's baby. D laid in wait in apartment, beat V with a baseball bat, stabbed, sexually assaulted, and left V to die with head in bathtub. Also stole \$200. Murder plea 6/20/83. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5c, 5f, 5h.

# 506 CORREA NICHOLAS

D & Co-D drinking and doing drugs, meet V in bar. D & Co-D leave with V after bar closes. En route V and Co-D argue, and D and Co-D beat V senseless, stop and dump body in open field. D and Co-D amputate penis and scrotum, stuff in V's mouth. [REDACTED] Murder plea 7/15/85. Penalty trial. Life. One aggravating factor found: 4c. Three mitigating factors found: 5d, 5f, 5h.

# 520 COYLE BRYAN PATRICK

D (age 28) lived next door to V (age 26). D had sex with V's wife. V went to D's house to retrieve wife after argument. Wife ran up street and V pursued her. D pursued V with a gun and shot V 3x, including once in the head. One prior murder. Jury verdict: murder 3/14/85. Penalty trial. Two aggravating factors found: 4a, 4c. One mitigating factor found: 5b. Death.

# 544 CULLEY CARL

D (19 yr., M) shot V (24 yr., M, gas station attendant) in course of robbery. D stated he did not want V to ID him. [REDACTED]  
[REDACTED] Jury verdict: murder 10/2/84. No penalty trial.  
Aggravating factors: 4f, 4g. Mitigating factors: 5c, 5h.  
Life.

# 558 CUNNINGHAM BRUCE

D attempted to rape his ex-wife, but was stopped by his eldest son. D left the house. D met V on the bus. D & V drank Rum. D & V walked for a while, then D forced V to a deserted area. D beat, stabbed and sexually assaulted V. D buried V's body & fled. [REDACTED] Jury verdict: murder 1/5/84. Penalty trial.  
One aggravating factor found: 4g. Four mitigating factors found: 5a, 5c, 5d, 5h. Life.

# 576 DARRIAN CHARLES EDWARD

D walked girlfriend (V) home. D sexually assaulted, beat and strangled V with coat hanger. No priors. Jury verdict: murder 11/15/88. Penalty trial. Hung jury. 1 aggravating factor found: 4g. 4 mitigating factors found: 5a, 5c, 5f, 5h. Life.

# 595 DAVIS STEVEN R

D, drunk, wanted to talk to V about \$1,500 he owed her. D broke into V's home, began strangling her, and hit V 2 times in the head with a blunt object. D also tried stabbing V with a screwdriver and then stabbed V 49 times with a knife. Several wounds occurred after V's death. D pled guilty to murder 9/14/83. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5f, 5h. Death.

#4006 DEAN JOHN

D and Co-D try to rob V and NDV. Co-D fought with V, D fought with NDV. D pulled a gun, shoots 3 times at NDV as NDV runs, hitting him once. D shoots at V 2 times, hitting V in the eye. Jury Verdict: Murder 11/1/89. No Penalty Trial. [REDACTED]  
[REDACTED] Aggravating Factor: 4g. Mitigating Factor: 5h. Life.

# 603 DEEVES WILLIAM J

Intoxicated D kills V (friend) after V invited D to her home. D became angered and stabbed V repeatedly, hit V with small appliances, pushed V down basement stairs. [REDACTED]  
[REDACTED] Jury verdict: murder 11/16/84. Penalty trial. One aggravating factor found: 4c. Two mitigating factors found: 5a, 5h. Life.

# 624 DELVALLE EFRAIN MANGUAL

D [REDACTED] shot V (acquaintance [REDACTED]) in head after V threatened to tell police about D's [REDACTED] activities. [REDACTED]  
Murder plea 2/6/84. Life. No penalty trial. Aggravating factor: 4f. Mitigating factors: 5f, 5h.

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# 673 DIAZ FELIX R

D and Co-D need money for drugs. They go to the home of V3 (D's ex-lover) to steal money. V3 lives with V1 and V2. V1 and V2 sleeping when D and Co-D enter. They awaken, and D and Co-D beat, shoot and stab them, and Co-D then wait for V3 to get home, then shoot him too. Jury verdict: murder 6/27/89. Penalty trial. Two aggravating factors found: 4f, 4g. Four mitigating factors found: 5c, 5f, 5g, 5h. Life.

# 649 DICKERSON KEITH

D broke into V's (D's neighbor's) apartment and beat and sexually assaulted V. D then stabbed V and slit her throat and strangled her. Jury verdict: murder 12/16/88. Penalty trial. One aggravating factor found: 4g. 4 mitigating factors found: 5a, 5c, 5d, 5h. Life.

# 119 DIFRISCO ANTHONY

D was offered \$3,000 by a person he met in jail to kill V because V was going to inform about the person's drug business. D shot V in the head in V's pizzeria. Murder plea 1/88. Bench penalty trial. Two aggravating factors found: 4d, 4f. One mitigating factor found: 5g. Death. Reversed. Pending.

# 658 DINKINS ROBERT LEE

V parked on D's land. D wanted V to move truck. D shot V 4x (1x in head, 2x in abdomen). D then shot 3 witnesses in a U-Haul 5x to eradicate witnesses. Jury verdict: murder 5/23/86. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5f, 5h.

# 662 DIXON PHILLIP A

During an alleged robbery attempt, D struggled with V (age 14). When V told D that she knew him, D stabbed V in the head with a nail or a spike. Her partially nude body had been dragged to a creek and lodged in the water under a car seat. Jury verdict: murder 1/30/87. Penalty trial. Two aggravating factors found: 4c, 4f. Two mitigating factors found: 5f, 5h. Death.

#4027 DOLLARD THOMAS DAMAR

D, Co-D1 and Co-D2 meet NDV and W1 leaving apartment. D and Co-Ds search W1 and NDV for drugs at gunpoint. NDV and W1 told to knock on V's door. D kicked the door open, D and Co-D1 went in. V got out of bed, so D shot V one time in the chest. Jury Verdict: murder 5-2-91. No Penalty Trial. XXXXXXXXXX Aggravating Factor: 4g. Mitigating Factors: 5c, 5h. Life.

# 679 DOWNIE JOHN WILLIAM

Early Christmas morning, D, drunk and troubled robbed a gas station & shot V 1x in the chest. D shot at cop who chased him. Jury verdict: murder 3/1/89. Penalty trial. One aggravating

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factor found: 4g. Five mitigating factors found: 5a, 5c, 5d, 5f, 5h. Life.

# 684 DREHER JOHN W

D (43 yr., M) and V (39 yr., F) in troubled marriage. Plot by D and paramour (Co-D) to kill V. D drags V to basement, binds her hands, strangles V with cord, stabs V in throat. Paramour hits V over head with cobbler's tool 3x and stabs her 8x after she is dead. [REDACTED] Jury verdict: murder 2/23/89. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5f, 5h.

# 694 DURDEN LARRY

D (30 yr., M) broke into V's (72 yr., F) apartment along with another. D stabbed V 1x in abdomen and took television, radio and canned goods. [REDACTED] Jury verdict: murder 5/16/85. Penalty Trial. One aggravating factor found: 4g. One mitigating factor found: 5h. Life.

# 703 EATON OLLIE ROSCOE

D (BF) and V (GF) in a bar drinking. Argument ensues and D pulls out a gun and shoots V 1x in the head, then D points gun at V's friend saying "this one's for you". Jury verdict: murder 2/1/84. Penalty trial. One aggravating factor found: 4b. Three mitigating factors found: 5c, 5d, 5h. Life.

# 712 EDWARDS EUGENE EVERSON

D & Co-D lure V [REDACTED] into D's house [REDACTED] Co-D and V go upstairs. Co-D holds knife to V and orders her to undress. Co-D has sex with V. D then has sex with V. After D finishes, Co-D stabs V 3 or 4x. D strangles V. D then takes V's purse after concealing her body in basement. Murder plea 11/2/89. No penalty trial. Life. Aggravating factors: 4g. Mitigating factors: 5f, 5h.

# 716 EDWARDS RALPH

D observed V by railroad tracks. He attempted to sexually assault her, and when she ran, he pursued her and strangled her. Jury verdict: murder 7/2/86. Penalty phase. Two aggravating factors found: 4f, 4g. Four mitigating factors found: 5c, 5d, 5f, 5h. Life.

# 726 ENGEL HERBERT

Co-D2 ordered his younger brother (D) to hire Co-D1 to kill V, Co-D2's wife. Obsessive, passionate relationship between Co-D2 and V, and Co-D2 wanted V dead. Jury verdict: murder 6/17/86. Penalty trial. One aggravating factor found: 4e. Four mitigating factors found: 5a, 5e, 5f, 5h. Life.

# 727 ENGEL WILLIAM

D ordered his younger brother (Co-D2) to hire Co-D1 to kill V, D's wife. Obsessive, passionate relationship between D and V,

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and D wanted V dead. Jury verdict: murder 6/17/86. Penalty trial. One aggravating factor found: 4e. Four mitigating factors found: 5a, 5e, 5f, 5h. Life.

# 728 ERAZO SAMUEL

D and V (husband and wife) had a party. Both drank heavily. D and V argued and fought. V tried to leave, D brought her back. They continued fighting. D stabbed V 8x. D had a prior murder. Jury verdict: murder 10/14/87. Penalty trial. Two aggravating factors found: 4a, 4c. Four mitigating factors found: 5a, 5b, 5d, 5e. Death. Vacated 8/8/91.

# 742 ETHRIDGE WILLIE DANIEL

D and V (his girlfriend) argue over V dancing with another man. D thinks V wants him dead. Next day, V went to see D. [REDACTED] D and V argue, V confesses to seeing another man. D stabbed V repeatedly in the chest, overpowered others, then stabbed V some more. [REDACTED] Jury verdict: murder 3/11/87. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5a, 5d, 5h.

# 754 FAINS ALBERT CARROW

D (26) and V (51) neighbors. D robbed V in V's home, beat V 13x about head with hammer. Stabbed V 1x in back. V in wheelchair. [REDACTED] Jury verdict: murder 7/18/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factor: 5h.

#4024 FARROW RICHARD

D (21-year-old male) and other young people lived together. D was awakened at 5:30 a.m. by a friend who wanted to borrow his phone. D, angry, takes his phone back and blocks his door. D's friend leaves with 2 girls to use the phone at a local store. When they return, D was outside watching the house burn. 2 Vs, D's housemates and friends die. D later confesses. Aggravated Manslaughter Plea 2/14/90. No penalty trial. 25 years. Aggravating Factor: 4g. Mitigating Factors: 5a, 5f, 5h.

# 772 FERRARI SALVATORE

V (78 years old) refused to give money to her son (D). D stabbed V 7x and strangled her. [REDACTED] Jury verdict: murder 3/7/90. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5a, 5d, 5f, 5h.

# 791 FLOYD LAMONT DAVID

D (20 yr., M) robbing V (29 yr., M) of denim jacket, shot V 1x in face. [REDACTED] Jury verdict: murder 11/4/88. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

# 618 FRANKS DONALD MICHAEL

D (M) lived with V (F), a friend of D's mother, because D's mother could not handle D. V threw D out and D returned, broke



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into V's apartment, stabbed, strangled and beat V with a billy club. Jury verdict: murder 9/24/90. Penalty trial. Life. One aggravating factor found: 4g. Mitigating factors: 5a, 5c, 5d, 5h.

# 828 FREEMAN JONATHAN

D had a dispute with his girlfriend and her brothers (NDV & V). D was forced to leave the house, saying "I'll be back". Approximately 10 minutes later, D returned, banged on the door, pulled out a gun and shot through the door, striking NDV in the hip. D kicked in the door and shot V in the chest. [REDACTED]. Aggravated manslaughter plea. Aggravating factor: 4b. Mitigating factors: 5c, 5d, 5f, 5h. 30 years.

# 826 FULLARD ISSAAC

D stabbed V (D's sister's best friend) 7x during attempted burglary & sexual assault. [REDACTED]. Jury verdict: murder 10/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factor: 5h.

#4020 GAINER FRED

D sets building on fire. Police try to enter, D threatens to kill, throws chairs out of windows. Police kick door in, D attacks them with a hammer. V killed, NDV injured in the fire. Jury Verdict: Murder 5/6/87. No Penalty Trial. [REDACTED]. Aggravating Factors: 4b, 4g. Mitigating Factors: 5a, 5d, 5h.

# 868 GERALD WALTER MEIN

D and Co-Ds break into Vs' home to rob them. They hit V in face with a golf trophy, stomped on V's face, and threw a large television on his head. NV1 beaten badly, later dies. NV2 also beaten. D and Co-Ds leave with money and property. Jury verdict: murder 5/16/84. Penalty trial. Two aggravating factors found: 4c, 4g. Four mitigating factors found: 5a, 5d, 5f, 5h. Death.

# 889 GLOVER DAVID

V & D argued. D went to Florida to get a shot gun. 2 weeks later, D set fire to V's house. As V tried to escape from house, D shot V at close range in front of V's wife, daughter and mother-in-law. [REDACTED]. Jury verdict: murder 10/26/87. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5a, 5d, 5f, 5h.

# 917 GRAF CLIFFORD JOSEPH

D shot V (male driver who gave him ride and allegedly made sexual innuendos at D) 4 or 5x in face. Stole V's auto after the assault. [REDACTED]. Jury verdict: murder 2/3/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5f, 5h.

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#4001 GRANT MICHAEL

D approached V, [REDACTED] and asked if V had robbed D's sister of her drugs. V denied doing so, D and V began fight. V dropped his cash, D shot V 1 time in chest, picked up V's money and fled. Jury verdict: murder 6/8/90. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5a, 5c, 5f, 5h.

# 964 GUAGENTI JOSEPH M JR

D went to bar where ex-girlfriend (V), who had rejected him, was dancing. As V was leaving stage, D grabbed V and began shooting her. D shot V 10x with hollow nosed bullets, which caused excruciating pain. One prior simple assault. Jury verdict: murder 4/10/87. Penalty trial. One aggravating factor found: 4c. Two mitigating factors found: 5a, 5f. Life.

#1027 HART CRAIG

D shot V (cab driver) 2x in head as driver was lying face-down in the front seat of cab. D fled with cash, watch and other items. No priors. Murder plea 9/13/85. Penalty trial. One aggravating factor found: 4g. Five mitigating factors found: 5a, 5c, 5d, 5f, 5h. Life.

#1031 HARVEY NATHANIEL

D burglarized V's apartment while V was asleep, and was stealing things when V awakened and confronted him. D hit V 15 times with a hammer-like object. Jury verdict: murder 10/10/86. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. No mitigating factors found. Death.

#4033 HENDERSON JAMES

Defendant (D) and Co-D picked up V and drove to a secluded area, where V was beaten, raped, strangled, stabbed and tortured with a stick, before being hoisted into a tree, twisted around it, hidden, left to die. Guilty Plea: Murder 6/17/87, Life 30 yrs. No Parole. No Penalty Trial. Aggravating factors: 4c, 4g. Mitigating factors: 5a, 5d, 5h.

#1060 HERNANDEZ JOSE 1ST VIC

D entered NDV1's (ex-gf) apartment unannounced. D pulled her hair, slapped her face and swung a knife at her, puncturing her breast. When NDV2 entered, D pushed and grabbed her. NDV2 ran upstairs to the apartment of V1 (uncle) and V2 (grandfather). D stabbed V1 1x in the chest and V2 1x in the abdomen. D also stabbed NDV3. [REDACTED] Jury verdict: murder 3/27/85. Penalty trial. One aggravating factor found for both victims: 4b. Three mitigating factors found for both victims: 5a, 5d, 5h. Life for both victims.

#1076 HICKS JOSEPH

V and friends requested marijuana from D and Co-Ds. D, Co-D1 and Co-D2 decided to rob V and friends. When D and Co-Ds returned

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with marijuana, D stuck a rifle into the car and shot V. No priors. Jury verdict: murder 4/16/83. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5c, 5f, 5h. Life.

#1079 HIGHLANDER RICHARD LEE

V (ex-gf) had filed criminal complaint against D. D encounters V in restaurant parking lot walking with a man. D shoots V 1x. Jury verdict: murder 6/28/89. Penalty trial. Two aggravating factors found: 4b, 4f. Three mitigating factors found: 5a, 5d, 5h. Life.

#1080 HIGHTOWER JACINTO

D robbed a convenience store. D shot V, a female clerk in the chest, neck and head. Jury verdict: murder 10/30/86. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Two mitigating factors found: 5f, 5h. Death.

#1110 HOLMES GREGORY LAMONT

D entered house of estranged wife and kids through basement window. Saw his wife and V (her B.F.) asleep on couch. D stabbed his wife 2x and V 6x. ~~\_\_\_\_\_~~ Aggravated manslaughter plea 5/20/85. No penalty trial. 17 years/7 minimum. Aggravating factors: 4b, 4g. Mitigating factors: 5d, 5h.

#1103 HUDSON FRANKLIN FLOWERS JR

D entered home, took NDV1 (homeowner) upstairs at knifepoint and tied her up. V (boarder) returned home, confronted by D, struggle, D stabbed V. V broke free, D pursued him and hit him over the head 2x with a bat. Money taken from NDV1 and V. ~~\_\_\_\_\_~~ Murder plea 11/21/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5d, 5h.

#1133 HUFF AARON P

D saw V (73 yr., M) coming from liquor store and decided to rob him. D broke into V's back door. V attempted to charge D. D knocked V to floor & V hit his head. D mad at V for charging him, beat V until V stopped moving. D fled with cash and radio. Jury verdict: murder 3/7/86. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5d, 5h. Life.

#1138 HUNT JAMES IRVING

D stabbed V, the boyfriend of D's sister, 24 times after D found out that V was beating his sister. Jury verdict: murder 2/15/84. Penalty trial. One aggravating factor found: 4c. Four mitigating factors found: 5a, 5c, 5f, 5h. Death.

#1158 JACKSON KEVIN

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D broke into V's apartment, raped her, then stabbed her 53 times. Murder plea 9/19/86. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5a, 5e. Death.

#4037 JACKSON SHAWN

D, Co-D1 and Co-D2 decide to rob V, drug dealer. They force him to alley at gunpoint. V only had \$50. They put him in his car, wanted his address, V refused. They took V to woods. D shot V 7 or 8 times in head. Nonjury verdict: murder 5-20-91. Penalty trial. No aggravating factors found. No mitigating factors found. [REDACTED]. Life.

#1163 JACOBY-IRWIN BARBARA ANN

D (landlady, age 40) alleged that V (boarder) [REDACTED] and awakened her by putting a knife to her throat. D inflicted 124 wounds (40 stab, 84 trauma) using an assortment of kitchen utensils and a chair leg. V died from hemorrhage. D claimed [REDACTED]. Jury verdict: murder 7/24/87. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5f, 5h.

#1164 JALIL

D had planned to kill his pregnant wife (V) for five months due to on-going arguments between them. D called V to meet him, they argued. D handcuffed V's hands behind her back, beat her then strangled her. Aggravated manslaughter plea 11/9/89. No penalty trial. 30 years/15 mandatory. Aggravating factors: 4g, 4c. Mitigating factors: 5f, 5h.

#1193 JAMES DARRYL LEE

D shot V2 1x in neck. D then said he would "take V1 out" and shot her 2x. [REDACTED]. Jury verdict: murder 3/10/89. No penalty trial. Life/Life. Aggravating factor: 4g. Mitigating factor: 5h.

#3008 JAMES MARVIN AUGUSTUS

V and his passenger, W1, picked up D and drove him to a parking lot. D came back to V's car with a gun. D fired 1 shot at the car's floor and told V to "give it up". As he reached for his wallet, D fired another shot into the car. V exited the car and walked to the rear of it. D shot V in the chest. Jury verdict: Murder. No penalty trial. [REDACTED]. Aggravating factors: 4b, 4g. Mitigating factor: 5h. 30 years.

#1177 JEFFERSON RICHARD

D and V roommates. D and V doing drugs. D hits V several times in the head with a hammer and takes money. Jury verdict: murder 5/22/87. Life. No penalty trial. Aggravating factor: 4g. Mitigating factors: 5a, 5d, 5h.

#1219 JOHNSON NATHANIEL

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Defendant (D), stabbed victim (V), his grandmother, twice in the chest during an argument over money. After stabbing V, D robbed the V's apartment. D charged with felony murder. Felony murder plea 2/1/84. No penalty trial. Life. Aggravating factor: 4g. Mitigating factor: 5h.

#1227 JOHNSON WALTER 2D VICT

D had done some carpentry work for V1 and V2, a married couple. D went back to their house and asked to use the phone. V2 caught D stealing jewelry. D shot V1 in the head and beat V2 to death with a poker. Jury verdict: murder 8/2/85. Penalty trial. For both murders, three aggravating factors found: 4c, 4f, 4g. Two mitigating factors found for V2: 5a, 5h. Death. One mitigating factor found for V1: 5h. Life.

#1243 JONES JIMMIE LEE

D and Co-D rob hotel night clerk of more than \$400 and D shoots clerk. [REDACTED] Jury verdict: murder 3/22/88. Penalty Trial. One aggravating factor found: 4g. Two mitigating factors found: 5c, 5h. Life.

#1246 JONES LARRY

D and Co-D enter store. D demands money. D shoots V (owner) 1x. 3rd person attempted to intervene. D puts 5 people in freezer. Coworker says gun discharged when other coworker grabbed it. [REDACTED] Jury verdict: murder 10/10/86. Penalty trial. Two aggravating factors found: 4b, 4g. Two mitigating factors found: 5c, 5h. Life.

#1251 JONES MICHAEL SPENCER

D went to V's home. D had borrowed money from V, and knew V kept lots of money. In V's home, D got a large steak knife and stabbed V 10x in the face and 4x in the hands. As V lay dying, D stole \$300. [REDACTED] Jury verdict: murder 9/15/89. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5d, 5f, 5h.

#1257 JONES TRACY LATIF

D moved in with V1, the former paramour of D's mother, and V2, V1's stepson. D shoots V1 and V2. Jury verdict: murder 12/12/85. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5c, 5h.

#1288 KEENAN JOSEPH JAY 1ST VIC

D saw V1 and V2 at a park and accused them of staring at him. They argued. V1 and V2 left the area, but heard air escaping from a tire. They found a slashed flat tire. They confronted D. D got out of his car and shot V1 4x. Then D shot V2 2x. [REDACTED] Jury verdict: murder 10/16/89. Penalty trial. No aggravating factors found for either victim. Life.

#4012 KERESTY WALTER

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D suffocates V1, V2, V3 (D's children). D then attempts to kill himself. Murder plea 10/20/83. No penalty trial. Aggravating Factor: 4b. Mitigating factor: 5a, 5h. 30 years.

#4005 KERSHAW ALBERT ERLE

D, Co-D1 and Co-D2 and others involved in embezzling scheme. V uncovered the scheme. D shoots V repeatedly as V leaves for work. Jury Verdict: Murder 6/2/89. No Penalty Trial. [REDACTED] Aggravating Factor: 4f. Mitigating Factors: 5f, 5h. Life.

#1315 KING HUBERT

D was in his girlfriend's apartment, they argued. D got a gun. He returned. D and V (visitor) argued. D fired a shot in the ceiling. As V walked away, D shot V in the head. V fell, D shot V in the head again. D fired three more shots. One hit NDV in the abdomen. [REDACTED] Jury verdict: murder 12/12/84. Penalty trial. No aggravating factor found. Life.

#1329 KISE RAYMOND 1A

D, Co-D1, Co-D2, and Co-D3 were drinking in V's apartment. D heard V call D's girlfriend a "slut". D and Co-D1 severely beat V then brought him to the edge of a river. D held V's head under water. Jury verdict: murder 2/26/87. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Three mitigating factors found: 5e, 5f, 5h. Death. Trial court vacated death sentence. New penalty trial. Three aggravating factors found: 4c, 4f, 4g. Four mitigating factors found: 5c, 5e, 5f, 5h. Life.

#1332 KLATZKIN GERALD MATTHEW

D & V drinking at bar. D & V go to V's apartment. D takes shower, V makes sexual advances at D. D hit V. V grabbed scissors & came at D. D took scissors & stabbed V 3x or 4x in chest & then slit V's throat. D set V's body on fire. Elderly V2 dies in fire. [REDACTED] Murder plea 7/9/87. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5b, 5c, 5d, 5f, 5h.

#1337 KOEDATICH JAMES JEROLD 1A

D kidnapped V from a shopping mall, sexually assaulted her, then stabbed her 2 times in the chest. Jury verdict: murder 10/26/84. Penalty trial. Two aggravating factors found: 4a, 4g. No mitigating factors found. Death. Retrial, penalty phase. Four aggravating factors found: 4a, 4c, 4f, 4g. One mitigating factor found: 5h. Life.

#1336 KOEDATICH JAMES 2

D ran V off the road, sexually assaulted, then stabbed her 4 times in the chest. Jury verdict: murder 5/1/85. Penalty trial. Two aggravating factors found: 4f, 4g. One mitigating factor found: 5h. Life.

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#1377 LAPOINTE PIERRE NORMAN

D & V are business partners. Dispute over the business. D goes to V's apartment & shoots him 4x. One shot passes close to V's roommate and into wall. Jury verdict: murder 6/4/85. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5d, 5h.

#1391 LAZORISAK GEORGE NICHOLAS

D picks up homosexual (V) at club. D and V go to florist shop where V works. D shoots and robs V. Jury verdict: murder 3/20/87. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5a, 5d, 5h. Life.

#4034 LIPPEN GARY HOWARD

D and Co-D picked up acquaintance V and drove her to a secluded area. V was beaten, raped, strangled, stabbed and tortured with a stick, hoisted into a tree, twisted around it, hidden in the woods and left to die. Plea Aggravated Manslaughter, 30 years, 15 years no parole, No Penalty Trial. Aggravating Factors: 4c, 4g. Mitigating factors: 5c, 5d, 5e, 5f, 5h.

#1453 LODATO BENJAMIN

D had raked leaves for V in the past. D went to V's house and asked for a drink of water. V let D in. D sexually assaulted then bound V. D then stabbed and slashed V, torturing her before stabbing her in the heart. Murder plea 7/6/84. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5a, 5d. Death.

#1459 LONG RONALD EUGENE

D stole his cousin's gun and attempted to sell it to nondecendent victim (NDV). When NDV refused to buy it, D shot NDV one time in the neck. D then robbed a liquor store and shot the clerk (V) in the chest. Jury verdict: Murder 10/18/85. Penalty trial. One aggravating factor found: 4g. Two mitigating factors found: 5f, 5h. Death.

#1476 LUCIANA MARK

D (19 yrs.) and V (15 yrs.) accompanied by 3 friends attended a party. D and V walked into the woods. D sexually assaulted V, then strangled V with her bra. D had been drinking. Juvenile: 4 nonviolent priors. Adult: 4 nonviolent priors. Jury verdict: murder 11/18/88. Penalty trial. Two aggravating factors found: 4f, 4g. Four mitigating factors found: 5c, 5d, 5f, 5h. Life.

#1489 MACHADO JOSE

D and V (girlfriend) had violent relationship. D and V argued because V, who was pregnant, wanted to have an abortion, while D wanted her to have the baby. D threatened to kill V on one occasion, and on another V told her father that D wanted to kill her. D and V seen together, V never returns to her apartment. V found 3 weeks later, with her arms bound behind her. V was

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stabbed 28x. Forensic evidence linked D to the crime. Jury verdict: murder 12/13/84. Penalty trial. One aggravating factor found: 4c. Four mitigating factors found: 5a, 5c, 5f, 5h. Life. Reversed on appeal. On remand, manslaughter plea. 10 years. Plea retracted. Pending.

#1509 MANDICH JOHN FRANCISCO

D (B.F.), V (G.F.). V wanted to end relationship. D goes to V's home and sees V's ex-husband. They argue. D breaks in apartment and stabs V multiple x. [REDACTED]

Jury verdict: murder 10/21/86. No penalty trial. Life. Aggravating factors: 4g. Mitigating factor: 5h.

#1510 MANFREDONIA MICHAEL J

D asked V to go out w/him. V began yelling at D and made insulting remarks that angered D. D got a knife, pushed V to the ground and attacked her. V was sexually assaulted and stabbed 26x in the chest and back area. Bench verdict: murder 6/11/86. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Three mitigating factors found: 5a, 5c, 5f. Life.

#1529 MARSHALL ROBERT OAKLEY

Co-D1, an acquaintance of D, put him in contact with Co-D2, a private detective, to arrange investigative services. D subsequently agreed to pay Co-D2 \$65,000 to kill [REDACTED] V, so that D could collect over \$1 million in life insurance and be free to live with his paramour. On September 7, 1984, as planned, D pulled his car into a highway picnic area, feigning car trouble. V was shot twice in the back while asleep in the car, and D was hit in the head to simulate a robbery. Co-D2 claimed the actual shooting was done by Co-D3. Jury verdict: murder 3/5/86. Penalty trial. One aggravating factor found: 4e. Two mitigating factors found: 5f, 5h. Death.

#1533 MARTIN DANIEL LOUIS

D, a 21-year-old male, drinking at party, gets thrown out with friends, starts fire in apartment building, kills V. No adult priors. Jury verdict: murder 3/12/84. Penalty trial. Two aggravating factors found: 4b, 4g. Four mitigating factors found: 5a, 5d, 5f, 5h. Life.

#3032 MARTINI JOHN MARTIN

D and Co-D kidnapped V and held him for \$25,000 ransom. After D received the ransom money, he shot V 3x in the back of the head. Jury verdict: murder 12/4/90. Penalty trial. Two aggravating factors found: 4f, 4g. Two mitigating factors found: 5c, 5h. Death

#1576 MAYRON GARY JOSEPH

D met V in an arcade. They went to a hotel and had sexual relations. D then beat V, took her to the woods and beat her more, then left her with her head in a pool of water. Jury



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verdict: murder 10/26/89. Penalty trial. Two aggravating factors found: 4c, 4g. Three mitigating factors found: 5a, 5d, 5h. Life.

#1598 MC DOUGALD ANTHONY 1ST VIC

D had been dating the 13-year-old daughter of V2 (mother) and V1 (father). The Vs fought with D because they didn't want him to continue having sex with their daughter. One night, D and a 13-year-old Co-D kicked in the door of the Vs' home. He attacked V1, cutting his throat, stabbing him and hitting him with a baseball bat. D then hit V2 with a cinderblock and a baseball bat and cut her throat. Jury verdict: murder 3/27/86. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Two mitigating factors found: 5a, 5h. Death.

#1611 MC IVER VERNON

D, a male prostitute, went to the home of V, his client, intending to rob V. D spends the evening with V, then stabs V 1 time in the neck and took money and V's car. D charged with felony murder. Guilty plea 3/22/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5d, 5f, 5h.

#1624 MC NEIL KEITH BURTON

D (19 yr., M) and Co-D (18) knew V (51 yr., M). They went to V's house to play cards intending to rob him. D strangled V and hit V with hammer on head and beat to death. Took TV, ring, credit card and car. ██████████ Felony murder plea 11/14/83. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

#2819 MCCOLLUM WILLIAM

V accuses D, her father, of sexual abuse. Three days before the trial is to begin, D enters V's apartment and shoots V 3X in the chest and stomach with a shotgun. Felony murder plea 5/3/85. No penalty trial. Life. Aggravating factors: 4f, 4g. Mitigating factors: 5a, 5h.

#1588 MCCOY JAMES LONNIE

D (BF, 40 yrs.) and V (GF, 21 yrs.) had violent argument. D attacked V in hallway, grabbed her by hair, stabbed V 12 times in back and chest in presence of V's 6 yr. old son. ██████████

██████████ Jury verdict: murder 6/19/86. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5a, 5d, 5h.

#1612 MCKENZIE CLIFTON

D (M) V (F) driving. Argument. D put his hand over V's nose and mouth. V rendered unconscious. D put V in trunk of car. V died of cold or oxygen deprivation. Body discovered 1 month later. ██████████

██████████ Jury verdict: murder 5/16/88. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5d, 5f, 5h. Life.

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#1637 MELENDEZ ANGEL

D and V argue. Later D sets fire to V's home, killing V, V2, and V3. D drunk. [REDACTED] Jury verdict: felony murder 5/24/84. No penalty trial. Life. Aggravating factors: 4b, 4g. Mitigating factors: 5d, 5h.

#1638 MELENDEZ MIGUEL

Co-D paid D \$5,000 to kill V on behalf of another person. D waited for V in V's apartment building. When V entered, D asked about the car V was selling to identify him. D shot V 2 times in the head. Jury verdict: Murder 6/3/87. Penalty trial. Aggravating factor: 4d. Mitigating factors: 5g, 5h. Hung jury. Life.

#1640 MENDEZ INCENZIO B

D (28 yr., M) at V's (95 yr., F) house to burglarize. D surprised by V's arrival, hit V 3x with piece of wood and put knees in V's chest. No priors. Jury verdict: Murder 4/19/84. Penalty trial. Aggravating factors found: 4c, 4g. Mitigating factors found: 5f, 5h. Life.

#4002 MENDEZ OSCAR

D and V argue on a street. D leaves and returns with an Uzi-type machine gun and fires into a crowd, striking and killing V. Jury verdict: murder, life. No penalty trial. Aggravating factor, 4b. Mitigating factors: 5a, 5h.

#1648 MEROLA THOMAS ANTHONY

D and 3 others buy drugs from V and 2 others. Deal goes bad. D shoots V 1x in chest, robs another, 3rd runs and D shoots him 1x in shoulder. Vs were going to rip off D, D claims he was hit 1st. [REDACTED] Jury verdict: murder 9/24/84. No penalty trial. Life. Aggravating factors: 4b, 4g. Mitigating factors: 5b, 5h.

#1650 MESSAM GLADSTONE

D was having an extramarital affair with V and V became pregnant. When V refused to abort the child and threatened to expose D, D became enraged, stabbed V 21 times in the face, neck, and chest, and dragged her to an abandoned building. Jury verdict: murder 1/13/89. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5f, 5h.

#1658 MICHELICHE HENRY

D and Co-D and V drinking at bars, consuming drugs. When bar closed all left. D claims Co-D beat V senseless. Stopped in wooded area. Cut off V's penis and stuffed in V's mouth. No priors. Jury verdict: murder 6/5/85. Penalty trial. One aggravating factor found: 4c. Six mitigating factors found: 5a, 5c, 5d, 5e, 5f, 5h. Life. Reversed. Jury verdict: aggravated manslaughter 6/15/89. 20 years/10 minimum.

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#4009 MINCEY SAMUEL

D (age 27) broke into home of V (73 year old) severely beat, raped and strangled her. D stole 2 dolls and a TV which he gave away as gifts. D was arrested 6 1/2 years later. Jury Verdict: Murder 6/25/90. No Penalty Trial. [REDACTED]. Aggravating Factors: 4c, 4g, 4f. Mitigating Factors: 5h. Life.

#1705 MONTALVO ORLANDO

D (30 yr., M) met V (F) in bar, offered to drive her home. Made sexual advances, but V denied him. Threw V off bridge. Prior murder. [REDACTED]. Jury verdict: murder 3/21/86. No penalty trial. Life. Aggravating factor: 4a. Mitigating factors: 5d, 5h.

#1709 MONTURI SEBASTIAN 2D VIC

D & Co-Ds try to collect debt which V (D's cousin) owed D. Also dispute over drugs, prostitution. D & Co-Ds execute V1, V2, V3, shooting them in head. [REDACTED]. Jury verdict: Murder 6/22/84. Penalty trial. One aggravating factor found for V1: 4c. One mitigating factor found for V1: 5h. Two aggravating factors found for V2: 4c, 4f. One mitigating factor found for V2: 5h. Life.

#1717 MOORE MARIE

D, over a period of more than 2 years, orchestrated the physical and mental abuse of a group of adolescents and an adult woman. D had Co-D, age 14, act as her disciplinarian, and claimed that the punishments were dealt out under the direction of "Billy Joel." One day, while trying to pick up V, who after months of physical and sexual abuse could no longer stand under her own power, Co-D dropped her. V hit her head on the bathtub and the floor and died. D and Co-D hid V's body inside a wall. Jury verdict: murder 11/15/84. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Four mitigating factors found: 5a, 5c, 5d, 5h. Death.

#1720 MOORE SAMUEL 1ST VIC

D and V1, his wife, were considering divorce. D and V1 fought, and D attacked pregnant V1 and V2 (D's son) with a hammer. Jury verdict: murder 6/25/87. Penalty trial. Two aggravating factors found for V1 and V2: 4c, 4g. Three mitigating factors found for V1 and V2: 5a, 5f, 5h. Death for each victim.

#1738 MORTON ADRIAN

D (28 yr., M) knew V (32 yr., F) and her family for several years. [REDACTED] V found in basement of her house with several stab wounds and blow to head by blunt instrument which fractured skull. D, after murder, stabbed V's 15 yr. daughter several times in chest and choked her to unconsciousness. Murder plea 1/14/86. No penalty trial. Life. Aggravating factors: 4b, 4c. Mitigating factors: 5d, 5h.

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#4028 MUHAMMAD ABDUL

D approached V [REDACTED] D and V scuffled. D pushed V into his car and shot V one time in the head. D & Co-D went through V's pockets and took money and jewelry. D shot V again. Aggravated Manslaughter Plea 4/14/91. No penalty trial. [REDACTED] Aggravating Factor: 4g. Mitigating Factor: 5h. Life.

#1750 MUHAMMED JIHAD

D and Co-D saw V and girlfriend on the street [REDACTED] V refused and argument began. Co-D took V's girlfriend's pocketbook. Argument. D shoots V with shotgun. [REDACTED] Murder plea 4/9/85. No penalty trial. Life. Aggravating factor: 4a. Mitigating factor: 5h.

#1753 MUJAHID RASHEED A

D argued with 3 residents of boarding house [REDACTED] and threatened to burn house down. D, with Co-D, poured flammable liquid and set building on fire. 2 Vs died. Approximately 20 people injured. [REDACTED] Jury verdict: murder 12/19/88. No penalty trial. Life. Aggravating factors: 4b, 4g. Mitigating factors: 5d, 5h.

#4031 MUSCIO NICHOLAS PETE

D breaks into V's home, to burglarize. D stabs V 11 times in the arm, chest and side with a knife from V's kitchen. V's daughter asleep, unharmed. Jury Verdict: Murder 5-28-91. [REDACTED] Penalty Trial. Aggravating factor found: 4g. Mitigating factors found: 5a, 5h. Life.

#1771 MUSGROVE IRA

D and Co-Ds force V to withdraw \$2,400 from his bank and then take it from him. They then hold V and tie him up. While riding in V's car, D strangles V and, with Co-D2, throws V down an embankment. Murder plea 12/3/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5d, 5f, 5h.

#1780 NAPLES DONALD RICHARD JOSEPH

D worked with V2 on a horsefarm. D beats V2 to death, then strangles V1 (V2's wife). Jury verdict: murder 2/14/90. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5a, 5d, 5h. Life.

#1783 NEAPOLITANO ANTHONY

D (19 yr., M) broke up with V (15 yr., G.F.) 2 months prior to incident. V dated another boy night before incident. Next morning, D, in a jealous rage, stabbed V 15x in chest and back, and burglarized home. No priors. Jury verdict: murder 8/10/84. Penalty trial. Two aggravating factors found: 4c, 4g. Three mitigating factors found: 5a, 5c, 5f. Life.

#1791 NICELY RENEE

D and Co-D (paramour) beat 3-1/2 year old son (V) for defecating in his clothes. V became unconscious. D and Co-D try unsuccessfully to revive V in bathtub. [REDACTED] Jury verdict: murder 7/29/83. Penalty trial. One aggravating factor found: 4c. Three mitigating factors found: 5a, 5d, 5h. Life.

#1793 NIEVES ALBERTO

D (27 yr., M) was jealous of V (M) because V liked D's g.f. On prior occasion, D threatened V with gun. D shot V at close range 1x in head, while V in car, next to V's son. Bullet went through head, missed son, lodged in seat between them. D had prior murder. Jury verdict: murder 5/25/88. Penalty trial. Two aggravating factors found: 4a, 4b. Two mitigating factors found: 5b, 5h. Life.

#4011 NORMAN ANTHONY M

Co-D3 invites V1 and NDV to apartment where D, Co-D1 and Co-D2 are waiting to retrieve a \$10 loan, related to drugs. The D's were also angry that V had robbed their drug dealers. D chases V1 and NDV, shoots V in stomach and NDV in hand. Jury verdict: murder 2/16/90. No penalty trial. Life. Aggravating Factor: 4g. Mitigating Factors: 5c, 5h.

#1828 O'NEAL LOUIS ERIC

D burglarized V's home. V confronted D and D beat V severely, then put a bag over V's head, dragged her downstairs and stuck her head in a furnace. [REDACTED] Jury verdict: murder 10/20/88. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factor: 5h.

#1823 OGLESBY WALTER EDWARD

D, with serious mental problems, had an 8 year paramour relationship with V. D and V spend the night in a hotel. V is found stabbed 50x over her entire body. Jury verdict: murder 3/13/86. Penalty trial. One Aggravating factor found: 4c. Two mitigating factors found: 5a, 5f. Death.

#1880 PARSONS DOUGLAS

D gets pulled over by police officer, pulls out shotgun and shoots officer 1x in the head. Jury verdict: murder 7/31/85. Penalty trial. One aggravating factor found: 4f. Three mitigating factors found: 5a, 5d, 5h. Life.

#1914 PENNINGTON FRANK

D and look-out Co-D (D's wife) robbed a tavern. When V, the owner of the tavern threw a beer glass at D, D shot V in the chest. D then aimed the gun at V's daughter and demanded money. V's daughter complied with D's demand. Jury verdict: murder 6/9/87. Penalty trial. Two aggravating factors found: 4a, 4g. One mitigating factor found: 5d. Death.

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#1917 PERRY ARTHUR

D and V [REDACTED] fought over money that D owed V. D held V in a death grip and killed him. D then shaved the eyebrows off V's face and applied makeup to disguise the corpse. Jury verdict: murder 5/20/87. Penalty trial. One aggravating factor found: 4c. No mitigating factors found. Death.

#1918 PERRY HAROLD EDWARD

D (apartment maintenance man) invited in apartment of V (90 yr., F). D struck several x with hammer, took items from V's apartment. [REDACTED] Jury verdict: murder 10/14/88. Penalty trial. One aggravating factor found: 4g. Two mitigating factors found: 5c, 5h. Life.

#1946 PIERCE RONALD WILLIAM

D and Co-D, giving V a ride, robbed V. V struggles, Co-D drags V out of car. D slashes V's throat. Ds and V drinking. 2 priors. Jury verdict: murder 9/16/86. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5d, 5f, 5h. Life.

#1951 PINERO EDWIN

V and friend (W1) were standing on corner in front of car. D approached with a shot gun. V jumped into car. D shot V 2x (chest and leg) through passenger window. V exited car and ran up the street. D shot 1x at V again. D then turned and fired 2x at W1, missing. Aggravated manslaughter plea 10/30/86. No penalty trial. 15 years/7 minimum. Aggravating factor: 4g. Mitigating factor: 5h.

#2809 PITTS DARRYL LEE 2D VIC

D stabbed V2 (D's former lover) and cut her throat. D also stabbed V1 (V2's lover) eight times. Jury verdict: murder 2/19/85. Penalty trial. One aggravating factor found: 4c, for the death of V1. One aggravating factors found: 4c, for the murder of V2. Four mitigating factors found: 5a, 5b, 5f, 5h, for the murder of V1. Three mitigating factors found: 5a, 5f, 5h, for the murder of V2. Death for V2's murder; Life for V1's murder.

#1958 PLOPERT CHARLES MATTHEW

D and Co-D entered V's (legally blind, 41 yr., M) home to rob him. D beat V and set him (V) and the house on fire with lighter fluid. D and Co-D left the house with \$1,600.00. Jury verdict: murder 6/13/89. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Three mitigating factors found: 5d, 5e, 5h. Life.

#4018 POMALES DENNIS

Apparent confrontation between rival gangs. D shoots into crowd, killing V1 and V2. Aggravating factors: 4b, 4g. Mitigating

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factors: 5c, 5f, 5h. Aggravated manslaughter plea 4/10/90. No penalty trial. 30 years.

#1974 PRATER MICHAEL ANTHONY

D and Co-D lure V into house with the promise of drugs. D and Co-D take turns raping V. Finally, D stabs V and Co-D strangles her with a belt. Jury verdict: murder 12/15/89. Penalty trial. One aggravating factor found: 4g. One mitigating factor found: 5h. Life.

#1976 PRESHER JOSEPH

D waited for V's husband to leave the house, then entered V's home through a window. D tied V to her bed. D got a steak knife and beat, strangled with a telephone cord and stabbed V repeatedly. [REDACTED] Murder plea 12/8/89. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5a, 5c, 5h.

#1977 PRESTON JOHNNIE

D, Co-D1 and Co-D2 entered V's grocery store to rob V. When V went for a weapon, Co-D1 and then D shot V. V died from his gunshot wounds. Jury verdict: felony murder 12/17/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5h.

#2026 PURNELL BRAYNARD ANDRA

D attempts to buy drugs from V. D and V fight. D stabs V 15x, steals V's drugs. D has prior murder. Jury verdict: murder 2/20/90. Penalty trial. Two aggravating factors found: 4a, 4g. Two mitigating factors found: 5b, 5h. Death.

#2015 RAMSEUR THOMAS C

D (male) and V (female) were paramours. V had told D not to come around anymore. The next day, D stabbed V several times on the street in front of V's grandchildren. D has a prior murder. Jury verdict: murder 5/12/83. Penalty trial. Two aggravating factors found: 4a, 4c. Two mitigating factors found: 5a, 5d. Death.

#2030 REDDEN RICHARD JOSEPH

D (24 yr., M) and 2 Co-Ds kidnapped V (M) from street. Beat and robbed V. Took V to a house where D shot V in head and nondecendent victim in the eye. [REDACTED] Murder plea 9/4/86. Penalty trial. Two aggravating factors found: 4b, 4g. Four mitigating factors found: 5c, 5d, 5g, 5h. Life.

#2038 REED JOHN ROBERT

V was acquaintance of D and D's g.f. D's g.f. goes away on retreat. V allegedly called D over. Fight erupts. D stabs V 40x. Sexually assaults V. [REDACTED] Jury verdict: murder 3/6/89. Penalty trial. No aggravating factors found. Life.

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#2040 REESE JOHN SEYMOUR JR

D returned to his apartment after a night of drinking. D noticed V's apartment door was ajar. D went into V's apartment and found V asleep. D claimed V made advances toward him. D tied V's hands, covered her head with a shirt and had intercourse with her. D hit V on the head with a claw hammer 17x. Jury verdict: murder 8/11/89. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5d, 5h. Life.

#2044 REIGLE THOMAS

D breaks into his aunt's (NDV) and uncle's (V) apartment to steal money. D beats V and NDV. Jury verdict: murder 7/17/85. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5d, 5f, 5h. Life.

#2053 REYES JOSE LUIS

D entered the apartment of V, NDV1 (D's ex-G.F.), NDV2 and NDV3. D intended to kill them for interfering in his relationship with NDV1. D stabbed V twice in the heart. D stabbed NDV3 until he played dead. D stabbed, choked and physically and verbally abused NDV1 and NDV2 for a sustained period of time. [REDACTED] Jury verdict: murder 6/25/86. Penalty trial. One aggravating factor found: 4g. Two mitigating factors found: 5a, 5d. Life.

#2061 RICHARDSON ARTHUR JUNIOR

D, the ex-paramour of V, broke into V's apartment and stabbed V 19 times. The stabbing was witnessed by V's son. Jury verdict: murder 1/6/87. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factor: 5h.

#2091 RIVERA RAFAEL M

V visiting D and D's wife in adjoining apartment. D left and went to rob V's apartment. V came in, struggle. D hit V repeatedly. D attempted to rape V. D put pillow over V's face. Suffocation. [REDACTED] Jury verdict: murder 5/30/86. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5d, 5h. Life.

#2146 ROGERS MARCUS ORLANDO

D (B.F., age 31), V (G.F., age 20). D accused V of infidelity. D went to V's home to seek reconciliation, but they argued instead. D alleged V closed the door on D's hand while he was leaving. D forcibly re-entered. D claimed V attacked him, he took knife from V and stabbed V 11x. [REDACTED] Jury verdict: murder 3/10/86. No penalty trial. Life. Aggravating factors: 4a, 4c, 4g. Mitigating factors: 5a, 5h.

#2170 ROSE MICHAEL

D, age 31, was hired by Co-D1 and Co-D2 to kill V for \$1,000 so she would not inherit his father's money. D stabbed V 83 times,



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and bludgeoned V approximately 20 times. V was 8 months pregnant when she was killed. D claimed self-defense. Jury verdict: murder 12/21/84. Penalty trial. One aggravating factor found: 4c. Four mitigating factors found: 5e, 5f, 5g, 5h. Life.

#2172 ROSE TEDDY 1A

D was walking with his friends carrying a shotgun in a canvas bag. Police officer (V) stops to ask D what is in the bag. D panics and shoots V one time in stomach. Jury verdict: murder 6/4/85. Penalty trial. Two aggravating factors found: 4f, 4h. Two mitigating factors found: 5a, 5h. Death. Re-trial. Two aggravating factors found: 4f, 4h. Three mitigating factors found: 5a, 5d, 5h. Life.

#2182 RUANO HERIBERTO SANCHEZ

D believes that V robbed a person that worked for D. D and Co-D plan to rob V. As V runs away, D shoots V 1x in the head. Aggravated manslaughter plea 7/8/86. No penalty trial. 18 years/9 minimum. Aggravating factor: 4g. Mitigating factors: 5f, 5h.

#2183 RUGGS HARRY LEE

D and 2 Co-Ds go to rob V on a stairway landing. V moves at D. D shoots V 2 times. Jury verdict: felony murder 3/17/87. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5c, 5f, 5h.

#2190 RUSSO DAVID MARK

D had made friends with 3 gas station employees (V, NDV1, NDV2). D decides to rob station. D makes V, NDV1, and NDV2 lie on floor. D shoots V and NDV1 in head and NDV2 in hand. Jury verdict: murder 5/13/87. Penalty trial. Two aggravating factors found: 4b, 4g. Five mitigating factors found: 5a, 5c, 5d, 5f, 5h. Life.

#2195 SAINVALLIER REMY

D and V argued in bar over serving of drink. Argument continued outside. D shot V 3x, then fired 2 shots at V's companions. No violent priors. Jury verdict: murder 3/14/85. Penalty trial. One aggravating factor found: 4b. Four mitigating factors found: 5a, 5d, 5e, 5f. Life.

#2202 SANABRIA HECTOR

D shot and killed 2 Vs on the street, with a handgun, [REDACTED] [REDACTED] Jury verdict: murder 7/15/86. No penalty trial. Life. Aggravating factor: 4b. Mitigating factor: 5h.

#2228 SAVAGE ROY

[REDACTED]  
V was the sister of one of the women, W1. W1 and V were D's paramours. D killed V and dismembered her body. When W1 asked

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what happened, D said "They were gonna kill you and they were gonna kill me." Jury verdict: murder 1/24/85. Penalty trial. One aggravating factor found: 4c. One mitigating factor found: 5d. Death.

#2230 SAXTON CALVIN

D (38 yr., ex-husband of V and father of V's son) came to V's apartment and threatened to break down door if not let in. D stabbed V 13x in neck, chest, lungs and wrapped cord around V's neck. 8 yr. old son was a witness. [REDACTED] Jury verdict: murder 1/13/88. No penalty trial. Life. Aggravating factor: 4c. Mitigating factors: 5a, 5d, 5f, 5h.

#2235 SCALES TERRENCE ROBERT

D and Co-D planned to commit robbery. They met V in a bar and lured V to apartment and all used cocaine. Co-D got a clothesline. D and Co-D beat V. Co-D and D strangled V. They took V's car and credit cards. Jury verdict: murder 10/31/86. Penalty trial. One aggravating factor found: 4f. Two mitigating factors found: 5d, 5h. Life.

#2241 SCHIAVO DOMINICK RICHARD

D, a drug manufacturer, fired a shotgun at a group of police officers who were executing a search warrant in D's home. V, a police officer, was shot and killed. Jury verdict: murder 5/26/87. Penalty trial. Three aggravating factors found: 4b, 4f, 4h. Three mitigating factors found: 5c, 5f, 5h. Death.

#2270 SETTE MARK JOHN

D (23 yr., M) shared condo with V (23 yr., F). No romantic connection between the two. Two others also shared condo. D's version: D used cocaine, picked up 6" knife and stabbed V multiple times in chest, head and slit throat. NDV1 tried to help. D stabs NDV1. Runs after W5, but police apprehend D. No priors. Jury verdict: murder 4/20/89. Penalty trial. Two aggravating factors found: 4b, 4c. Four mitigating factors found: 5c, 5d, 5f, 5h. Life.

#2318 SLAUGHTER RAFAEL

D was at fast food restaurant. D ordered 3 employees to lay on the floor, then demanded combination to safe. They didn't know it, so he shot V 2x in back. Jury verdict: murder 6/28/85. Penalty trial. 1 aggravating factor found: 4g. 2 mitigating factors found: 5c, 5h. Life.

#4008 SLOVER JOSEPH CHRISTOPHER

D and Co-D rob V, a junkyard watchman of \$41. D hits V over head 3x with flashlight. Co-D hits V 12-15X with a metal pipe. Plea to agg. mans. 4/6/90. No penalty trial. Aggravating Factors: 4g, 4f. Mitigating Factors: 5c, 5d, 5f, 5h. 40 years, 20 without parole.

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#2362 SOSSIN MARK WILLIAM

D, [REDACTED] shot V1 and V2, D's mother and father, at home. Jury verdict: murder 5/22/84. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5a, 5d, 5f, 5h.

#4007 SOTO JOSE

D and Co-D attempt to rob chinese restaurant. V tells them there is no money. D shoots V and NDV. Aggravated Manslaughter Plea 2/13/91. No penalty trial. Aggravating factor: 4g. Mitigating factors: 5c, 5d, 5f, 5h. 30 years.

#2372 SPILLANE RICHARD J

D (23 yr., M) killed mother (64 yr.) and stepfather (74 yr.) by strangulation (mother) and beating with hammer (stepfather).

[REDACTED]  
Jury verdict: murder 10/3/86. No penalty trial. Life. Aggravating factors: 4b, 4c. Mitigating factor: 5h.

#2375 SPRAGGINS JERRY JEROME

D broke into V's apartment and raped then suffocated her. D took jewelry from the apartment. Jury verdict: murder 1/30/86. Penalty trial. 2 aggravating factors found: 4f, 4g. 2 mitigating factors found: 5d, 5f. Life.

#2389 SPRUELL QUINCY HAYWARD

D and Co-D planned to rob V [REDACTED]. V shot 1X at door. Then 4X more in kitchen. V shot in arm, neck, scalp and head. \$9,000 taken by D and Co-D. Witness claims D said he did shooting. [REDACTED] Jury verdict: murder 10/30/85. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5c, 5f, 5h.

#2381 STAMPS AARON

D and 2 Co-Ds conspire to rob bank. While Co-Ds are waiting in line at bank, D enters and shoots V (bank guard). [REDACTED] Jury verdict: murder 4/23/84. Penalty trial. One aggravating factor found: 4g. Two mitigating factors found: 5c, 5h. Life.

#2387 STATEN ROBERT

D entered a restaurant and randomly fired at patrons seated at the bar. V died, NDV1 shot 4 times, NDV2 shot 5 times. [REDACTED] Jury verdict: murder 11/7/85. No penalty trial. Life. Aggravating factor: 4b. Mitigating factors: 5a, 5d, 5h.

#2391 STEVENS LARRY

D and Co-D1 set out to rob V, [REDACTED] V tried to run and D and Co-D1 chased him and beat him up. As D

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and Co-D1 were leaving the scene, D turned and fired one shot and hit V in the chest, killing him. Jury verdict: Felony murder 6/20/88. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5d, 5h.

#2403 STONE LEONARD

D hit V in head, face and brain with hatchet. Robbed V at boarding house where V and D lived. No violent priors. Jury verdict: Murder 5/21/86. Penalty trial. One aggravating factor found: 4c. Two mitigating factors found: 5f, 5h. Life.

#4029 SULLIVAN ROY

D, [REDACTED] goes to V's apartment to get money [REDACTED] V refuses to give D money, and screams. D stabs V three times in chest, back and stomach. Jury Verdict: Murder 6/23/90. No penalty trial. [REDACTED] Aggravating factor: 4g. Mitigating factors: 5d, 5h. Life.

#2445 TAYLOR LEROY

D sexually assaults and strangles V, a 13 year old girl and the niece of D's girlfriend. Felony murder plea 1/13/88. No penalty trial. Life. Aggravating factors: 4a, 4g. Mitigating factors: 5h.

#2448 TAYLOR WILEY DUANE

[REDACTED] D and V scuffle. D shoots V then fires shots at NDV1 and NDV2. Aggravated manslaughter plea 10/21/88. No penalty trial. 25 years/12 minimum. Aggravating factors: 4b, 4g. Mitigating factors: 5f, 5h.

#4030 TELFORD MARK

D barricaded himself in his apartment with wife (V) and their 2 kids. D argued with V and stabbed her repeatedly in the chest. [REDACTED] Murder Plea 8/3/90. No Penalty Trial. Aggravating Factor: 4g. Mitigating Factor: 5a, 5d, 5f, 5h. 30 years.

#2453 THAMMAN NARESH

D, angry because he believed that V's family had destroyed his car, burnt down their building, killing V and injuring NDV1, NDV2 and NDV3. D charged with felony murder. Felony murder plea 2/24/89. No penalty trial. Life. Aggravating factors: 4b, 4g. Mitigating factors: 5a, 5f, 5h.

#4013 THOMAS CHRISTOPHER

D [REDACTED] stabs V (89 year old) 77x, strangles and beats her then takes VCR. Felony murder plea 1/29/90. No penalty trial. 30 years. Aggravating factors: 4c, 4g. Mitigating factors 5d, 5h.

#2463 THOMAS LOUIS

D stabbed former g.f. (V) 22x in V's apartment. No priors. Jury verdict: murder 7/1/85. Penalty trial. One aggravating factor

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found: 4c. Four mitigating factors found: 5a, 5c, 5f, 5h.  
Life.

#2471 THOMPSON HOWARD NATHANIEL

D and Co-D met V in a bar, took him home with them so they could rob him. D and Co-D [REDACTED] then beat and strangled him. D and Co-D took V's car and credit cards. Murder plea 11/20/85. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5a, 5c, 5d, 5h.

#2500 TIMPSON ALFONSO DEAN

V (12 yr., F) walking home from school when D forced V into wood and assaulted her. V may have kicked D in groin. D struck V unconscious, sexually assaulted her. When V came to, D stuffed panties down her throat. V suffocated. D continued sexual assault. D borderline retarded. Murder plea 6/13/85. Penalty trial. Two aggravating factors found: 4c, 4g. Four mitigating factors found: 5a, 5c, 5d, 5h. Life.

#4025 TORO WILLIAM

V and NDV broke into D's car several times. D, angered by this, retrieved his shotgun and shot V & NDV. Aggravated Manslaughter Plea 3/1/90. [REDACTED] Aggravating factor: 4g. Mitigating factors: 5a, 5f, 5h. 10 years.

#2535 TREADWAY JOHN

V's (16 yr., F) ex-boyfriend D threatened to kill her. Complaint filed against D. 2 days later, D abducts V from school. V found strangled in wooded area. [REDACTED] Aggravated manslaughter plea 1/10/83. No penalty trial. 20 years/10 minimum. Aggravating factor: 4g (abduction). Mitigating factors: 5a, 5c, 5f, 5h.

#2545 TUCKER STANLEY

Defendant (D) bound, strangled, stabbed and slashed the victim (V), a 25 year old female in her apartment. D then robbed the apartment. Jury verdict: murder 7/10/89. No penalty trial. Life. Aggravating factors: 4c, 4g. Mitigating factors: 5d, 5h.

#2549 TURNER JOHN HENREY

D (age 23) plans with Co-D to kill V, because V impregnated D's girlfriend, W1. D paid Co-D \$200 to drive D's car. D and Co-D wait for V to leave work. D forces V at gunpoint into his car and forces V to drive to a parking lot behind a medical center. D shot V 4x, left the body in the car, and tried to burn it. No priors. Conspiracy plea 2/23/87. Aggravating factor: 4g. Mitigating factors: 5f, 5h.

#4016 VALDEZ GILBERTO

Defendant (D), codefendant (Co-D1), and codefendant (Co-D2) beat up victim. Co-D1 strangled victim with a tie. Defendant stabbed

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victim. Victim was disrobed and dragged to the railroad tracks. Aggravated manslaughter plea. No penalty trial. August 8, 1989, [REDACTED] Aggravating factors: 4c, 4g. Mitigating factors: 5d, 5f, 5h. 25 years.

#2574 VASQUEZ PEDRO LOUIS

D argued with V (live-in paramour) who threatened to leave him. D strangled and stabbed V in the chest, then cut up the body into 14 pieces and hid the parts in various locations. Jury verdict: murder 11/28/88. No penalty trial. Life. Aggravating factor: 4c (mutilation). Mitigating factors: 5a, 5f, 5h.

#4035 WASHINGTON COREY

D, Co-D1, and Co-D2 rob check cashing store, make V and NDV lie face down on the floor. D shoots V 1x in the head, Co-D1 shoots NDV 1x in the head. Murder plea 8/3/90. No penalty trial. Life. Aggravating factors: 4f, 4g. Mitigating factors: 5c, 5h.

#2627 WASHINGTON DELANO

D (husband) and V (wife) argue as D drives V to work. D sees knife on floor of car, picks up knife and stabs V 30x. D alleges that he blacked out due to his history of epileptic seizures. No priors. Jury verdict: murder 7/26/85. Penalty trial. One aggravating factor found: 4c. Four mitigating factors found: 5a, 5d, 5f, 5h. Life.

#4017 WATKINS RICKY

D, Co-D1, and Co-D2 beat up V. D strangled V with a tie. Co-D(1) stabbed V. V was disrobed and dragged to railroad tracks. Jury verdict: Felony murder October 5, 1989. No penalty trial. [REDACTED] Aggravating factors: 4c, 4g. Mitigating factor: 5d, 5h. 35 years.

#2647 WESTON ELISHA

D and V (65 yr., F) were acquaintances at bar. Friend drives V and D to V's house. They start to have sex. Argument. D punches V then gets rock and hits her 3x in head, crushing skull. [REDACTED] Jury verdict: murder 2/11/86. Penalty trial. Three aggravating factors found: 4c, 4f, 4g. Three mitigating factors found: 5a, 5c, 5h. Life.

#2649 WHEELER RONALD LEON

D claims that he asked the daughter of his employer (V) for his bonus, and she wouldn't give it to him. D stabbed V 13 times and took her pocketbook. Felony murder plea 7/5/84. No penalty trial. Life. Aggravating factor: 4c, 4g. Mitigating factors: 5f, 5h.

#2673 WIDER JAMES

D shot V1 in chest and abdomen and V2 (V1's son) in chest during an altercation. [REDACTED] 2 others injured in shooting

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spree. [REDACTED] Aggravated manslaughter plea 2/24/89. No penalty trial. 30 years/10 minimum. Aggravating factors: 4b, 4g. Mitigating factors: 5a, 5d, 5f, 5h.

#2684 WILLIAMS GERALD E

D and Co-D robbed V at home of cash and a TV, then threw V out window. [REDACTED]

[REDACTED] Jury verdict: felony murder 3/13/86. No penalty trial. Life. Aggravating factor: 4g. Mitigating factors: 5d, 5h.

#2685 WILLIAMS HERMAN

D shot V 1 x in chest in V's home during robbery and burglary. V dies 17 days later of shotgun wounds of chest, stomach, small bowel, kidney and spine. [REDACTED]. Jury verdict: murder 10/17/84. No penalty trial. Life. Aggravating factor: 4g. Mitigating factor: 5h.

#2687 WILLIAMS JAMES EDWARD 1A

D was drinking beer with friends and he decided to go out and make some money. D and his brother, W1, went in to a nursing home. D sexually assaulted the receptionist then stabbed her 36 times. Jury verdict: murder 1/31/84. Penalty trial. Two aggravating factors found: 4c, 4g. One mitigating factor found: 5h. Death.

#2715 WILLIAMS WALTER L

D (police officer) poisons wife with cyanide to cover up a bigamous marriage and receive her estate. No priors. Jury verdict: murder 5/9/86. Alleged that D murdered mother-in-law after wife's murder. Penalty trial. One aggravating factor found: 4f. Two mitigating factors found: 5f, 5h. Life.

#2722 WILSON JOSEPH LEE

D and Co-D (look-out) planned to rob store. D went in with gun, put gun to V's (Co-Owner) head. V pushed gun away. D fired one shot. [REDACTED] Jury verdict: murder 11/4/88. Penalty trial. One aggravating factor found: 4g. Three mitigating factors found: 5c, 5d, 5h. Life.

#2723 WILSON LESTER ALLEN

D (40 yr., M) resided in same hotel as V's (14 yr., F) family. D's sexual interest, V's sister, rejected. D strangled and sexually assaulted V. [REDACTED] Jury verdict: murder 6/26/86. Life. No penalty trial. Aggravating factors: 4f, 4g. Mitigating factors: 5d, 5f, 5h.

#2752 WORLOCK CARL EDWARD

D believed that V1 stole his wallet. He mistook V2 for V1 and shot him in the chest. Then he chased V1 into an apartment and shot him in the back, head, arms and chest. Jury verdict: murder 12/10/84. Penalty trial. No aggravating factors found. Life.

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#4032 WORTHINGTON EARL JUNIOR

D went into W1's store to rob V. D shot V in the neck, D then robbed W1. Jury Verdict: murder 5/11/87. No Penalty Trial. ~~\_\_\_\_\_~~ Aggravating factor: 4g. Mitigating Factors: 5d, 5h. 30 years.

#2761 WRIGHT JEANNE ANNE

D, having mental and emotional problems, drowns her four children. Murder plea 2/21/84. Penalty trial. One aggravating factor found: 4c. Three mitigating factors found: 5a, 5d, 5f. Life.

#2780 YOUNG CARL JR

D and Co-D's go out looking for someone to rob. They approach V and try to steal his chains. V resists and D shoots V 1x with a shotgun. Aggravated manslaughter plea 12/7/87. No penalty trial. 20 years/10 minimum. Aggravating factor: 4g. Mitigating factor: 5h.

#2795 ZOLA JAMES EDWARD 1A

D had worked as a maintenance man in V's apartment building. V filed a complaint against D and, partly for this reason, D was fired. D broke into V's apartment, beat, scalded and then strangled her. Jury verdict: murder 5/31/84. Penalty trial. Two aggravating factors found: 4c, 4g. Two mitigating factors found: 5a, 5h. Death.



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Appendix E. Rationale for Salient Factors Measure

- A. Multiple-victim murder: Death-eligible under 4b before 1/17/86 and under 4g after 1/17/86

The aggravation level of multiple-victim cases is measured first by the number of victims and second by the presence of other contemporaneous offenses, especially sexual assault, and the presence of particular violence or terror. Also relevant is premeditation. A striking number of multiple-victim crimes are significantly mitigated by defendant mental deficiencies that are not sufficient to support an insanity defense. This entry does not include multiple-victim arson cases unless it is clear the defendant intended to kill more than one victim.

- B. Murder by a defendant with a prior murder conviction: 4a

Cases with this factor have no distinctive factual patterns. Their aggravation level therefore is primarily measured by the number of other statutory aggravating and mitigating circumstances and the level of violence and terror.

- C. Sexual assault murder: 4g

The aggravation level of sexual assault murders is influenced first by the level of violence and terror which may be influenced by such matters as the age of the victim and the

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method of killing. It is also affected by the presence of a contemporaneous burglary or kidnapping, particularly violence, and to a lesser extent robbery. The burglary, kidnapping, and particular violence are important because of the abhorrence and terror they evoke. Nonstatutory factors include the age of the victim and the relationship between the defendant and the victim. Rape killings of total strangers are among the most repugnant category of homicide.

D. Victim a public servant: (4h)

This factor has thus far been applied only to police-victim cases. Additional aggravation is measured by the presence of additional statutory aggravating circumstances and particular violence and terror.

E. Robbery murder: (4g)

The main categories of robbery murder cases are defined in terms of the situs of the robbery, the manner of the defendant's entry in residential robberies, the level of violence or terror, and the relationship between the defendant and victim.

The most abhorrent and feared robberies involve a forcible or unauthorized entry into the victim's residence plus particular violence or terror. The next level of robbery murders are all others involving particular violence, terror, or victim

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vulnerability. The third group are the remaining residential forced or unauthorized entry cases.

The fourth category includes mugging murders against stranger victims without particular violence, terror, or victim vulnerability, while category five embraces holdups of business establishments without particular violence/terror. Category six involves robbery murder between acquaintances, relatives, and friends with special violence, while the least culpable cases involve robbery murder in the course of a drug transaction.

F. Arson murder: (4g)

The first measure of aggravation level in arson cases is the risk of death perceived by the defendant and the number of persons killed and/or injured in the fire. If the defendant intended to kill multiple victims, the case is classified under multiple victims.

Also bearing on culpability is whether the defendant intended to kill the victim(s) or knew a person's death was practically certain. N.J.S.A. 2C:2-2b.(2)

G. Burglary murder not involving a robbery or sexual assault:  
(4g)

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Burglary murders without a contemporaneous robbery or sexual assault generally involve a residential forced entry by relatives, lovers, or ex-spouses in a rage or seeking revenge.

H. Murder with a kidnapping and not involving a robbery or sexual assault: (4g)

Kidnapping murders not involving a robbery or a sexual assault rarely involve the most abhorrent version of the crime -- an innocent victim abducted and killed by a complete stranger. Nearly all the crimes in this category involve defendants settling scores with their victims in arguments or as a result of earlier romances, altercations, or business transactions (legal and illegal). The aggravation level of these cases is measured by the level of violence and terror involved (e.g., being held alive in a car trunk), the duration of the victim's detention or confinement, and the level of defendant premeditation. A less aggravated group of these cases involve the victim who initially consents to an association with a defendant who turns against the victim and holds him or her against their will before the murder.

I. Murder involving a pecuniary motive other than robbery or burglary: (4d) and (4e)

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There are three straightforward categories of cases under these two aggravating circumstances. The first two involve defendants who hire a killer (4e) or are the hired killer (4d). The premeditation and planning gives these crimes a particularly cold-blooded quality, although there is some dispute about whether the typical principal is more culpable than the typical hired killer. The third category of cases under 4d involves defendants who kill to inherit property or similar benefits that will accrue to their benefit as a matter of law upon the victim's death. The measure of additional aggravation in both these categories is normally the level of gratuitous violence and the risk of death to others. The least aggravated category of hired-killer cases involves defendants hired by the victim to do the killing.

J. Murder involving torture/aggravated assault or depravity of mind: (4c)

Torture, aggravated assault. For the torture/aggravated assault branch of 4c, Ramseur requires that the victim suffer "severe" physical or emotional pain and that the pain was intended by the defendant (knowledge is not enough). Severity of the pain is measured by its "intensity" and "duration." Duration is measured by the duration of the attack or torture and the time it takes

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the victim to die from the injuries. Intensity is properly measured by the degree of victim consciousness, number of wounds, the number of lethal weapons used, the number of body parts affected, and the degree to which the violence went beyond what was needed to kill the victim. Ramseur clearly indicates, however, that 4c can be satisfied when only the force required to kill is used if it produces severe pain and the intent requirement is met.<sup>1/</sup>

An execution-style killing with no other physical violence "may" satisfy the requirement if the victim is aware "as a practical certainty" he is about to be killed and the defendant intends thereby to cause the victim great psychological suffering.

One of the more difficult issues in 4c cases arises in cases with a severe attack by the defendant over a relatively brief period of time that led to the victim's death. The problem is in distinguishing between cases in which the defendant sought merely to inflict immediate death upon the victim but overdid the level of violence needed to achieve that goal and cases in which the defendant also intended to and did cause severe suffering. Because the defendant's intent in this regard must be proven beyond a reasonable doubt, there must be more evidence of intent than the mere infliction of severe pain. There are several

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1. State v. Ramseur, 106 N.J. 123, 205-06 (1987).

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factors which bear on the issue. First, of course, is the severity and duration of the defendant's attack. Second is a prior relationship between the defendant and victim, which may give the defendant a motive for intending to cause severe pain. Particularly relevant here are earlier or contemporaneous expressions of hatred. Also, the vulnerability of the victim and the force that could be expected to kill the victim may provide a basis for assessing the degree to which the force used constituted the gratuitous infliction of pain. Standing alone, however, vulnerability does not support a 4c finding.<sup>2/</sup> As suggested earlier, the defendant's motive is highly relevant to the intent to cause severe suffering. Various forms of revenge create a strong inference of the requisite intent (e.g., those arising out of sexual jealousy or rejection and long-term hatred for perceived harms caused by the victim).

In contrast, killings in mutual combat or in the course of the robbery of a stranger do not provide a good basis for inferring the requisite intent. Premeditation does not carry significant weight one way or the other, since the intent to cause severe pain may suddenly arise and long-term premeditation may or may not result in an intent to do more than kill. Finally, mental incapacitation from drugs, alcohol, or mental

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2. Matulewicz v. State, 115 N.J. 191 (1989).

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retardation tends to weaken the inference that the defendant intended the pain caused.

K. Depravity of Mind

The first branch of the depravity-of-mind test is whether the defendant's motive served "no purpose . . . beyond his pleasure of killing." The clearest cases under this branch are those involving a random act of violence against a total stranger undertaken solely for the pleasure of killing. Such cases may also involve the 4b factor. The cases become less strong when the defendant kills total strangers randomly but because of anger or frustration over an incident totally unrelated to the victim. Even weaker cases are those involving a prior relationship between the parties since there may have been a more traditional motive growing out of it.

The second branch of the depravity of mind requirement involves the intentional damaging of a body with knowledge that the victim is deceased. Ramseur says such conduct "may" be indicative of a depraved mind. Presumably the degree of mutilation and level of awareness that the victim is deceased is a measure of depravity under this branch of the 4c aggravating circumstance.

The most extreme cases involve varying degrees of dismemberment of a corpse. Lesser cases involve an assault



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(e.g., stabbing or shooting) upon the corpse or perhaps an attempt to disfigure a corpse with a fire.

L. A murder in which defendant purposely or knowingly created a grave risk of death to another person in a case not involving another primary statutory aggravating circumstance: (4b) and (4g)

The aggravation level of cases in which 4b is the sole statutory aggravating factor is measured by the defendant's mens rea with regard to nondecendent victims, the number of such persons at risk of death, and the extent of any injuries caused by the defendant. The most culpable category of 4b cases involve an intent to kill one or more additional victims under circumstances which would make the defendant liable for attempted murder with respect to those victims, e.g., the defendant shoots to kill but only injures a nondecendent victim. After January 17, 1986, this scenario triggers 4g as a murder committed while the defendant was engaged in an attempt to commit murder.

At the next level of culpability are cases in which the defendant purposely puts nondecendent victims at risk of death, e.g., when a defendant with no particular victim in mind fires multiple shots at several members of a rival gang. The next level of culpability involves defendants who intend no harm to

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the nondecedent victims but, in pursuing the death of their victim, knowingly create a great risk of death to bystanders. A common case involves a firearm attack on the victim in a car or a room full of people. The fourth level of defendant culpability is found in cases in which the defendant, after killing the victim, intended to injure but not kill a nondecedent victim but does so in a manner which created a grave risk of death, e.g., after killing a sexual rival the defendant sought to punish his girlfriend by stabbing her once in the back.

Within these subcategories, the aggravation level will also be influenced by the extent of the infliction of injuries on the nondecedent victim.

M. A murder committed to escape detection, apprehension, or confinement in a case not involving another primary statutory aggravating circumstance: (4f)

This factor is most commonly found in cases involving a contemporaneous felony under 4g, e.g., robbery, rape. And in those cases, it is best viewed as enhancing the aggravation level of cases deemed death-eligible by virtue of the contemporaneous offense. The factor is almost invariably present in police victim cases, where it is best viewed as enhancing the aggravation level of those cases when it is found to exist. It

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is the sole or principal statutory aggravating factor in two quite rare categories of cases -- (a) murders in which the victim is a potential informer or witness and (b) murders committed in a prison or jail break. In these cases, the aggravation level is measured by risk of death to others and particular violence or terror.

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APPENDIX F. DEATH ELIGIBLE DEFENDANTS SORTED BY SALIENT FACTOR  
SUBCATEGORY & PREDICTED PROBABILITY OF A DEATH SENTENCE

----- SALIENT FACTORS SUBCATEGORY=A1 -----

OBS	DEFENDANT'S NAME	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROBABILITY OF DEATH SENTENCE <sup>1/</sup>
1	HERNANDEZ JOSE 1ST VIC	1060	1985	YES	NO	0.00
2	HERNANDEZ JOSE 2ND VIC	3022	1985	YES	NO	0.00
3	DIAZ FELIX R	673	1989	YES	NO	0.12
4	JOHNSON WALTER 1ST VIC	2808	1985	YES	NO	0.38
5	MOORE SAMUEL 1ST VIC	1720	1987	YES	YES	0.42
6	MOORE SAMUEL 2D VIC	2810	1987	YES	YES	0.42
7	BOOKER GEORGE 2D VIC	2825	1987	YES	NO	0.53
8	BOOKER GEORGE 1ST VICT	231	1987	YES	NO	0.67
9	JOHNSON WALTER 2D VICT	1227	1985	YES	YES	0.68
10	MC DOUGALD ANTHONY 1ST VIC	1598	1986	YES	YES	0.80
11	MC DOUGALD ANTHONY 2D VIC	2811	1986	YES	YES	0.80

N = 11

----- SALIENT FACTORS SUBCATEGORY=A2 -----

12	JONES TRACY LATIF	1257	1985	NO	NO	0.00
13	NAPLES DONALD RICHARD JOSEPH	1780	1990	YES	NO	0.01
14	SANABRIA HECTOR	2202	1986	NO	NO	0.01
15	BERTINO FABRIZIO 2ND VICT	2801	1987	YES	NO	0.01
16	JAMES DARRYL LEE	1193	1989	NO	NO	0.03
17	MONTURI SEBASTIAN 1ST VIC	2826	1984	YES	NO	0.06
18	MONTURI SEBASTIAN 2D VIC	1709	1984	YES	NO	0.07

N = 7

----- SALIENT FACTORS SUBCATEGORY=A3 -----

19	KLATZKIN GERALD MATTHEW	1332	1987	NO	NO	0.00
20	SOSSIN MARK WILLIAM	2362	1984	NO	NO	0.00
21	WIDER JAMES	2673	1989	NO	NO	0.00
22	BASHA ABDULLA	4014	1990	NO	NO	0.00
23	CARE CARLTON DENNIS JR	382	1989	NO	NO	0.01
24	KERESTY WALTER	4012	1983	NO	NO	0.02
25	SPILLANE RICHARD J	2372	1986	NO	NO	0.03

1. The model on which these predictions are based is presented infra technical appendix 10, schedule 12 at p. 9.

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26 WRIGHT JEANNE ANNE 2761 1984 YES NO 0.09

N = 8

----- SALIENT FACTORS SUBCATEGORY=B1 -----

27 KOEDATICH JAMES 2 1336 1985 YES NO 0.07  
28 PENNINGTON FRANK 1914 1987 YES YES 0.45  
29 KOEDATICH JAMES JEROLD 1B 3018 1990 YES NO 0.56  
30 KOEDATICH JAMES JEROLD 1A 1337 1984 YES YES 0.98

N = 4

----- SALIENT FACTORS SUBCATEGORY=B2 -----

31 MONTALVO ORLANDO 1705 1986 NO NO 0.02  
32 NIEVES ALBERTO 1793 1988 YES NO 0.13  
33 MUHAMMED JIHAD 1750 1985 NO NO 0.21  
34 PURNELL BRAYNARD ANDRA 2026 1990 YES YES 0.51  
35 ERAZO SAMUEL 728 1987 YES YES 0.64  
36 BIEGENWALD RICHARD 1A 200 1983 YES YES 0.65  
37 BIEGENWALD RICHARD F 1B 3002 1989 YES YES 0.65  
38 RAMSEUR THOMAS C 2015 1983 YES YES 0.95  
39 COYLE BRYAN PATRICK 520 1985 YES YES 1.00

N = 9

----- SALIENT FACTORS SUBCATEGORY=B3 -----

40 BIEGENWALD RICHARD 2 2800 1984 YES NO 0.15

N = 1

----- SALIENT FACTORS SUBCATEGORY=C1 -----

41 TIMPSON ALFONSO DEAN 2500 1985 NO NO 0.00  
42 WILSON LESTER ALLEN 2723 1986 NO NO 0.00  
43 BLACKMON CRAIG 209 1988 YES NO 0.01  
44 CUNNINGHAM BRUCE 558 1984 YES NO 0.01  
45 DICKERSON KEITH 649 1988 YES NO 0.01  
46 FULLARD ISSAAC 826 1985 NO NO 0.01  
47 LIPPEN GARY HOWARD 4034 1988 NO NO 0.01  
48 DARRIAN CHARLES EDWARD 576 1988 YES NO 0.02  
49 RIVERA RAFAEL M 2091 1986 YES NO 0.04  
50 PRATER MICHAEL ANTHONY 1974 1989 YES NO 0.07  
51 MINCEY SAMUEL 4009 1990 NO NO 0.11

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52	TAYLOR LEROY	2445	1988	NO	NO	0.12
53	REESE JOHN SEYMOUR JR	2040	1989	YES	NO	0.15
54	ZOLA JAMES EDWARD 1A	2795	1984	YES	YES	0.18
55	ZOLA JAMES EDWARD 1B	3006	1990	NO	NO	0.18
56	COLLINS DAVID ANDREW	470	1983	NO	NO	0.28
57	BOLINGER ROBERT	226	1986	NO	NO	0.61
58	WILLIAMS JAMES EDWARD 1A	2687	1984	YES	YES	0.67
59	WILLIAMS JAMES EDWARD 1B	3005	1989	NO	NO	0.67
60	LODATO BENJAMIN	1453	1984	YES	YES	0.76
61	HENDERSON JAMES	4033	1987	NC	NO	0.80
62	BEY MARKO 2B	3000	1990	YES	YES	0.83
63	JACKSON KEVIN	1158	1987	YES	YES	0.93
64	BEY MARKO 2A	160	1984	YES	YES	0.94

N = 24

----- SALIENT FACTORS SUBCATEGORY=C2 -----

65	BROWN VINCENT E	4019	1990	NO	NO	0.00
66	EDWARDS RALPH	716	1986	YES	NO	0.01
67	LUCIANA MARK	1476	1989	YES	NO	0.01
68	SPRAGGINS JERRY JEROME	2375	1986	YES	NO	0.14
69	MANFREDONIA MICHAEL J	1510	1986	YES	NO	0.42

N = 5

----- SALIENT FACTORS SUBCATEGORY=C3 -----

70	EDWARDS EUGENE EVERSON	712	1988	NO	NO	0.09
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N = 1

----- SALIENT FACTORS SUBCATEGORY=D1 -----

71	ROSE TEDDY 1B	3003	1991	YES	NO	0.72
72	ROSE TEDDY 1A	2172	1985	YES	YES	0.85
73	SCHIAVO DOMINICK RICHARD	2241	1987	YES	YES	0.99

N = 3

----- SALIENT FACTORS SUBCATEGORY=D2 -----

74	PARSONS DOUGLAS	1880	1985	YES	NO	0.00
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N = 1

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----- SALIENT FACTORS SUBCATEGORY=E1 -----

75	BRUNSON ALPHONSO	305	1990	YES	NO	0.00
76	PLOPPERT CHARLES MATTHEW	1958	1989	YES	NO	0.00
77	FAINS ALBERT CARROW	754	1985	NO	NO	0.01
78	WILLIAMS GERALD E	2684	1986	NO	NO	0.01
79	REIGLE THOMAS	2044	1985	YES	NO	0.02
80	WILLIAMS HERMAN	2685	1984	NO	NO	0.02
81	CAVINNESS DWAYNE VANCE	402	1985	NO	NO	0.03
82	HUDSON FRANKLIN FLOWERS JR	1103	1986	NO	NO	0.04
83	MENDEZ INCENZIO B	1640	1984	YES	NO	0.05
84	MUSCIO NICHOLAS PETER	4031	1991	YES	NO	0.06
85	HARVEY NATHANIEL	1031	1986	YES	YES	0.95
86	GERALD WALTER MEIN	868	1984	YES	YES	0.96

N = 12

----- SALIENT FACTORS SUBCATEGORY=E2 -----

87	REDDEN RICHARD JOSEPH	2030	1987	YES	NO	0.00
88	ALLEN KAREN	52	1989	NO	NO	0.01
89	JONES MICHAEL SPENCER	1251	1989	NO	NO	0.01
90	MC NEIL KEITH BURTON	1624	1983	NO	NO	0.01
91	PERRY HAROLD EDWARD	1918	1988	YES	NO	0.01
92	THOMPSON HOWARD NATHANIEL	2471	1985	NO	NO	0.01
93	SCALES TERRENCE ROBERT	2235	1987	YES	NO	0.02
94	TUCKER STANLEY	2545	1989	NO	NO	0.02
95	WHEELER RONALD LEON	2649	1984	NO	NO	0.02
96	THOMAS CHRISTOPHER	4013	1990	NO	NO	0.02
97	MUSGROVE IRA	1771	1985	NO	NO	0.03
98	KISE RAYMOND 1B	3001	1987	YES	NO	0.28
99	KISE RAYMOND 1A	1329	1987	YES	YES	0.37
100	DIXON PHILLIP A	662	1987	YES	YES	0.56

N = 14

----- SALIENT FACTORS SUBCATEGORY=E3 -----

101	DURDEN LARRY	694	1985	YES	NO	0.00
102	FLOYD LAMONT DAVID	791	1988	NO	NO	0.00
103	BUSBY WAYNE	338	1989	YES	NO	0.01
104	HUFF AARON P	1133	1986	YES	NO	0.01
105	DOLLARD THOMAS DAMAR	4027	1991	NO	NO	0.01

N = 5

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----- SALIENT FACTORS SUBCATEGORY=E4 -----

106	COHEN HUMPHREY	463	1984	YES	NO	0.00
107	STEVENS LARRY	2391	1988	NO	NO	0.00
108	ANDERSON ANTOINE	93	1989	NO	NO	0.01
109	CALLOWAY DERRICK	356	1986	NO	NO	0.01
110	YOUNG CARL JR	2780	1987	NO	NO	0.01
111	BROOKS KEVIN	4003	1990	NO	NO	0.01
112	RUGGS HARRY LEE	2183	1987	NO	NO	0.02
113	DEAN JOHN	4006	1989	NO	NO	0.13

N = 8

----- SALIENT FACTORS SUBCATEGORY=E5 -----

114	CALDWELL LAWRENCE STEVEN	350	1986	NO	NO	0.00
115	DOWNIE JOHN WILLIAM	679	1989	YES	NO	0.00
116	HART CRAIG	1027	1985	NO	NO	0.00
117	RUSSO DAVID MARK	2190	1987	YES	NO	0.00
118	WILSON JOSEPH LEE	2722	1988	YES	NO	0.00
119	WORTHINGTON EARL JUNIOR	4032	1987	NO	NO	0.00
120	CULLEY CARL	544	1984	NO	NO	0.01
121	JONES JIMMIE LEE	1243	1988	YES	NO	0.01
122	PRESTON JOHNNIE	1977	1986	NO	NO	0.01
123	STAMPS AARON	2381	1984	YES	NO	0.01
124	SOTO JOSE	4007	1991	NO	NO	0.01
125	SLOVER JOSEPH CHRISTOPHER	4008	1990	NO	NO	0.01
126	JONES LARRY	1246	1986	YES	NO	0.02
127	CLARK HASHONA	4021	1991	NO	NO	0.02
128	WASHINGTON COREY	4035	1990	NO	NO	0.03
129	LONG RONALD EUGENE	1459	1985	YES	YES	0.04
130	SLAUGHTER RAFAEL	2318	1985	YES	NO	0.04
131	HIGHTOWER JACINTO	1080	1986	YES	YES	0.08

N = 18

----- SALIENT FACTORS SUBCATEGORY=E6 -----

132	FERRARI SALVATORE	772	1990	NO	NO	0.00
133	JEFFERSON RICHARD	1177	1987	NO	NO	0.00
134	LAZORISAK GEORGE NICHOLAS	1391	1987	YES	NO	0.00
135	MC IVER VERNON	1611	1985	NO	NO	0.00
136	JAMES MARVIN AUGUSTUS	3008	1990	NO	NO	0.00
137	GRANT MICHAEL	4001	1990	NO	NO	0.00
138	SULLIVAN ROY	4029	1990	NO	NO	0.00



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139 CLARK REGINALD	439	1987	NO	NO	0.01
140 GRAF CLIFFORD JOSEPH	917	1986	NO	NO	0.01
141 JOHNSON NATHANIEL	1219	1984	NO	NO	0.01
142 PIERCE RONALD WILLIAM	1946	1987	YES	NO	0.01
143 NEAPOLITANO ANTHONY	1783	1984	YES	NO	0.24

N = 12

----- SALIENT FACTORS SUBCATEGORY=E7 -----

144 CLEARY MICHAEL DENNIS	447	1987	NO	NO	0.00
145 HICKS JOSEPH	1076	1983	YES	NO	0.01
146 MEROLA THOMAS ANTHONY	1648	1984	NO	NO	0.02
147 RUANO HERIBERTO SANCHEZ	2182	1986	NO	NO	0.02
148 MUHAMMAD ABDUL	4028	1991	NO	NO	0.02
149 SPRUELL QUINCY HAYWARD	2389	1985	NO	NO	0.06

N = 6

----- SALIENT FACTORS SUBCATEGORY=F1 -----

150 FARROW RICHARD	4024	1990	NO	NO	0.00
151 MELENDEZ ANGEL	1637	1984	NO	NO	0.01
152 MUJAHID RASHEED A	1753	1988	NO	NO	0.03

N = 3

----- SALIENT FACTORS SUBCATEGORY=F2 -----

153 CANCIO GUSTAVIO	365	1988	YES	NO	0.01
154 MARTIN DANIEL LOUIS	1533	1984	YES	NO	0.03
155 GAINER FRED	4020	1987	NO	NO	0.03
156 THAMMAN NARESH	2453	1989	NO	NO	0.04

N = 4

----- SALIENT FACTORS SUBCATEGORY=F3 -----

157 GLOVER DAVID	889	1987	NO	NO	0.02
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N = 1

----- SALIENT FACTORS SUBCATEGORY=G1 -----

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158 RICHARDSON ARTHUR JUNIOR	2061	1987	NO	NO	0.00
159 FRANKS DONALD MICHAEL	618	1990	YES	NO	0.01
160 HOLMES GREGORY LAMONT	1110	1985	NO	NO	0.01
161 MANDICH JOHN FRANCISCO	1509	1986	NO	NO	0.01
162 O'NEAL LOUIS ERIC	1828	1988	NO	NO	0.01
163 PRESHER JOSEPH	1976	1989	NO	NO	0.01

N = 6

----- SALIENT FACTORS SUBCATEGORY=G2 -----

164 ROGERS MARCUS ORLANDO	2146	1986	NO	NO	0.04
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N = 1

----- SALIENT FACTORS SUBCATEGORY=G3 -----

165 ARMSTRONG JOSEPH	4004	1990	NO	NO	0.02
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N = 1

----- SALIENT FACTORS SUBCATEGORY=H1 -----

166 BARONE JAMIE	140	1989	YES	NO	0.06
167 MARTINI JOHN MARTIN	3032	1990	YES	YES	0.16

N = 2

----- SALIENT FACTORS SUBCATEGORY=H2 -----

168 MCKENZIE CLIFTON	1612	1988	YES	NO	0.00
169 MAYRON GARY JOSEPH	1576	1989	YES	NO	0.03
170 WATKINS RICKY	4017	1989	NO	NO	0.04
171 JALIL NELSON	1164	1988	NO	NO	0.05
172 VALDEZ GILBERTO	4016	1989	NO	NO	0.05

N = 5

----- SALIENT FACTORS SUBCATEGORY=H3 -----

173 TREADWAY JOHN	2535	1983	NO	NO	0.00
174 TURNER JOHN HENREY	2549	1987	NO	NO	0.02

N = 2

## ----- SALIENT FACTORS SUBCATEGORY=I1 -----

175 ROSE MICHAEL	2170	1984	YES	NO	0.00
176 BURROUGHS RANDY	321	1990	NO	NO	0.01
177 MELENDEZ MIGUEL	1638	1987	YES	NO	0.09
178 BRAND FRANCIS	4038	1991	NO	NO	0.24
179 CLAUSELL JAMES DOUGLAS 1A	443	1986	YES	YES	0.68
180 CLAUSELL JAMES DOUGLAS 1B	3007	1986	NO	NO	0.68
181 DIFRISCO ANTHONY	119	1988	YES	YES	0.72

N = 7

## ----- SALIENT FACTORS SUBCATEGORY=I2 -----

182 ENGEL HERBERT	726	1986	YES	NO	0.10
183 MARSHALL ROBERT OAKLEY	1529	1986	YES	YES	0.17
184 ENGEL WILLIAM	727	1986	YES	NO	0.20

N = 3

## ----- SALIENT FACTORS SUBCATEGORY=I3 -----

185 WILLIAMS WALTER L	2715	1986	YES	NO	0.01
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N = 1

## ----- SALIENT FACTORS SUBCATEGORY=J1 -----

186 DREHER JOHN W	684	1989	NO	NO	0.24
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N = 1

## ----- SALIENT FACTORS SUBCATEGORY=J2 -----

187 ETHRIDGE WILLIE DANIEL	742	1987	NO	NO	0.00
188 MACHADO JOSE	1489	1985	YES	NO	0.01
189 DEEVES WILLIAM J	603	1984	YES	NO	0.05
190 JACOBY-IRWIN BARBARA ANN	1163	1988	NO	NO	0.05
191 SAXTON CALVIN	2230	1988	NO	NO	0.05
192 GUAGENTI JOSEPH M JR	964	1987	YES	NO	0.16
193 OGLESBY WALTER EDWARD	1823	1986	YES	YES	0.48
194 CARROLL JOHN JAMES	394	1988	YES	NO	0.67

N = 8

## ----- SALIENT FACTORS SUBCATEGORY=J3 -----

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195 MESSAM GLADSTONE	1650	1989	NO	NO	0.00
196 SETTE MARK JOHN	2270	1989	YES	NO	0.00
197 CARROZZA ANTHONY RAMON	388	1989	NO	NO	0.01
198 WASHINGTON DELANO	2627	1985	YES	NO	0.01
199 HUNT JAMES IRVING	1138	1984	YES	YES	0.55

N = 5

----- SALIENT FACTORS SUBCATEGORY=J5 -----

200 MCCOY JAMES LONNIE	1588	1986	NO	NO	0.00
201 NICELY RENEE	1791	1983	YES	NO	0.01
202 WESTON ELISHA	2647	1986	YES	NO	0.03
203 TELFORD MARK	4030	1990	NO	NO	0.05

N = 4

----- SALIENT FACTORS SUBCATEGORY=K1 -----

204 STATEN ROBERT	2387	1985	NO	NO	0.04
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N = 1

----- SALIENT FACTORS SUBCATEGORY=K4 -----

205 MICHELICHE HENRY	1658	1985	YES	NO	0.01
206 VASQUEZ PEDRO LOUIS	2574	1988	NO	NO	0.01
207 CORREA NICHOLAS	506	1985	YES	NO	0.02
208 SAVAGE ROY	2228	1985	YES	YES	0.85

N = 4

----- SALIENT FACTORS SUBCATEGORY=L1 -----

209 DINKINS ROBERT LEE	658	1986	NO	NO	0.00
210 PINERO EDWIN	1951	1986	NO	NO	0.00
211 MORTON ADRIAN	1738	1986	NO	NO	0.01
212 TAYLOR WILEY DUANE	2448	1988	NO	NO	0.01
213 ANDERSON BRUCE	73	1983	YES	NO	0.02
214 SAINVALLIER REMY	2195	1985	YES	NO	0.05
215 REYES JOSE LUIS	2053	1986	YES	NO	0.68

N = 7

----- SALIENT FACTORS SUBCATEGORY=L2 -----

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216 POMALES DENNIS	4018	1990	NO	NO	0.00
217 MENDEZ OSCAR	4002	1990	NO	NO	0.14

N = 2

----- SALIENT FACTORS SUBCATEGORY=L3 -----

218 FREEMAN JONATHAN	828	1989	NO	NO	0.00
219 HIGHLANDER RICHARD LEE	1079	1989	YES	NO	0.00
220 LAPOINTE PIERRE NORMAN	1377	1985	NO	NO	0.00
221 TORO WILLIAM	4025	1990	NO	NO	0.00
222 NORMAN ANTHONY M	4011	1990	NO	NO	0.01
223 BENGA JOHN	177	1986	YES	NO	0.31

N = 6

----- SALIENT FACTORS SUBCATEGORY=L4 -----

224 EATON OLLIE ROSCOE	703	1984	YES	NO	0.00
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N = 1

----- SALIENT FACTORS SUBCATEGORY=M1 -----

225 DELVALLE EFRAIN MANGUAL	624	1984	NO	NO	0.01
226 MCCOLLUM WILLIAM	2819	1985	NO	NO	0.02
227 KERSHAW ALBERT ERLE	4005	1989	NO	NO	0.05

N = 3

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APPENDIX G. DEATH-ELIGIBLE DEFENDANTS CASES LISTED ACCORDING TO THE NUMBER OF AGGRAVATING AND MITIGATING CIRCUMSTANCES FOUND OR PRESENT IN THE CASE

DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. ✓ -----
I. One Aggravating and One Mitigating Circumstance					
PINERO EDWIN AGG.CIR.:	1951 4G	1986 MIT.CIR.:	NO	NO	0.00 5H
DURDEN LARRY AGG.CIR.:	694 4G	1985 MIT.CIR.:	YES	NO	0.00 5H
FULLARD ISSAAC AGG.CIR.:	826 4G	1985 MIT.CIR.:	NO	NO	0.01 5H
JOHNSON NATHANIEL AGG.CIR.:	1219 4G	1984 MIT.CIR.:	NO	NO	0.01 5H
FAINS ALBERT CARROW AGG.CIR.:	754 4G	1985 MIT.CIR.:	NO	NO	0.01 5H
MANDICH JOHN FRANCISCO AGG.CIR.:	1509 4G	1986 MIT.CIR.:	NO	NO	0.01 5H
SANABRIA HECTOR AGG.CIR.: 4B	2202	1986 MIT.CIR.:	NO	NO	0.01 5H
YOUNG CARL JR AGG.CIR.:	2780 4G	1987 MIT.CIR.:	NO	NO	0.01 5H
MUHAMMAD ABDUL AGG.CIR.:	4028 4G	1991 MIT.CIR.:	NO	NO	0.02 5H

1. The model on which these predictions are based is presented infra technical appendix 10, schedule 12.

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. -----
WILLIAMS HERMAN AGG.CIR.:	2685 4G	1984 MIT.CIR.:	NO	NO	0.02 5H
JAMES DARRYL LEE AGG.CIR.:	1193 4G	1989 MIT.CIR.:	NO	NO	0.03 5H
MONTURI SEBASTIAN 1ST VIC AGG.CIR.: 4C	2826	1984 MIT.CIR.:	YES	NO	0.06 5H
PRATER MICHAEL ANTHONY AGG.CIR.:	1974 4G	1989 MIT.CIR.:	YES	NO	0.07 5H
DEAN JOHN AGG.CIR.:	4006 4G	1989 MIT.CIR.:	NO	NO	0.13 5H
MUHAMMED JIHAD AGG.CIR.: 4A	1750	1985 MIT.CIR.:	NO	NO	0.21 5H
SAVAGE ROY AGG.CIR.: 4C	2228	1985 MIT.CIR.:	YES	YES 5D	0.85

II. One Aggravating and Two Mitigating Circumstances

WORTHINGTON EARL JUNIOR AGG.CIR.:	4032 4G	1987 MIT.CIR.:	NO	NO 5D	0.00 5H
SULLIVAN ROY AGG.CIR.:	4029 4G	1990 MIT.CIR.:	NO	NO 5D	0.00 5H
DINKINS ROBERT LEE AGG.CIR.: 4B	658	1986 MIT.CIR.:	NO	NO 5F	0.00 5H
JONES TRACY LATIF AGG.CIR.: 4B	1257	1985 MIT.CIR.:	NO	NO 5C	0.00 5H
MESSAM GLADSTONE AGG.CIR.: 4C	1650	1989 MIT.CIR.:	NO	NO 5F	0.00 5H
STEVENS LARRY AGG.CIR.:	2391 4G	1988 MIT.CIR.:	NO	NO 5D	0.00 5H
FLOYD LAMONT DAVID AGG.CIR.:	791 4G	1988 MIT.CIR.:	NO	NO 5C	0.00 5H

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DEFENDANT'S NAME	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT.
LAPOINTE PIERRE NORMAN AGG.CIR.: 4B	1377	1985	NO MIT.CIR.:	NO 5D	0.00 5H
DELVALLE EFRAIN MANGUAL AGG.CIR.:	4F 624	1984	NO MIT.CIR.:	NO	0.01 5F 5H
WILLIAMS GERALD E AGG.CIR.:	4G 2684	1986	NO MIT.CIR.:	NO 5D	0.01 5H
CALLOWAY DERRICK AGG.CIR.:	4G 356	1986	NO MIT.CIR.:	NO 5C	0.01 5H
WILLIAMS WALTER L AGG.CIR.:	4F 2715	1986	YES MIT.CIR.:	NO	0.01 5F 5H
ANDERSON ANTOINE AGG.CIR.:	4G 93	1989	NO MIT.CIR.:	NO 5C	0.01 5H
PRESTON JOHNNIE AGG.CIR.:	4G 1977	1986	NO MIT.CIR.:	NO 5C	0.01 5H
GRAF CLIFFORD JOSEPH AGG.CIR.:	4G 917	1986	NO MIT.CIR.:	NO	0.01 5F 5H
PERRY HAROLD EDWARD AGG.CIR.:	4G 1918	1988	YES MIT.CIR.:	NO 5C	0.01 5H
JONES JIMMIE LEE AGG.CIR.:	4G 1243	1988	YES MIT.CIR.:	NO 5C	0.01 5H
STAMPS AARON AGG.CIR.:	4G 2381	1984	YES MIT.CIR.:	NO 5C	0.01 5H
DOLLARD THOMAS DAMAR AGG.CIR.:	4G 4027	1991	NO MIT.CIR.:	NO 5C	0.01 5H
NORMAN ANTHONY M AGG.CIR.:	4G 4011	1990	NO MIT.CIR.:	NO 5C	0.01 5H
MC NEIL KEITH BURTON AGG.CIR.:	4G 1624	1983	NO MIT.CIR.:	NO 5C	0.01 5H
TURNER JOHN HENREY AGG.CIR.:	4G 2549	1987	NO MIT.CIR.:	NO	0.02 5F 5H



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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. -----
CLARK HASHONA AGG.CIR.:	4021 4G	1991 MIT.CIR.:	NO	NO 5C	0.02 5H
MONTALVO ORLANDO AGG.CIR.: 4A	1705	1986 MIT.CIR.:	NO	NO 5D	0.02 5H
ARMSTRONG JOSEPH AGG.CIR.:	4004 4G	1990 MIT.CIR.:	NO	NO 5B	0.02 5H
RUANO HERIBERTO SANCHEZ AGG.CIR.:	2182 4G	1986 MIT.CIR.:	NO	NO 5F	0.02 5H
KERESTY WALTER AGG.CIR.: 4B	4012	1983 MIT.CIR.:	NO	NO 5A	0.02 5H
SCALES TERRENCE ROBERT AGG.CIR.:	2235 4F	1987 MIT.CIR.:	YES	NO 5D	0.02 5H
LONG RONALD EUGENE AGG.CIR.:	1459 4G	1985 MIT.CIR.:	YES	YES 5F	0.04 5H
HUDSON FRANKLIN FLOWERS JR AGG.CIR.:	1103 4G	1986 MIT.CIR.:	NO	NO 5D	0.04 5H
SLAUGHTER RAFAEL AGG.CIR.:	2318 4G	1985 MIT.CIR.:	YES	NO 5C	0.04 5H
KERSHAW ALBERT ERLE AGG.CIR.:	4005 4F	1989 MIT.CIR.:	NO	NO 5F	0.05 5H
JACOBY-IRWIN BARBARA ANN AGG.CIR.: 4C	1163	1988 MIT.CIR.:	NO	NO 5F	0.05 5H
DEEVES WILLIAM J AGG.CIR.: 4C	603	1984 MIT.CIR.:	YES	NO 5A	0.05 5H
MUSCIO NICHOLAS PETER AGG.CIR.:	4031 4G	1991 MIT.CIR.:	YES	NO 5A	0.06 5H
EDWARDS EUGENE EVERSON AGG.CIR.:	712 4G	1988 MIT.CIR.:	NO	NO 5F	0.09 5H
MELLENDEZ MIGUEL AGG.CIR.: 4D	1638	1987 MIT.CIR.:	YES	NO	0.09 5G 5H

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. -----
MENDEZ OSCAR AGG.CIR.: 4B	4002	1990	NO MIT.CIR.: 5A	NO	0.14 5H
BIEGENWALD RICHARD 2 AGG.CIR.: 4A	2800	1984	YES MIT.CIR.:	NO 5D	0.15 5H
GUAGENTI JOSEPH M JR AGG.CIR.: 4C	964	1987	YES MIT.CIR.: 5A	NO 5F	0.16
MARSHALL ROBERT OAKLEY AGG.CIR.: 4E	1529	1986	YES MIT.CIR.:	YES 5F	0.17 5H
DREHER JOHN W AGG.CIR.: 4C	684	1989	NO MIT.CIR.:	NO 5F	0.24 5H
OGLESBY WALTER EDWARD AGG.CIR.: 4C	1823	1986	YES MIT.CIR.: 5A	YES 5F	0.48
REYES JOSE LUIS AGG.CIR.:	2053 4G	1986	YES MIT.CIR.: 5A	NO 5D	0.68

III. One Aggravating and Three Mitigating Circumstances

MCKENZIE CLIFTON AGG.CIR.:	1612 4G	1988	YES MIT.CIR.:	NO 5D	0.00 5F 5H
CALDWELL LAWRENCE STEVEN AGG.CIR.:	350 4G	1986	NO MIT.CIR.: 5A	NO 5D	0.00 5H
MCCOY JAMES LONNIE AGG.CIR.: 4C	1588	1986	NO MIT.CIR.: 5A	NO 5D	0.00 5H
HERNANDEZ JOSE 1ST VIC AGG.CIR.: 4B	1060	1985	YES MIT.CIR.: 5A	NO 5D	0.00 5H
HERNANDEZ JOSE 2ND VIC AGG.CIR.: 4B	3022	1985	YES MIT.CIR.: 5A	NO 5D	0.00 5H
PARSONS DOUGLAS AGG.CIR.:	1880 4F	1985	YES MIT.CIR.: 5A	NO 5D	0.00 5H
LAZORISAK GEORGE NICHOLAS AGG.CIR.:	1391 4G	1987	YES MIT.CIR.: 5A	NO 5D	0.00 5H

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. -----
BASHA ABDULLA AGG.CIR.:	4014 4G	1990 MIT.CIR.:	NO 5A	NO	0.00 5F 5H
CLEARY MICHAEL DENNIS AGG.CIR.:	447 4G	1987 MIT.CIR.:	NO	NO 5C 5D	0.00 5H
ETHRIDGE WILLIE DANIEL AGG.CIR.: 4C	742	1987 MIT.CIR.:	NO 5A	NO 5D	0.00 5H
JEFFERSON RICHARD AGG.CIR.:	1177 4G	1987 MIT.CIR.:	NO 5A	NO 5D	0.00 5H
WILSON JOSEPH LEE AGG.CIR.:	2722 4G	1988 MIT.CIR.:	YES	NO 5C 5D	0.00 5H
FARROW RICHARD AGG.CIR.:	4024 4G	1990 MIT.CIR.:	NO 5A	NO	0.00 5F 5H
TORO WILLIAM AGG.CIR.:	4025 4G	1990 MIT.CIR.:	NO 5A	NO	0.00 5F 5H
EATON OLLIE ROSCOE AGG.CIR.: 4B	703	1984 MIT.CIR.:	YES	NO 5C 5D	0.00 5H
PIERCE RONALD WILLIAM AGG.CIR.:	1946 4G	1987 MIT.CIR.:	YES	NO 5D	0.01 5F 5H
CLARK REGINALD AGG.CIR.:	439 4G	1987 MIT.CIR.:	NO	NO 5D	0.01 5F 5H
HICKS JOSEPH AGG.CIR.:	1076 4G	1983 MIT.CIR.:	YES	NO 5C	0.01 5F 5H
NAPLES DONALD RICHARD JOSEPH AGG.CIR.:	1780 4G	1990 MIT.CIR.:	YES 5A	NO 5D	0.01 5H
CARROZZA ANTHONY RAMON AGG.CIR.:	388 4G	1989 MIT.CIR.:	NO 5B	NO 5E	0.01 5H
BERTINO FABRIZIO 2ND VICT AGG.CIR.:	2801 4G	1987 MIT.CIR.:	YES 5A	NO	0.01 5F 5H
VASQUEZ PEDRO LOUIS AGG.CIR.: 4C	2574	1988 MIT.CIR.:	NO 5A	NO	0.01 5F 5H

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT.
NICELY RENEE AGG. CIR.: 4C	1791	1983	YES MIT. CIR.: 5A	NO 5D	0.01 5H
RUGGS HARRY LEE AGG. CIR.:	2183 4G	1987	NO MIT. CIR.:	NO 5C	0.02 5F 5H
REIGLE THOMAS AGG. CIR.:	2044 4G	1985	YES MIT. CIR.:	NO 5D	0.02 5F 5H
ANDERSON BRUCE AGG. CIR.: 4B	73	1983	YES MIT. CIR.:	NO 5B 5C	0.02 5H
CORREA NICHOLAS AGG. CIR.: 4C	506	1985	YES MIT. CIR.:	NO 5D	0.02 5F 5H
MUSGROVE IRA AGG. CIR.:	1771 4G	1985	NO MIT. CIR.:	NO 5D	0.03 5F 5H
STATEN ROBERT AGG. CIR.: 4B	2387	1985	NO MIT. CIR.: 5A	NO 5D	0.04 5H
WRIGHT JEANNE ANNE AGG. CIR.: 4C	2761	1984	YES MIT. CIR.: 5A	NO 5D	0.09 5F
BRAND FRANCIS AGG. CIR.: 4E	4038	1991	NO MIT. CIR.: 5A	NO 5F	0.24 5H
CARFOLL JOHN JAMES AGG. CIR.: 4C	394	1988	YES MIT. CIR.: 5A	NO 5C 5D	0.67

IV. One Aggravating and Four Mitigating Circumstances

MC IVER VERNON AGG. CIR.:	1611 4G	1985	NO MIT. CIR.:	NO 5C 5D	0.00 5F 5H
ROSE MICHAEL AGG. CIR.: 4C	2170	1984	YES MIT. CIR.:	NO 5E 5F 5G	0.00 5H
FERRARI SALVATORE AGG. CIR.:	772 4G	1990	NO MIT. CIR.: 5A	NO 5D 5F	0.00 5H
TREADWAY JOHN AGG. CIR.:	2535 4G	1983	NO MIT. CIR.: 5A	NO 5C	0.00 5F 5H

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT.
-----	-----	-----	-----	-----	-----
GRANT MICHAEL AGG.CIR.:	4001 4G	1990 MIT.CIR.:	NO 5A	NO 5C	0.00 5F 5H
SOSSIN MARK WILLIAM AGG.CIR.: 4B	2362	1984 MIT.CIR.:	NO 5A	NO 5D	0.00 5F 5H
COHEN HUMPHREY AGG.CIR.:	463 4G	1984 MIT.CIR.:	YES	NO 5C 5D	0.00 5F 5H
FREEMAN JONATHAN AGG.CIR.: 4B	828	1989 MIT.CIR.:	NO	NO 5C 5D	0.00 5F 5H
CARR CARLTON DENNIS JR AGG.CIR.:	382 4G	1989 MIT.CIR.:	NO 5A	NO 5D	0.01 5F 5H
CUNNINGHAM BRUCE AGG.CIR.:	558 4G	1984 MIT.CIR.:	YES 5A	NO 5C 5D	0.01 5H
FRANKS DONALD MICHAEL AGG.CIR.:	618 4G	1990 MIT.CIR.:	YES 5A	NO 5C 5D	0.01 5H
MACHADO JOSE AGG.CIR.: 4C	1489	1985 MIT.CIR.:	YES 5A	NO 5C	0.01 5F 5H
JONES MICHAEL SPENCER AGG.CIR.:	1251 4G	1989 MIT.CIR.:	NO	NO 5C 5D	0.01 5F 5H
THOMPSON HOWARD NATHANIEL AGG.CIR.:	2471 4G	1985 MIT.CIR.:	NO 5A	NO 5C 5D	0.01 5H
BROOKS KEVIN AGG.CIR.:	4003 4G	1990 MIT.CIR.:	NO	NO 5C 5D	0.01 5F 5H
SOTO JOSE AGG.CIR.:	4007 4G	1991 MIT.CIR.:	NO	NO 5C 5D	0.01 5F 5H
DICKERSON KEITH AGG.CIR.:	649 4G	1988 MIT.CIP.:	YES 5A	NO 5C 5D	0.01 5H
WASHINGTON DELANO AGG.CIR.: 4C	2627	1985 MIT.CIR.:	YES 5A	NO 5D	0.01 5F 5H
BURROUGHS RANDY AGG.CIR.: 4D	321	1990 MIT.CIR.:	NO	NO 5E 5F 5G	0.01 5H

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. -----
DARRIAN CHARLES EDWARD AGG.CIR.:	576 4G	1988 MIT.CIR.:	YES 5A	NO 5C	0.02 5F 5H
GLOVER DAVID AGG.CIR.:	889 4G	1987 MIT.CIR.:	NO 5A	NO 5D	0.02 5F 5H
SAINVALLIER REMY AGG.CIR.: 4B	2195	1985 MIT.CIR.:	YES 5A	NO 5D 5E 5F	0.05
TELFORD MARK AGG.CIR.:	4030 4G	1990 MIT.CIR.:	NO 5A	NO 5D	0.05 5F 5H
SAXTON CALVIN AGG.CIR.: 4C	2230	1988 MIT.CIR.:	NO 5A	NO 5D	0.05 5F 5H
ENGEL HERBERT AGG.CIR.: 4E	726	1986 MIT.CIR.:	YES 5A	NO 5E 5F	0.10 5H
ENGEL WILLIAM AGG.CIR.: 4E	727	1986 MIT.CIR.:	YES 5A	NO 5E 5F	0.20 5H
HUNT JAMES IRVING AGG.CIR.: 4C	1138	1984 MIT.CIR.:	YES 5A	YES 5C	0.55 5F 5H

V. One Aggravating and Five Mitigating Circumstances

DOWNIE JOHN WILLIAM AGG.CIR.:	679 4G	1989 MIT.CIR.:	YES 5A	NO 5C 5D	0.00 5F 5H
HART CRAIG AGG.CIR.:	1027 4G	1985 MIT.CIR.:	NO 5A	NO 5C 5D	0.00 5F 5H
KLATZKIN GERALD MATTHEW AGG.CIR.: 4B	1332	1987 MIT.CIR.:	NO 5B 5C 5D	NO 5E 5F	0.00 5H

VI. One Aggravating and Six Mitigating Circumstances

MICHELICHE HENRY AGG.CIR.: 4C	1658	1985 MIT.CIR.:	YES 5A	NO 5C 5D 5E 5F	0.01 5H
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VII. Two Aggravating and No Mitigating Circumstances

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DEFENDANT'S NAME -----	CASE NUMBER -----	YEAR -----	PENALTY TRIAL -----	DEATH SENTENCE -----	PREDICTED PROB. OF DEATH SENT. -----
BEY MARKO 2A AGG.CIR.: 4C	160 4G	1984 MIT.CIR.:	YES	YES	0.94
KOEDATICH JAMES JEROLD 1A AGG.CIR.: 4A	1337 4G	1984 MIT.CIR.:	YES	YES	0.98
VIII. Two Aggravating and One Mitigating Circumstance					
JAMES MARVIN AUGUSTUS AGG.CIR.: 4B	3008 4G	1990 MIT.CIR.:	NO	NO	0.00 5H
RICHARDSON ARTHUR JUNIOR AGG.CIR.: 4C	2061 4G	1987 MIT.CIR.:	NO	NO	0.00 5H
O'NEAL LOUIS ERIC AGG.CIR.: 4C	1828 4G	1988 MIT.CIR.:	NO	NO	0.01 5H
SPILLANE RICHARD J AGG.CIR.: 4B 4C	2372	1986 MIT.CIR.:	NO	NO	0.03 5H
MONTURI SEBASTIAN 2D VIC AGG.CIR.: 4C	1709 4F	1984 MIT.CIR.:	YES	NO	0.07 5H
KOEDATICH JAMES 2 AGG.CIR.:	1336 4F 4G	1985 MIT.CIR.:	YES	NO	0.07 5H
TAYLOR LEROY AGG.CIR.: 4A	2445 4G	1988 MIT.CIR.:	NO	NO	0.12 5H
PENNINGTON FRANK AGG.CIR.: 4A	1914 4G	1987 MIT.CIR.:	YES	YES 5D	0.45
WILLIAMS JAMES EDWARD 1A AGG.CIR.: 4C	2687 4G	1984 MIT.CIR.:	YES	YES	0.67 5H
WILLIAMS JAMES EDWARD 1B AGG.CIR.: 4C	3005 4G	1989 MIT.CIR.:	NO	NO	0.67 5H
DIFRISCO ANTHONY AGG.CIR.: 4D	119 4F	1988 MIT.CIR.:	YES	YES	0.72 5G
COYLE BRYAN PATRICK AGG.CIR.: 4A 4C	520	1985 MIT.CIR.:	YES	YES	1.00 5B

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT.
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IX. Two Aggravating and Two Mitigating Circumstances					
BROWN VINCENT E AGG.CIR.:	4019 4F 4G	1990 MIT.CIR.:	NO	NO 5D	0.00 5H
HOLMES GREGORY LAMONT AGG.CIR.: 4B	1110 4G	1985 MIT.CIR.:	NO	NO 5D	0.01 5H
CULLEY CARL AGG.CIR.:	544 4F 4G	1984 MIT.CIR.:	NO	NO 5C	0.01 5H
MELLENDEZ ANGEL AGG.CIR.: 4B	1637 4G	1984 MIT.CIR.:	NO	NO 5D	0.01 5H
TAYLOR WILEY DUANE AGG.CIR.: 4B	2448 4G	1988 MIT.CIR.:	NO	NO 5F	0.01 5H
HUFF AARON P AGG.CIR.: 4C	1133 4G	1986 MIT.CIR.:	YES	NO 5D	0.01 5H
CANCIO GUSTAVIO AGG.CIR.: 4B	365 4G	1988 MIT.CIR.:	YES	NO 5F	0.01 5H
MORTON ADRIAN AGG.CIR.: 4B 4C	1738	1986 MIT.CIR.:	NO	NO 5L	0.01 5H
THOMAS CHRISTOPHER AGG.CIR.: 4C	4013 4G	1990 MIT.CIR.:	NO	NO 5D	0.02 5H
TUCKER STANLEY AGG.CIR.: 4C	2545 4G	1989 MIT.CIR.:	NO	NO 5D	0.02 5H
MEROLA THOMAS ANTHONY AGG.CIR.: 4B	1648 4G	1984 MIT.CIR.:	NO	NO 5B	0.02 5H
MCCOLLUM WILLIAM AGG.CIR.:	2819 4F 4G	1985 MIT.CIR.:	NO	NO 5A	0.02 5H
WHEELER RONALD LEON AGG.CIR.: 4C	2649 4G	1984 MIT.CIR.:	NO	NO 5F	0.02 5H
JONES LARRY AGG.CIR.: 4B	1246 4G	1986 MIT.CIR.:	YES	NO 5C	0.02 5H



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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. -----
MUJAHID RASHEED A AGG.CIR.: 4B	1753 4G	1988 MIT.CIR.:	NO	NO 5D	0.03 5H
WASHINGTON COREY AGG.CIR.:	4035 4F 4G	1990 MIT.CIR.:	NO	NO 5C	0.03 5H
RIVERA RAFAEL M AGG.CIR.: 4C	2091 4G	1986 MIT.CIR.:	YES	NO 5D	0.04 5H
WATKINS RICKY AGG.CIR.: 4C	4017 4G	1989 MIT.CIR.:	NO	NO 5D	0.04 5H
MENDEZ INCENZIO B AGG.CIR.: 4C	1640 4G	1984 MIT.CIR.:	YES	NO 5F	0.05 5H
JALIL NELSON AGG.CIR.: 4C	1164 4G	1988 MIT.CIR.:	NO	NO 5F	0.05 5H
BARONE JAMIE AGG.CIR.:	140 4F 4G	1989 MIT.CIR.:	YES	NO 5C	0.06 5H
NIEVES ALBERTO AGG.CIR.: 4A 4B	1793	1988 MIT.CIR.:	YES	NO 5B	0.13 5H
SPRAGGINS JERRY JEROME AGG.CIR.:	2375 4F 4G	1986 MIT.CIR.:	YES	NO 5D	0.14 5F
REESE JOHN SEYMOUR JR AGG.CIR.: 4C	2040 4G	1989 MIT.CIR.:	YES	NO 5D	0.15 5H
MARTINI JOHN MARTIN AGG.CIR.:	3032 4F 4G	1990 MIT.CIR.:	YES	YES 5C	0.16 5H
ZOLA JAMES EDWARD 1A AGG.CIR.: 4C	2795 4G	1984 MIT.CIR.:	YES	YES 5A	0.18 5H
ZOLA JAMES EDWARD 1B AGG.CIR.: 4C	3006 4G	1990 MIT.CIR.:	NO	NO 5A	0.18 5H
PURNELL BRAYNARD ANDRA AGG.CIR.: 4A	2026 4G	1990 MIT.CIR.:	YES	YES 5B	0.51 5H
DIXON PHILLIP A AGG.CIR.: 4C	662 4F	1987 MIT.CIR.:	YES	YES 5F	0.56 5H

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. -----
BIEGENWALD RICHARD 1A AGG.CIR.: 4A 4C	200	1983	YES MIT.CIR.:	YES 5D	0.65 5H
BIEGENWALD RICHARD F 1B AGG.CIR.: 4A 4C	3002	1989	YES MIT.CIR.:	YES 5D	0.65 5H
LODATO BENJAMIN, AGG.CIR.: 4C	1453 4G	1984	YES MIT.CIR.: 5A	YES 5D	0.76
BEY MARKO 2B AGG.CIR.: 4A	3000 4G	1990	YES MIT.CIR.: 5A	YES	0.83 5H
ROSE TEDDY 1A AGG.CIR.:	2172 4F 4H	1985	YES MIT.CIR.: 5A	YES	0.85 5H
JACKSON KEVIN AGG.CIR.: 4C	1158 4G	1987	YES MIT.CIR.: 5A	YES 5E	0.93
RAMSEUR THOMAS C AGG.CIR.: 4A 4C	2015	1983	YES MIT.CIR.: 5A	YES 5D	0.95

X. Two Aggravating and Three Mitigating Circumstances

POMALES DENNIS AGG.CIR.: 4B	4018 4G	1990	NO MIT.CIR.:	NO 5C	0.00 5F 5H
WILSON LESTER ALLEN AGG.CIR.:	2723 4F 4G	1986	NO MIT.CIR.:	NO 5D	0.00 5F 5H
HIGHLANDER RICHARD LEE AGG.CIR.: 4B	1079 4F	1989	YES MIT.CIR.: 5A	NO 5D	0.00 5H
ALLEN KAREN AGG.CIR.: 4C	52 4G	1989	NO MIT.CIR.:	NO 5D	0.01 5F 5H
BUSBY WAYNE AGG.CIR.:	338 4F 4G	1989	YES MIT.CIR.: 5A	NO 5D	0.01 5H
PRESHER JOSEPH AGG.CIR.: 4C	1976 4G	1989	NO MIT.CIR.: 5A	NO 5C	0.01 5H
MAYRON GARY JOSEPH AGG.CIR.: 4C	1576 4G	1989	YES MIT.CIR.: 5A	NO 5D	0.03 5H

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. -----
GAINER FRED AGG.CIR.: 4B	4020 4G	1987	NO MIT.CIR.: 5A	NO 5D	0.03 5H
CAVINESS DWAYNE VANCE AGG.CIR.:	402 4F 4G	1985	NO MIT.CIR.:	NO 5C	0.03 5F 5H
THAMMAN NARESH AGG.CIR.: 4B	2453 4G	1989	NO MIT.CIR.: 5A	NO 5F	0.04 5H
VALDEZ GILBERTO AGG.CIR.: 4C	4016 4G	1989	NO MIT.CIR.:	NO 5D	0.05 5F 5H
SPRUELL QUINCY HAYWARD AGG.CIR.: 4C	2389 4G	1985	NO MIT.CIR.:	NO 5C	0.06 5F 5H
NEAPOLITANO ANTHONY AGG.CIR.: 4C	1783 4G	1984	YES MIT.CIR.: 5A	NO 5C	0.24 5F
COLLINS DAVID ANDREW AGG.CIR.: 4C	470 4G	1983	NO MIT.CIR.:	NO 5C	0.28 5F 5H
MOORE SAMUEL 1ST VIC AGG.CIR.: 4C	1720 4G	1987	YES MIT.CIR.: 5A	YES 5F	0.42 5H
MOORE SAMUEL 2D VIC AGG.CIR.: 4C	2810 4G	1987	YES MIT.CIR.: 5A	YES 5F	0.42 5H
BOLINGER ROBERT AGG.CIR.: 4C	226 4G	1986	NO MIT.CIR.:	NO 5D	0.61 5F 5H
CLAUSELL JAMES DOUGLAS 1A AGG.CIR.: 4B 4D	443	1986	YES MIT.CIR.:	YES 5C	0.68 5F 5H
CLAUSELL JAMES DOUGLAS 1B AGG.CIR.: 4B 4D	3007	1986	NO MIT.CIR.:	NO 5C	0.68 5F 5H
ROSE TEDDY 1B AGG.CIR.:	3003 4F 4H	1991	YES MIT.CIR.: 5A	NO 5D	0.72 5H
HENDERSON JAMES AGG.CIR.: 4C	4033 4G	1987	NO MIT.CIR.: 5A	NO 5D	0.80 5H

XI. Two Aggravating and Four Mitigating Circumstances

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT.
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WIDER JAMES AGG.CIR.: 4B	2673 4G	1989 MIT.CIR.:	NO 5A	NO 5D	0.00 5F 5H
SETTE MARK JOHN AGG.CIR.: 4B 4C	2270	1989 MIT.CIR.:	YES	NO 5C 5D	0.00 5F 5H
BRUNSON ALPHONSO AGG.CIR.:	305 4F 4G	1990 MIT.CIR.:	YES 5A	NO 5C 5D	0.00 5H
TIMPSON ALFONSO DEAN AGG.CIR.: 4C	2500 4G	1985 MIT.CIR.:	NO 5A	NO 5C 5D	0.00 5H
REDDEN RICHARD JOSEPH AGG.CIR.: 4B	2030 4G	1987 MIT.CIR.:	YES	NO 5C 5D	0.00 5G 5H
EDWARDS RALPH AGG.CIR.:	716 4F 4G	1986 MIT.CIR.:	YES	NO 5C 5D	0.01 5F 5H
LUCIANA MARK AGG.CIR.:	1476 4F 4G	1989 MIT.CIR.:	YES	NO 5C 5D	0.01 5F 5H
SLOVER JOSEPH CHRISTOPHER AGG.CIR.:	4008 4F 4G	1990 MIT.CIR.:	NO	NO 5C 5D	0.01 5F 5H
MARTIN DANIEL LOUIS AGG.CIR.: 4B	1533 4G	1984 MIT.CIR.:	YES 5A	NO 5D	0.03 5F 5H
DIAZ FELIX R AGG.CIR.:	673 4F 4G	1989 MIT.CIR.:	YES	NO 5C	0.12 5F 5G 5H
BENGA JOHN AGG.CIR.: 4B 4C	177	1986 MIT.CIR.:	YES 5A	NO 5C 5D	0.31 5F
ERAZO SAMUEL AGG.CIR.: 4A 4C	728	1987 MIT.CIR.:	YES 5A 5B	YES 5D 5E	0.64
GERALD WALTER MEIN AGG.CIR.: 4C	868 4G	1984 MIT.CIR.:	YES 5A	YES 5D	0.96 5F 5H

XII. Two Aggravating and Five Mitigating Circumstances

RUSSO DAVID MARK AGG.CIR.: 4B	2190 4G	1987 MIT.CIR.:	YES 5A	NO 5C 5D	0.00 5F 5H
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DEFENDANT'S NAME -----		CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT.
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BLACKMON CRAIG AGG.CIR.: 4C		209 4G	1988 MIT.CIR.:	YES 5A	NO 5C 5D	0.01 5F 5H
LIPPEN GARY HOWARD AGG.CIR.: 4C		4034 4G	1988 MIT.CIR.:	NO	NO 5C 5D 5E 5F	0.01 5H

XIII. Three Aggravating and No Mitigating Circumstances

HARVEY NATHANIEL AGG.CIR.: 4C		1031 4F 4G	1986 MIT.CIR.:	YES	YES	0.95
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XIV. Three Aggravating and One Mitigating Circumstance

MINCEY SAMUEL AGG.CIR.: 4C		4009 4F 4G	1990 MIT.CIR.:	NO	NO	0.11 5H
JOHNSON WALTER 1ST VIC AGG.CIR.: 4C		2808 4F 4G	1985 MIT.CIR.:	YES	NO	0.38 5H

XV. Three Aggravating and Two Mitigating Circumstances

ROGERS MARCUS ORLANDO AGG.CIR.: 4A 4C		2146 4G	1986 MIT.CIR.:	NO 5A	NO	0.04 5H
HIGHTOWER JACINTO AGG.CIR.: 4C		1080 4F 4G	1986 MIT.CIR.:	YES	YES 5F	0.08 5H
BOOKER GEORGE 2D VIC AGG.CIR.: 4A 4C		2825 4F	1987 MIT.CIR.:	YES 5A	NO	0.53 5H
BOOKER GEORGE 1ST VICT AGG.CIR.: 4A 4C		231 4G	1987 MIT.CIR.:	YES 5A	NO	0.67 5H
JOHNSON WALTER 2D VICT AGG.CIR.: 4C		1227 4F 4G	1985 MIT.CIR.:	YES 5A	YES	0.68 5H
MC DOUGALD ANTHONY 1ST VIC AGG.CIR.: 4C		1598 4F 4G	1986 MIT.CIR.:	YES 5A	YES	0.80 5H
MC DOUGALD ANTHONY 2D VIC AGG.CIR.: 4C		2811 4F 4G	1986 MIT.CIR.:	YES 5A	YES	0.80 5H

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DEFENDANT'S NAME -----	CASE NUMBER	YEAR	PENALTY TRIAL	DEATH SENTENCE	PREDICTED PROB. OF DEATH SENT. -----
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XVI. Three Aggravating and Three Mitigating Circumstances

PLOPPERT CHARLES MATTHEW AGG.CIR.: 4C	1958 4F 4G	1989 MIT.CIR.:	YES	NO 5D 5E	0.00 5H
WESTON ELISHA AGG.CIR.: 4C	2647 4F 4G	1986 MIT.CIR.:	YES	NO 5C	0.03 5H
KISE RAYMOND 1A AGG.CIR.: 4C	1329 4F 4G	1987 MIT.CIR.:	YES	YES 5E 5F	0.37 5H
MANFREDONIA MICHAEL J AGG.CIR.: 4C	1510 4F 4G	1986 MIT.CIR.:	YES	NO 5C 5F	0.42
SCHIAVO DOMINICK RICHARD AGG.CIR.: 4B	2241 4F 4H	1987 MIT.CIR.:	YES	YES 5C 5F	0.99 5H

XVII. Three Aggravating and Four Mitigating Circumstances

KISE RAYMOND 1B AGG.CIR.: 4C	3001 4F 4G	1987 MIT.CIR.:	YES	NO 5C 5E 5F	0.28 5H
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XVIII. Four Aggravating and One Mitigating Circumstance

KOEDATICH JAMES JEROLD 1B AGG.CIR.: 4A 4C	3018 4F 4G	1990 MIT.CIR.:	YES	NO	0.56 5H
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September 24, 1991

Appendix H

Table 9. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found or Present in Cases in Which the 4A, 4D, 4E, or 4H Circumstance Found or Present<sup>1/</sup>

<u>A</u> Number of Statutory Mitigating Circumstances	<u>B</u>	<u>C</u> Number of Statutory Aggravating Circumstances			
		<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>
0				1.0 (1.1)	
1	.0 (0/1)			.75 (3/4)	.0 (0/1)
2			.0 (0/3)	.86 (6/7)	.25 (1/4)
3			1.0 (1/1)	.33 (1/3)	.0 (0/2)
4				1.0 (1/1)	.0 (0/2)
5					
6					
	.0 (0/1)	.25 (1/4)	.75 (12/16)	.11 (1/9)	

1. This table includes only cases that are death-eligible under current law.

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Appendix H

Table 8. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found or Present Among Cases with the 4H Circumstance Found or Present<sup>1/</sup>

<u>A</u> Number of Statutory Mitigating Circumstances	<u>B</u>	<u>C</u> Number of Statutory Aggravating Circumstances		
		<u>4</u>	<u>3</u>	<u>2</u>
0				
1				
2				1.0 (1/1)
3			1.0 (1/1)	.0 (0/1)
4				
5				
6				
			1.0 (1/1)	.50 (1/2)

1. This table includes only cases that are death-eligible under current law.



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Appendix H

Table 7. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found or Present Among Cases with the 4G Circumstance Found or Present<sup>1/</sup>

<u>A</u> Number of Statutory Mitigating Circumstances	<u>B</u>	<u>C</u> Number of Statutory Aggravating Circumstances			
		<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>
0			1.0 (1/1)	1.0 (2/2)	
1	.0 (0/1)		.0 (0/2)	.25 (2/8)	.0 (0/12)
2			.67 (4/6)	.21 (6/28)	.04 (1/25)
3			.25 (1/4)	.12 (2/17)	.0 (0/19)
4			.0 (0/1)	.10 (1/10)	.0 (0/16)
5				.0 (0/3)	.0 (0/2)
6					
		<hr/>			
		.0 (0/1)	.43 (6/14)	.19 (13/68)	.01 (1/74)

1. This table includes only cases that are death-eligible under current law.

September 24, 1991

Appendix H

Table 6. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found or Present Among Cases with the 4F Circumstance Found or Present<sup>1/</sup>

A Number of Statutory Mitigating Circumstances	B	C Number of Statutory Aggravating Circumstances			
		4	3	2	E 1
0			1.0 (1/1)		
1	.0 (0/1)		.0 (0/2)	.33 (1/3)	
2			.80 (4/5)	.37 (3/8)	.0 (0/4)
3			.40 (2/5)	.0 (0/5)	.0 (0/1)
4			.0 (0/1)	.0 (0/5)	
5					
6					
			<hr/>		
	.0 (0/1)		.50 (7/14)	.19 (4/21)	.0 (0/5)

1. This table includes only cases that are death-eligible under current law.

September 24, 1991

Appendix H

Table 5. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found or Present Among Cases with the 4E Circumstance Found or Present<sup>1/</sup>

<u>A</u> Number of Statutory Mitigating Circumstances	<u>B</u>	<u>C</u> Number of Statutory Aggravating Circumstances			<u>E</u>
		<u>4</u>	<u>3</u>	<u>2</u>	
0					
1					
2					1.0 (1/1)
3					.0 (0/1)
4					.0 (0/2)
5					
6					
<hr/>					.25 (1/4)

1. This table includes only cases that are death-eligible under current law.

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Appendix H

Table 4. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found or Present Among Cases with the 4D Circumstance Found or Present<sup>1/</sup>

<u>A</u> Number of Statutory Mitigating Circumstances	<u>B</u>	<u>C</u> Number of Statutory Aggravating Circumstances		<u>D</u>	<u>E</u>
		<u>4</u>	<u>3</u>		
0					
1				1.0 (1/1)	
2					.0 (0/1)
3				.50 (1/2)	.0 (0/1)
4					
5					
6					
				.67 (2/3)	.0 (0/2)

1. This table includes only cases that are death-eligible under current law.

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Appendix H

Table 3. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found or Present Among Cases with the 4C Circumstance Found or Present<sup>1/</sup>

A Number of Statutory Mitigating Circumstances	B <u>4</u>	C Number of Statutory Aggravating Circumstances		
		<u>3</u>	<u>2</u>	<u>1</u>
0		1.0 (1/1)	1.0 (1/1)	
1	.0 (0/1)	.0 (0/2)	.29 (2/7)	.50 (1/2)
2		.57 (4/7)	.39 (7/18)	.17 (1/6)
3		.25 (1/4)	.18 (2/11)	.0 (0/7)
4		.0 (0/1)	.40 (2/5)	.20 (1/5)
5			.0 (0/2)	
6				.0 (0/1)
	.0 (0/1)	.40 (6/15)	.32 (14/44)	.14 (3/21)

1. This table includes only cases that are death-eligible under current law.

September 24, 1991

Appendix H

Table 2. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found or Present Among Cases with the 4B Circumstance Found or Present<sup>1/</sup>

<u>A</u> Number of Statutory Mitigating Circumstances	<u>B</u> 4	<u>C</u> Number of Statutory Aggravating Circumstances		
		<u>3</u>	<u>2</u>	<u>E</u> 1
0				
1			.0 (0/2)	.0 (0/1)
2			.0 (0/9)	.0 (0/5)
3		1.0 (1/1)	.17 (1/6)	.0 (0/5)
4			.0 (0/5)	.0 (0/3)
5			.0 (0/1)	.0 (0/1)
6				
		1.0 (1/1)	.05 (1/23)	.0 (0/15)

1. This table includes only cases that are death-eligible under current law.

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Appendix H

Table 1. Death-Sentencing Rates Controlling for the Number of Aggravating and Mitigating Factors Found or Present Among Cases with the 4A Circumstance Found or Present<sup>1/</sup>

<u>A</u> Number of Statutory Mitigating Circumstances	<u>B</u> <u>C</u> <u>D</u> <u>E</u> Number of Statutory Aggravating Circumstances			
	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>
0			1.0 (1/1)	
1	.0 (0/1)		.67 (2/3)	.0 (0/1)
2		.0 (0/3)	.83 (5/6)	.0 (0/2)
3				
4			1.0 (1/1)	
5				
6				
	.0 (0/1)	.0 (0/3)	.82 (9/11)	.0 (0/3)

1. This table includes only cases that are death-eligible under current law.

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Technical Appendix 1. Screening Questionnaire







- Q12. By Own Conduct  $\frac{\quad}{7}$   
or
- Q13. Defendant Procured Contract Killing  $\frac{\quad}{8}$
- Q14. Defendant had a Prior Murder (4a)  $\frac{\quad}{9}$
- Q15. Grave Risk of Death to Another (4b)  $\frac{\quad}{10}$
- Q16. Outrageously or Wantonly Vile (4c)  $\frac{\quad}{11}$
- Q16A. Intent to Cause Extreme Physical  
or Mental Suffering (4C(1))  $\frac{\quad}{12}$
- Q16B. Killing not Necessary (4C(2))  $\frac{\quad}{13}$
- Q16C. Mutilation after Death (4c(3))  $\frac{\quad}{14}$
- Q17. Pecuniary Motive (4d)  
(Defendant paid a killer, insurance  
proceeds or other similar motive).  $\frac{\quad}{15}$
- Q18. Defendant Hired the Killer (4e)  $\frac{\quad}{16}$
- Q19. Avoid Detection, Apprehension, etc. (4f)  $\frac{\quad}{17}$
- Q19A. Avoid detection (by witness)  
for present or earlier crime  $\frac{\quad}{18}$
- Q19B. Avoid Apprehension or Escape  
Custody  $\frac{\quad}{19}$
- Q20. Serious Contemporaneous felony/attempt to  
commit felony/flight after committing  
felony involved (4g)  $\frac{\quad}{20}$
- Q20A. Murder (4g(1))  $\frac{\quad}{21}$
- Q20B. Robbery (4g(2))  $\frac{\quad}{22}$
- Q20C. Sexual Assault (4g(3))  $\frac{\quad}{23}$

Q20D. Arson (4g(4))     /  
24

Q20E. Burglary (4g(5))     /  
25

Q20F. Kidnapping (4g(6))     /  
26

Q21. Victim a Public Servant (4h)     /  
27

Q22. Status in Project     /  
28

Codes for Question 22:

- 1 = Clearly in (Category 1)
- 2 = Questionable (Category 2)
- 3 = Clearly Out (Category 3)
- 4 = No information available in file

Q23. Otherwise excluded (that is, exclusion on a categorical basis other than a lack of evidence of death eligibility under the act).     /  
29

Codes for Question 23:

- 1 = Death by Auto
- 2 = Pre-August 5, 1982 Homicide
- 3 = Other (Indicate Reason) \_\_\_\_\_
- 9 = Not Applicable

Q24-29 Source Reports consulted: Use the following codes to answer questions 24 to 29:

- 1 = This source was consulted
- 2 = This source was not consulted.

Q24. Presentence Report     /  
30

Q25. Indictment     /  
31

Q26. Witness Statements     /  
32

Q27. Police Report     /  
33

Q28. Autopsy Report      /      /  
34

Q29. Other (Specify) \_\_\_\_\_ /      /  
35

\*Q30. Date Coded      /      / - /      /      / - /      /      /  
36 37 38 39 40 41 42 43

Q31. Coder ID      /      /  
44

(See list of coders and their corresponding codes  
in the general instruction sheet)

Brief Sketch of Facts (Limit of 240 Characters including spaces  
between words. Do not use slashes (/) and  
semi-colons(;) since they are special SAS  
Characters).

---

---

---

---

Co-defendants:

Conviction: (Use codes for  
questions 8 and 9)

1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

\* Refer to specific instructions in general instruction sheet.

September 24, 1991

Technical Appendix 2. Protocol for Screening Codes

11/19/88 (Revised 12/10/88)

New Jersey Proportionality Review Project

RE: Instructions for Preliminary Case Screening

A. The Purpose of Screening

These instructions are for law-trained coders who are assigned the task of screening homicide cases for possible inclusion in the study which will provide the basis for the proportionality review project. The purpose of the initial screening is to exclude from the study cases which clearly did not involve the mens rea or "own conduct" required for capital murder and whose facts clearly indicate a statutory aggravating circumstance was not present (Category 3). If the presentence report and judgment contain no evidence as to the presence of any one of these three conditions, and there is no significant question about the death-eligibility of the case, it is coded "clearly out."

A second objective is to identify as clearly in the study (Category 1) those cases in which it is clear that there was sufficient admissible evidence to support a capital murder conviction and a finding that one or more statutory aggravating circumstances were present. A third objective is to identify those cases in which, on the basis of the presentence report and judgment, it appears possible that, upon the development of a full file of discoverable information, there will be sufficient admissible evidence to provide a rational basis for a fact finder to convict the defendant of capital murder and find a statutory aggravating circumstance present. This would be best described as a tentative Category 2 classification. When a case meets this test, we will commence the development of additional

information up to and including a full file of discoverable information.  
If, in the course of this data collection, it becomes clear that the case  
belongs in Category 1 or 3, we will recommend that classification. If,  
upon the development of a full case file, the case does not satisfy the  
test for inclusion in Category 1 or 3 but the file includes sufficient  
evidence to provide a rational basis for a fact finder to convict the  
defendant of capital murder and find a statutory aggravating circumstance  
present, the case will be included in the study in Category 2. If,  
however, it fails this rational basis test, it will be classified as  
"clearly out" (Category 3). Thus, at the conclusion of the screening  
process, each case will receive a final classification into Category 1, 2,  
or 3, with the cases in Categories 1 and 2 in the study and those in  
Category 3 excluded. [(a) that the defendant purposely or knowingly killed  
by his own conduct (or procured the commission of the offense by payment or  
promise of payment) and (b) that a statutory aggravating circumstance was  
present to justify coding a full questionnaire in the case (Category 1).  
Our third group of cases (Category 2) will be those in which, on the basis  
of the preliminary screen, there is some doubt whether the case belongs in  
Category 1 or 3. For these cases, we will obtain further information  
before making the determination of whether it belongs in Category 1, 3.]

When there is a question that facts bearing on any finding during the  
screening process might not be admissible in court, note that finding as  
questionable and note the reason in the thumbnail sketch. Maintain a list  
of all such cases as well as any other cases with problems of  
interpretation. These cases will be periodically reviewed with Messrs  
Baldus and McCarthy.



Another purpose of the initial screening is to develop a coding sheet for computer entry which will include the name of the defendant, the date and county of the offense, the defendant's SBI and indictment number, [the prosecutor's and defense attorney's names, and phone numbers,] a brief statement of the facts, and codes for the original and final homicide charges. In addition, this file will indicate the screening decision and the coding for each of the case characteristics which underlies the initial screening decision.

This file will be periodically listed and distributed to interested parties to enable them (a) to provide us with information needed to complete the initial screen and (b) challenge the accuracy of our initial screening determinations.

#### B. Sources of Information

The information required for the initial screening decision and for the completion of the screening questionnaire is usually obtainable from several sources:

The presentencing report. Often this document will clearly indicate a case is not death eligible (e.g., a death by auto or an obvious crime of passion); however, when there is [even] a significant [slight] question, the case will remain in the questionable category. Also, the presentencing report may or may not include the following relevant documents:

- a) The police report, which may include witness statements,

- b) The autopsy report,
- c) The judgment of conviction.

Each of these documents may be in the file or described in it even if not included in the presentence report.

Be sure to indicate on the questionnaire the sources of information that you consulted in coding the questionnaire. If "Other source" is checked, indicate the source by name, using no more than 13 letters including spaces. If these documents are still insufficient to support a classification into categories 1 or 3, either the full discovery package or more limited supplementation should be requested.

#### C. Completing the Questionnaire

The numbers in the left margin are question numbers; the numbers in the body of the questionnaire are variable numbers.

Defendant's name - Be sure to enter the last name first, followed by a comma, and then the first name.

The county name, SBI and indictment number, and date of offense are self-explanatory.

For date of offense, enter two digits for month, day, and year.

The original charge is from the indictment or accusation. [If it is unclear whether or not the original charge was "own conduct" murder, code the original charge variable "1."] For type of conviction, enter whether it was by plea or the result of a trial.

[For the "status in the project variable," check the appropriate column.]

If the case resulted in a murder trial conviction or murder plea and a life or death sentence was imposed, check the penalty trial master list to see if a penalty trial was held. If it was, code the appropriate answer.

The sentence imposed should be entered for all cases.

The required mens rea for capital murder is purpose to kill or knowledge that the victim will die. The knowledge requirement should be interpreted as a perception of "practically certain" or a "high probability" that the defendant's conduct would cause death. If the uncertainty in the case is whether the defendant intended serious bodily harm versus death, or whether the probability of death perceived by the defendant was sufficiently high to constitute "knowledge," classify the case as questionable.

"By own conduct" means that the defendant actively and directly participated in the homicidal act, i.e., the infliction of injuries from which the victim died, although the state does not have to prove that a particular blow dealt by the defendant was the sole cause of the victim's death. The critical elements in determining whether the defendant actively and directly participated are that the defendant in fact acted and the

immediacy of his conduct to the victim's demise. If the defendant did not take part in the infliction of the fatal wounds, his case is not death-eligible under the statute unless it involved a contract killing. Contract killing means the defendant hired a killer. There had to have been a "payment or promise of payment of anything of pecuniary value."

Instructions for the statutory aggravating circumstances are as follows:

- 4a Defendant had a prior murder conviction - this information should be obtained from a verified judgment of conviction or a rap sheet in the file. It should not apply if the prior murder occurred while the defendant was a juvenile [or an adult]. Note on the short summary if the murder conviction was out of state. Also check appellate court reports to see if the conviction was reversed on appeal. Code as "in" if a prior murder conviction was on appeal at the time of the homicide but as not present if it was reversed. [There is, however, a legal issue whether murders committed while defendant was a juvenile should apply.]

Sometimes the file will indicate only a charge of murder and not indicate what conviction resulted. In this event, code as uncertain and seek information to resolve.

[For the time being, code as questionable if the murder was a juvenile adjudication, or was out of state. Code as "in" so long as there is a conviction, even if an appeal.]

4b Grave risk of death to another. The code requires that defendant "purposefully or knowingly" created the risk. As for the conduct that would trigger this aggravator, the New Jersey Supreme Court (hereafter "the Court") has not yet construed this provision. We should therefore take a fairly expansive approach to it. It could potentially apply when any one of the following conditions are met:

- [1. Multiple victims are killed in a single transaction,]
1. The defendant also injured one or more other people with a deadly weapon, which should be defined per Sec. 2C:11-1 as a firearm, or other device or weapon which could cause death or serious bodily harm,
2. The defendant also attempted to kill or seriously injure another person,
3. The defendant's method of killing [made an attack directed at] a victim [which] entailed a high probability, that was known (or should have been known) to the defendant, that another person could be killed or seriously injured, i.e., the other person was within a "zone of danger" perceived by defendant. Examples would include shooting at a victim with other people in range or setting a house on fire to kill a victim with knowledge that other people were in the building, whether or not they survived the blaze.

4c The outrageously or wantonly vile factor has been construed by the Court to apply in two possible situations, both of which may apply in a given case.

1. Torture or aggravated assault, which requires the presence of two factors, a and b.

a. Did a victim or a third person, who survived, suffer severe physical or mental suffering? Severity is measured by intensity of the pain or duration of the pain or a combination of both. Evidence that could support an affirmative answer would be multiple shots (other than to the head), multiple stabbings that are not lethal, prolonged physical suffering after wounding, delay between wounding and death, and psychological suffering before wounding and killing, e.g., victim was told of his impending death. Do not use any artificial standard, such as number of wounds, to find this factor. This factor would not be present if the victim was knocked unconscious by a single or a few rapid blows or shots. Indeed, there should be a presumption against finding this factor when only a single blow or shot is involved.

and

b. Did defendant appear to intend to cause the severe pain or suffering because, for example, of sadism, hatred for the victim, or a third person to whom the suffering was directed, revenge, jealousy or sexual depravity? If both items a and b are present, the 4c factor should be coded present.

2. Depravity

Code the variable present if either of the following situations exist:

- a. Did defendant appear to have no purpose beyond the pleasure or gratification of killing? This circumstance would apply when the defendant acted solely for the enjoyment of killing, satisfies a curiosity about what killing or dying is like, attempts to demonstrate physical or psychological prowess, appears to have no apparent reason, or appears totally indifferent to the value of human life (e.g., intentionally drives a car onto a sidewalk for the thrill of killing people). In such cases, the identity of the victim, beyond being a human being, is normally irrelevant. In contrast, the depravity factor is not present when the case involves a traditional murder motive such as revenge, envy, hatred, jealousy, greed, anger, avoiding detection, apprehension or confinement, sex, obtaining money or goods, or retaliation. In these cases, the identity of the victim is often highly relevant to the defendant's motive. If a defendant has different motives in killing multiple victims, code any one that satisfies a 4c requirement.

or

- b. Mutilation after death. Did the defendant mutilate a body that be believed was no longer a live human being?

- 4d Pecuniary gain - This factor has not been defined by the Court. It applies only when the killing is essential to the pecuniary gain and should not include ordinary robbery or burglary killings. It would clearly embrace situations such as when (a) the defendant was a hired killer, (b) the defendant committed the murder on his own account to collect insurance proceeds, or (c) the defendant killed to obtain an inheritance. [A more expansive reading would deem it present when the defendant kills in the course of a robbery or burglary or in the course of any other contemporaneous crime with a pecuniary nature (e.g., arson to collect insurance). For this initial screening, code this factor as present when any of those circumstances exist.]
- 4e Defendant [hired or encouraged the killer by explicit agreement or implicit understanding] procured the killing by payment or promise of payment of anything of pecuniary value (which should be limited to benefits with a market value).
- 4f Avoid detection, apprehension, or escape. This is another aggravator which the Court has not yet defined. It most clearly applies when the defendant kills to avoid arrest, custody, or merely questioning by police officers. It also has potential applicability if (a) the victim was a witness to an earlier crime or (b) the victim was a witness to a crime (e.g., rape or armed robbery) contemporaneous to the principal murder. Whenever there is a robbery or any other contemporaneous offense associated with a killing, do not code the factor as present or questionable, unless the facts indicate [clearly] that it was [not] one of the motives for the killing. [This would be especially true when the victim was unarmed.] A presumption against



this factor would exist if the victim of the contemporaneous crime drew a gun or otherwise tried to kill or repel defendant [with deadly force].

4g . Contemporaneous felony - because the section does not require the completion of the contemporaneous offense, an attempt is sufficient to support this factor.

With respect to each contemporaneous felony, check first to see if it was charged and whether there was a conviction. However, if the basis for such a charge is clearly present, treat the factor as present, whether or not it was charged or resulted in a conviction. When applying the statutory provisions for the contemporaneous felonies to the cases, consult the relevant statutory provisions.

A person is guilty of robbery if, in the course of committing theft, he inflicts bodily injury or uses force upon another or threatens another with or purposefully puts him in fear of immediate bodily injury, or commits or threatens immediately to commit any crime of the first or second degree. Sexual assault is a complicated crime and defined in 2C:14-2, which you should have with you when you are coding. Arson is also a complicated crime at 2C:17-1.

Burglary is a broadly defined crime wherein a person is guilty if "with purpose to commit an offense therein," he enters a structure or separately secured or occupied portion thereof, unless the structure was at the time open to the public, or the defendant is licensed or privileged to enter, or

defendant "surreptitiously" remains in a structure, or separately secured place knowing he is not licensed or privileged to do so.

Kidnapping at 2C:13-1 is also a complicated crime.

4h Victim a public servant. The Court has not construed this provision. Thus, it is not clear whether the defendant had to know that the victim was engaged in the performance of his "official duties." Thus, until this issue is resolved, you should treat the factor as present in cases in which the defendant unknowingly kills an officer in plainclothes working undercover, or off duty with authority to prevent crime. The second part of the factor requires intent to kill because of the victim's official status (e.g., revenge against a law officer who earlier helped put defendant away).

You should code question 13, "Status in project," to reflect your conclusions as to the status of the case. Code this variable "4" if there is no information in the file or if the presentence report gives you no sense of what the case involved, e.g., only the offender's self-serving account. Also make an entry for each of the remaining variables concerning the mens rea, conduct, and statutory aggravating circumstances.

Sources consulted. Indicate which sources you consulted in conducting your screen. Items in addition to the presentence report, such as the indictment and police report, should be checked whether they are included in the presentence report or are a separate part of the entire file.

Coder signature and date. Sign your name and print it below with date code (two digits for month, day, and year).

Brief statement of facts. Provide here a thumbnail sketch of the case which indicates the statutory aggravating circumstance(s) you think do or may apply in questionable cases. Include information on defendant/victim relationship, motive, mode of killing, presence of drugs, level of violence, defendant priors, defenses invoked. The following would be an example: Rob (4g), V police (4h), relationship, 8 people held hostage (4g), 1 violent prior. If others in addition to the defendant participated in the violence or if the defendant hired the killer, so indicate. For priors, itemize by name: homicides (by type), robbery, rape, arson, burglary, and kidnapping. For other priors, simply indicate whether they were violent or nonviolent. Also flag possible mens rea or conduct issues, e.g., unclear if defendant intended to kill or only to cause physical suffering. Limit your summary to 300 characters including blank spaces between words. Anything in excess of this limit cannot be entered into the computer file for the case.

SUPPLEMENTAL CASE SCREENING INSTRUCTIONS

1. p.7 #2 Because of the amendment to N.J.S.A. 2C:11-3(c)(4)(g), adding murder as a contemporaneous offense, for offenses committed subsequent to the effective date of the amendment (January 17, 1986), attempts to murder another person are coded as a 4g, not a 4b.

September 24, 1991

Technical Appendix 3. Progress Report

NEW JERSEY PROPORTIONALITY REVIEW PROJECT  
 PROGRESS REPORT ON PRELIMINARY CASE SCREENING

OFFENDER:- ANTHONY, MARK

PROJECT STATUS:- CLEARLY OUT

A. IDENTIFYING AND PROCEDURAL INFORMATION:-

SBI NUMBER	COUNTY OF ARREST	DATE OF OFFENSE	DATE OF ARREST	INDICTMENT OR ACCUSATION #	HOMICIDE CHARGE AT ARREST	HOMICIDE CHARGE AT INDICTMENT OR AT ACCUSATION	TYPE OF CONVICTION
930671A	CAMDEN	01-26-89	01-26-89	189-041012	MURDER	MURDER	TRIAL

FINAL HOMICIDE CONVICTION	PENALTY TRIAL	AGG FACTOR(S) FOUND IF PENALTY TRIAL	SENTENCE	DEFENSE COUNSEL	PHONE # FOR DEFENSE	DATE CODED	CODER
MURDER	NO	NOT APPLICABLE	LIFE	AGRE	6094294949	07-28-90	L

B. MENS REA, OWN CONDUCT & STATUTORY AGGRAVATING FACTORS:-

MENS REA	BY OWN CONDUCT	CONTRACT KILLING	PRIOR MURDER (4A)	GRAVE RISK (4B)	WANTON OR VILE (4C)	CAUSE SUFFERING (4C(1))	FOR PLEASURE (4C(2))	MUTILATE AFTER DEATH (4C(3))	PECUNIARY MOTIVE (4D)
YES	YES	NO	NO	NO	NO	NO	NO	NO	NO

DEFENDANT HIRED KILLER (4E)	AVOID DETECTION (4F)	AVOID APPREHENSION (4F)	MURDER (4G(1))	ROBBERY (4G(2))	SEXUAL ASSAULT (4G(3))	ARSON (4G(4))	BURGLARY (4G(5))	KIDNAPPING (4G(6))	PUBLIC SERVANT (4H)
NO	NO	NO	NO	NO	NO	NO	NO	NO	NO

C. SOURCES CONSULTED:-

PRESENTENCE REPORT	INDICTMENT	WITNESS STATEMENTS	POLICE REPORT	AUTOPSY REPORT	OTHER SOURCES
YES	NO	NO	NO	NO	YES

D. OTHER REASON FOR CASE EXCLUSION:- NOT APPLICABLE

E. PD CASE #:-

F. DATE REVIEWED:- 99-89-99

E. CASE SUMMARY:-

D AND V WERE EX-LOVERS.D WANTED V BACK, BUT V SAID SHE WAS IN LOVE WITH ANOTHER WOMAN.D AND V ARGUE,V CUT D'S FACE WITH A KNIFE.D TOLD V'S LOVER HE'D KILL V. 1 WEEK LATER,D SHOT V IN THE HEAD.NO FACTORS.1 VIOLENT PRIOR.JURY VERDICT:MURDER. NO PENALTY TRIAL.

September 24, 1991

Technical Appendix 4. Data Collection Instrument (DCI)

June 23, 1989  
(Rev. 10/5/89)

New Jersey Proportionality Review Project

Homicide Case Data Collection Instrument (DCI)

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New Jersey Proportionality Review Project

Homicide Case Data Collection Instrument

Coder's last name

June 23, 1989 (Rev. 10/5/89)

Project Case #

NJ1

I. Identifying and Procedural Information -- For questions 1-27A, leave a question blank if the answer is unknown

Card: 01

Note on data sources. At the beginning of each major section, indicate the sources of data used for coding. The source codes are:

- 1. Presentence Report
2. Indictment
3. Witness Statement
4. Police Report
5. Autopsy Report
6. Death Certificate
7. Reports on defendant's mental state - Psychologist, Psychiatrist, etc.
8. Judgment of Conviction (JOC)
9. Trial Transcript
10. Transcript of Sentencing Hearing
11. Trial Court Docket Sheet
12. Appellate Briefs
13. Public Defender Study
14. FBI RAP Sheet
15. Judicial Opinion
16. Other (specify)

If a primary document such as the indictment, police report or autopsy report is found in the presentence report, code the primary document as having been consulted. If there are insufficient codes to list all the sources consulted, write the additional source codes in the margin.

Data Sources: Part I DS1 DS2 DS3 DS4

A. Identifying Information

1. Name of Defendant: Last, First, Middle NJ1A

2. Case Numbers: Card: 02

a. State Bureau of Identification (SBI) NJ2

b. Trial Court Docket NJ2A

c. Appellate Div. Docket NJ2B

d. Supreme Court Docket NJ2C

e. Public Defender Study V1

2. Indictment Number NJ4

and/or Superseding Indictment Number NJ5

3. Accusation Number \_\_\_\_\_ NJ5A Card: 03

4. Name of Prosecutor: \_\_\_\_\_ NJ6 Phone No. \_\_\_\_\_ NJ7 Card: 04

5. Name of Defense Counsel \_\_\_\_\_ NJ8 Phone No. \_\_\_\_\_ NJ9

6-7. Other Def. Counsel of Record: \_\_\_\_\_ Card: 05

6. \_\_\_\_\_ NJ9A

7. \_\_\_\_\_ NJ9B

8. County \_\_\_\_\_ (Enter name and county code from Supplemental Codebook) Card: 06

Code \_\_\_\_\_ V2

9. Was defendant previously convicted and sentenced for this offense? \_\_\_\_\_ NJ10

- 1 - No, first conviction
- 2 - Yes, motion for new trial granted
- 3 - Yes, prior appeal vacated death sentence
- 4 - Yes, prior appeal vacated conviction and sentence.
- 5 - Yes, postconviction relief granted
- 9 - Unknown

OMIT QUESTION 10 AND 11 IF NO PRIOR VACATION OR REVERSAL

10. If prior vacation or reversal, give date \_\_\_\_\_ MM / \_\_\_\_\_ DD / \_\_\_\_\_ YY NJ11

9 - Unknown

11. If prior vacation or reversal, \_\_\_\_\_ give citation \_\_\_\_\_ NJ12

9 - Unknown      8 - Vacation or reversal, but not reported

12. Form of present disposition \_\_\_\_\_ V3A

- 1 - Trial
- 2 - Plea to manslaughter
- 3 - Plea to aggravated manslaughter
- 4 - Plea to capital murder
- 5 - Plea to felony murder
- 6 - Plea to other noncapital murder
- 7 - Other plea
- 8 - Dismissal of all charges, no plea/no trial

13. If a trial, was it bench or jury? \_\_\_\_\_ NJ13

- 1 - Bench
- 2 - Jury not death qualified
- 3 - Death qualified jury
- 9 - Unknown

B. Offense and Case Processing Dates (omit if unknown or not applicable)

		<u>Month</u> MM	<u>Day</u> DD	<u>Year</u> YY
14. Date of offense:	V4, V5, V6			
15. Date apprehended:	V7, V8, V9			
16. Date indicted:	V13, V14, V15			
17. Date trial began (omit if plea):	V19, V20, V21			
18. Date (i) of jury verdict (ii) date of judgment if plea or (iii) other disposition:	V22, V23, V24			
19. Date penalty trial began (omit if no penalty trial):	V25, V26, V27			
20. Date of penalty trial verdict, or of sentencing if no penalty trial:	V28, V29, V30			

C. Charging and Outcome Data

Card: 07

Highest homicide charge: Use the following code to complete questions 21A. to 21D.;

Code:

- 1 - Purposeful or knowing murder by his own conduct or by hiring another, with notice of factors actually served ✓
- 2 - Purposeful or knowing murder with notice of factors not served or withdrawn (Code 21, 22 or 23 if detail is known, otherwise code 2.) ✓
  21. by his own conduct or by his own hand specified in the indictment
  22. by hiring another specified in the indictment
  23. neither by his own conduct or own hand nor by hiring another specified in the indictment
- 3 - Felony murder
- 4 - Nonprincipal accomplice murder liability -aiding and abetting murder or felony murder.
- 6 - Aggravated manslaughter
- 7 - Manslaughter
- 8 - Other lesser offense, including death by auto and non-homicide offenses
- 9 - Unknown

Either Question 21A or 21B should be blank

21A. Charge on original accusation for cases that did not proceed by indictment. Omit if originally charged by indictment: \_\_\_\_\_ V37

or

21B. Charge on indictment and whether factors were served if murder charged: \_\_\_\_\_ V38

21C. If defendant entered a guilty plea, enter code for crime of conviction.  
If defendant pled not guilty and was tried, enter the charge on which he/she was tried,  
e.g.,

- 1 - murder trial with factors served;
- 2 - murder trial without factors served, etc.:

\_\_\_\_\_ V39

21D. Penalty trial and crime of conviction.

- Code:
- 1 - Capital murder conviction with a penalty trial
  - 2 - Murder conviction without a penalty trial
  - 3-8 Codes are same as above - crime convicted of by plea or at trial (for plea cases therefore V39-V40)

\_\_\_\_\_ V40

21E. Death Sentence Imposed: 1 - Yes; 0 - No

\_\_\_\_\_ NJ16

✓ Code for #1 and #2 modified in Question 21D

22. Judge's Name: \_\_\_\_\_  
 (First, Last)

\_\_\_\_\_|\_\_\_\_ V41  
 (Use judge codes in  
 Supplemental Codebook)

24. Did defendant make bail (out during trial)?

\_\_\_\_ NJ17

- |  |  |
|--|--|
| 0 - No, never requested                            | 5 - No, bail set but defendant did not make it |
| 1 - Yes, pretrial and defendant plead guilty       | 6 - No, but unknown if requested               |
| 2 - Yes, pretrial and trial                        | 9 - Unknown                                    |
| 3 - Yes, trial only                                |  |
| 4 - Yes, pretrial, rejailed before or during trial |  |

27. Result of and sentence imposed for homicide charge(s) only:

	A	B	C	D
	Result <sup>1/</sup>	Min	Max	Concurrent/ Consecutive
a. 1st homicide charge	<u>  </u> / <u>  </u> V47	<u>  </u> / <u>  </u> V48	<u>  </u> / <u>  </u> V48A	
b. 2nd homicide charge	<u>  </u> / <u>  </u> V50	<u>  </u> / <u>  </u> V51	<u>  </u> / <u>  </u> V51A	<u>  </u> V52
c. 3rd homicide charge	<u>  </u> / <u>  </u> V53	<u>  </u> / <u>  </u> V54	<u>  </u> / <u>  </u> V51B	<u>  </u> V55

Codes:

Result Code (Col A):

- 16 - Trial, found not guilty
- 17 - Trial, found guilty as charged
- 19 - Trial, found guilty of a lesser offense
- 20 - Trial with homicide charge dismissed during or after trial
- 27 - Trial, not guilty by reason of insanity

- 28 - Plea to indictment
- 30 - Plea with offense downgraded from indictment
- 31 - Plea of guilty to accusation
- 36 - Dismissed on motion of prosecutor pursuant to a plea bargain
- 38 - Dismissed on pretrial motion not pursuant to a plea bargain

Sentence Code (Col B & C):

- 0 - 94 = Number of years
- 95 - Life
- 98 - Death
- 99 - Unknown

Sequence Code (Col D):

- 1 - Consecutive to 1st sentence
- 2 - Concurrent with 1st sentence

<sup>1/</sup> If two homicide convictions and a merger, code the final judgment of conviction. Attempted homicides are coded in Question 81.

II. Defendant's Personal Circumstances

Data Sources: Part II                                      
DS5 DS6 DS7 DS8

A. Age, Sex, and Race

28. Date of birth (estimate year if date not known exactly):  
Month Day Year  
V94, V95, V96                           

29. Defendant's gender?  
1 - Male 2 - Female V97         

30. Defendant's race and ethnicity?  
1 - White 4 - Spanish surname, but unknown if Hispanic  
2 - Black 5 - Asian V98           
3 - Hispanic 6 - Other (specify)                                   
9 - Unknown

B. Residence

33. Defendant's birthplace? V100           
1 - New Jersey 7 - Other Latin American country including Haiti, Cuba, Mexico  
2 - New York 8 - Europe  
3 - Pennsylvania 10 - Asian  
4 - Delaware 11 - Middle East  
5 - Other state in the United States 12 - Other                                   
6 - Puerto Rico 9 - Unknown

34. Was defendant a New Jersey resident at the time of the offense?  
1 - Yes 0 - No 9 - Unknown NJ18         

35. If defendant was a New Jersey resident at time of offense, in what county did defendant reside?  
Name                                  (Enter name and county code from Supplemental Codebook) NJ19         

36. If defendant was not a New Jersey resident where did the defendant live at the time of the offense? NJ20           
1 - New York 7 - Europe  
2 - Pennsylvania 10 - Asian  
3 - Delaware 11 - Middle East  
4 - Other state in the United States 12 - Other                                   
5 - Puerto Rico 8 - Not applicable, defendant a New Jersey resident  
6 - Other Latin American country including Haiti, Cuba, Mexico 9 - Unknown

C. Employment and Education

40. What was the defendant's primary and if applicable secondary occupational skill at the time of the homicide? (If the respondent knows the precise skill, enter the code from the indented list. If only the general category is known, enter the code for the major heading.)

V109 \_\_\_\_\_  
(primary)

V109A \_\_\_\_\_  
(secondary)

- 10 - Professional and Managerial
  - 11 - Professional (doctor, lawyer, etc.)
  - 12 - Executive, businessperson
  - 13 - Small business, farm owner
  
- 20 - Law Enforcement and Military
  - 21 - Policeman, fireman, or corrections employee
  - 22 - Military, enlisted
  - 23 - Military, officer
  
- 30 - White Collar
  - 31 - Office worker
  - 32 - Apartment/hotel manager
  - 33 - Store manager
  - 34 - Secretary
  
- 40 - Blue Collar and Unskilled
  - 41 - Blue collar (All skilled laborers will be considered blue collar, i.e., mechanics, factory workers, truck drivers)
  - 42 - Farmer, fisher, farmworker
  - 43 - Unskilled laborer
  
- 50 - Service Workers
  - 51 - Security guard
  - 52 - Store clerk
  - 53 - Service station attendant
  - 54 - Waitress, bartender, taxi driver, or similar
  - 55 - Domestic
  
- 60 - Unstable or Extralegal
  - 61 - Drifter
  - 62 - Professional criminal (organized crime)
  - 63 - Prostitute, pimp
  - 64 - Thief (individual criminal)
  - 65 - Drug dealer
  - 66 - Sporadic odd jobs, no particular skill
  
- 70 - Outside of Work Force
  - 71 - Juvenile, out of school
  - 72 - Student
  - 73 - Retired
  - 74 - Housekeeper, supported by spouse or other family
  - 75 - Chronically unemployed (includes recipient of public assistance)
  - 76 - Disabled
  
- 80 - Other (specify) \_\_\_\_\_
- 81 - Defendant has worked but precise skill is unknown
- 99 - Unknown whether defendant has ever worked at all



41. What was the defendant's employment status at the time of the offense?

NJ21 \_\_\_\_\_

- 10 - Employed, but unknown if full- or part-time
- 11 - Full-time employee or self-employed in the labor force
- 12 - Part-time employee or self-employed in the labor force
- 20 - Unemployed, length of unemployment unknown
- 21 - Unemployed less than 6 months
- 22 - Unemployed over 6 months
- 30 - Outside the labor force, supported by state, living on disability, welfare, unemployment, social security
- 40 - Outside the labor force, housewife, retired, student, juvenile, supported by family, etc.
- 50 - Institutionalized, in prison, jail, or hospital, drug rehabilitation center, etc.
- 60 - Employed outside of the labor force, e.g., underground service economy, illegal activity
- 70 - Other (specify) \_\_\_\_\_
- 99 - Unknown

42. Defendant's employment history?

NJ22 \_\_\_\_\_

- 1 - Never worked
- 2 - Held unskilled jobs in the past
- 3 - Held skilled jobs in the past
- 4 - Held professional or managerial or white collar jobs in the past
- 5 - Other (specify) \_\_\_\_\_
- 9 - Unknown

43. Defendant's education?

NJ23 \_\_\_\_\_

- 0 - Never attended school
- 1 - Didn't go beyond 4th grade
- 2 - Didn't go beyond 8th grade
- 3 - High school dropout
- 4 - Graduated high school or got GED
- 5 - Some education after high school
- 6 - College degree
- 7 - Graduate work
- 9 - Unknown

43A. Can defendant read and write (more than name)?

NJ24 \_\_\_\_\_

1 - Yes      0 - No      9 - Unknown

43B. What is defendant's primary language?

NJ24A \_\_\_\_\_

- |                       |                      |
|-----------------------|----------------------|
| 1 - English           | 4 - Other only _____ |
| 2 - Spanish only      | 5 - Other bilingual  |
| 3 - Spanish bilingual | 9 - Unknown          |

III. Defendant's Prior Record and Personal History

Card: 09

A. Prior Record Data Sources: Part IIIA | \_\_\_\_\_ | \_\_\_\_\_ | \_\_\_\_\_ | \_\_\_\_\_  
 (if no prior record, go to Question 51)      DS9                      DS10                      DS11                      DS12

44. Prior Convictions (enter conviction data in Cols. 1-4 below, using these codes)

Code for Col. 1:

- |                                       |  |
|---------------------------------------|--|
| 1 - Murder (11-3(1)(2))               | 12 - Narcotics--distribution/sale  |
| 2 - Felony murder (11-3(3))           | 13 - Other offenses  |
| 3 - Aggravated manslaughter (11-4.a.) | 14 - Death by auto (11-5)  |
| 4 - Manslaughter (11-4.b.)            | 15 - Simple assault (12-1.a.)  |
| 5 - Robbery (15-1)                    | 16 - Other violent personal disorderly persons offenses                    |
| 6 - Sexual assault (14-2)             | 17 - Narcotics--possession type offenses                                   |
| 7 - Kidnapping (13-1)                 | 18 - Other disorderly persons offenses, excepting non-OMVI traffic offense |
| 8 - Burglary (18-2)                   | 99 - Prior record unknown  |
| 9 - Arson (17-1)                      |  |
| 10 - Aggravated assault (12-1.b.)     |  |
| 11 - Other violent personal offenses  |  |

Code for Col. 2:

- UC - Exact # Unknown, but 1 or more
- 99 - Unknown

Code for Col. 3:

- UC - Exact sentence(s) unknown but time was served following a conviction
- N - No prison/jail sentence
- U - Unknown
- 97 - 1 - 3 mo.
- 98 - 3+ - 6 mo.
- 99 - 6+ - 12 mo.

Crime	Enter Total # of Prior Convictions for Each Category in Col. 1, or enter UC	Enter Combined Maximum Length of Incarcerative Prison/Jail Sentence(s) (excluding concurrent and suspended sentences, probation, and fines)	Enter Life and Death Sentences if imposed. 1 - Life 2 - Death
-------	---	---	---

	Col. 1	Col. 2	Col. 3	Col. 4
#1	_____  (X81)	_____  (X82)	_____  (X83)	_____  (X83A)
#2	_____  (X85)	_____  (X86)	_____  (X87)	_____  (X87A)
#3	_____  (X89)	_____  (X90)	_____  (X91)	_____  (X91A)
#4	_____  (X93)	_____  (X94)	_____  (X95)	_____  (X95A)
#5	_____  (X97)	_____  (X98)	_____  (X99)	_____  (X99A)
#6	_____  (X101)	_____  (X102)	_____  (X103)	_____  (X103A)

a. For convictions from other states not specifically named, treat felonies as offenses and misdemeanors as disorderly personal offenses.

45. Number of prior arrests (enter #): NJ25 \_\_\_\_\_  
00 - None  
99 - Unknown  
UC - Arrested but number unknown

46. Number of arrests with no conviction for crime charged (enter #): V150 \_\_\_\_\_  
00 - None  
99 - Unknown  
UC - Arrested but number unknown

47. Was the defendant under criminal justice supervision at the time of the offense? V151 \_\_\_\_\_  
0 - No  
1 - Probation  
2 - Parole  
3 - On bail  
4 - Intensive supervision program (ISP)  
5 - Pretrial intervention (PTI)  
6 - Suspended proceedings/conditional discharge  
9 - Unknown

48. How many disorderly persons offenses has the defendant been convicted of as an adult? (enter #) V152 \_\_\_\_\_  
00 - None  
99 - Unknown  
UC - Conviction but number unknown

49. Age of defendant at time of first arrest for a crime, including juvenile arrests. See 2C:1-4 for crime definition. NJ26 \_\_\_\_\_  
N - Not applicable/no prior arrests for a crime  
99 - Unknown  
Code: 10

49A. Total prior convictions: NJ27 \_\_\_\_\_  
a. In New Jersey \_\_\_\_\_ NJ28  
b. Outside New Jersey \_\_\_\_\_ NJ29

- 0 - Never convicted
- 1-19 - As is
- 20 - 20 or more
- 99 - Unknown
- UC - Incarcerated but exact number unknown

49B. Total of all types of separate known incarcerations: NJ30 \_\_\_\_\_  
0 - Never sentenced to incarceration  
1-7 - As is  
8 - 8 or more  
99 - Unknown  
UC - Incarcerated but exact number unknown



53. Did defendant use drugs or alcohol within 24 hours prior to the offense? If yes, specify which one (up to three types). NJ38 \_\_\_\_\_

- 0 - No drug or alcohol use NJ39 \_\_\_\_\_
- 1 - Alcohol (liquor, beer, wine)
- 2 - Amphetamines (Biphedamine, Dexedrine) NJ39A \_\_\_\_\_
- 3 - Barbiturates (Secobarbital, Amobarbital, Butisol, Tuinal)
- 4 - Cannabis (marijuana, hashish)
- 5 - Cocaine (coke, flake, snow, C, blow, toot, nose candy, the lady)
- 6 - Crack
- 7 - Heroin (horse, smack)
- 8 - LSD, mescaline, and peyote (acid, butter, cactus)
- 10- Phencyclidine ((PCP, angel dust)
- 11- Methaqualone (Quaalude, Sopor, Parest)
- 12- Morphine (Morphine, Pectoral Syrup)
- 13- Other (specify) \_\_\_\_\_
- 14- An intoxicant but type unknown
- 9 - Unknown

54. How was defendant affected by this drug/alcohol consumption at the time of the offense? NJ40 \_\_\_\_\_

- 1 - Substantially 9 - Unknown
- 2 - Moderately
- 3 - Slightly
- 8 - Not applicable because no drug/alcohol use
- UC - Defendant consumed but effect unknown

55. Using the list in Question 53, indicate whether defendant was addicted to or a heavy user of any drug around the time of the offense. Enter up to 2 drug or alcohol numbers) V184 \_\_\_\_\_

- 0 - Not addicted or heavily dependent V184A \_\_\_\_\_
- 9 - Unknown

56. Has defendant ever been classified by a medical doctor or psychologist as mentally retarded? NJ41 \_\_\_\_\_

- 0 - No
- 1 - Yes, mildly retarded (IQ 50-70)
- 2 - Yes, moderately retarded (IQ 35-49)
- 3 - Yes, severely retarded (IQ 20-34)
- 4 - Yes, profoundly retarded (IQ under 20)
- 9 - Unknown

56A. Does defendant's known IQ qualify him or her as mentally retarded?

- 0 - No
- 1 - Yes, mildly retarded (IQ 50-70)
- 2 - Yes, moderately retarded (IQ 35-49) NJ41A \_\_\_\_\_
- 3 - Yes, severely retarded (IQ 20-34)
- 4 - Yes, profoundly retarded (IQ under 20)
- 9 - Unknown

57A. Does defendant have a permanent physical handicap? NJ42 \_\_\_\_\_

1 - Yes            0 - No            9 - Unknown

58. If the answer to 57A is yes, list the handicap defendant has (up to 3): NJ43 \_\_\_\_\_

0 - None	5 - Orthopedic	NJ44 _____
1 - Deaf	6 - Neurological	
2 - Hearing impaired	7 - Combination	NJ45 _____
3 - Blind	8 - Other (specify) _____	
4 - Visually impaired	9 - Unknown	

59. Was defendant ever abused or neglected as a child? NJ46 \_\_\_\_\_

0 - No  
1 - Yes, evidence of abuse or neglect in file  
2 - Yes, declared an abused or neglected child by the state  
9 - Unknown

59A. Did defendant have problems in school as a child (enter up to 4)? NJ47 \_\_\_\_\_

0. No known problem	
1. Truant	NJ48 _____
2. Fighting outside class	
3. General classroom discipline problem	NJ49 _____
4. Academic problems	
5. Drug/alcohol use on school grounds	NJ50 _____
6. Incurrigible	
7. Other _____	
8. Problems but type unknown	
9. Unknown	

59B. Was defendant ever expelled or suspended from school? NJ51 \_\_\_\_\_  
1 - Yes            0 - No            9 - Unknown

59C. Was the defendant ever removed from the custody of his parents or family because he was abused or neglected? NJ52 \_\_\_\_\_  
1 - Yes            0 - No            9 - Unknown

59D. Did the defendant spend any of his childhood in foster care? NJ53 \_\_\_\_\_  
1 - Yes            0 - No            9 - Unknown

59E. Did defendant suffer from any of the following?

Code:

- 1 - As a young child 1-6 years
- 2 - As an older child or adolescent 7-17 yrs
- 3 - As an adult
- 4 - Under 18, but age unknown
- 5 - Had the experience but age unknown
- Blank - Nothing in the file to indicate such an injury

1. Serious head injury, e.g., blow, beating, accident NJ55 \_\_\_\_\_

2. Perinatal difficulties NJ56 \_\_\_\_\_

3. Loss of consciousness NJ57 \_\_\_\_\_

4. Fainting, blackouts, lapses, seizures NJ58 \_\_\_\_\_

5. Illness or overdoses known to affect the central nervous system (CNS) NJ59 \_\_\_\_\_

60. Has defendant ever been diagnosed as any of the following? NJ60 \_\_\_\_\_  
(enter up to 2)

- 0 - No
- 1 - Brain damaged
- 2 - Other mental deficiency
- 3 - Epileptic
- 4 - Other similar disability (specify) \_\_\_\_\_
- 9 - Unknown

61. What is defendant's military record? NJ61A \_\_\_\_\_

- 0 - None
- 1 - Formerly served in military, honorable discharge
- 2 - Formerly served in military, other than honorable discharge
- 3 - Now in the military
- 4 - Other (specify) \_\_\_\_\_
- 9 - Unknown

62. Has the defendant ever been in military combat, either in Vietnam or in any other circumstances? NJ62 \_\_\_\_\_

- 0 - No
- 1 - Yes
- 2 - Yes, diagnosed as having delayed stress syndrome
- 8 - Not applicable, no military service
- 9 - Unknown

IV. COPERPETRATORS

Data Sources: Part IV 1 1 1 1  
DS17 DS18 DS19 DS20

Coperp. files consulted: 1-yes all; 2-yes some; 3-no

DS20A

These questions ask if the defendant had accomplices in the homicide or any contemporaneous offense. (If more than 3, fill in Supplemental Coperpetrator Sheets.)

63. Were there coperpetrator(s) in the homicide or contemporaneous offense? (X191)

Code: 1 - yes 9 - Unknown, go to Q69  
0 - No, defendant acted alone, go to Q69

64. Actual number of coperpetrators (omit if no coperpetrators and go to Q69) (X192)

Code: 8 - 8 or more  
UC - There were coperpetrators but actual # is unknown

65. Coperpetrator homicide charge(s) and role(s) (code only coperpetrators charged)

	<u>Coperp #1</u>	<u>Coperp #2</u>	<u>Coperp #3</u>
Name (Last, initial)	<u>NJ63</u>	<u>NJ64</u>	<u>NJ65</u>
a. Most serious homicidal crime charged (use codes for Question 21A & Question 21B on page 4)✓	<u>V266</u>	<u>V267</u>	<u>V268</u>
b. Most serious crime convicted of (use codes for Question 21C & Question 21D on page 4)	<u>V269</u>	<u>V270</u>	<u>V271</u>
c. Role of coperpetrator	<u>V272</u>	<u>V273</u>	<u>V274</u>

Code for Role of Coperpetrator:

- 0 - Technical accomplice only; no assistance in homicidal act (e.g., guard)
- 1 - Provided assistance, but did not commit homicidal act
- 2 - Committed homicidal act together with other(s)
- 3 - Primary assailant in act committed with other(s)
- 4 - Alone committed homicidal act
- 9 - Not known

1. Code 2 for murder in categories 21, 22, 23 in questions 21A, 21B, 21C and 21D



e. Compared to this defendant, was the coperpetrator's role in the homicide?

	Coperpetrator		
	<u>=1</u>	<u>=2</u>	<u>=3</u>
1. Much less blameworthy			
2. Somewhat less blameworthy			
3. Of about the same level of blameworthiness			
4. Somewhat more blameworthy	V274A	V274B	V274C
5. Much more blameworthy			
9. Unknown			

66. Compared to this defendant's was the sentence received by the coperpetrator?

1 - Less severe	NJ66	NJ67	NJ68
2 - About the same			
3 - More severe			
8 - Not applicable, coperpetrator has not been sentenced			
9 - Unknown			

66A. Was the coperpetrator sentenced before or after this defendant?

1 - Before	8 - Not sentenced		
2 - After	9 - Unknown		
3 - Same time			

67. Maximum coperpetrator sentence imposed, in years (use sentence code for question 27, col. B&C)

<u>V278</u>	<u>V279</u>	<u>V280</u>
-------------	-------------	-------------

97 - Not applicable because not yet sentenced  
Omit if no conviction

68. Did the coperpetrator testify at this defendant's trial, or if plaintiff pled guilty was the the coperpetrator prepared to testify?

NJ69	NJ70	NJ71
------	------	------

- 1 - Yes, for the prosecution
- 2 - Yes, for the defense
- 0 - No
- 8 - Not applicable, no trial
- 9 - Unknown

68A. Did the coperpetrator provide information to the prosecutor implicating this defendant?

NJ72	NJ73	NJ74
------	------	------

- 1 - Yes
- 0 - No
- 9 - Unknown

V. Background Information on Victim

Data Sources: Part V

<u>DS21</u>	<u>DS22</u>	<u>DS23</u>	<u>DS24</u>
-------------	-------------	-------------	-------------

69. Total number of decedents:

V284 \_\_\_\_\_

70. Total number of nondecedents for whom defendant's conduct resulted in a charge for a nonhomicidal crime.

V285 \_\_\_\_\_

Background information on victim #1. If there are multiple victims, code first victim here and additional victims on Supplemental Sheets for Multiple Victims.

Victim's name: \_\_\_\_\_  
Last, first NJ69

71. Victim's gender:

1 - Male 2 - Female

V286 \_\_\_\_\_

72. Victim's race:

1 - White 5 - Asian  
2 - Black 6 - Other (specify) \_\_\_\_\_  
3 - Hispanic 9 - Unknown  
4 - Spanish surname, but unknown if Hispanic

V292 \_\_\_\_\_

73. Victim's age (if only a phase of life cycle is known, enter):

A - Aged adult (over 65) D - Teenager (13-19)  
B - Middle aged adult (35-65) E - Child (6-12)  
C - Young adult (20-34) F - Preschool (under 6)  
99 - Unknown

V298 \_\_\_\_\_

73A. Where was the victim born?

1 - New Jersey 7 - Other Latin American nation including  
2 - New York Haiti, Cuba, Mexico  
3 - Pennsylvania 8 - Europe  
4 - Delaware 10 - Asian nation  
5 - Other state in the 11 - Middle East  
United States 12 - Other (specify)  
6 - Puerto Rico 9 - Unknown

NJ70 \_\_\_\_\_

73B. Was victim a New Jersey resident at the time of the offense?

1 - Yes 0 - No 9 - Unknown

NJ71 \_\_\_\_\_

73C. If victim was a New Jersey resident, in what county did victim reside?

Name \_\_\_\_\_ (Enter name and county code from Supplemental Codebook)

NJ72 \_\_\_\_\_

74. If victim was not a New Jersey resident, where did the victim live at the time of the offense?

1 - New York 7 - Europe  
2 - Pennsylvania 10 - Asian  
3 - Delaware 11 - Middle East  
4 - Other state in the 12 - Other (specify) \_\_\_\_\_  
United States 8 - Not applicable, defendant a  
5 - Puerto Rico New Jersey resident  
6 - Other Latin America 99 - Unknown  
including Haiti, Cuba,  
Mexico

NJ73 \_\_\_\_\_

75. Victim's primary and secondary occupational skills. What was the victim's primary and, if applicable, secondary occupational skill at the time of the homicide? (If the respondent knows the precise skill, enter code from the indented list. If only the general category is known, enter code for the major heading.)

- |   |                  |
|---|------------------|
| 10 - Professional and Managerial  | <u>Primary</u>   |
| 11 - Professional (doctor, lawyer, etc.)  |                  |
| 12 - Executive, businessperson  | V310 _____       |
| 13 - Small business, farm owner   |                  |
| 14 - Judge, legislator  |                  |
| 20 - Law Enforcement and Military   | <u>Secondary</u> |
| 21 - Policeman, fireman, or corrections employee  |                  |
| 22 - Military, enlisted   | V310A _____      |
| 23 - Military, officer  |                  |
| 30 - White Collar   |                  |
| 31 - Office worker  |                  |
| 32 - Apartment/hotel manager  |                  |
| 33 - Store manager  |                  |
| 34 - Secretary  |                  |
| 35 - Any officer or employee of government under § 2C:27-1.g beyond items 14 & 21 above                                 |                  |
| 40 - Blue Collar and Unskilled  |                  |
| 41 - Blue collar (All skilled laborers will be considered blue collar, i.e., mechanics, factory workers, truck drivers) |                  |
| 42 - Farmer, fisher, farmworker   |                  |
| 43 - Unskilled laborer  |                  |
| 50 - Service Workers  |                  |
| 51 - Security guard   |                  |
| 52 - Store clerk  |                  |
| 53 - Service station attendant  |                  |
| 54 - Waitress, bartender, taxi driver, or similar   |                  |
| 55 - Domestic   |                  |
| 60 - Unstable or Extralegal   |                  |
| 61 - Drifter  |                  |
| 62 - Professional criminal (organized crime)  |                  |
| 63 - Prostitute, pimp   |                  |
| 64 - Thief (individual criminal)  |                  |
| 65 - Drug dealer  |                  |
| 66 - Sporadic odd jobs, no particular skill   |                  |
| 70 - Outside of Work Force  |                  |
| 71 - Juvenile, out of school  |                  |
| 72 - Student  |                  |
| 73 - retired  |                  |
| 74 - Housekeeper, supported by spouse or other family   |                  |
| 75 - Chronically unemployed (includes recipient of public assistance)   |                  |
| 76 - Disabled   |                  |
| 80 - Other (specify) _____  |                  |
| 81 - Victim has worked but precise skill is unknown   |                  |
| 99 - Unknown whether victim has ever worked at all  |                  |

76. What was the victim's employment status at the time of the offense? NJ75   1  

- 10 - Employed, unknown if full- or part-time
- 11 - Full-time employee or self-employed in the labor force
- 12 - Part-time employee or self-employed in the labor force
- 20 - Unemployed, length of unemployment unknown
- 21 - Unemployed less than 6 months
- 22 - Unemployed over 6 months
- 30 - Outside the labor force, supported by state, living on disability, welfare, unemployment, social security
- 40 - Outside the labor force, housewife, retired, student, juvenile, supported by family, etc.
- 50 - Institutionalized, in prison, jail, or hospital, drug rehabilitation center, etc.
- 60 - Employed outside of the labor force, e.g., underground service economy, illegal activity
- 70 - Other \_\_\_\_\_
- 99 - Unknown

77. Victim's employment history? NJ76 \_\_\_\_\_

- 1 - Never worked
- 2 - Held unskilled jobs in the past
- 3 - Held skilled jobs in the past
- 4 - Held professional or managerial or white collar jobs in the past
- 5 - Other
- 9 - Unknown

78. Victim's education? NJ77 \_\_\_\_\_

- 0 - Never attended school
- 1 - Didn't go beyond 4th grade
- 2 - Didn't go beyond 8th grade
- 3 - High school dropout
- 4 - Graduated high school or got GED
- 5 - Some education after high school
- 6 - College degree
- 7 - Graduate school
- 9 - Unknown

76A. Was the victim married at the time of the offense? NJ78 \_\_\_\_\_

- 1 - Yes
- 0 - No
- 9 - Unknown

79. Did the victim have a family, or dependent(s)?  
(enter up to 3)

NJ79 \_\_\_\_\_

- 0 - No
- 1 - Spouse
- 2 - Minor child
- 3 - Dependent parents or adult children
- 4 - Other dependent relatives
- 5 - Other dependent persons
- 9 - Unknown

NJ80 \_\_\_\_\_

NJ81 \_\_\_\_\_

80. What was the relationship between the victim and the defendant prior to the events immediately preceding the homicide?

NJ82 \_\_\_\_\_

Victim was to Defendant a(n)

Intimate or Family

- 1 - Spouse
- 2 - Ex-spouse
- 3 - Paramour, heterosexual
- 4 - Paramour, homosexual
- 5 - Child, grandchild
- 6 - Step-child
- 7 - Parent
- 8 - Grandparent
- 9 - Sibling
- 10- Other relative
- 11- Sexual rival
- 12- Former paramour
- 13- Other (specify) \_\_\_\_\_

Friend or Acquaintance

- 14 - Friend
- 15 - Neighbor
- 16 - Acquaintance
- 17 - Employer
- 18 - Employee
- 19 - Co-worker
- 20 - Other (specify) \_\_\_\_\_

Stranger:

- 21 - Stranger
- 99 - Nature of relationship unknown

VI. Contemporaneous Offenses Data Sources: Part VI DS25 DS26 DS27 DS28

81. Did the homicide occur while the defendant was engaged in the commission of another offense whether or not the defendant was charged and convicted of the offense (code multiple homicides beyond the first as contemporaneous)?

Code:

- |   |   |       |       |
|---|---|-------|-------|
| 0 - No contemporaneous offense  |   | NJ89  | _____ |
| 1 - Murder (11-3)   | 13- Commercial vice   |       | _____ |
| 2 - Attempted murder  | 14- Narcotics--distribution/                                    | NJ90  | _____ |
| 3 - Aggravated manslaughter (11-4.a.)   | 15- Narcotics--possession                                       |       | _____ |
| 4 - Manslaughter (11-4.b.)  | 16- Motor vehicle theft (MVT)                                   | NJ91  | _____ |
| 5 - Robbery (15-1)  | 17- Other violent personal offenses (specify) _____             | NJ92  | _____ |
| 6 - Sexual assault (14-2)   |   |       | _____ |
| 7 - Kidnapping (13-1)   | 18- Other offenses (specify) _____                              | NJ93  | _____ |
| 8 - Burglary (18-2)   |   |       | _____ |
| 10- Arson (17-1)  | 19- Violent personal disorderly person offenses (specify) _____ | NJ93A | _____ |
| 11- Aggravated assault against a person who was not a homicide victim (12-1.b.) |   |       | _____ |
| 12- Theft   | 20- Other disorderly person offenses (specify) _____            | NJ93B | _____ |
|   |   |       | _____ |
|   | 99- Unknown _____   |       | _____ |

82. Total number of charges beyond the first homicide count: NJ94 \_\_\_\_\_

UC - charges but exact number unknown 99 - unknown

83. Total number of convictions for contemporaneous offense(s) including homicides beyond the first one coded in V47-49: NJ95 \_\_\_\_\_

UC - one or more convictions but exact number unknown 99 - unknown

83A. Total number of consecutive years maximum for contemporaneous offense convictions: V89 \_\_\_\_\_

95 - Life 98 - Death

84. Total number of consecutive years mandatory minimum for contemporaneous offense(s): V90 \_\_\_\_\_

84A. Relation of nonhomicidal sentence(s) to homicide sentence(s). V91 \_\_\_\_\_

- |                          |             |
|--------------------------|-------------|
| 1. Consecutive           | 9 - Unknown |
| 2. Concurrent            |             |
| 3. Partially consecutive |             |

1/ Add sentences for contemporaneous offenses beyond the first homicide only if consecutive or otherwise extends the effective term of the maximum or the minimum incarcerative term beyond the first homicide sentence.

VII. Defendant's Role in Homicide and Any Contemporaneous Offense(s)

Data Sources: Part VII

          
DS29          
DS30          
DS31          
DS32A. Defendant's Mens Rea

87. What was defendant's culpability with respect to the death of the victim?  
Enter a code for each possible mental state for items a through f below using these codes:

Code:

- 1 - The file conclusively supports such an inference
- 2 - The file strongly supports such an inference
- 3 - The file provides a rational basis for a fact-finder to find beyond a reasonable doubt that this level of culpability was present
- 4 - The file contains only some evidence supporting such an inference
- 5 - The information in the file is inconsistent with this inference
- 6 - The file suggests beyond a reasonable doubt that this level of culpability was not present
- 9 - Unable to classify as 1, 2, 3, 4, 5, or 6

- |   |             |
|---|-------------|
| a. Defendant purposely caused death   | NJ98 _____  |
| b. Defendant knowingly caused death   | NJ99 _____  |
| c. Defendant purposely or knowingly caused serious bodily injury  | NJ100 _____ |
| d. Defendant recklessly caused death under circumstances manifesting extreme indifference to human life.  | NJ101 _____ |
| e. Defendant committed the homicide recklessly  | NJ102 _____ |
| f. Defendant purposely or knowingly caused death or serious bodily harm, but defendant acted in heat of passion resulting from a reasonable provocation | NJ103 _____ |

B. Defendant's Role Vis-a-Vis Coperpetrators (Q88) Go to question 89 if the defendant acted alone without coperpetrators.

Code for Q88, parts 1-4:

- 1 - The file conclusively supports such an inference
- 2 - The file strongly supports such an inference
- 3 - The file provides a rational basis for a fact-finder to find beyond a reasonable doubt that the factor is present
- 4 - The file contains some evidence supporting such an inference
- Blank - Inconsistent with information in the file
- 9 - Unable to classify as 1, 2, 3, 4 or blank

88. Part 1. Acts of Violence by the Defendant

\_\_\_\_\_  
(X193) Defendant's act(s) was the sole cause of the death of the victim

\_\_\_\_\_  
(X193A) Defendant actively and directly participated with one or more coperpetrators in the acts of violence that caused the victim's death

\_\_\_\_\_  
NJ104 Defendant was physically involved in the homicide but did not commit an act of violence against the victim, e.g., physically held victim while others attacked

\_\_\_\_\_  
(X196) Defendant committed no acts of violence, but encouraged others to engage in violence toward victim

\_\_\_\_\_  
NJ105 Defendant committed no acts of violence but condoned another's violent conduct toward the victim

\_\_\_\_\_  
NJ106 Defendant's conduct was a but for cause of the victim's death

88. Part 2. Intention to Use Deadly Force

\_\_\_\_\_  
(X196A) Defendant intended to use deadly force

\_\_\_\_\_  
(X196B) Defendant procured the commission of the homicide by payment or promise of payment of anything of pecuniary value 4(e)

\_\_\_\_\_  
(X197) Defendant otherwise intended that deadly force would be used by others

\_\_\_\_\_  
(X198) Defendant was aware of an intention by coperpetrators to use deadly force



88. Part 3. Defendant's Role in Planning With Coperpetrator(s) (code right hand margin if there was a contemporaneous felony)

Homicide

Contemporaneous  
Felony

<u>(X200)</u>	Defendant was the prime mover in planning the	<u>(X208)</u>
<u>(X201)</u>	Defendant was coequal in planning the	<u>(X209)</u>
<u>(X202)</u>	Defendant was not planner but was aware of plan to commit the	<u>(X210)</u>
<u>(X203)</u>	Defendant was not aware of plan to commit the	<u>(X211)</u>
<u>(X204)</u>	There was no plan to commit a	<u>(X212)</u>

88. Part 4. Defendant's Presence

<u>(X205)</u>	Defendant was present at scene of the	<u>(X213)</u>
<u>(X206)</u>	Defendant was not present at scene but was present nearby in some capacity related to the	<u>(X214)</u>
<u>(X207)</u>	Defendant was neither present nor near the scene of the	<u>(X215)</u>

C. Defendant's Motive(s)

89. Does the file indicate defendant's motive(s)?

NJ106A

- 1 - Yes, expressly stated
- 2 - Suggested by file
- 9 - No, it is unknown

If the answer to Q89 was 1 or 2, indicate the specific motive(s) below.

90. Defendant's Motive(s)

Code for Question 90:

- 1 - The file strongly supports such an inference
- 2 - The file provides a rational basis for a fact-finder to find beyond a reasonable doubt that the factor is present
- 3 - The file contains some evidence supporting such an inference.
- Blank - Not a motive, i.e., inconsistent with information in the file

A. Hatred or Revenge

- Long-term hatred of victim  
(X135)
- Revenge for prior harm to defendant or another  
(X136)
- To avenge the role played by a present or former judicial officer,  
(X140) officer, prosecutor, or lawyer in the exercise of his/her duty 4(h)
- To avenge the role played by a present or former police officer  
(X141) 4(h)
- When the victim was a public servant, e.g., a police officer, hatred of or  
NJ107 contempt for defendant's class of public servant 4(h)
- Racial animosity  
(X142B)

B. Money/Property

- To facilitate obtaining at the time of the killing money or any  
NJ108 other item of monetary value for defendant or another
- To fulfill a contract/agreement with a third party to kill the  
NJ112 victim as consideration for the receipt, or in expectation of  
the receipt, of anything of pecuniary value (contract killing) 4(d)
- Collect insurance proceeds 4(d)  
(X142A)
- Obtain an inheritance or property transfer as a result of the  
NJ113 victim's death 4(d)

(Q90 Defendant's motives, cont'd, use code on p. 25)

C. Rage or Irrational

\_\_\_\_\_  
(X139) Immediate rage or frustration, eg., over victim's conduct of card game or drug transaction

\_\_\_\_\_  
NJ109 To experience pleasure or gratification from killing, e.g., thrill kill (4c)

\_\_\_\_\_  
NJ110 To demonstrate physical or psychological prowess (4c)

\_\_\_\_\_  
NJ111 None apparent suggesting complete indifference to value of life e.g., defendant acted without anger or frustration or other recognizable human emotion (4c)

D. Sexual

\_\_\_\_\_  
(X137) Desire for sexual gratification

\_\_\_\_\_  
NJ14 Retaliation for sexual refusal

\_\_\_\_\_  
(X138) Retaliation for sexual rivalry, i.e., jealousy

Card: 16

E. Related to Other Crime(s)

Card: 16

\_\_\_\_\_  
NJ115 To facilitate the commission of another crime, e.g., kidnapping, robbery, rape

\_\_\_\_\_  
(X144A) Panic, e.g., defendant became frightened when surprised by crime victim in the course of a burglary

\_\_\_\_\_  
(X145) Shootout with crime victim

\_\_\_\_\_  
NJ116 Crime victim resisted defendant by force or threatened defendant, e.g., pushed silent police alarm

\_\_\_\_\_  
(X143) To silence a witness to a crime just committed or attempted by defendant or a copetrator 4(f)

\_\_\_\_\_  
(X144) To silence a witness sought out subsequent to the commission of an earlier crime 4(f)

\_\_\_\_\_  
(X146) To escape apprehension, trial, punishment, or confinement for another offense committed by the defendant or another, e.g., avoid questioning by law officer or resisting arrest 4(f)

F. Other Motives

\_\_\_\_\_  
NJ117 None apparent, suggesting action was drug-induced, e.g., PCP

Other (specify) \_\_\_\_\_

\_\_\_\_\_  
NJ118

VIII. Characteristics of the Homicide

Card: 17

Data Sources: Part VIII

        
DS33

        
DS34

        
DS35

        
DS36

A. The Scene of the Crime

90A. Where did the homicide occur?

NJ83        |       

Residence

- 1 - Residence of victim
- 2 - Residence of victim's close friend or relative, other than defendant
- 3 - Residence of defendant
- 4 - Residence of defendant's close friend or relative, other than victim
- 5 - Residence of codefendant
- 6 - Other residence
- 7 - Residence of victim and defendant/codefendant
- 8 - Hotel, motel, or other short-term residence
- 9 - Common area of apartment building/complex

Business

- 10 - Convenience or grocery store
- 11 - Liquor store
- 12 - Service Station
- 13 - Bar or cocktail lounge or immediate vicinity
- 14 - Other Victim's place of business or employment
- 15 - Defendant's place of business or employment
- 16 - Codefendant's place of business or employment
- 17 - Other place of business

Public Place Or Public Institution

- 18 - Cab, bus, or other public vehicle
- 19 - Private vehicle of defendant or codefendant
- 20 - Private vehicle of third person other than victim
- 21 - Parking lot area
- 22 - Highway or Freeway
- 23 - Country road
- 24 - Street or sidewalk
- 25 - Park or school grounds
- 26 - Field or woods
- 27 - Other non-commercial public place
- 28 - Jail, prison, lawful custody or police or corrections
- 29 - Hospital
- 30 - Other
- 99 - Unknown

90B. Defendant's method of entry to place of homicide was:

NJ84 \_\_\_\_\_

- 1 - Entry with permission (includes joint living quarters)
- 2 - Uninvited but not forced (open door, window)
- 3 - Forced entry
- 4 - Public place
- 5 - No entry, e.g., out of doors
- 8 - Other (specify) \_\_\_\_\_
- 9 - Unknown

90C. Did defendant and coperpertrator come to the scene of the crime armed with a deadly weapon? (Indicate up to 2)

Defendant: NJ85 \_\_\_\_\_

NJ86 \_\_\_\_\_

Coperpertrator: NJ87 \_\_\_\_\_

NJ88 \_\_\_\_\_

- |                                 |  |
|---------------------------------|--|
| 0 - Not armed                   | 6 - Ax or hatchet                                  |
| 1 - Handgun                     | 7 - Club or other blunt object, e.g., baseball bat |
| 2 - Rifle                       | 8 - Other _____                                    |
| 3 - Shotgun                     | 9 - Unknown  |
| 4 - Other firearm _____         |  |
| 5 - Knife or other sharp object |  |

B. Special Precipitating Events (Q91)

- Code:
- 1 - Expressly stated in file
  - 2 - Suggested by the file but not specifically indicated
  - Blank - Not a precipitating event, i.e., inconsistent with information in file
  - 9 - Unable to classify 1, 2 or Blank

\_\_\_\_\_ Dispute between victim and defendant over money or property  
(X150)

\_\_\_\_\_ Dispute while under influence of drugs or alcohol  
(X151)

\_\_\_\_\_ Dispute between spouses or ex-spouses  
(X152)

\_\_\_\_\_ Dispute between family members other than spouses or ex-spouses  
(X153)

\_\_\_\_\_ Lover's or ex-lover's quarrel  
(X154)

\_\_\_\_\_ Lover's triangle  
(X155)

\_\_\_\_\_ Other disputes and fights where it is unknown who provoked the altercations  
(X156)

C. Method of Killing

92. Murder weapon (use number code if weapon known, use letter if only category known)

A. Firearm

1 - Handgun

2 - Rifle

3 - Shotgun

4 - Other firearm (specify) \_\_\_\_\_

Primary NJ119 \_\_\_\_\_|\_\_\_\_\_

Secondary NJ120 \_\_\_\_\_|\_\_\_\_\_

Tertiary NJ121 \_\_\_\_\_|\_\_\_\_\_

B. Knife or other sharp instrument

6 - Stabbed with knife

7 - Struck with ax, or similar sharp instrument

8 - Other (specify) \_\_\_\_\_

C. Beating

10 - Beaten with a baseball bat

11 - Beaten with other blunt object

12 - Beaten with fists or feet

13 - Other (specify) \_\_\_\_\_

D. Other

14 - Strangled with hands

15 - Strangled with a rope or other cord

15 - Smothered or suffocated

16 - Drowned

17 - Burned or suffocated in arson

18 - Burned by flame, hot substance, acid

19 - Crushed or struck by auto

21 - Overdose of drugs/narcotics

22 - Poison

23 - Neglected or deprived (e.g., starved)

24 - Thrown from a high place

25 - Traumatized by assault which caused heart attack/stroke

26 - Other (specify) \_\_\_\_\_

99 - Unknown

92A. Did the killing involve the use of a bizarre weapon (e.g., hacksaw, claw hammer, icepick)?

1- Yes

2- No

9- Unknown

NJ88A\_\_\_\_\_

D. Special Aggravating Circumstances of the Victim (Q93)

- 1 - Expressly stated in file
- 2 - Suggested by the file but not specifically indicated
- Blank - Inconsistent with information in file
- 9 - Unable to classify as 1, 2, or Blank

\_\_\_\_\_ Bedridden/handicapped  
(X161)

\_\_\_\_\_ Mental defective  
(X162)

\_\_\_\_\_ Defenseless due to youth  
(X163)

\_\_\_\_\_ Defenseless due to advanced age  
(X164)

\_\_\_\_\_ Pregnant  
(X165)

\_\_\_\_\_ Victim was asleep or just awakened  
(X166)

\_\_\_\_\_ Victim defenseless because of gross disparity in physical sizes,  
(X166A) i.e., defendant much larger or two or more people against one.  
Code N for cases where size is irrelevant given mode of killing  
(e.g., gun).

\_\_\_\_\_ Victim defenseless because of physical condition or weakness, e.g.,  
(X167) bedridden.

\_\_\_\_\_ Victim a public servant engaged in the performance of his/her  
(X168) public duties

\_\_\_\_\_ Victim supporting children  
(X169)

\_\_\_\_\_ Victim offered no provocation  
(X170)

\_\_\_\_\_ Homicide occurred while victim was kidnapped by defendant or coperpetrator.  
NJ124

\_\_\_\_\_ Either the victim or someone in victim's company was raped or  
NJ125 sexually abused

E. Special Aggravating Features of the Offense

94. Part A. Enter up to 10 factors. Do not rank order your entries but, if there are more than 10 factors applicable, enter the 10 most serious.

- |  |                          |
|--|--------------------------|
| 1 - Torture (methodical infliction of severe pain to punish victim, to extract information or to satisfy sadistic urge); specify _____ | _____   _____<br>(X172)  |
| _____  | _____   _____<br>(X173)  |
| 2 - Brutal clubbing or other unnecessarily painful method of attack  | _____   _____<br>(X175)  |
| 2A - Brutal stomping or beating with hands or feet   |                          |
| 3 - Mutilation during the homicide   |                          |
| 6 - Multiple gunshot wounds  | _____   _____<br>(X175A) |
| 6A - Single shot to head   |                          |
| 7 - Multiple gunshots to head at close range   |                          |
| 8 - Slashed throat   | _____   _____<br>(X175B) |
| 9 - Multiple stabbing  |                          |
| 9A - Other mode of multiple lethal or painful attack   | _____   _____<br>(X175C) |
| 10 - Extremely bloody  |                          |
| 12 - Victim or a nondecendent victim held hostage (other than kidnap)  |                          |
| 13 - Victim or a nondecendent victim bound or gagged   | _____   _____<br>(X175D) |
| 14 - Victim or a nondecendent victim forced to disrobe or disrobed by perpetrator (in whole or in part)                                |                          |
| 15 - Attempt to dispose of/conceal body after death  | _____   _____<br>(X175E) |
| 16 - Multiple victims  |                          |
| 17 - Bodily harm to one other than a victim  |                          |
| 18 - Sniper killing  |                          |
| 19 - Luring/ambushing/lying in wait  |                          |
| 20 - Victim killed in presence of family members or close friends  |                          |
| 21 - Ten or more stab wounds or shots, except when murder weapon was a penknife or other small cutting instrument                      | _____   _____<br>(X175F) |
| 22 - Physical details of the crime are unusually repulsive (e.g., victim drowned in own blood)   |                          |
| 23 - Other _____   | _____   _____<br>(X175G) |
| 24 - No special aggravating circumstances  |                          |

Card: 18



95. Part B

- 1 - Expressly stated in the file
- 2 - Suggested by the file but not specifically indicated
- Blank - Inconsistent with information in file
- 9 - Unable to classify as 1, 2, or Blank

- 
- Homicide planned for more than 5 minutes.  
(X176)
  - Planned contemporaneous offense for more than 5 minutes  
(X176A)
  - Execution style homicide (homicide against subdued or passive  
(X177)                   victim)
  - Case involved contemporaneous felony and homicide was unnecessary  
(X178)                   to complete the crime (e.g., storekeeper hands over money and offers  
                          no resistance)
  - Victim beaten before killing  
(X178A)
  - Victim pleaded for life  
(X179)
  - Mental torture, e.g., informing victim of impending  
(X179A)                   death sometime before homicide
  - Victim was not clothed (in whole or in part) at the time of the  
(X180)                   homicide
  - Sexual perversion or abuse other than rape (sodomy, etc.)  
(X181)

95A. What was the lapse of time between the first wound or blow and death?

            
NJ126

- 1 - Instantaneous
- 2 - Under 30 minutes
- 3 - Over 30 minutes less than 2 hours
- 4 - Over 2 hours, less than one day
- 5 - More than one day, less than a week
- 6 - More than a week, less than a month
- 7 - Other
- 9 - Unknown

F. Statutory Aggravating Circumstance 4(c): Aggravated Assault, Torture, and Depravity of Mind.

96. Did defendant cause someone severe physical or mental suffering (the actus reus)?  
Codes for Q96, Col. B:

- 1 - The file conclusively supports such an inference
- 2 - The file strongly supports such an inference
- 3 - The file provides a rational basis for a fact-finder to find beyond a reasonable doubt that the factor exists.
- 4 - The file contains some evidence supporting the inference
- 5 - Inconsistent with information in the file
- 9 - Unable to classify as 1, 2, 3, 4 or 5

Code the number of sufferers in Col. A. If there is more than one sufferer in a given category (a) include in Col. A the number for whom the strength of evidence in Col. B is 1, 2, or 3, and (b) code in Col. B the sufferer with the strongest evidence of suffering.

	A Number of Sufferers	B Strength of Evidence
a. No		NJ127_____
b. Yes, the victim(s) endured severe <u>physical</u> suffering	NJ128_____	NJ128A_____
c. Yes, the victim(s) endured severe <u>mental</u> suffering	NJ129_____	NJ129A_____
d. Yes, a third person(s) who survived endured severe <u>physical</u> suffering	NJ130_____	NJ130A_____
e. Yes, a third person(s) who survived endured <u>mental</u> suffering	NJ131_____	NJ131A_____

Questions 97-100C: Omit questions 97-100C if there was no severe physical suffering or it is unknown if such suffering occurred. If there are more than two sufferers, code the two whose treatment most strongly supports a 4c finding.

97. If victim suffered severe physical suffering immediately prior to death, what was the mode of mistreatment? If unknown code NJ132 - 9  
(Enter up to 3)

	<u>Sufferer #1</u>	<u>Sufferer #2</u>
1- Punching or kicking	NJ132____ ____	NJ132A____ ____
2 - Stabbing		
3 - Beat with baseball bat	NJ133____ ____	NJ133A____ ____
4 - Beat with other blunt object		
5 - Shooting	NJ134____ ____	NJ134A____ ____
6 - Burning		
7 - Sexual attack		
8 - Imprisonment		
10 - If other physical mistreatment, describe_____		

98. For how long did this mistreatment persist?

- 1 - Briefly, during the uninterrupted time period it took to cause death or unconsciousness
- 2 - Under 15 minutes, but longer than the time period required to cause death or unconsciousness

Sufferer #1

Sufferer #2

NJ136 \_\_\_\_\_

NJ136A \_\_\_\_\_

- 3 - 15 to 30 minutes
- 4 - 30 minutes to 1 hour
- 5 - 1 to 3 hours
- 6 - More than 3 hours
- 9 - Unknown

99. If there was severe physical pain, indicate the source: (Use up to three.)

- 1 - Unusual method or weapon
- 2 - Place of wounds
- 3 - Number of wounds
- 4 - Number of persons taking part in the attack
- 5 - Duration of the attack
- 6 - Other \_\_\_\_\_

Sufferer #1:

V639

V640

V641

Sufferer #2:

V641A

V641B

V641C

9 - Unknown

100. Multiple wounding

Code for 100A, B and C:  
Blank - None

Use exact number of wounds if known, otherwise use

- A - 1-2
- B - 3-4
- C - 5-6
- D - 7-10
- E - 11-20
- UC - One or more wounds but exact number unknown
- U - Unknown

100A. If there were multiple stab wounds, indicate the number

- (1) Total
- (2) To head
- (3) To other parts of the body

Sufferer #1

Sufferer #2

NJ137 \_\_\_\_\_

NJ137A \_\_\_\_\_

NJ137B \_\_\_\_\_

NJ137C \_\_\_\_\_

NJ137D \_\_\_\_\_

NJ137E \_\_\_\_\_

100B. If there were multiple gunshot wounds, indicate the number

- (1) Total
- (2) To head
- (3) To other parts of the body

NJ137F \_\_\_\_\_

NJ138 \_\_\_\_\_

NJ139 \_\_\_\_\_

NJ140 \_\_\_\_\_

NJ141 \_\_\_\_\_

NJ142 \_\_\_\_\_

Card: 19

100C. If there were multiple trauma wounds (e.g., bat blows), indicate the number

- (1) Total
- (2) To head
- (3) To other parts of the body

NJ142A \_\_\_\_\_

NJ142B \_\_\_\_\_

NJ143 \_\_\_\_\_

NJ144 \_\_\_\_\_

NJ145 \_\_\_\_\_

NJ146 \_\_\_\_\_

Q101-103. OMIT QUESTIONS 101 THROUGH 103 IF NO SEVERE SUFFERING IN THE CASE (If more than one sufferer, code Q101-103 for the two whose treatment most strongly supports a 4c finding)

Code for Q101, 102, 103, and 104A:

- 1 - The file conclusively supports such an inference
- 2 - The file strongly supports such an inference
- 3 - The file provides a rational basis for a fact-finder to find beyond a reasonable doubt that the factor exists.
- 4 - The file contains some evidence supporting the inference
- 5 - Inconsistent with information in the file
- 9 - Unable to classify as 1, 2, 3, 4 or 5

101. If a victim or third person experienced severe physical or mental suffering, was the defendant aware the victim was experiencing severe suffering?

	<u>Sufferer #1</u>	<u>Sufferer #2</u>
	_____ NJ146A	_____ NJ146B

102. If the defendant was aware the victim or a third person was experiencing extreme suffering, what was the defendant's mens rea with respect to the suffering?

Code for Q101A:

- |   |                    |                    |
|---|--------------------|--------------------|
|   | <u>Sufferer #1</u> | <u>Sufferer #2</u> |
| a. Defendant intended to cause extreme suffering, e.g., stated such an intent   | a. _____ NJ147     | _____ NJ147A       |
| b. Defendant knew such suffering would result, but the suffering was merely incidental to defendant's intent to kill (e.g., in a rage defendant stabbed victim to death without interruption) | b. _____ NJ148     | _____ NJ148A       |
| c. Other (specify) _____  | c. _____ NJ149     | _____ NJ149A       |

103. Was there evidence of prior physical mistreatment of the victim, e.g., scars, mutilation?

1 - Yes	2 - No	9 - Unknown	_____ NJ150
---------	--------	-------------	-------------

104. Was a victim's body:

- |                         |             |
|-------------------------|-------------|
| a. Dismembered?         | _____ NJ151 |
| b. Otherwise mutilated? | _____ NJ152 |
| c. Sexually attacked?   | _____ NJ153 |

Code for Q104:

- 1 - Occurred before death
- 2 - Occurred after death
- 3 - Occurred both before and after death
- 4 - The mistreatment occurred but unknown if it occurred before or after death
- Blank - The mistreatment did not occur
- 9 - Unknown whether the mistreatment occurred

(OMIT QUESTION 104A IF NO HARM TO A VICTIM'S CORPSE)

104A. If there was mutilation of or other harm done to a victim's corpse, did the defendant know the victim was deceased at the time of the infliction of the harm

1 - Yes	0 - No	8 - Unknown if victim was harmed before or after death	_____ NJ154
9 - Unknown if defendant realized victim was deceased			

G. Special Aggravating Features of the Offense Specifically Attributable to the Defendant (Q105)

- 1 - Expressly stated in file
- 2 - Suggested by the file but not specifically indicated
- Blank - Inconsistent with information in file
- 9 - Unable to classify as 1, 2, or Blank

- Defendant lay in wait or otherwise ambushed the victim  
NJ156
- Defendant showed no remorse for homicide  
(X183)
- Defendant expressed pleasure with the homicide  
(X184)
- Defendant committed or is alleged to have committed additional crimes between the time of the homicide and the time of his/her arrest (whether or not charged) that were not part of the transaction that produced the homicide  
(X185)
- Defendant left the scene of the crime  
(X186)
- Defendant otherwise actively resisted or avoided arrest, e.g., by flight or going into hiding  
(X187)
- Defendant was on escape from, or in, lawful custody of a peace officer or place of lawful confinement  
(X188)
- Defendant was a fugitive from a prior crime  
NJ157
- Defendant interfered with the judicial process, e.g., by threatening witnesses or jurors or suborning perjury  
(X189)
- Defendant was implicated in other killings even though not convicted of them  
NJ158
- Defendant previously attempted to kill the victim  
NJ159
- The defendant threatened in victim's presence to kill victim's family members or others who were close to the victim  
NJ159A
- The defendant announced in advance to a third person an intention to kill the victim, unless the case involved a lovers' triangle or quarrel, or when third party was a coperpetrator  
NJ160
- Abandoned dying victim under circumstances in which it was apparent the victim would die  
NJ161
- Hid or moved dying victim, reducing chance of victim being aided  
NJ162
- Continued or resumed a painful attack after it was apparent the victim was dying  
NJ162A

IX. People Killed, Injured, or Put At Grave Risk of Death

Data Sources: Part IX.                 
DS36A DS36B DS36C

A. Number of Persons Killed

106. Total number of victims killed: NJ162B     

106A. Number of victims killed for whom there is a rational basis for finding beyond a reasonable doubt that defendant was either the "triggerman" or actively and directly participated in the acts that caused death (enter actual number): NJ162C     

107. Number of victims killed for whom it is clear that the defendant was not the "triggerman" and did not physically participate in the acts that caused death (enter actual number): NJ162D     

107A. Number of victims killed for whom it is unknown or there is significant doubt whether the defendant was the triggerman or actively and directly participated in the acts that caused death (enter actual number): NJ162E     

B. Number of Persons Injured and/or at Grave Risk of Death

108. Number of persons physically injured other than deceased victims by defendant or copetrators (enter actual \*):  
By defendant:      |       
(X251)

N - Not applicable, deceased victim(s) only person(s) present (omit variable 252 if no copetrator)

By copetrator:      |       
(X252)

0 - None although other people were present

UC - Some people injured but exact \* unknown  
U - Unknown

108A. Number of people psychologically or emotionally, but not physically, injured:  
By defendant:      |       
NJ162F

By copetrator:      |       
NJ162G

N - Not applicable, deceased victim(s) only person(s) present (omit variable NJ162G if no copetrator)

0 - None although other people were present  
UC - Some people psychologically injured but exact number unknown  
U - Unknown

109. Did defendant create a grave risk of death to one or more people in addition to the victim(s)? Include injured persons (Q. 108) if they are applicable.

(X255)

- 1 - Yes
- 0 - No
- 9 - Unknown

Code for Q109A and 109B

- 1 - The file conclusively supports such an inference
- 2 - The file strongly supports such an inference
- 3 - The file provides a rational basis for a fact-finder to find this level of culpability beyond a reasonable doubt
- 4 - The file contains only some evidence supporting such an inference
- Blank - The file is inconsistent with this inference
- 9 - Unable to classify as 1, 2, 3, 4 or Blank

109A. If Q109 is coded 1, 2, or 3, indicate the way in which defendant created the grave risk of death to others.

- 1 - The defendant injured one or more other people with a deadly weapon, NJ163 \_\_\_\_\_
- 3 - The defendant attempted to kill or cause serious bodily injury to another person, or NJ164 \_\_\_\_\_
- 4 - The defendant's method of killing a victim entailed a high probability that another person would be killed or seriously injured, i.e., the other person was within a "zone of danger" created by defendant. NJ165 \_\_\_\_\_
- 5 - The defendant intended to kill A but mistakenly killed B who was close by NJ165A \_\_\_\_\_
- 6 - Other (specify \_\_\_\_\_) NJ165B \_\_\_\_\_

109B. If the defendant created a grave risk of death to another person(s), what was his mens rea with respect to the risk?

- 1. Purposely created it NJ166 \_\_\_\_\_
- 2. Knowingly created it (aware of high probability his/her conduct might cause death) NJ167 \_\_\_\_\_
- 3. Reckless - adverted to (i.e., was aware of) a risk but did not perceive a high probability his conduct might cause death NJ168 \_\_\_\_\_
- 4. Negligence - did not perceive a great risk of death to others, though he/she should have NJ169 \_\_\_\_\_
- 5. Reasonably failed to perceive great risk of death NJ170 \_\_\_\_\_

109C. If answer to 109 is 1, 2, or 3, how many people other than the victim were exposed to risk of death?

X258 \_\_\_\_\_

- 1 - 1 person
- 2 - 2 people
- 3 - 3 people
- 4 - 4 people
- 5 - 5 people
- 6 - 6-10 people
- 7 - 11-15 people
- 8 - more than 15 people
- UC - more than 1 but exact # is unknown

X. Prosecutorial and Jury Decision-Making on Statutory Aggravating and Mitigating Factors

Data Sources: Part X

      
DS37

      
DS38

      
DS39

      
DS40

110. Was a notice of factors served in the case? Answer this question whether the defendant pled guilty or went to trial.

NJ171\_\_\_\_\_

1 - Yes            2 - No            9 - Unknown

110A. Answer this question for all cases in which a notice of a statutory aggravating factor was served. Omit if no notice was served. For each of the statutory aggravating factors below, (4a) through (4h), indicate whether:

Codes for Q110A:

A. Penalty phase cases

- 1 - The factor was served and charged to the jury or urged on the court and found by the jury or judge to be present.
- 2 - The factor was served and charged to the jury or urged on the court but was not found to be present by the jury or judge.

B. For cases which did not reach penalty phase, but reached capital trial

- 3 - The jury or judge returned a verdict other than guilty of death eligible murder, hence the specific aggravating factor was never presented to the jury or judge at penalty phase.

C. For cases where a notice of factors was served, but the case did not reach capital trial

- 4 - Notice of the factor was dismissed or withdrawn pursuant to a court order prior to capital trial.
- 5 - Notice of the factor was withdrawn by the prosecutor, without intervention by a court.

Blank - Means NO NOTICE of this factor was served in the case.

- |  |       |         |
|--|-------|---------|
| 4a. The defendant has previously been convicted of murder;   | _____ | V624    |
| 4b. In the commission of the murder, the defendant purposely or knowingly created a grave risk of death to another person in addition to the victim; | _____ | V625    |
| 4c. The murder involved torture, depravity of mind, or an aggravated assault;  | _____ | V626    |
| 4d. The defendant committed the murder as consideration for the receipt, or in expectation of the receipt of anything of pecuniary value;            | _____ | V627    |
| 4e. The defendant procured the commission of the offense by payment or promise of payment of anything of pecuniary value;                            | _____ | V627(a) |



- 4f. The murder was committed for the purpose of escaping detection, apprehension, trial, punishment or confinement for another offense committed by the defendant or another; \_\_\_\_\_ V628
- 4g. The offense was committed while the defendant was engaged in the commission of, or during an attempt to commit, or flight after committing, or attempting to commit, robbery, sexual assault, arson, burglary, or kidnapping; or \_\_\_\_\_ V629
- 4h. The defendant murdered a public servant, as defined in 2C:27-1, while the victim was engaged in the performance of his official duties, or because of the victim's status as a public servant. \_\_\_\_\_ V630
111. Answer this question only for cases that advanced to a penalty trial. For each of the statutory mitigating circumstances below that were noticed by defendant and charged to the sentencing authority, (a) enter number of affirmative juror votes if known, or (b) if jury vote is unknown (or a bench trial), code 13 if factor was found present or 14 if factor was found not present.
- Blank - The factor was not noticed by defendant or not charged to the sentencing authority.
- 9 - Unknown if factor was noticed by defendant and/or charged to the sentencing authority.
- (a) The defendant was under the influence of extreme mental or emotional disturbance insufficient to constitute a defense to prosecution; [V658] \_\_\_\_\_ V693
- (b) The victim solicited, participated in, or consented to the conduct which resulted in his death; [V659] \_\_\_\_\_ V694
- (c) The age of the defendant at the time of the murder; [V660 or V661] \_\_\_\_\_ V695
- (d) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired as the result of mental disease or defect or intoxication, but not to a degree sufficient to constitute a defense to prosecution; [V662 - V665] \_\_\_\_\_ V696
- (e) The defendant was under unusual and substantial duress insufficient to constitute a defense to prosecution; [V666] \_\_\_\_\_ V697
- (f) The defendant has no significant history of prior criminal activity; [V667 or V668] \_\_\_\_\_ V698
- (g) The defendant rendered substantial assistance to the state in the prosecution of another person for the crime of murder; [V669 or V670] \_\_\_\_\_ V699
- (h) Any other factor which is relevant to the defendant's character or record or to the circumstances of the offense. [V671 - V692] \_\_\_\_\_ V700

XI. Evidence of Mitigating Circumstances in the Case

Data Sources: Part XI

DS41DS42DS43DS44

- A. Q112. Evidence of Statutory Mitigating Circumstances 5(a) to 5(g) in the Case (answer for all cases) Questions 112 and 113 omit references to possible mitigating circumstances that are covered in earlier questions in the DCI, e.g., defendant's age, absence of a significant prior criminal record, influence of drugs, history of mental illness, childhood neglect, or abuse. The narrative summary should include all information on mitigating circumstances, whether or not they are covered in this section.

Code for Questions 112 and Q113:

- 1 - The file strongly suggests the factor was present  
 2 - The file provides a rational basis for a fact-finder to find the factor present  
 3 - There is some evidence in the file that the factor is present  
 Blank - Inconsistent with information in the file  
 9 - Unable to classify as 1, 2, 3 or blank

- (a) Defendant was under the influence of extreme mental or emotional disturbance; \_\_\_\_\_ V658
- (b) The victim solicited, participated in, or consented to the conduct which resulted in the death; \_\_\_\_\_ V659
- (c) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired as the result of \_\_\_\_\_ V662
- (1) mental disease, or \_\_\_\_\_ V663
- (2) mental defect, or \_\_\_\_\_ V664
- (3) intoxication \_\_\_\_\_ V665
- but not to a degree sufficient to constitute a defense to prosecution.
- (d) The defendant was under unusual and substantial duress that was insufficient to constitute a defense to prosecution \_\_\_\_\_ V666
- (e) The defendant had no history of violent behavior that did not result in a crime; \_\_\_\_\_ V668
- (f) (1) The defendant rendered substantial assistance to the state in the prosecution of another person in this case; \_\_\_\_\_ V669
- (2) The defendant rendered substantial assistance to the state in the prosecution of another person in another case; \_\_\_\_\_ V670

B. Q113. Evidence of Mitigating Circumstances Relevant to the Defendant's Character Record or the Circumstances of the Offense 5(h) (Answer for all cases using codes on previous page for Question 112)

- (g) The defendant was not the principal initiator of the murder; \_\_\_\_\_ V671
- (h) The defendant was not the principal initiator of the contemporaneous felony; \_\_\_\_\_ V672
- (i) The defendant had a history of mental instability; \_\_\_\_\_ V674
- (j) The defendant attempted to aid the victim; \_\_\_\_\_ V675
- (k) The defendant showed remorse; \_\_\_\_\_ V676
- (l) The defendant turned himself in; \_\_\_\_\_ V677
- (m) Defendant freely admitted his guilt to the crime charged; \_\_\_\_\_ NJ171
- (n) Defendant otherwise cooperated with the authorities in the prosecution against him, e.g., directed police to weapon; \_\_\_\_\_ NJ171A
- (o) The defendant had a religious conversion; \_\_\_\_\_ V678
- (p) The defendant had history of physical illness \_\_\_\_\_ NJ171B
- (q) Defendant had history of alcohol/drug abuse \_\_\_\_\_ NJ171C
- (r) Defendant had history of mental and/or emotional illness \_\_\_\_\_ NJ171D
- (s) Defendant mistakenly believed the killing was morally justified \_\_\_\_\_ NJ171E
- (t) A fairly long period (a week or more elapsed) between homicidal act and death \_\_\_\_\_ NJ172
- (v) Death caused by a beating or mistreatment similar to that administered by defendant to the victim previously \_\_\_\_\_ NJ174
- (w) There is reason to doubt that defendant's actions in themselves would have caused victim's death (e.g., (i) defendant participated in the violence but it was a coparticipant who killed the victim or was primarily responsible for victim's death or (ii) the beating or abuse induced a fatal heart attack \_\_\_\_\_ NJ175
- (x) Other \_\_\_\_\_ NJ176
- (y) Other \_\_\_\_\_ NJ177

Q113A. The evidence is sufficient to sustain a conviction of intentional murder but does it foreclose all doubts concerning:

(1) The identify of the defendant as an own-conduct killer

NJ177

1 - Yes            0 - No

or

(2) The defendant's mens rea of intent to kill

NJ178

1 - Yes            0 - No

C. Q114. Mitigating Circumstances Relevant to the Victim's Behavior

- 1 - Expressly stated in file
- 2 - Suggested by the file but not specifically indicated
- Blank - Inconsistent with information in file
- 9 - Unable to classify as 1, 2, or Blank

The victim:

\_\_\_\_\_ Had used drugs/alcohol immediately previous to homicide  
(X279)

  1   Was affected by this drug/alcohol consumption  
(X280)

Supplemental code for variable (280)

1 - Substantially

2 - Moderately

3 - Slightly

Blank - Not applicable, because no drug/alcohol use

UC - Unknown effect but defendant had used

9 - Unknown if used

\_\_\_\_\_ Aroused the defendant's fear for life (V454)  
(X281)

\_\_\_\_\_ Had at hand a deadly weapon (V472)  
(X282)

\_\_\_\_\_ Was killed with own weapon. If victim was a police officer,  
NJ181 code X282 and NJ181 only if victim fired at defendant first

\_\_\_\_\_ And defendant had history of bad blood, e.g., longstanding feud  
(X283) and/or hostility (V478)

\_\_\_\_\_ Accused defendant of misconduct  
(X283A)

(Code 1, (Code 1, 2, blank or 9)

The victim:

<u>      </u>	Physically injured	)	
(X284)		)	
<u>      </u>	Physically attacked (V460)	)	
(X285)		)	
<u>      </u>	Verbally threatened to kill	)	the defendant at
(X286)	(V466)	)	the time of the
		)	homicide
<u>      </u>	Verbally threatened to attack	)	
(X286A)	(V466)	)	
		)	
<u>      </u>	Verbally abused or provoked,	)	
(X287)	e.g., racial taunt	)	
		)	
<u>      </u>	Physically injured	)	
(X288)		)	
<u>      </u>	Physically attacked	)	
(X289)		)	
<u>      </u>	Verbally threatened to kill	)	the defendant on
(X290)		)	an earlier occasion
<u>      </u>	Verbally threatened to attack	)	
(X290A)		)	
<u>      </u>	Verbally abused or provoked	)	
(X291)		)	
<u>      </u>	Other provocation	)	
(X292)		)	
<u>      </u>	Intentionally or knowingly aroused defendant's sex desire	)	
(X292A)		)	
<u>      </u>	Had been previously accused of assaultive conduct (V502)	)	
V502		)	
<u>      </u>	Had a bad criminal reputation	)	
(X292B)		)	
<u>      </u>	Showed or talked about large amounts of money (V484)	)	
(X293)		)	
<u>      </u>	Was a participant in or consented to	)	
(X294)	his/her own death	)	

(Code 1, 2, blank or 9)

The victim:

Card: 23

<u>      </u> (X295)	Was a fugitive at the time of the homicide	)	
<u>      </u> (X296)	Had a criminal record	)	
<u>      </u> (X297)	Was a participant in the contemporaneous crime (V508)	)	
<u>      </u> (X298)	Physically injured	)	
<u>      </u> (X299)	Physically attacked	)	at the time of the
<u>      </u> (X300)	Verbally threatened to kill	)	homicide, a person that
<u>      </u> (X300A)	Verbally threatened to attack	)	the defendant cared about
<u>      </u> (X301)	Verbally abused or provoked	)	
<u>      </u> (X302)	Physically injured	)	
<u>      </u> (X303)	Physically attacked	)	on an earlier occasion,
<u>      </u> (X304)	Verbally threatened to kill	)	a person that the
<u>      </u> (X304A)	Verbally threatened to attack	)	defendant cared about
<u>      </u> (X305)	Verbally abused or provoked	)	
<u>      </u> NJ182	Victim was defendant's enemy (e.g., defendant and victim were competitors for affection of same woman)		
<u>      </u> NJ183	Victim was engaged at time of homicide in an illegal or often-disapproved activity (e.g., drug dealer, prostitute)		
<u>      </u> NJ184	Other mitigating actions or characteristics of the victim.		

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XII. Defense Strategy and Trial

Data Sources: Part XII

DS45

DS46

DS47

DS48

115. Defendant's Defense to Murder Liability (Enter in variables 185-90 up to three responses for each time period using codes 1-12 below)

<u>Codes:</u>	<u>Before Trial</u>	<u>At Trial</u>
1. No defense asserted to charge of own conduct murder with intent to kill	NJ185 _____	_____ NJ186 (NA if no trial)
2. Total denial (alibi)	NJ187 _____	_____ NJ188
3. Defendant admits presence at crime but denies "own-conduct" involvement in homicidal act	NJ189 _____	_____ NJ190
<p>Defendant admits involvement in homicidal act, but (N.B. this clause is read with defenses 4 thru 12)</p>		
4. denies intent to kill		
5. claims insanity		
6. claims defense of self or other		
7. claims defense of home or dwelling		
8. claims defense of property		
10. claims accident		
11. claims suicide by victim		
12. claims other _____		
9. Unknown		

116. Employment status of defense attorney(s) at trial: \_\_\_\_\_ V521  
(where a team, use (1) if any P.D. staff involved)

- |                      |                         |
|----------------------|-------------------------|
| 1 - P.D. staff       | 3 - Private attorney(s) |
| 2 - Pool attorney(s) | 9 - Unknown             |

117. At trial, did defendant testify on his own behalf? \_\_\_\_\_ V518  
(Applies to all trials)

- |   |             |
|---|-------------|
| 0 - No  | 9 - Unknown |
| 1 - Yes, guilt trial, noncapital case                 |             |
| 2 - Yes, penalty trial only in capital case           |             |
| 3 - Yes, both guilt and penalty trial in capital case |             |

117A. If a jury trial what homicidal crimes were charged by the court (up to 5) \_\_\_\_\_ NJ190A \_\_\_\_\_ NJ190B  
Code NJ190A = 9 if unknown. \_\_\_\_\_ NJ190C \_\_\_\_\_ NJ190D  
(Use crime code for questions 21A to 21D, p. 4  
supra) \_\_\_\_\_ NJ190E

Q118 and Q119. Expert testimony presented at trial

Code for Q118 and Q119:

Type of Expert Witness Code:

- 0 - None presented
- 1 - Defense psychiatrist
- 2 - Defense psychologist
- 3 - Defense neurologist or other physician
- 4 - Defense expert but status unknown
- 5 - Defense social worker, education specialist
- 6 - Court ordered psychiatrist
- 7 - Court ordered psychologist
- 8 - Court ordered neurologist or other physician
- 9 - Court ordered social worker, education specialist
- 10 - Court ordered expert but status unknown
- 11 - Prosecution psychiatrist
- 12 - Prosecution psychologist
- 13 - Prosecution neurologist or other physician
- 14 - Prosecution social worker, education specialist
- 15 - Prosecution expert but status unknown
- 99 - Unknown whether presented

Testimony Content Code: Witness testified that

- 1 - Defendant had a mental disease, defect or disorder that had an effect on defendant's homicidal conduct.
- 2 - Defendant had a mental disease, defect or disorder but it had no effect on his homicidal conduct.
- 3 - Defendant had no mental disease, defect or disorder.
- 4 - Other (specify) \_\_\_\_\_
- 8 - Not applicable, no expert testimony was presented
- 8E - Not applicable because unknown whether testimony was presented
- 99 - Testimony presented but content unknown

118. For cases which went to a guilt trial was expert testimony presented at the guilt trial on the defendant's mental history, capacity, or mental state?

Type of Expert Witness	 _____ NJ191	 _____ NJ193	 _____ NJ195
Testimony Content	 _____ NJ192	 _____ NJ194	 _____ NJ196

119. For cases which went to penalty phase in a capital murder trial, was expert testimony on the defendant's mental history, capacity or mental state presented to the judge or jury at the penalty phase?

Type Expert Witness	 _____ NJ196A	 _____ NJ196C	 _____ NJ196E
Testimony Content	 _____ NJ196B	 _____ NJ196D	 _____ NJ196F



XIII. Strength of Evidence

Card: 25

Data Sources: Part XIII	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
	DS49	DS50	DS51	DS52
	<u>      </u>	<u>      </u>		
	DS53	DS54		

A. Police Report and Prosecution/Witness Statements<sup>1/</sup>

1. Police Report

121. Does the information in the police report suggest clear factual guilt (code the most serious offense(s) up to 2)?            NJ197

           NJ197A

Yes

- |   |  |
|---|--|
| 1 - To "own-conduct" intentional murder | 7 - Police report provides no basis for an inference as to clear factual guilt for any crime |
| 2 - To other malice murder              |  |
| 3 - To felony murder                    |  |
| 4 - To aggravated manslaughter          |  |
| 5 - To manslaughter                     | 8 - Other <u>                                </u>  |
| 6 - To a less serious offense           | 9 - Content of police report unknown   |

122. Was the prosecutor's case based solely on circumstantial evidence i.e., no witnesses of defendant committing/participating in the homicidal act or defendant confession?            NJ198

- 1 - Yes                      0 - No                      9 - Unknown

2. Prosecution Identification Witnesses (omit if no witnesses who are not coperpetrators; code coperpetrator witnesses in question 68)

123. Indicate the number of identification witness(es) with information on defendant's participation in the homicide or information which placed him near the scene of the crime or with the victim close to its commission?            (X322)

Enter number up to 7; 8 - 8 or more; 9 - Unknown

124. Indicate the number of witness(es) with information on precipitating events or incriminating defendant statements made subsequent to the homicide.<sup>2/</sup>            (X477A)

Enter number up to 8; 8 - 8 or more; 9 - Unknown

125. Indicate the number of witness(es) (whether or not referred to in Q123 or Q124) who could identify the accused as a person at or near the scene of the homicide and did identify defendant to the authorities before trial.            (X363)

Enter number up to 8; 8 - 8 or more; 9 - Unknown

<sup>1/</sup> For tried cases, report in Q123-Q125 witnesses who testified; in pled cases report witnesses potentially available to give admissible testimony.

<sup>2/</sup> Q124 refers to defendant statements to witnesses who are not coperpetrators, not to defendant statements to police in custody. (See Q128 for defendant statements to police).

B. Defendant and Coperpetrator Statements to Authorities

128. Does the file indicate an inculpatory statement was made to the authorities by:

a. The defendant?

1 - Yes            0 - No

(X392)

b. A coperpetrator?    Omit if no coperpetrator

1 - Yes            0 - No

(X393)

(1) Defendant Statements (omit Q128A-128D if no defendant statement)

128A. Did the defendant give conflicting statements to police?

1 - Yes; if so, on what issue(s) \_\_\_\_\_

(X428)

2 - Nothing in file to suggest such statements

9 - Unknown

128B. Did the defendant repudiate an earlier inculpatory statement given to the police?

NJ199

1 - Yes

8 - Not applicable since no statement given earlier

2 - No

9 - Unknown

128C. Were the defendant's statements to the authorities consistent with a theory of self-defense?

(X429)

0 - No

1 - Yes

8 - File does not suggest the claim of self-defense was raised by defendant or that the claim is plausible

UC - Statements made but significance is unclear

9 - Unknown

128D. Were defendant's statements consistent with a theory of diminished responsibility, e.g., noncapital murder, aggravated manslaughter, or manslaughter?

(X429A)

0 - No

1 - Yes

2 - File does not suggest the claim of diminished responsibility was raised by defendant or that the claim is plausible

UC - Statements made but significance is unclear

9 - Unknown

129. Does the file indicate that there was a coperpetrator who gave a statement to the authorities implicating defendant?

(X431)

1 - Yes

0 - No

9 - Unknown

C. Forensic and medical evidence linking defendant to the crime

131. Did the homicide involve the use of a weapon (other than hands or feet) that linked the defendant to the crime? (X463)  
1 - Yes            0 - No            9 - Unknown

132. Does the file indicate there was scientific or real evidence other than the murder weapon linking the defendant to the homicide? (X451)  
1 - Yes            0 - No            9 - Unknown

133. Does the file indicate the defendant sustained any injury at the scene of the crime that linked defendant to the homicide? (X460)  
1 - Yes            0 - No            9 - Unknown

134. Was there a ballistics report that linked the defendant to the crime? (X470)  
1 - Yes            0 - No            9 - Unknown

135. Was there a report of medical evidence in the file that linked the defendant to the crime? (X471)  
1 - Yes            0 - No            9 - Unknown

137. Was there admissible medical or other forensic evidence in the file or presented at trial that supported the inference that:

A. Defendant intended to kill the victim NJ200 \_\_\_\_\_

B. Defendant intended to cause the victim severe physical suffering NJ201 \_\_\_\_\_

Code:

- |  |  |
|--|--|
| 1 - Yes  | 3 - Medical evidence was unclear on the issue                      |
| 2 - No, medical evidence did not support the inference | 4 - No relevant medical evidence in the file or presented at trial |

XIV. Exculpatory Evidence

138. Was there evidence that worked against the view that the defendant was guilty of capital murder, and/or worked against the view that one or more statutory aggravating circumstances was present, such as:

- |   |                |
|---|----------------|
| 1 - The testimony of the primary prosecution witness was contradicted                             | 1. NJ202 _____ |
| 2 - The testimony of the primary prosecution witness was impeached                                | 2. NJ203 _____ |
| 3 - There was scientific or technical evidence that was inconclusive or exculpatory               | 3. NJ204 _____ |
| 4 - The defense theory was supported by independent witness(es) whose testimony was not impeached | 4. NJ205 _____ |
| 5 - Other (indicate) _____  | 5. NJ206 _____ |

Code:

1. There was such evidence presented at trial
2. There was such evidence available but no trial was held
- Blank - The existence of such evidence is inconsistent with the information in the file
9. Unable to classify as 1, 2 or blank

**XV. Overall Case Classification and Ranking**

139. Classify the defendant's case according to the following homicide typology. When the classification is unclear, enter the one that is most characteristic of the case first, etc., using up to three entries.

NJ207     

NJ208     

**I. Cases with contemporaneous felonies (4g)**

NJ209     

- 1 - Kidnap/abduction/sex abuse/robbery cases, with stranger or acquaintance victims
- 2 - Forced or uninvited entry, robbery/burglary/rape cases with stranger or acquaintance victim
- 3 - Armed robbery of commercial establishment, entry authorized (e.g., liquor store) with stranger or acquaintance victims
- 4 - Other robbery with entry authorized or out of doors with stranger or acquaintance victims (e.g., hitchhiker killer, drug dealer victim)
- 5 - Friends/acquaintances, with victim abducted/robbed and killed, e.g., after a card game
- 6 - Arson, generally in retaliation against owner or tenant
- 7 - Multiple victims, all classes of victims

**II. Family/intimates/friends**

- 8 - Premeditated, planned killing; spouses, love triangles, boy/girl friend
- 9 - Premeditated, planned killing; child v. parent
- 10 - Child abuse killing by parent or mother's boyfriend

Killing in a dispute, altercation:

- 11 - Spouses/intimates
- 12 - Parent/child
- 13 - Friends

**III. Disputes between strangers/business associates/acquaintances**

- 14 - Related to prior business or ongoing relationships, e.g., landlord and tenant
- 15 - Spontaneous disputes over money, property, cars, and the like
- 16 - Retaliation for prior injury to self/family/friend  
Spontaneous conflict between individuals
- 17 - Bars, clubs, homes
- 18 - Streets, parks
- 19 - Brawls with multiple participants, e.g., bar, street, park
- 20 - Other (specify) \_\_\_\_\_
- 99 - Unknown

140. How do you rank the aggravation level of this defendant's crime(s) among death possible homicides in terms of defendant's role, mens rea, aggravating and mitigating circumstances, and the strength of the evidence? \_\_\_\_\_ NJ210

- 1 - Among the most aggravated -- strong evidence on mens rea, own conduct, and multiple statutory aggravating circumstances with no or substantially outweighed mitigating circumstances (e.g., housebreaking, brutal beating, rape and robbery of an elderly stranger victim, defendant with multiple priors).
- 2 - Above average in aggravation level -- multiple statutory aggravating factors but with mitigating factors or some doubt about mens rea or own conduct (e.g., a forced entry, robbery and beating of helpless victim but a 19 year old defendant with no priors and there is an issue concerning mens rea).
- 3 - An average unexceptional murder -- a single statutory aggravating factor without significant mitigating factors present (e.g., a one victim bar room shooting endangering many others and wounding 2 nonvictims, defendant with 2 felony priors).
- 4 - Below average in aggravation level -- a single statutory aggravating factor with substantial mitigating factors or an issue concerning defendant's mens rea or own conduct (e.g., convenience store murder, 1 shot, victim drew a weapon, defendant a retarded 18 year old with no priors).

141. Was the defendant's case death penalty eligible under post-Ramseur and post-Moore/Gerald law?

- 1 - Yes
- 0 - No
- 9 - Unknown

\_\_\_\_\_ NJ211

Card: 25

142. Coder's Name \_\_\_\_\_  
Last, first NJ212

\_\_\_\_\_ NJ213  
Coder ID

143. Coding Date \_\_\_\_\_|\_\_\_\_\_  
MM DD YY

NJ214

September 24, 1991

Technical Appendix 5. Protocol for DCI Coders

CODING INSTRUCTIONS FOR DATA COLLECTION INSTRUMENT  
(DCI), DEATH PENALTY PROPORTIONALITY REVIEW PROJECT

Introduction

The information in the DCI will provide the basis for a quantitative analysis designed to identify case characteristics that are important in prosecutorial and jury decision-making. The prosecutorial decisions of interest relate to charging, plea bargaining, and whether to serve notice of statutory aggravating factors, while the sole jury decision of interest is the life/death determination made at the penalty trial.

The basic standard for determining whether to code a given piece of information called for in the DCI depends on the nature of the information called for. If the question calls for procedural or identifying information found in Section I, include the information regardless of its source or potential admissibility. The same rule applies for information that may be considered illegitimate or suspect as a basis for decision, i.e., defendant's and victim's age, sex, race, residence, and socioeconomic status. Section II and Questions 71-79 of Section IV.

However, for information relating to legitimate case characteristics that relate to the defendant's mens rea, own-conduct, and the aggravation level of the case, the test for inclusion in the DCI is whether the information would be admissible in either a capital guilt or penalty trial if offered by either the defendant or the prosecutor.

However, cases that result in a capital murder conviction and advance to a penalty trial call for an additional determination. In these cases, there may be admissible

information in the file bearing on the defendant's blameworthiness that was not presented in either the guilt or the penalty trial, e.g., the defendant's prior record. All such information should be flagged in the DCI by circling the question number and indicating what information coded in the DCI was not available to the sentencing authority.

Also, the circled numbers should be noted in a descriptive paragraph on the comment sheet at the end of the DCI. This will enable us to modify the case for the quantitative analysis of the penalty trial sentencing decisions.

In contrast to the DCI, the sole function of the narrative summary is to provide a basis for comparing cases in terms of defendant blameworthiness. For cases that did not advance to a penalty trial, include all information that would be admissible at either the guilty or the penalty trial. However, for cases that advance to a penalty trial, include only information that was actually presented in either the guilt or the penalty trial.

As a general rule, written entries are flush to the right margin. Never guess at any answer if there is no or minimal information.

#### Part I. Data Sources

The starting place for data collection is the Presentence Report (PSI) then the appellate briefs. If the information is not found here then review the trial transcripts. The transcripts contain a table of contents. Instead of reviewing the whole transcripts, look for key witnesses and review their testimony.

If you are using the same data sources to code the entire DCI, only list the sources on page one of the document and the assumption will be that these sources were used throughout.



- Q10 - If not obvious from file, code "unknown."
- Q13 - Do not spend too much time ascertaining whether or not a jury was death qualified. If no notice of factors was served or the case was tried for anything but murder, the jury is not death qualified.
- Q24 - Do not dig too far for this information. If it is not clearly indicated, it may be inferred by the number of jail days credited. If the credit goes from date of arrest to date of sentence, code a "6."
- Q27 - Attempt is not a homicide charge, it is a contemporaneous offense. If a death sentence was imposed the "minimum" slot is left blank.
- Q28 - If no date of birth is available in your information, with Nina or Ekan to see if it is listed in SBI list. If not, and the D's age at trial is available, estimate date of birth.
- Q30 - If a defendant is black and Hispanic, code "black." If a defendant is ID'd in the PSI as Hispanic or they or their parents were born in a Spanish speaking country, or if the defendant is Spanish speaking, code Hispanic. Only code a defendant as black if they are ID'd as such somewhere. If the defendant ID's themselves as something code that.
- Q35 - Residence is that place defendant considers permanent or where the defendant spends most of the time.
- Q40 - If conflicting evidence (i.e., some evidence of sporadic, some evidence of continuous) use codes for primary and secondary.
- Q42 - If nowhere in the file is a skilled job indicated, code that defendant never had one.

- Q43A - In any language.
- Q44 - Include juvenile record. Use 2C code book to determine crime/disorderly persons. Ask questions if you have doubt.
- Q45 - Prior arrests. Include juvenile.
- Q48 - If the case was heard at the municipal level, it is a disorderly persons.
- Q49 - In other jurisdictions, a felony is the equivalent of a crime.
- Q50 - Term imposed, not actual time served.
- Q51 - Look for any significant statement of care or treatment.
- Q51D - If vocational or other program is outpatient, it is non-residential, even if by court order.
- Q53 - This is a flexible 24 hours. The focus is the influence on behavior. If there is no mention of drugs or alcohol in the file code "0."
- Q56 - If nothing in the file suggests it, code "0." Use mention of mental retardation in PSI plus education level or other negating evidence.
- Q57A - If no mention in file, code "0."
- Q59 - If not indicated in PSI, code "unknown" unless there is an indication of a good, stable family life, then code "0."
- Q59A - Look for indicators such as dropping out of school or juvenile offenses which are school related.

Q60 - If no mention in the file code "9."

Q61 - If no mention in file code "0."

Q62 - There must be a positive indication in file that defendant was in actual combat.

Part IV : If no co-perps omit DS20A

Q63 - Consider such factors as this defendant's role in the planning of the crime, their mens rea and conduct and the maturity of this defendant. Do not consider whether any defendant testified.

Q68A - If no indication in the file, code "unknown."

Page 17 Section V

The use of the term "victim" without modification means "deceased victim."

Q72 - Use the same rule as for race of defendant (Q30).

Q75 - If no mention in file whether employed or unemployed, code "99."

Q83A - Do not code underlying homicide.

Q84A - If the Judgment of Conviction is silent as to concurrent/consecutive, the sentences are concurrent.

Q87 - If the trial transcript is available, mark the pages which provide the basis of support for your judgment.

Only code a "1" here if the evidence is very strong, i.e., a credible witness sees the defendant aim the gun and pull the trigger. There is no other explanation, but the defendant's desire to kill.

The fact that defendant states the intent was only to cause serious bodily injury is very weak evidence.

Be sure to take into consideration the effect of such factors as rage, drinking, drugs, etc., or mental state.

Q90 - Use an expansive view of motives. Use multiple motives if the facts indicate.

Q90B - Opening an unlocked window = forced entry.

Q93 - X169 "Support" means financial support.

X170 provocation at the time of the killing.

NJ 125 Victim does not have to be alive.

Q95 "2" = rational basis in file.

X180 and X181 - only directed at victim (deceased).

X177 limited to cases where victim totally compliant with demands of defendant. No effort to intervene or fight back.

Q105 - X183 Even self-serving statement indicates remorse.

X186 - If defendant did not stay and call police for help.

NJ156 - If defendant waited for victim to come in.

Only code a "1" here if the evidence is very strong, i.e., a credible witness sees the defendant aim the gun and pull the trigger. There is no other explanation, but the defendant's desire to kill.

The fact that defendant states the intent was only to cause serious bodily injury is very weak evidence.

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Q105 - X183 Even self-serving statement indicates remorse.

X186 - If defendant did not stay and call police for help.

NJ156 - If defendant waited for victim to come in.

Q107 and 107A - Omit if all victims picked up in 106A.

Q106A, 107 and 107A should total the number of victims given in 106.

Q109A & B - Code most aggravated version of the killing.

Q111 - V658      A. Defendant under extreme mental or emotional disturbance -- this is a subjective rather than an objective test. Factors to consider are (a) any provocation, (b) its source, (c) its importance to defendant, (d) the severity of defendant's upset, (e) the duration of the disturbance.

Q113A - Answer codes for N.J. 178 apply to N.J. 177A.

Q114 - X294 Fighting is not an indication of this. There must be actual consent to the activities which caused death. X298, X299 Laying hands on = physically attacked, not physically injured.

In preparing the narrative summaries please use the following format:

1. Identify the defendant - age, sex, job, etc. When the defendant is first introduced use the full name then use D and D .... Do the same with victims. (Be careful to identify only deceased victims as "V").
2. Describe co-defendants. Explain the relationship between them and how they got together.
3. Describe the victim.
4. Describe the planning of the crime or precipitating events.

5. Describe the circumstances of the killing in detail. Be sure to include the factual basis for the statutory aggravating factors. Also, mitigating factors. If not indicated in brief please state that.
6. Indicate other persons injured.
7. Describe post-killing events, i.e., defendant fleeing, turning himself in, call the hospital.
8. Give the procedural posture of the case - i.e., "Defendant had a direct appeal to the New Jersey Supreme Court, the Court overturned the capital conviction and remanded the case for a new trial."

Questions 12 and 13. These two questions are directed at the liability trial, or plea, in a capital case goes to a penalty trial. Question 12 would be coded 1 and Q13 would be coded 3. A problem arises when the defendant pleads guilty but requests that his sentencing hearing be conducted before a jury. In that event, Q12 would be coded 4 but Q13 would be coded 3, and for that purpose the reference of Q13 is to the penalty trial rather than the liability trial.

Question 79. Foil 2 - minor child - embraces children as well. Thus, if a victim has more than one child, only item 2 is coded in NJ79.

Question 90, QX143, or X146 may be entered to fit the circumstances. However, both should not be simultaneously entered.

The narrative summary should include information on contemporaneous offenses charged, convictions and sentences imposed, and whether they were consecutive or concurrent.

If I did not mention it earlier, we need to enter in the narrative summaries the principal contemporaneous crimes charged and what the outcome was with respect to them in terms of conviction and sentence.

Question 90C. If a person comes to the scene of the crime with multiple weapons, code each one that applies, even though it may be coded the second time. Example, if the person comes with two knives, code 5 twice. Next, the student should be instructed to use only the authorized codes. Entry of alternative codes will confuse the data entry people or also result in an error. If the codes available do not fit, please have them bring that to your and my attention.



If there is more than one victim in the case and the jury is charged as to both victims, Q111 should be coded for the victim whose killing resulted in a death sentence. If two death sentences were imposed, enter the most aggravated set of findings. Similarly, if two life sentences were imposed, enter the most aggravated set of findings here. In addition, when multiple victims are involved, the multiple-victim sheets should be coded for victims 2 and 3. If there are more than three victims, this should just be reflected in the narrative summary.

With respect to Q114, if there are multiple victims, code the one that resulted in a death sentence if one was imposed or, if one was not imposed, code the more aggravated case.

Special attention should be given to the mens rea questions 87 relating to intent to kill and 101A concerning intent to cause extreme suffering. The idea here is to grade the codes to reflect how strongly the evidence supports each of the items. For example, if it is plain that the defendant intended to kill the victim, Q87A would be coded 1 and the rest of the factors would be coded 5 or 6. It is logically impossible to have 87A, B, C, D, and E coded the same way. The same thing holds with respect to Q101A. If defendant intended to cause the suffering and it appears conclusively that this is the case, then B under 101A would be coded 5. The same would be true with respect to C.

Questions 94 and 95 relate to aggravating circumstances that occurred at or about the time of the offense. You should not include here abuse of a victim on prior days or weeks.

DCB:mpm

AMENDMENT I

Supplemental Coding Instructions for  
Data Collection Instrument(DCI)  
Proportionality Review Project

- Questions 1-27A Blank = Unknown--unless otherwise stated
- Question 2a 999999Z = Unknown
- Question 2c 99999 = Unknown
- Question 2e 9999 = Unknown
- Question 2 999999999 = Unknown
- Question 11 This variable includes cites for Supreme Court opinions.
- Question 13 Blank = No trial
- Question 16 999984 = Case indicted in 1984--Specific date is unknown
- Question 18 . = Unknown
- Question 22 999 = Unknown
- 
- Question 21A Blank = Case proceeded via Indictment
- Question 21B Blank = Case proceeded via Accusation
- Question 27b (V50) . = No 2nd homicide
- (V51) . = No 2nd homicide or unknown
- (V51A) . = No 2nd homicide or unknown
- (V52) . = No 2nd homicide or unknown
- (V53) . = No 3rd homicide
- (V54) . = No 3rd homicide or unknown
- (V54A) . = No 3rd homicide or unknown
- (V55) . = No 3rd homicide or unknown
- Question 28 999999 = Unknown  
There are codes in this variable for year only where the exact month and day are unknown.
- Question 30 Resonse number 4, as listed on the code document, was deleted.

Question 35      Blank = Not a New Jersey resident or unknown

Question 44      This variable counts individual charges resulting in a conviction (excluding juvenile charges). An earlier policy of including juvenile convictions was changed as often the juvenile record was not present.  
Blank = No prior record.

Questions 45-50   Blank = No prior record (if Question 44 is blank)

Question 44      Where Question 44 (X81) is filled in

- (X85)   Blank = No second conviction
- (X89)   Blank = No third conviction
- (X93)   Blank = No fourth conviction
- (X97)   Blank = No fifth conviction
- (X101)  Blank = No sixth conviction

Where Question 44 (X85) is blank

- (X86)   Blank = Not applicable, no second offense
- (X87)   Blank = Not applicable, no second offense
- (X87A)  Blank = Not applicable, no second offense

Where Question 44 (X89) is blank

- (X90)   Blank = Not applicable, no third offense
- (X91)   Blank = Not applicable, no third offense
- (X91A)  Blank = Not applicable, no third offense

Where Question 44 (X93) is blank

- (X94)   Blank = Not applicable, no fourth offense
- (X95)   Blank = Not applicable, no fourth offense
- (X95A)  Blank = Not applicable, no fourth offense

Where Question 44 (X97) is blank

- (X98)   Blank = Not applicable, no fifth offense
- (X99)   Blank = Not applicable, no fifth offense
- (X99A)  Blank = Not applicable, no fifth offense

Where Question 44 (X101) is blank

- (X102)  Blank = Not applicable, no sixth offense
- (X103)  Blank = Not applicable, no sixth offense
- (X103A) Blank = Not applicable, no sixth offense

Where Question 44 (X81) is filled in and X83A is Blank

Blank = no life or death decision or not applicable

Where Question 44 (X85) is filled in

- (X87A)  Blank = No life or death sentence or not applicable

Where Question 44 (X89) is filled in

- (X91A)  Blank = No life or death sentence or not applicable

Where Question 44 (X93) is filled in

- (X95A)  Blank = No life or death sentence or not applicable

Where Question 44 (X97) is filled in

- (X99A)  Blank = No life or death sentence or not applicable

Where Question 44 (X101) is filled in  
(X103A) Blank = No life or death sentence or not  
applicable

Question 45 Counts arrest events

Question 46 Includes pending or unreported dispositions

Question 49A Counts individual charges resulting in a  
conviction  
UC = Convicted but exact number unknown

Question 51 Includes psychiatric testimony at trial, where  
known

Question 53 Where Question 53 (NJ38) is blank or filled in  
(NJ39) Blank = No second type  
(NJ39A) Blank = No third type

Question 55 Blank = No second drug or alcohol addiction

Question 58(NJ43) Blank = No permanent physical handicap  
(NJ44) Blank = No second handicap  
(NJ45) Blank = No third handicap

Question 73C 99 = Unknown

Question 79 Whether or not there was a response in NJ79  
(NJ80) Blank = No second answer  
(NJ81) Blank = No third answer

Question 81 This is to be coded only where the offense was  
charged notwithstanding the language contained in  
the codebook. Do not include other homicidal  
charges unless they were charged for a second  
victim.

Whether or not there was a first contemporaneous  
offense

(NJ90) Blank = No second contemporaneous offense  
(NJ91) Blank = No third contemporaneous offense  
(NJ92) Blank = No fourth contemporaneous offense  
(NJ93) Blank = No fifth contemporaneous offense  
(NJ93A) Blank = No sixth contemporaneous offense  
(NJ93A) Blank = No seventh contemporaneous offense

Question 83A . = No contemporaneous offenses  
0 = No consecutive sentences

Question 84 . = No contemporaneous offense  
0 = No consecutive mandatory minimum years

Question 84A Blank = No contemporaneous offenses

Question 92

(NJ120) Blank = No secondary weapon  
(NJ121) Blank = No third weapon

Question 94

(X173) Blank = No second factor  
(X175) Blank = No third factor  
(X175A) Blank = No fourth factor  
(X175B) Blank = No fifth factor  
(X175C) Blank = No sixth factor  
(X175D) Blank = No seventh factor  
(X175E) Blank = No eighth factor  
(X175F) Blank = No ninth factor  
(X175G) Blank = No tenth factor

Question 95 (X181) . = Inconsistent with information in the file

Question 96 b,c Blank = Victim didn't endure severe physical or  
mental suffering

Question 96 d,e Blank = No third person sufferer

Question 97 Blank = Victim didn't endure severe physical  
suffering prior to death

Question 98 Blank = No mistreatment of victim occurred

Question 99 Blank = Victim suffered no severe physical pain

Question 101-102 Blank = No severe suffering in the case

Question 104A Blank = No harm to a victim's corpse

Question 108 Blank = No coperpetrators (Variable X252 only)

Question 108A Blank = No coperpetrators (Variable NJ162G only)

Question 110A 7 = Aggravating Factor served but not  
submitted to jury

Question 111 15 = Mitigating Factor served but unknown if  
found

16 = Mitigating Factor served but not presented  
to jury

17 = Mitigating Factor served but not  
considered because no aggravating factor  
found

Question 114 UC = Unknown effect but victim had used

Supplemental Sheet  
for Multiple Victims

This is only coded for victims for whom  
the defendant is charged with a homicide  
for their death.

AMENDMENT II

Supplemental Instructions for Coding Amended  
Data Collection Instrument (DCI)

After analysis on the first few hundred cases coded under the old DCI we have determined that certain variables are not useful or information is not present on a regular basis on these variables. Therefore we have eliminated the necessity for coding certain variables. In the amended DCI codebook, used to code the last thirty-four cases entered, the response for these variables has been assigned the code of "X", except as noted below. This will allow us to differentiate between old and new cases. A revised version of the DCI, eliminating these variables, is in progress. The following variables have been eliminated from coding:

Data Sources: Part I	(DS1, DS2, DS3, DS4)
Question 2B	(NJ2A)
Question 2E	(VI)
Superceding Indictment #	(NJ5)
Question 4	(NJ7)
Question 5	(NJ9)
Question 9, 10, 11	(NJ10, NJ11, NJ12)
Questions 15, 16, 17,	(V7, V13, V19)
	NOTE: New cases keypunched as Blank not X.
Question 19	(V25)
	NOTE: New cases keypunched as Blank not X.
Questions 21A, 21B	(V37, V38)
Question 24	(NJ17)
	NOTE: New cases keypunched as 9's not X.
Question 27	(V47, V48, V48A, V50, V51, V51A, V52, V53, V54, V54A, V55)
	NOTES: V47, V47A, V48, V48A new cases keypunched as 99 not X. V51, V51A, V52, V53, V54, V54A, V55k keypunched as . not X.
Data Sources: Part II	(DS5, DS6, DS7, DS8)
Questions 43A, 43B	(NJ24, NJ24A)
Data Sources IIIA	(DS9, DS10, DS11, DS12)
Question 44 Maximum time incarceration	(X83, X87, X91, X95, X99, X99A, X103)
Question 44 Life or Death Sentence	(X83A, X87A, X91A, X95A, X99A, X103A)
Question 48	(V152)
Data Sources IIIB	(DS13, DS14, DS15, DS16)
Question 56A	(NJ41A)
Questions 57A, 58	(NJ42, NJ43, NJ44, NJ45)
Question 59A (3rd and 4th responses)	(NJ49, NJ50)

Question 59E (2nd, 3rd, 4th and 5th responses)	(NJ56, NJ57, NJ58, NJ59)
Question 60 (2nd response)	(NJ61)
Data Sources Part IV	(DS17, DS18, DS19, DS20 DS20A)
Question 65A, 65B, 65E	(V266, V267, V268, V269, V270, V271 V274A, V274B, V274C)
Question 66A, 67	(NJ68A, NJ68B, NJ68C, V278, V279, V280)
	NOTE: V278, V279, V280 new cases keypunched as . not X.
Data Sources Part V	(DS21, DS22, DS23, DS24)
Question 73A, 73B, 73C, 74	(NJ70, NJ71, NJ72, NJ73)
Question 75 (2nd response)	(V310A)
Questions 76, 77, 78, 76A	(NJ75, NJ76, NJ77, NJ78)
Question 79 (3rd response)	(NJ81)
Data Sources Part VI	(DS25, DS26, DS27, DS28)
Data Sources Part VII	(DS29, DS30, DS31, DS32)
Question 87A, 87B, 87C, 87D, 87E, 87F, 88 part1, part2, part3, part4)	(NJ98, NJ99, NJ100, NJ101, NJ102, NJ103, X193, X193A, NJ104, X196, NJ105, NJ106, X196A, X196B, X197, X198, X200, X201, X202, X203, X204, X205, X206, X207, X208, X209, X210, X211, X212, X213, X214, X215)
	NOTE: NJ98 new cases keypunched as . not X.
Data Sources Part VIII	(DS33, DS34, DS35, DS36)
Question 90C (2nd response)	(NJ86, NJ88)
Question 95A	(NJ126)
Questions 100, 100A, 100B, 100C	(NJ137, NJ137A, NJ137B, NJ137C, NJ137D, NJ137E, NJ137F, NJ138, NJ139, NJ140, NJ141, NJ142, NJ142A, NJ142B, NJ143, NJ144, NJ145, NJ146)
Question 103	(NJ150)
Data Sources Part IX	(DS36A, DS36B, DS36C)
Question 106A, 107, 107A, 108, 108A 109A, 109B, 109C	(NJ162C, NJ162D, NJ162E, X251, X252, NJ162F, NJ162G, NJ163, NJ164, NJ165, NJ165A, NJ165B, NJ166, NJ167, NJ168, NJ169, NJ170, X258)
	NOTE: NJ162C, NJ163 new cases keypunched as .; NJ162D, NJ162E new cases

keypunched as 0.  
X258 new cases  
keypunched as Blank.

Data Sources Part X	(DS37, DS38, DS39, DS40)
Question 110	(NJ171)
Data Sources Part XI	(DS41, DS42, DS43, DS44)
Question 113A	(NJ177A, NJ178)
Data Sources Part XII	(DS45, DS46, DS47, DS48)
Questions 115, 116, 117, 117A, 118 119	(NJ185, NJ186, NJ187, NJ188, NJ189, NJ190, V521, V518, NJ190A, NJ190B, NJ190C, NJ190D, NJ190E, NJ191, NJ192, NJ193, NJ194, NJ195, NJ196, NJ196A, NJ196B, NJ196C, NJ196D, NJ196E, NJ196F)
Data Sources XIII	(DS49, DS50, DS51, DS52, DS53, DS54)
Questions 121, 122, 123, 124, 125, 128, 128A, 128B, 128C, 128D, 129, 131, 132, 133, 134, 135, 137, 138)	(NJ197, NJ197a, NJ198, X322, X477A, X363, X392, X393, X428, NJ199, X429, X429A, X431, X463, X451, X460, X470, X471, NJ200, NJ201, NJ202, NJ203, NJ204, NJ205, NJ206)



### AMENDMENT III

#### Supplemental Coding Instructions For New Cases

- Questions 1-27A            9 = Unknown  
                              Blank = Not applicable.
- Question 2                Code indictment #, accusation # or superceding  
                              indictment # for the first homicide charge.
- Question 12               Responses 2, 7, 8 were deleted as they were  
                              never applicable.
- Questions 21A-21D        Blank = Not applicable  
                              1 = Capital Murder  
                              2 = Non-Capital Murder
- Question 47               Blank = Never convicted
- Question 49               Blank = Not applicable /no prior arrest for a  
                              crime
- Question 49A              UC = Convicted but exact number unknown
- Question 50               Blank = Not applicable (never incarcerated)
- Question 51D              This question deals with type of  
                              institutionalization as a juvenile for drug or  
                              alcohol abuse (underlined language added)
- Question 51E              Total number of prior institutionalizations for  
                              mental illness as a juvenile
- Question 81               Did the homicide occur while the defendant was  
                              engaged in the commission of another offense  
                              and (old language was whether or not) the  
                              defendant was charged and convicted of the  
                              offense (code multiple homicides beyond the  
                              first as contemporaneous)
- Question 92               05 = Strangled with a rope or other cord.
- Question 110               Answer if the case proceeded to a penalty  
                              trial.
- Question 110A             Answer the question for penalty trial cases  
                              only  
                              5 = Factor withdrawn  
                              9 = Unknown
- Question 111               15 = Served but unknown if found  
                              16 = Served not presented  
                              17 = Served but not considered
- Question 112               Code only for non penalty trial cases

(c) (3) The question is intoxication and/or  
drugs

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Technical Appendix 6. Case Coding Procedures and Personnel

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Technical Appendix 6. Case Coding Procedures and Personnel

At the outset of the project (fall of 1988) the master, David Baldus, and the assistant director, John McCarthy, met with the coders and the legal assistant, Nina Rossi, to work with them and develop rules for screening the cases. The coders' assigned reading included Baldus, Pulaski, and Woodworth's "Arbitrariness and Discrimination in the Application of the Death Penalty: A Challenge to State Supreme Courts," 15 Stetson Law Review 133 (1986), portions of the Judges Bench Manual For Capital Cases relating to relevant principles of capital punishment law, and the homicide statute. From these initial meetings and review of the cases, written instructions (presented in technical appendix 2 of this report) on screening the cases were developed by the master and distributed to the coders. After reading these materials, the coders coded practice cases that were reviewed by the master and the assistant director and then discussed with the legal assistant and the coders. When the coders became familiar with the process and the error rate was low, they began independently to code cases, each of which was reviewed by the legal assistant for accuracy. The coding forms and cases were then reviewed by the master and the assistant director and categorized as death-eligible, not death-eligible, or questionable as to death-eligibility.

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As time went on, the legal assistant took over the task of training the coders. The initial coding of the screening sheets was reviewed by the legal assistant and discussed with the coders. When they became familiar with the process they then coded independently. Each completed code sheet was then reviewed by the legal assistant for accuracy. Completed code sheets were then reviewed and classified by the master. Presently the code sheets are reviewed by the legal assistant and a law graduate who has been with the project for over two years. The code sheets are then classified by the legal assistant and the assistant director.

All cases coded death-eligible were filed separately in preparation for the coding of the Data Collection Instrument (DCI) and the preparation of a detailed narrative summary. Data sources used for coding the DCI were the pre-sentencing investigation report (PSI), death certificates, and when available, police reports, judgment of conviction, indictment, autopsy reports, appellate briefs and opinions. Presently trial transcripts are being reviewed to verify the accuracy of the narrative summaries. When the DCI was first introduced to the process, all coders coded the same three cases, then met with the master, the assistant director, and the legal assistant for a page-by-page review of the completed documents. A set of coding rules (found in technical appendix 5) was compiled by the master.

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When this process was completed, the coders, using the above coding rules, began coding the cases and each was reviewed by the legal assistant. Questions and problems were relayed to and resolved by the master. As time went on and the legal assistant became familiar with the DCI, all training was conducted by the legal assistant.

New persons beginning work on the project were given the reading materials mentioned above, then closely supervised when coding the initial cases. Until the error rate was low, all cases were returned to the coders with comments and corrections by the legal assistant. Each case was then reviewed by the legal assistant and handed on for data entry.

A research analyst was assigned to the project early on. The research analyst is responsible for the coordination of entry and cleaning aspects of the project, the development of computerized data sets, and the preparation of ad-hoc reports. This includes the supervision of in-house data entry, data cleaning, preparation of progress reports for cases in the project, and the preparation of data reports as requested by the master.

The following personnel (resumes attached) have worked closely on the Proportionality Review project either in data collection, coding, entry, or analysis:

John P. McCarthy, Esq., Assistant Director

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Nina Rossi, Esq., Legal Assistant  
Ekan Onyile, Research Analyst  
Ingrid Morton, Research Analyst  
Cheryl Lewis, Criminal Research Analyst

The legal technicians hired for the project were either second- or third-year law students or law graduates.

Dan Lupert, Law Graduate  
Valerie Bowen, Law Graduate  
Leslie Chappo, Law Student  
Carlos Diaz, Law Student  
Clifford Moore, Law Student  
Amy Young, Law Student  
Tracy Watkins Thompson, Law Student  
Stephanie Fenster, Law Student  
Andrew Weinraub, Law Student  
Sandra Shillaci, Law Student  
Larry Roundtree, Law Student  
Allen Richardson, Law Student  
Lisa Courtvier, Law Student  
Stuart Tucker, Law Student  
George Poshka, Law Graduate  
Vance Hagens, Law Graduate  
Anita Dockery, Law Graduate

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Technical Appendix 7. Variables With DCI Question # and Variable Name Indicated When Applicable

ADMITBT	DEF. ADMITD GUILT-CAP. MURD. BFR TRIAL (Q115 NJ185)
AGCRYESX	# STAT. AGG FCTRS FND AT PEN TRL (SUM V4APTY ETC)
AMBUSH	LURING/AMBUSH (Q94 X172 ETC)
ARAPE	VIC OR OTHR PRSN RAPED OR SEXULY ABUSE (Q93 NJ125)
ASOTHERD	ASIAN OR OTHER DEFENDANT (Q30 V98)
ATLANTIC	ATLANTIC COUNTY CASE (Q8 V2)
ATRISKX	# OF NONDEC VIC(S) AT RISK OF DEATH (Q109C X258)
AVAPREH	MOTIVE TO AVOID APPREHENSION:4F (Q90 X146)
BERGEN	BERGEN COUNTY CASE (Q8 V2)
BIRTHDAY	DEFENDANT'S BIRTHDATE (Q28 V94)
BIZWEAP	KILLING INVOLVED A BIZARRE WEAPON (Q92 NJ88A)
BLACKD	BLACK DEFENDANT (Q30 V98)
BLACKVIC	A BLACK VIC. AND NO WHITE VIC. (Q72 V292 ETC)
BLAME1	BLAMEWORTHINESS FACTOR #1 (PTDEATH MODEL)
BLAME2	BLAMEWORTHINESS FACTOR #2 (PTDEATH MODEL)
BLAME6	BLAMEWORTHINESS FACTOR #3 (DEATH MODEL)
BLAME7	BLAMEWORTHINESS FACTOR #4 (DEATH MODEL)
BLAME8	BLAMEWORTHINESS FACTOR #5 (PTRIAL MODEL)
BLOODY	EXTREMELY BLOODY CRIME (Q94 X172 ETC)
BOUNDGAG	VICTIM BOUND OR GAGGED (Q94 X172 ETC)
BURLNGTN	BURLINGTON COUNTY CASE (Q8 V2)
CAMDEN	CAMDEN COUNTY CASE (Q8 V2)
CAPCHRG	CAPITAL MURDER CHARGE WITH FACTOR(S) (Q21B V38)



CAPEMAY CAPEMAY COUNTY CASE (Q8 V2)  
 CAPTRIAL CASE ADVANCED TO A CAPITAL TRIAL (Q21C V39)  
 CASE PROJECT CASE NUMBER (NJ1)  
 CASENAME NUMBER ON BRIEF NARRATIVE SUMMARY ("SUMMARY 1, ETC.")  
 CLUB BRUTAL CLUBBING (Q94 X172 ETC)  
 CONARSON CONTEMPORANEOUS OFFENSE: ARSON (Q81 NJ89 ETC)  
 CONATMUR CONTEMP. OFFENSE: ATTEMPTD MURDER (Q81 NJ89 ETC)  
 CONBURGL CONTEMPORANEOUS OFFENSE: BURGLARY (Q81 NJ89 ETC)  
 CONKIDNP CONTEMPORANEOUS OFFENSE: KIDNAPPING (Q81 NJ89 ETC)  
 CONMURD CONTEMPORANEOUS OFFENSE: MURDER (Q81 NJ89 ETC)  
 CONOF4GX NUMBER OF 4G CONTEMP. OFF. (Q81 NJ89 ETC)  
 CONROB CONTEMP. OFFENSE: ROBBERY (Q81 NJ89 ETC)  
 CONSEXAS CONTEMP. OFFENSE: SEXUAL ASSAULT (Q81 NJ89 ETC)  
 CONSNDAT PENALTY TRIAL OR CONVICTION DATE IN NON-PENALTY TRIAL  
 CASES  
 CONSNYR PENALTY TRIAL OR CONVICTION YEAR IN NON-PENALTY TRIAL  
 CASES  
 CONTOF4G A 4G CONTEMP. OFFENSE INVOLVED (Q81 NJ89 ETC)  
 CONVMDY CONVICTION MONTH DAY AND YEAR (Q18 V22)  
 CONVCTYR YEAR OF CONVICTION (Q18 V22)  
 CONVDATE DATE OF JUDGMENT OF CONVICTION (Q18 V22)  
 CONVICTX NUMBER OF DEFENDANT PRIOR CONVICTIONS (Q49A NJ27)  
 COPERP ONE OR MORE COPERPS INVOLVED (Q63 X191)  
 COUNTY COUNTY OF CONVICTION (Q8 V2)  
 CUMBRND CUMBERLAND COUNTY CASE (Q8 V2)  
 DABANVIC DEF. ABANDONED DYING VICTIM (Q105 NJ161)  
 DADCRIME DEF. COMMITD ADDTNL CRIME(S) AFTR HOMI (Q105 X185)

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DADMIT	DEFENDANT ADMITTED HIS GUILT (Q113 NJ171)
DAGEMIT	DEFENDANT'S AGE IS MITIGATING (Q28 V94)
DAIDVIC	DEFENDANT AIDED VICTIM (Q113 V675)
DAMBUSH	DEFENDANT AMBUSHED VICTIM (Q105 NJ156)
DARMED	DEFENDANT ARRIVED ARMED (Q90C NJ85 OR NJ86)
DARRESTX	NUMBER OF DEFENDANT PRIOR ARRESTS (Q45 NJ25)
DATKDIEV	DEFENDANT ATTACKED DYING VICTIM (Q105 NJ162A)
DBLUECOL	DEFENDANT A BLUE COLLAR WORKER (Q40 V109)
DBRAINX	# OF DEF. BRAIN-RELATED INJ/DISABIL (Q59E NJ55 ETC)
DCI_SCAL	DCI AGGRAVATION LEVEL SCALE (Q140 NJ210)
DCONPRIN	DEFENDANT A CONTRACT PRINCIPAL (Q88 X196B)
DCOOP	DEF. COOPERATED WITH AUTHORITIES (Q113 NJ171A)
DDGTREAT	DEF. RCVD OUTPT DRUG TREATMENT (Q52 NJ37)
DEATH	DEATH SENTENCE IMPOSED AMONG ALL CASES (Q21E NJ16)
DEFAGE	DEFENDANT'S AGE AT TIME OF OFF. (Q28 V4 & V94)
DFUGITIV	DEF. FUGITIVE FROM PRIOR CRIME. (Q105 NJ157)
DHELPST	DEF. ASSISTED STATE IN A PROSECUTION (Q112 V669 & V670)
DHIDVIC	DEF. HID/MOVED DYING VIC. REDUCING CHANCE OF HELP (Q105 NJ162)
DHISCHOL	DEFENDANT GRADUATED HIGH SCHOOL (Q42 NJ23)
DHISES	DEF. HIGH SOCIOECON. STATUS (Q40 V109)
DHISMENT	DEFENDANT HISTORY OF MENTAL ILLNESS (Q113 NJ171D)
DHISTDAB	DEF. HISTORY OF ALCOHOL/DRUG ABUSE (Q113 NJ171C)
DHSESMIS	VARIABLES FOR DEFENDANT'S HIGH SOCIOECONOMIC STATUS HAVE MISSING DATA
DINCARX	NO. OF DEF. PRIOR INCARCERATIONS (Q49B NJ30)

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DINCSTAT DEF. MADE INCULPATORY STATEMENT (Q128 X392)

DINSTMI DEF. INSTITUTNLZD FOR MENTAL ILLNESS (Q51B NJ33)

DINTENDS DEFENDANT INTENDS TO CAUSE SUFFERING (Q102 NJ147)

DISMBER VICTIM DISMEMBERED BEFORE/AFTER DEATH (Q104 NJ151)

DISROBE VICTIM DISROBED (Q94 X172 ETC)

DKNOWSUF DEFENDANT AWARE OF VICTIM 1 SUFFERING (Q101 NJ146A)

DLATIN D. BORN PUER RICO/OTH LTN AM. COUNTRY (Q33 V100)

DLOWSES DEF. LOW SOC. ECON. STATUS (Q40 V109)

DLSESMIS VARIABLES FOR DEFENDANT'S LOW SOCIOECONOMIC STATUS HAVE MISSING DATA

DMENTAL2 DEFENDANT MENTAL FACTOR (DEATH MODEL)

DMENTRET DEF. RCVD OUTPT MEN HLTH TRTMNT (Q52 NJ37)

DMILDRET DEF. CLASSED AS MILDLY RETARDED (Q56 NJ41)

DNOINSUF VIC SUFFERING KNOWN BUT INCIDENTAL (Q102 NJ148)

DNOREMOR DEFENDANT SHOWED NO REMORSE (Q105 X183)

DNOVSUF2 D. AWARE A 2ND VIC SUFFERED SEVERELY (Q101 NJ146B)

DOUBTINT DOUBT EXISTS RE DEF. INTENT TO KILL (Q113A NJ178)

DOUTCO DEFENDANT NOT A RESIDENT OF COUNTY OF TR (Q35 NJ19)

DOUTSTAT DEFENDANT NOT NEW JERSEY RESIDENT (Q34 NJ18)

DPARPROB DEF. ON PROBATN OR PAROL AT TIME OF OFFN (Q47 V151)

DPLEASUR DEFENDANT EXPRESSED PLEASURE (Q105 X184)

DPSYCPRB DEFENDANT HAS A HISTORY OF PSYCH. PROBLE (Q51 NJ32)

DREMORSE DEFENDANT SHOWED REMORSE (Q113 V676)

DRESIST DEF. ACTIVELY RESISTED ARREST (Q105 X187)

DRGALARG DISPUTE UNDER INFLUENCE OF DRUG/ALCOHOL (Q91 X151)

DSESMIS VARIABLES FOR DEFENDANT'S SES HAS MISSING DATA

DSURREND DEFENDANT SURRENDERED (Q113 V677)

DTHRFAM D. THREATND TO KILL VIC'S FAMILY, ET (Q105 NJ159A)  
DTHRWIT D. INTERFERED WITH JUDICIAL PROCE (Q105 X189)  
DUNCTSUP DEFENDANT UNDER COURT SUPERVISION (Q47 V151)  
DUNEMPLY DEFENDANT UNEMPLOYED (Q41 NJ21)  
DUNSKILL DEFENDANT UNSKILLED (Q42 NJ22)  
DWHITCOL DEFENDANT A WHITE COLLAR WORKER (Q40 V109)  
DWITHKNIF DEF. CAME TO SCENE OF CRIME W/A KNIFE (Q90C NJ85)  
DYOUNG DEFENDANT 21 YEARS OF AGE OR LESS (Q28 V94)  
ESSEX ESSEX COUNTY CASE (Q8 V2)  
EXECUTON EXECUTION STYLE HOMICIDE (Q95 X177)  
FACILCOF MOTIVE TO FACILITATE CONTEMP. OFF. (Q90 NJ115)  
FEMVIC ONE OR MORE VICTIMS A FEMALE (Q71 V286 ETC)  
GLOUCSTR GLOUCESTER COUNTY CASE (Q8 V2)  
GRAVERSK DEF. CAUSD GRV RSK TO NONDECEDT VIC(S) (Q109 X255)  
HANDGUN WEAPON:HANDGUN (Q92 NJ119 ETC)  
HATE\_REV HATRED OR REVENGE MOTIVE (Q90 X135 OR X136)  
HIDEBODY ATTEMPT TO EXPOSE/CONCEAL BODY (Q94 X172 ETC)  
HIREDPEC DEFENDANT A HIRED KILLER:4D (Q90 NJ112)  
HISPAVIC A HISP. VIC. & NO WH. OR BL. VIC. (Q72 V292 ETC)  
HISPD HISPANIC DEFENDANT (Q30 V98)  
HOSTAGE A HOSTAGE TAKEN (Q94 X172 ETC)  
HUDSON HUDSON COUNTY CASE (Q8 V2)  
HUNTERDN HUNTERDON COUNTY CASE (Q8 V2)  
INSANEDF DEF. INSANITY DEFNS AT GUILT TRIAL (Q115 NJ186 ETC)  
INSTANTD INSTANTANEOUS DEATH (Q95A NJ126)  
INSURANC INSURANCE MOTIVE: 4D (Q90 X142A)

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ISTDMISS INSTANT DEATH VARIABLE MISSING  
KNIFE WEAPON:KNIFE STAB (Q92 NJ119 ETC)  
LONGATAK SEVERE PAIN FROM DURATION OF ATTACK (Q99 V639 ETC)  
LOVERS LOVERS OR EX-LOVERS QUARREL (Q91 X154)  
LOVETRIA LOVERS TRIANGLE (Q91 X155)  
MALEDEF MALE DEFENDANT (Q29 V97)  
MERCER MERCER COUNTY CASE (Q8 V2)  
MIDDLESX MIDDLESEX COUNTY CASE (Q8 V2)  
MINORTYD MINORITY DEFENDANT (Q30 V98)  
MITCASE MITIGATED SPOUSAL VIC. FACTOR (PTRIAL MODEL)  
MITEVENT SPECIAL/MIT. PRECIPITATING EVENT (Q91 X150 ETC)  
MITFOUDX # STAT. MIT. CIR. FND AT PEN. TRIAL (SUM 5APTY ETC)  
MODEATKX NO. OF MODES OF ATTACK:#1 & #2 VIC (Q97 NJ132 ETC)  
MONMOUTH MONMOUTH COUNTY CASE (Q8 V2)  
MORRIS MORRIS COUNTY CASE (Q8 V2)  
MULSHBOD MULT. GUNSHT WND IN ADTN TO THE HEAD (Q100B NJ141)  
MULSHOT MULTIPLE GUNSHOT WOUNDS (Q94 X172 ETC)  
MULSTAB MULTIPLE STABBING INVOLVED (Q94 X172 ETC)  
MULWOUND SEVERE PAIN FROM MULTIPLE WOUNDS (Q99 V639)  
MURTRCON NONCAPITAL MURDER TRIAL CONVICTION (Q21D V40)  
MUTIL4C DEF. KNOWINGLY MUTILATED CORPSE (Q104A NJ154)  
MUTILATE MUTILATION DURING KILLING (Q94 X172 ETC)  
NAME DEFENDANT'S NAME (Q1 NJ1A)  
NDVMSUF NONDECEDNT VIC(S) HAD EXTR MENT. SUFFER (Q96 NJ131)  
NDVPHX # OF NONDECEDNT VIC(S) PHYS. HARME (Q108 X251)  
NDVPSUF NONDECEDNT VIC(S) W/SEVERE PHYS. SUFFER (Q96 NJ130)

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NDVPSYX # OF NONDECEDENT VIC(S) EMOT. HARM (Q108A NJ162F)  
NJREGION REGIONS OF NEW JERSEY: NORTH, NORTHWEST, SOUTH  
NOCONTOF NO CONTEMPORANEOUS OFFENSE (Q81 NJ89 ETC)  
NOMOTIVE NO APPARENT MOTIVE (Q90 NJ117)  
NOSPAGG NO SPECIAL AGG CIRCUMSTANCES:DCI Q.94 (Q94 X172)  
NOSIGREC DEF. HAD NO SIG. CRIMINAL HISTORY  
NOSUFFER NO SEVERE PHYS/MENTAL SUFFER INVOLVED (Q96 NJ127)  
NSRCMISS NO SIG. RECORD VARIABLE MISSING  
OCEAN OCEAN COUNTY CASE (Q8 V2)  
OFFDATE DATE OF THE OFFENSE (Q14 V4)  
OFFYEAR YEAR OF THE OFFENSE (Q14 V6)  
OLDVIC VICTIM OVER 65 (Q73 V298)  
OTHCONOF CONTEMPORANEOUS OFFENSE: OTHER (Q81 NJ89 ETC)  
OTHCONV OTHER PRIOR CONVICTIONS (Q44 X81 ETC)  
OTHCONVX NO. OF CONVICTIONS FOR OTHER CRIMES (Q44 X81 ETC)  
OTHMUT VICTIM OTHERWISE MUTILATED (Q104 NJ152)  
OTHVIC ASIAN OR OTH V. & NO WH/BL/HISP VIC: (Q72 V292 ETC)  
PAINATK PAINFUL METHOD OF ATTACK (Q94 X172 ETC)  
PANIC DEFENDANT PANICKED (Q90 X144A)  
PASSAIC PASSAIC COUNTY CASE (Q8 V2)  
PDLAWYER DEF. REPRESENTED BY PUBLIC DEFENDER (Q116 V521)  
PECUNMOT PECUNIARY MOTIVE: BROAD (Q90 NJ108)  
PLEA DEF. PLED GUILTY (Q12 V3A)  
PLEAGMAN DEFENDANT PLED TO AGG. MANSLAUGHTER (Q12 V3A)  
PLEAMAN DEFENDANT PLED TO MANSLAUGHTER (Q12 V3A)  
PLECAPMR DEFENDANT PLED TO CAPITAL MURDER (Q12 V3A)

PLEFELMR DEFENDANT PLED TO FEL. MURDER (Q12 V3A)  
 PLEMUR DEF. PLED TO NONCAP. MURDER (Q12 V3A)  
 PLEOTHER DEFENDANT PLED TO OTHER CRIME (Q12 V3A)  
 PREGVIC PREGNANT VICTIM (Q93 X165)  
 PREMED KILLING PLANNED MORE THAN 5 MIN. (Q95 X176)  
 PRIORMAN DEF. HAS A PRIOR MANSLAUGHTER CONVI (Q44 X81 ETC)  
 PRIORMUR DEF. HAS A PRIOR MURDER CONVICTION (Q44 X81 ETC)  
 PROPARG MONEY OR PROPERTY DISPUTE (Q91 X150)  
 PROWESS PHYSICAL/PSYCH. PROWESS MOTIVE 4C (Q90 NJ110)  
 PSTGRALD A POST-GERALD CASE (IF CONSNDAT IS AFTER NOV.1, 1988)  
 PTDEATH DEATH/LIFE SENT. AT A PEN. TRIAL (Q21D V40 & NJ16)  
 PTRIAL CASE ADVANCED TO PENALTY TRIAL (Q21D V40)  
 PTWEIGH PENALTY TRIAL JURY FOUND ONE OR MORE AGGRAVATING  
 CIRCUMSTANCES  
 PUBDEFS PUBLIC DEFENDER STUDY # (Q2E V1)  
 PUBSERV PUBLIC SERVANT VICTIM-4H (Q93 X168)  
 RACEVD DEF/VIC RACIAL COMBINATION:16 LVLS (Q30 V98)  
 RACEVD2D DEF/VIC RACIAL COMBINATION 2D:4 LVLS (Q30 V98)  
 RAGE IMMEDIATE RAGE/FRUSTRATION MOTIVE (Q90 X139)  
 RESFOREN FORCED ENTRY OF VIC'S RESIDENCE (Q90B NJ84)  
 RPRIOR1 RECENT PRIOR/RELEASE (PT DEATH MODEL)  
 RURALCO A RURAL COUNTY CASE (Q8 V2)  
 SALEM SALEM COUNTY CASE (Q8 V2)  
 SALFACT1 SALIENT FACTORS MAIN CATEGORIES (TABLE 7 FINAL REPORT)  
 SALFACT2 SALIENT FACTORS SUBCATEGORIES (TABLE 7 FINAL REPORT)  
 SBI STATE BUREAU OF IDENTIFICATION # (Q2A VJ2)

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SCCOMUTE SUPREME CT. VACATED DEATH SENT. & COMMUTED TO LIFE  
SENTDATE DATE OF SENTENCE IMPOSED (Q20 V28A)  
SENTMNDY INT(V28/100)  
SENTYEAR YEAR SENTENCE IMPOSED (Q20 V28)  
SESF1 VICTIM WITH HIGH SES  
SESF2 VICTIM WITH LOW SES  
SESF3 DEFENDANT WITH LOW SES  
SESF4 DEFENDANT WITH HIGH SES  
SEXATK VIC. SEXUALLY ATTACKED BFR OR AFTER DTH (Q104 NJ153)  
SEXMOT SEXUAL MOTIVE (Q90 X137 ETC)  
SEXPERV SEXUAL ABUSE BEYOND RAPE (Q95 X181)  
SHOOTOUT SHOOT-OUT WITH CRIME VICTIM (Q90 X145)  
SHORTDIE DEATH UNDER 30 MINUTES BUT NOT INSTANT (Q95A NJ126)  
SILENCE MOTIVE TO SILENCE A WITNESS:4F (Q90 X143 OR X144)  
SILENCEW MOTIVE-SILENCE WIT. TO CONTEMP. OFF.:4F (Q90 X143)  
SILPASTW MOTV-SILNC EARLR WIT. TO A CRIME:4F (Q90 X144)  
SLASH SLASHED THROAT (Q94 X172 ETC)  
SLODIE DEATH MORE THAN 30 MINUTES (Q95A NJ126)  
SOMERSET SOMERSET COUNTY CASE (Q8 V2)  
SPAGFACK NO. OF DEF. SPECIAL AGG. FACTORS (Q105 NJ156 ETC)  
SPOUFAM SPOUSE (EX), FAMILY DISPUTE (Q91 X152 OR X153)  
STOMP BRUTAL STOMPING/BEATING (Q94 X172 ETC)  
STRANGLE VICTIM STRANGLED W/HANDS OR ROPE, ETC. (Q92 NJ119)  
SUSSEX SUSSEX COUNTY CASE (Q8 V2)  
THREAT1 THREAT FACTOR (PTDEATH MODEL)  
THREAT2 THREAT FACTOR (DEATH MODEL)



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THRILKIL           THRILL KILL MOTIVE:4C (Q90 NJ109)  
TIMESUF1           SUFFERING TIME FOR VICTIM #1 (Q98 NJ136)  
TORTURE            TORTURE INVOLVED (Q94 X172 ETC)  
TRANSMOT           INHERITANCE/PROPERTY TRANSFER MOTIVE:4D (Q90 NJ113)  
TRIAL               TRIAL CONVICTION (Q12 V3A)  
TWOVICDF           DEFENDANT KILLED TWO OR MORE VICTIMS (Q106A NJ162C)  
SUMMR1-  
SUMMR11            BRIEF NARRATIVE DESCRIPTION OF THE CASE  
UNDRLING           DEFENDANT AN UNDERLING IN THE MURDER (Q113 V671)  
UNECESAR           UNNECESSARY KILLING (Q95 X178)  
UNION               UNION COUNTY CASE (Q8 V2)  
V10\_STAB           TEN OR MORE STAB WOUNDS OR SHOTS (Q94 X172)  
V1HEADSH           SINGLE SHOT TO HEAD (Q94 X172)  
V4A\_HPTY           PEN. TRIAL JURY FND 4A OR 4H FACTR (Q110A V624 OR V630)  
V4ACAPTR           CAP. TRIAL ON THE 4A FACTOR (Q110A V624)  
V4AP                4A FACTOR PRESENT IN A NONPENALTY TRIAL CASE  
V4APRC             4A FACTOR FOUND OR PRESENT  
V4APRCX            NO OF STATUTORY AGGRAVATING CIRCUMSTANCES FOUND/PRESENT  
V4APT               PEN. TRIAL JURY DID NOT FIND 4A FACTOR (Q110A V624)  
V4APTY             PEN. TRIAL JURY FOUND 4A FACTOR (Q110A V624)  
V4BCAPTR           CAP. TRIAL ON THE 4B FACTOR (Q110A V625)  
V4BP                4B FACTOR PRESENT IN A NONPENALTY TRIAL CASE  
V4BPRC             4B FACTOR FOUND OR PRESENT  
V4BPT               PEN. TRIAL JURY DID NOT FIND 4B FACTOR (Q110A V625)  
V4BPTY             PEN. TRIAL JURY FOUND 4B FACTOR (Q110A V625)  
V4CCAPTR           CAP. TRIAL ON THE 4C FACTOR (Q110A V626)  
V4CP                4C FACTOR PRESENT IN A NONPENALTY TRIAL CASE

V4CPRC 4C FACTOR FOUND OR PRESENT

V4CPTN PEN. TRIAL JURY DID NOT FIND 4C FACTOR (Q110A V626)

V4CPTY PEN. TRIAL JURY FOUND 4C FACTOR (Q110A V626)

V4D\_EPTY PEN. TRL JRY FND 4D OR 4E FACTR (Q110A N627 OR V627A)

V4DCAPTR CAP. TRIAL ON THE 4D FACTOR (Q110A V627)

V4DP 4D FACTOR PRESENT IN A NONPENALTY TRIAL CASE

V4DPRC 4D FACTOR FOUND OR PRESENT

V4DPTN PEN. TRIAL JURY DID NOT FIND 4D FACTOR (Q110A V627)

V4DPTY PEN. TRIAL JURY FOUND 4D FACTOR (Q110A V627)

V4ECAPTR CAP. TRIAL ON THE 4E FACTOR (Q110A V627A)

V4EP 4E FACTOR PRESENT IN A NONPENALTY TRIAL CASE

V4EPRC 4E FACTOR FOUND OR PRESENT

V4EPTN PEN. TR. JURY DID NOT FIND 4E FACTOR (Q110A V627A)

V4EPTY PEN. TRIAL JURY FOUND 4E FACTOR (Q110A V627A)

V4FCAPTR CAP. TRIAL ON THE 4F FACTOR (Q110A V628)

V4FP 4F FACTOR PRESENT IN A NONPENALTY TRIAL CASE

V4FPRC 4F FACTOR FOUND OR PRESENT

V4FPTN PEN. TRIAL JURY DID NOT FIND 4F FACTOR (Q110A V628)

V4FPTY PEN. TRIAL JURY FOUND 4F FACTOR (Q110A V628)

V4GCAPTR CAP. TRIAL ON THE 4G FACTOR (Q110A V629)

V4GP 4G FACTOR PRESENT IN A NONPENALTY TRIAL CASE

V4GPRC 4G FACTOR FOUND OR PRESENT

V4GPTN PEN. TRIAL JURY DID NOT FIND 4G FACTOR (Q110A V629)

V4GPTY PEN. TRIAL JURY FOUND 4G FACTOR (Q110A V629)

V4HCAPTR CAP. TRIAL ON THE 4H FACTOR (Q110A V630)

V4HP 4H FACTOR PRESENT IN A NONPENALTY TRIAL CASE

V4HPRC 4H FACTOR FOUND OR PRESENT  
V4HPTN PEN. TRIAL JURY DID NOT FIND 4H FACTOR (Q110A V630)  
V4HPTY PEN. TRIAL JURY FOUND 4H FACTOR (Q110A V630)  
V5AP 5A FACTOR PRESENT IN A NONPENALTY TRIAL CASE  
V5APRC 5A FACTOR FOUND OR PRESENT  
V5APRCX NO OF STATUTORY MITIGATING CIRCUMSTANCES FOUND/PRESENT (.  
= 0)  
V5APTY MIT. CIR. 5A FOUND AT PEN. TRIAL (Q111 V693)  
V5BP 5B FACTOR PRESENT IN A NONPENALTY TRIAL CASE  
V5BPRC 5B FACTOR FOUND OR PRESENT  
V5BPTN MIT. CIT. 5B NOT FOUND AT PEN. TRIAL (Q111 V694)  
V5BPTY MIT. CIR. 5B FOUND AT PEN. TRIAL (Q111 V694)  
V5CP 5C FACTOR PRESENT IN A NONPENALTY TRIAL CASE  
V5CPRC 5C FACTOR FOUND OR PRESENT  
V5CPTN MIT. CIT. 5C NOT FOUND AT PEN. TRIAL (Q111 V695)  
V5CPTY MIT. CIR. 5C FOUND AT PEN. TRIAL (Q111 V696)  
V5DP 5D FACTOR PRESENT IN A NONPENALTY TRIAL CASE  
V5DPRC 5D FACTOR FOUND OR PRESENT  
V5DPTN MIT. CIT. 5D NOT FOUND AT PEN. TRIAL (Q111 V696)  
V5DPTY MIT. CIR. 5D FOUND AT PEN. TRIAL (Q1111 V696)  
V5EP 5E FACTOR PRESENT IN A NONPENALTY TRIAL CASE  
V5EPRC 5E FACTOR FOUND OR PRESENT  
V5EPTN MIT. CIT. 5E NOT FOUND AT PEN. TRIAL (Q111 V697)  
V5EPTY MIT. CIR. 5E FOUND AT PEN. TRIAL (Q111 V697)  
V5FP 5F FACTOR PRESENT IN A NONPENALTY TRIAL CASE  
V5FPRC 5F FACTOR FOUND OR PRESENT

V5FPTN MIT. CIT. 5F NOT FOUND AT PEN. TRIAL (Q111 V698)

V5FPTY MIT. CIR. 5F FOUND AT PEN. TRIAL (Q111 V698)

V5GP 5G FACTOR PRESENT IN A NONPENALTY TRIAL CASE

V5GPRC 5G FACTOR FOUND OR PRESENT

V5GPTN MIT. CIT. 5G NOT FOUND AT PEN. TRIAL (Q111 V699)

V5GPTY MIT. CIR. 5G FOUND AT PEN. TRIAL (Q111 V699)

V5HP 5H FACTOR PRESENT IN A NONPENALTY TRIAL CASE

V5HPRC 5H FACTOR FOUND OR PRESENT

V5HPTN MIT. CIT. 5H NOT FOUND AT PEN. TRIAL (Q111 V700)

V5HPTY MIT. CIR. 5H FOUND AT PEN. TRIAL (Q111 V700)

VABUSE VICTIM VERBALLY ABUSED DEF. (Q114 X287)

VATTACK VICTIM ATTACKED DEFENDANT (Q114 X285)

VBEAT VICTIM BEATEN (Q95 X178A)

VBLUECOL VICTIM A BLUE COLLAR WORKER (Q75 V310)

VCOLLEGE VICTIM COLLEGE GRADUATE (Q78 NJ77)

VCRIM VICTIM HAD A CRIMINAL RECORD (Q114 X296)

VDEFSLES DEFENSELESS VICTIM (Q93 X161)

VFISCHOL VICTIM GRADUATED HIGH SCHOOL (Q78 NJ77)

VHISES VICTIM HIGH SOCIOECON. STATUS (Q75 V310)

VHISES2D VIC. HAD PROF. MON. OR WH. COLLAR JOB (Q77 NJ76)

VHSESMIS VARIABLE FOR VICTIM'S HIGH SOCIOECONOMIC STATUS HAS MISSING DATA

VICMSUF VIC(S) HAD SEVERE MENTAL SUFFERING (Q96 NJ129)

VICMSUFX NO. OF VIC(S) WHO MENTALLY SUFFERED (Q96 NJ129)

VICPLEAD VICTIM PLED FOR LIFE (Q95 X179)

VICPSUF VIC(S) HAD SEVERE PHYSICAL SUFFERING (Q96 NJ128)

VICPSUFX NO. OF VIC(S) WHO PHYSICALLY SUFFERED (Q96 NJ128)

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VICSUFFIX	NO. OF VIC(S) W/PHYS. &/OR MENT. SUFFER (Q96)
VICTIM1	VICTIMIZATION FACTOR #1 (PTDEATH MODEL)
VICTIM2	VICTIMIZATION FACTOR #2 (PTDEATH MODEL)
VICTIM3	VICTIMIZATION FACTOR #1 (DEATH MODEL)
VICTIM4	VICTIMIZATION FACTOR #2 (DEATH MODEL)
VICTIM5	VICTIMIZATION FACTOR #3 (DEATH MODEL)
VICTIM6	VICTIMIZATION FACTOR (PTRIAL MODEL)
VINJURED	VICTIM PHYSICALLY INJURED DEFENDANT (Q114 X284)
VIOLPER	D. PRIOR CNV ROB/RAP/KID/BUR/ARS/AGASLT (Q44 X81 ETC)
VIOLPERX	NO. OF CONVICTIONS FOR VIOLENT PERSON (Q44 X81 ETC)
VKIDNAP	VICTIM WAS KIDNAPPED (Q93 NJ124)
VLOWSES	VICTIM LOW SOCIOECON. STATUS (Q75 V310)
VLSESMIS	VARIABLE FOR VICTIM'S LOW SOCIOECONOMIC STATUS HAS MISSING DATA
VMARRIED	VIC. MARRIED AT TIME OF OFFENSE (Q76A NJ78)
VMENTORT	MENTAL TORTURE OF VICTIM (Q95 X179A)
VNOPROV	VICTIM OFFERED NO PROVOCATION (Q93 X170)
VNUDE	VICTIM NOT CLOTHED AT DEATH (Q95 X180)
VOWNWEAP	VIC. (& NOT POLCE) KILLED W/OWN WEAP (Q114 NJ181)
VPARAMOR	VIC. PARAMOUR OF DEFENDANT (Q80 NJ82)
VPDISOF	D. CONV OF VIOL PERSDSORDLY PERS OFNS (Q44 X85 ETC)
VPRIORIN	EVDNC PRIOR PHYS. MISTREATMENT OF VIC (Q103 NJ150)
VPRIORPR	VICTIM PROVOKED DEF. EARLIER (Q114 X288)
VSESMIS	VARIABLES FOR VICTIM'S SES HAVE MISSING DATA
VSEXAROS	VICTIM SEXUALLY AROUSED DEFENDANT (Q114 X292A)
VSHOMON	VICTIM SHOWED OR TALKED LARGE AMOUNT OF (Q114 X293)

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VSTRANGR VICTIM A STRANGER (Q80 NJ82)  
VTHATTAK VERBALLY THREATENED DEFENDANT (Q114 X286A)  
VTHKILL VICTIM THREATENED TO KILL DEFENDANT (Q114 X286)  
VTHROTHR VICTIM THREATENED THIRD PERSON ETC (Q114 X298 ETC)  
VUNEMPLY VICTIM UNEMPLOYED (Q76 NJ75)  
VUNSKILL VICTIM UNSKILLED (Q77 NJ76)  
VWHITCOL VICTIM A WHITE COLLAR WORKER (Q75 V310)  
WANTON NO MOTV-WANTON INDIF. TO VALU OF LIFE:4 (Q90 NJ111)  
WARREN WARREN COUNTY CASE (Q8 V2)  
WHITED WHITE DEFENDANT (Q30 V98)  
WHITVIC ONE OR MORE WHITE VICTIMS (Q72 V292 ETC)  
WHYSUFR SOURCE OF SUFFERING: VIC #1&#2 (Q99 V639 ETC)  
WOUNDSX TOTAL MULTIPLE WOUNDS VIC. #1 (Q100A ETC NJ137 ETC)  
WOUNDV1X NUMBER MULTIPLE STAB WOUNDS:V#1 (Q100A NJ137)  
YNGVIC VICTIM 12 OR YOUNGER (Q73 V298)

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Codes for Recoded Variables

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Codes for Recoded Variables

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CASE=ID1;
LABEL CASE='PROJECT CASE NUMBER';

PTRIAL=0;
  IF V40=1 THEN PTRIAL=1;
  LABEL PTRIAL='CASE ADVANCED TO PENALTY TRIAL';

PTWEIGH=.; IF PTRIAL=1 THEN PTWEIGH=1;
IF CASE=407 OR CASE=468 OR CASE=469 OR CASE=1288 OR CASE=1315 OR
CASE=2038 OR CASE=2752 THEN PTWEIGH=0; LABEL PTWEIGH='PENALTY
TRAIL JURY FOUND AGG CIR';

SCCOMUTE=0;
IF CASE=197 OR CASE=1138 OR CASE=1453 OR CASE=1717 OR CASE=1917
OR CASE=2015 THEN SCCOMUTE=1;
LABEL SCCOMUTE='SUP.CT.VAC.DEATH SENT.& COMMUTED TO LIFE';

IF (PTRIAL=1 AND NJ16=1) THEN PTDEATH=1; IF (PTRIAL=1 AND
NJ16=0) THEN PTDEATH=0; IF (V40=.) THEN PTDEATH=.;
LABEL PTDEATH='DEATH/LIFE SENT. AT A PEN. TRIAL';

IF NJ16=1 THEN DEATH=1; ELSE DEATH=0; IF NJ16=. THEN DEATH=.;
LABEL DEATH='DEATH SENTENCE IMPOSED AMONG ALL CASES';

NAME=NJ1A; LABEL NAME='DEFENDANT''S NAME';

SBI=NJ2; LABEL SBI='STATE BUREAU OF IDENTIFICATION #'; IF
NJ2='999999Z' OR NJ2='9999999' THEN SBI=.;

PUBDEFS=V1; LABEL PUBDEFS='PUBLIC DEFENDER STUDY #';

PLEA=0; IF (V3AÇ=2 AND V3A=7) THEN PLEA=1; IF V3A=. THEN PLEA=.;
LABEL PLEA='DEF. PLED GUILTY';

TRIAL=1; PLEAMAN=1; PLEAGMAN=1; PLECAPMR=1; PLEFELMR=1;
PLEMUR=1; PLEOTHER=1; IF (V3A NE 1) THEN TRIAL=0; IF (V3A NE 2)
THEN PLEAMAN=0; IF (V3A NE 3) THEN PLEAGMAN=0; IF (V3A NE 4) THEN
PLECAPMR=0; IF (V3A NE 5) THEN PLEFELMR=0; IF (V3A NE 6) THEN
PLEMUR=0; IF (V3A NE 7) THEN PLEOTHER=0;
LABEL TRIAL='TRIAL CONVICTION'; LABEL PLEAMAN='DEFENDANT PLED TO
MANSLAUGHTER';
LABEL PLEAGMAN='DEFENDANT PLED TO AGG. MANSLAUGHTER'; LABEL
PLECAPMR='DEFENDANT PLED TO CAPITAL MURDER'; LABEL
PLEFELMR='DEFENDANT PLED TO FEL. MURDER'; LABEL PLEMUR=
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'DEF. PLED TO NONCAP. MURDER'; LABEL PLEOTHER='DEFENDANT PLED TO  
OTHER CRIME';  
IF (V3A=.) OR (V3A=9) THEN DO;  
    TRIAL =.; PLEAMAN=.; PLEAGMAN=.; PLECAPMR=.; PLEFELMR=.;  
    PLEMUR=.; PLEOTHER=0; END;

COUNTY=V2; LABEL COUNTY='COUNTY OF CONVICTION';  
ATLANTIC=0; IF COUNTY=1 THEN ATLANTIC=1; IF COUNTY=. OR COUNTY=99  
THEN  
    ATLANTIC=.; LABEL ATLANTIC='ATLANTIC COUNTY CASE';  
BERGEN=0; IF COUNTY=2 THEN BERGEN=1; IF COUNTY=. OR COUNTY=99 THEN  
    BERGEN=.; LABEL BERGEN='BERGEN COUNTY CASE';  
BURLNGTN=0; IF COUNTY=3 THEN BURLNGTN=1; IF COUNTY=. OR COUNTY=99  
THEN  
    BURLNGTN=.; LABEL BURLNGTN='BURLNGTN COUNTY CASE';  
CAMDEN=0; IF COUNTY=4 THEN CAMDEN=1; IF COUNTY=. OR COUNTY=99 THEN  
    CAMDEN=.; LABEL CAMDEN='CAMDEN COUNTY CASE';  
CAPEMAY=0; IF COUNTY=5 THEN CAPEMAY=1; IF COUNTY=. OR COUNTY=99  
THEN  
    CAPEMAY=.; LABEL CAPEMAY='CAPEMAY COUNTY CASE';  
CUMBRIND=0; IF COUNTY=6 THEN CUMBRIND=1; IF COUNTY=. OR COUNTY=99  
THEN  
    CUMBRIND=.; LABEL CUMBRIND='CUMBRIND COUNTY CASE';  
ESSEX=0; IF COUNTY=7 THEN ESSEX=1; IF COUNTY=. OR COUNTY=99 THEN  
    ESSEX=.; LABEL ESSEX='ESSEX COUNTY CASE';  
GLOUCSTR=0; IF COUNTY=8 THEN GLOUCSTR=1; IF COUNTY=. OR COUNTY=99  
THEN  
    GLOUCSTR=.; LABEL GLOUCSTR='GLOUCSTR COUNTY CASE';  
HUDSON=0; IF COUNTY=9 THEN HUDSON=1; IF COUNTY=. OR COUNTY=99 THEN  
    HUDSON=.; LABEL HUDSON='HUDSON COUNTY CASE';  
HUNTERDN=0; IF COUNTY=10 THEN HUNTERDN=1; IF COUNTY=. OR COUNTY=99  
THEN  
    HUNTERDN=.; LABEL HUNTERDN='HUNTERDN COUNTY CASE';  
MERCER=0; IF COUNTY=11 THEN MERCER=1; IF COUNTY=. OR COUNTY=99 THEN  
    MERCER=.; LABEL MERCER='MERCER COUNTY CASE';  
MIDDLESX=0; IF COUNTY=12 THEN MIDDLESX=1; IF COUNTY=. OR COUNTY=99  
THEN  
    MIDDLESX=.; LABEL MIDDLESX='MIDDLESX COUNTY CASE';  
MONMOUTH=0; IF COUNTY=13 THEN MONMOUTH=1; IF COUNTY=. OR COUNTY=99  
THEN  
    MONMOUTH=.; LABEL MONMOUTH='MONMOUTH COUNTY CASE';  
MORRIS=0; IF COUNTY=14 THEN MORRIS=1; IF COUNTY=. OR COUNTY=99 THEN  
    MORRIS=.; LABEL MORRIS='MORRIS COUNTY CASE';  
OCEAN=0; IF COUNTY=15 THEN OCEAN=1; IF COUNTY=. OR COUNTY=99 THEN  
    OCEAN=.; LABEL OCEAN='OCEAN COUNTY CASE';  
PASSAIC=0; IF COUNTY=16 THEN PASSAIC=1; IF COUNTY=. OR COUNTY=99  
THEN  
    PASSAIC=.; LABEL PASSAIC='PASSAIC COUNTY CASE';

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SALEM=0;IF COUNTY=17 THEN SALEM=1;IF COUNTY=. OR COUNTY=99 THEN
  SALEM=.; LABEL SALEM='SALEM COUNTY CASE';
SOMERSET=0;IF COUNTY=18 THEN SOMERSET=1;IF COUNTY=. OR COUNTY=99
THEN
  SOMERSET=.; LABEL SOMERSET='SOMERSET COUNTY CASE';
SUSSEX=0;IF COUNTY=19 THEN SUSSEX=1;IF COUNTY=. OR COUNTY=99 THEN
  SUSSEX=.; LABEL SUSSEX='SUSSEX COUNTY CASE';
UNION=0;IF COUNTY=20 THEN UNION=1;IF COUNTY=. OR COUNTY=99 THEN
  UNION=.; LABEL UNION='UNION COUNTY CASE';
WARREN=0;IF COUNTY=21 THEN WARREN=1;IF COUNTY=. OR COUNTY=99 THEN
  WARREN=.; LABEL WARREN='WARREN COUNTY CASE';

RURALCO=1;IF COUNTY=4 OR COUNTY=7 OR COUNTY=9 OR COUNTY=11 OR
COUNTY=12
  OR COUNTY=16 OR COUNTY=20 THEN RURALCO=0;
  IF COUNTY=99 OR COUNTY=. THEN RURALCO=.;
  LABEL RURALCO='A RURAL COUNTY CASE';

NJREGION=.;
  IF COUNTY=2 OR COUNTY=7 OR COUNTY=9 OR COUNTY=11 OR COUNTY=12
OR COUNTY=16 OR COUNTY=20 THEN NJREGION=1;
  IF COUNTY=10 OR COUNTY=14 OR COUNTY=18 OR COUNTY=19 OR
COUNTY=21
    THEN NJREGION=2;
  IF COUNTY=1 OR COUNTY=3 OR COUNTY=4 OR COUNTY=5 OR COUNTY=6 OR
COUNTY=8 OR COUNTY=13 OR COUNTY=15 OR COUNTY=17 THEN
NJREGION=3;
  FORMAT NJREGION REGIONF.;

OFFDATE=V4; LABEL OFFDATE='DATE OF THE OFFENSE';

OFFYEAR=MOD(V4,100); LABEL OFFYEAR='YEAR OF THE OFFENSE';
IF OFFYEAR=99 THEN OFFYEAR=.;

CONVDATE=V22; LABEL CONVDATE='DATE OF JUDGMENT OF CONVICTION';
Q18 V 22
CONVMNDY=INT(CONVDATE/100);
LABEL CONVMNDY='CONVICTION MONTH DAY AND YEAR';

CONVCTYR=MOD(V22,100);IF CONVCTYR=99 THEN CONVCTYR=.;
LABEL CONVCTYR='YEAR OF CONVICTION';

SENTDATE=V28; LABEL SENTDATE='DATE OF SENTENCE IMPOSED';

SENTYEAR=MOD(V28,100); LABEL SENTYEAR='YEAR SENTENCE IMPOSED';
IF SENTYEAR=99 THEN SENTYEAR=.;
SENTMNDY=INT(V28/100);
LABEL SENTMNDY='SENTENCE MONTH DAY YEAR';
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PSTGERLD=0;IF SENTRYEARC'88' THEN PSTGERLD=1;
  ELSE IF SENTRYEAR='88' AND SENTRYMNDYC'1101' THEN PSTGERLD=1;
  IF SENTRYEAR='99' OR SENTRYEAR=' ' THEN DO;
    PSTGERLD=0;
    IF CONVCTYRC88 THEN PSTGERLD=1;
    ELSE IF CONVCTYR=88 AND CONVMNDYC1101 THEN PSTGERLD=1;
    IF (CONVCTYR=. OR CONVCTYR=99) THEN PSTGERLD=.;
  END;
LABEL PSTGERLD='PAST GERALD CASE';

IF V38=1 THEN CAPCHRG=1; ELSE CAPCHRG=0; IF V38=. AND V37=. THEN
CAPCHRG=.; LABEL CAPCHRG='CAP. MURDER CHARGE WITH FACTOR(S)
SERVED';

IF V39=1 THEN CAPTRIAL=1; ELSE CAPTRIAL=0; IF V39=. THEN
CAPTRIAL=.; LABEL CAPTRIAL='CASE ADVANCED TO A CAPITAL TRIAL';

IF V40=2 THEN MURTRCON=1;ELSE MURTRCON=0;IF V40=. THEN
MURTRCON=.;LABEL MURTRCON='NONCAPITAL MURDER TRIAL CONVICTION';

IF SUBSTR(V94,3,4)=' ' THEN V94=RIGHT(V94);
BIRTHDAY=V94;LABEL BIRTHDAY='DEFENDANT'S BIRTHDATE';

DEFAGE=OFFYEAR-SUBSTR(V94,5,2); IF V94='999999' OR V94=.
THEN DEFAGE=.; LABEL DEFAGE='DEFENDANT'S AGE' AT TIME OF OFF.;

DAGEMIT=0;IF DEFAGE=21 OR DEFAGEC=50 THEN DAGEMIT=1;
IF DEFAGE=. THEN DAGEMIT=.;

DYOUNG=0;IF DEFAGE=21 THEN DYOUNG=1;
IF DEFAGE=. THEN DYOUNG=.;
LABEL DYOUNG='DEFENDANT 21 YEARS OF AGE OR LESS';

MALEDEF=V97; IF V97=2 THEN MALEDEF=0; LABEL MALEDEF='MALE
DEFENDANT';

V98RC=V98; IF V98=4 THEN V98RC=3; IF V98=5 OR V98=6 THEN V98RC=4;
IF V98=. OR V98=9 THEN V98RC=.;

RACEVD=.; RACEVD=4*(V98RC-1) + V292RC; LABEL RACEVD=
'DEF/VIC RACIAL COMBINATION:16 LVLS';FORMAT RACEVD RACEVDF.;

RACEVD2D=4; IF RACEVD=1 THEN RACEVD2D=1; IF (RACEVD=2 OR RACEVD=3
OR RACEVD=4) THEN RACEVD2D=2; IF (RACEVD=5 OR RACEVD=9 OR
RACEVD=13) THEN RACEVD2D=3; IF RACEVD=. THEN RACEVD2D=.; LABEL
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RACEVD2D='DEF/VIC RACIAL COMBINATION 2D:4 LVLS'; FORMAT RACEVD2D  
RACEVD2F.;

IF V98=1 THEN WHITED=1; ELSE WHITED=0; IF V98=. OR V98=9 THEN  
WHITED=.; LABEL WHITED='WHITE DEFENDANT';

IF V98=2 THEN BLACKD=1; ELSE BLACKD=0; IF V98=. OR V98=9 THEN  
BLACKD=.; LABEL BLACKD='BLACK DEFENDANT';

IF (V98C=3 AND V98\_=4) THEN HISPDP=1; ELSE HISPDP=0; IF V98=. OR  
V98=9 THEN HISPDP=.; LABEL HISPDP='HISPANIC DEFENDANT';

ASOTHERD=0; IF V98C=5 AND V98\_=6 THEN ASOTHERD=1; IF V98=. OR  
V98=9 THEN ASOTHERD=.; LABEL ASOTHERD='ASIAN OR OTHER DEFENDANT';

MINORTYD=0; IF V98C=2 AND V98\_=6 THEN MINORTYD=1; IF V98=. OR  
V98=9 THEN MINORTYD=.; LABEL MINORTYD='MINORITY DEFENDANT';

IF (V109=11 OR V109=12 OR V109A=11 OR V109A=12) THEN DHISES=1;  
ELSE DHISES=0; IF V109=99 AND (V109A=99 OR V109A=.) THEN  
DHISES=.; LABEL  
DHISES='DEF. HIGH SOCIOECON. STATUS';

DWHITCOL=0;  
IF ((V109C=30 AND V109\_=34) OR (V109AC=30 AND V109A\_=34)) THEN  
DWHITCOL=1; IF V109=99 THEN DWHITCOL=.; LABEL  
DWHITCOL='DEFENDANT A WHITE COLLAR WORKER';

DBLUECOL=0; IF ((V109C=41 AND V109\_=42) OR (V109AC=41 AND  
V109A\_=42))  
THEN DBLUECOL=1; IF (V109=. OR V109=99) AND (V109A=. OR V109A=99)  
THEN DBLUECOL=.; LABEL DBLUECOL='DEFENDANT A BLUE COLLAR WORKER';

DLOWSES=0; IF ((V109=43) OR (V109C=60 AND V109\_=66) OR (V109A=43)  
OR (V109AC=60 AND V109A\_=66)) THEN DLOWSES=1; IF (V109=. OR  
V109=99) AND  
(V109A=. OR V109A=99) THEN DLOWSES=.; LABEL  
DLOWSES='DEF. LOW SOC. ECON. STATUS';

DUNEMPLY=0; IF (NJ21C=20 AND NJ21\_=22) THEN DUNEMPLY=1; IF  
NJ21=99 THEN DUNEMPLY=.; LABEL DUNEMPLY='DEFENDANT UNEMPLOYED';

DUNSKILL=0; IF NJ22=1 OR NJ22=2 THEN DUNSKILL=1; IF NJ22=9 THEN  
DUNSKILL=.; LABEL DUNSKILL='DEFENDANT UNSKILLED.';

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DHISCHOL=0; IF (NJ23C=4 AND NJ23\_=7) THEN DHISCHOL=1; IF NJ23=9 OR NJ23=. THEN DHISCHOL=.; LABEL DHISCHOL='DEFENDANT GRADUATED HIGH SCHOOL';

PRIORMUR=0; IF ((X81C='01' AND X81\_='02') OR (X85C=1 AND X85\_=2) OR (X89C=1 AND X89\_=2) OR (X93C=1 AND X93\_=2) OR (X97C=1 AND X97\_=2) OR (X101C=1 AND X101\_=2)) THEN PRIORMUR=1; IF X81='99' THEN PRIORMUR=.; LABEL PRIORMUR='DEF. HAS A PRIOR MURDER CONVICTION';

PRIORMAN=0; IF ((X81C='03' AND X81\_='04') OR (X85C=3 AND X85\_=4) OR (X89C=3 AND X89\_=4) OR (X93C=3 AND X93\_=4) OR (X97C=3 AND X97\_=4) OR (X101C=3 AND X101\_=4)) THEN PRIORMAN=1; IF X81='99' THEN PRIORMAN=.; LABEL PRIORMAN='DEF. HAS A PRIOR MANSLAUGHTER CONVICTION';

VIOLPER=0; IF ((X81C='05' AND X81\_='11') OR (X85C=5 AND X85\_=11) OR (X89C=5 AND X89\_=11) OR (X93C=5 AND X93\_=11) OR (X97C=5 AND X97\_=11) OR (X101C=5 AND X101\_=11)) THEN VIOLPER=1; IF X81='99' THEN VIOLPER=.; LABEL VIOLPER='D. PRIOR CONV ROB/RAP/KID/BUR/ARS/AGASLT';

VIOLPERX=0;  
IF X81C='01' AND X81\_='11' THEN VIOLPERX=VIOLPERX+1;  
IF X85C=1 AND X85\_=11 THEN VIOLPERX=VIOLPERX+1;  
IF X89C=1 AND X89\_=11 THEN VIOLPERX=VIOLPERX+1;  
IF X93C=1 AND X93\_=11 THEN VIOLPERX=VIOLPERX+1;  
IF X97C=1 AND X97\_=11 THEN VIOLPERX=VIOLPERX+1;  
IF X101C=1 AND X101\_=11 THEN VIOLPERX=VIOLPERX+1;  
IF X81='99' THEN VIOLPERX=.;  
LABEL VIOLPERX='# CONVICTIONS FOR VIOLENT PERSONAL OFF.';

OTHCONV=0; IF ((X81C='12' AND X81\_='18') OR (X85C=12 AND X85\_=18) OR (X89C=12 AND X89\_=18) OR (X93C=12 AND X93\_=18) OR (X97C=12 AND X97\_=18) OR (X101C=12 AND X101\_=18)) THEN OTHCONV=1; IF X81='99' THEN OTHCONV=.; LABEL OTHCONV='OTHER PRIOR CONVICTIONS';

OTHCONVX=0;  
IF X81C='12' AND X81\_='18' THEN OTHCONVX=OTHCONVX+1;  
IF X85C=12 AND X85\_=18 THEN OTHCONVX=OTHCONVX+1;  
IF X89C=12 AND X89\_=18 THEN OTHCONVX=OTHCONVX+1;  
IF X93C=12 AND X93\_=18 THEN OTHCONVX=OTHCONVX+1;  
IF X97C=12 AND X97\_=18 THEN OTHCONVX=OTHCONVX+1;  
IF X101C=12 AND X101\_=18 THEN OTHCONVX=OTHCONVX+1;  
IF X81='99' THEN OTHCONVX=.;  
LABEL OTHCONVX='NUMBER OF CONVICTIONS FOR OTHER CRIMES';

IF NJ25='UC' THEN DARRESTX=1; ELSE DARRESTX=NJ25;

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IF (NJ25='99' OR NJ25=' ') THEN DARRESTX=.; LABEL DARRESTX=  
'NUMBER OF DEFENDANT PRIOR ARRESTS';  
\*NOTE: UC (UNKNOWN COUNT) SET TO 1;

DUNCTSUP=0; IF (V151=9 OR V151=.) THEN DUNCTSUP=.; IF (V151C=1  
AND V151=6) THEN DUNCTSUP=1;  
LABEL DUNCTSUP='DEFENDANT UNDER COURT SUPERVISION';

IF (NJ27='99' OR NJ27='U' OR NJ27=' ' OR NJ27='UC') THEN  
CONVICTX=.;  
ELSE CONVICTX=NJ27; IF NJ27='UC' THEN CONVICTX=1;  
LABEL CONVICTX='NUMBER OF DEFENDANT PRIOR CONVICTIONS';  
\*NOTE: UC (UNKNOWN COUNT) SET TO 1 (THE MEDIAN IS BETWEEN 1 AND  
2);

IF (NJ30=' ' OR NJ30='99' OR NJ30='UC') THEN DINCARX=.; ELSE  
DINCARX=NJ30;  
IF NJ30='UC' THEN DINCARX=1;  
LABEL DINCARX='NO. OF DEF. PRIOR INCARCERATIONS';  
\*NOTE: UC (UNKNOWN COUNT) SET TO 1;

NOSIGREC=1; IF (CONVICTXC=2 OR DINCARXC=2) THEN NOSIGREC=0;  
ELSE IF CONVICTX= OR DINCARX= THEN NOSIGREC=.;  
LABEL NOSIGREC='DEFENDANT HAD NO SIG CRIMINAL HISTORY';

IF NJ27=' ' OR X81='99' THEN NOSIGR2D=.;  
DPSYCPRB=NJ32; IF ((NJ32=9) OR (NJ32=)) THEN DPSYCPRB=.; LABEL  
DPSYCPRB='DEF. HAS A HISTORY OF PSYCH. PROBLEM';

DINSTMI=NJ33; IF NJ33=9 THEN DINSTMI=.;  
LABEL DINSTMI='DEF. INSTITUTNLZD FOR MENTAL ILLNESS';

DBRAINX=0;  
IF NJ55C=1 AND NJ55=5 THEN DBRAINX=DBRAINX+1;  
IF NJ56C=1 AND NJ56=5 THEN DBRAINX=DBRAINX+1;  
IF NJ57C=1 AND NJ57=5 THEN DBRAINX=DBRAINX+1;  
IF NJ58C=1 AND NJ58=5 THEN DBRAINX=DBRAINX+1;  
IF NJ59C=1 AND NJ59=5 THEN DBRAINX=DBRAINX+1;  
LABEL DBRAINX='# OF DEF. BRAIN-RELATED INJ/DISABIL.';

COPERP=X191; IF X191=9 OR X191=3 THEN COPERP=.;  
LABEL COPERP='ONE OR MORE COPERPS INVOLVED';

V286=V151C;  
FEMVIC=0; IF ((V286=2) OR (V287=2) OR (V288=2)) THEN FEMVIC=1;  
IF V286=0 THEN FEMVIC=.;  
LABEL FEMVIC='ONE OR MORE VICTIMS A FEMALE';

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WHITVIC=0; IF ((V292=1) OR (V293=1) OR (V294=1))  
THEN WHITVIC=1; IF (V292=9) OR (V292=.) THEN WHITVIC=.; LABEL  
WHITVIC='ONE OR MORE WHITE VICTIMS';

BLACKVIC=0; IF ((V292=2) OR (V293=2) OR (V294=2)) AND (WHITVIC  
NE 1) THEN BLACKVIC=1; IF (V292=9) OR (V292=.) THEN BLACKVIC=.;  
LABEL BLACKVIC='A BLACK VIC. AND NO WHITE VIC.';

HISPAVIC=0; IF ((V292=3 OR V292=4) OR (V293=3 OR V293=4) OR  
(V294=3 OR V294=4)) AND (WHITVIC NE 1) AND (BLACKD NE 1) THEN  
HISPAVIC=1; IF (V292=9) OR (V292=.) THEN HISPAVIC=.; LABEL  
HISPAVIC='A HISP. VICTIM & NO WHITE OR BLACK VICT.';

OTHVIC=0; IF ((V292=5 OR V292=6) OR (V293=5 OR V293=6) OR  
(V294=5 OR V294=6)) AND (WHITVIC NE 1) AND (BLACKVIC NE 1) AND  
(HISPAVIC NE 1) THEN OTHVIC=1; IF (V292=.) OR (V292=9) THEN  
OTHVIC=.; LABEL OTHVIC='ASIAN OR OTHR VIC. & NO WH/BL/HISP VIC.';

V298=VAGE; IF VAGE='OB' THEN V298='50';  
OLDVIC=0; IF ((V298<'65') AND (V298<'99')) OR (V298='A')  
THEN OLDVIC=1; IF (V298=' ') OR (V298='99') THEN OLDVIC=' ';  
LABEL OLDVIC='VICTIM OVER 65';  
YNGVIC=0; IF ((V298<'13') OR (V298='E') OR (V298='F')) THEN  
YNGVIC=1;  
IF (V298='99') OR (V298=' ') THEN YNGVIC=.;  
LABEL YNGVIC='VICTIM 12 OR YOUNGER';

VHISES=0; IF (V310=12) OR (V310=13) OR (V310=14) OR (V310A=12) OR  
(V310A=13) OR (V310A=14) THEN VHISES=1; IF V310=99 OR V310=' '  
THEN VHISES=.; LABEL VHISES='VICTIM HIGH SOCIOECON. STATUS';

VWHITCOL=0; IF ((V310<=30 AND V310=35) OR (V310A<=30 AND  
V310A=35)) THEN VWHITCOL=1; IF V310=99 THEN VWHITCOL=.; LABEL  
VWHITCOL='VICTIM A WHITE COLLAR WORKER';

VBLUECOL=0; IF ((V310<=40 AND V310=42) OR (V310A<=40 AND  
V310A=42)) THEN VBLUECOL=1; IF V310=99 THEN VBLUECOL=.; LABEL  
VBLUECOL='VICTIM A BLUE COLLAR WORKER';

VLOWSES=0; IF ((V310=43) OR (V310A=43) OR (V310<=60 AND  
V310=66) OR (V310A<=60 AND V310A=66)) THEN VLOWSES=1; IF  
V310=99 THEN VLOWSES=.;  
LABEL VLOWSES='VICTIM LOW SOCIOECON. STATUS';

VUNEMPLY=0; IF (NJ75<=20 AND NJ75=22) THEN VUNEMPLY=1;  
IF NJ75=99 OR NJ75=' ' THEN VUNEMPLY=.;  
LABEL VUNEMPLY='VICTIM UNEMPLOYED';

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VUNSKILL=0; IF ((NJ76=2) OR (NJ76=1)) AND ((V298C='19') AND (V298\_='98')) THEN VUNSKILL=1; IF NJ76=9 THEN VUNSKILL=.; LABEL VUNSKILL='VICTIM UNSKILLED';

VHISCHOL=0; IF (NJ77C=4 AND NJ77\_=7) THEN VHISCHOL=1; IF NJ77=9 THEN VHISCHOL=.; LABEL VHISCHOL='VICTIM GRADUATED HIGH SCHOOL';

VSTRANGR=0; IF NJ82=21 THEN VSTRANGR=1; IF NJ82=99 THEN VSTRANGR=.; LABEL VSTRANGR='VICTIM A STRANGER';

CONATMUR=0; IF (NJ89=2 OR NJ90=2 OR NJ91=2 OR NJ92=2 OR NJ93=3 OR NJ93A=2 OR NJ93B=2) THEN CONATMUR=1; LABEL CONATMUR='CONTEMPORANEOUS OFFENSE: ATTEMPTD MURDER';

CONMURD=0; IF (NJ89=1 OR NJ90=1 OR NJ91=1 OR NJ92=1 OR NJ93=1 OR NJ93A=1 OR NJ93B=1) THEN CONMURD=1; LABEL CONMURD='CONTEMPORANEOUS OFFENSE: MURDER';

CONROB=0; IF (NJ89=5 OR NJ90=5 OR NJ91=5 OR NJ92=5 OR NJ93=5 OR NJ93A=5 OR NJ93B=5) THEN CONROB=1; LABEL CONROB='CONTEMPORANEOUS OFFENSE: ROBBERY';

CONSEXAS=0; IF (NJ89=6 OR NJ90=6 OR NJ91=6 OR NJ92=6 OR NJ93=6 OR NJ93A=6 OR NJ93B=6) THEN CONSEXAS=1; LABEL CONSEXAS='CONTEMPORANEOUS OFFENSE: SEXUAL ASSAULT';

CONKIDNP=0; IF (NJ89=7 OR NJ90=7 OR NJ91=7 OR NJ92=7 OR NJ93=7 OR NJ93A=7 OR NJ93B=7) THEN CONKIDNP=1; LABEL CONKIDNP='CONTEMPORANEOUS OFFENSE: KIDNAPPING';

CONBURGL=0; IF (NJ89=8 OR NJ90=8 OR NJ91=8 OR NJ92=8 OR NJ93=8 OR NJ93A=8 OR NJ93B=8) THEN CONBURGL=1; LABEL CONBURGL='CONTEMPORANEOUS OFFENSE: BURGLARY';

CONARSON=0; IF (NJ89=10 OR NJ90=10 OR NJ91=10 OR NJ92=10 OR NJ93=10 OR NJ93A=10 OR NJ93B=10) THEN CONARSON=1; LABEL CONARSON='CONTEMPORANEOUS OFFENSE: ARSON';

NOCONTOF=0; IF NJ89='0' OR NJ89='00' OR NJ89=' ' THEN NOCONTOF=1; LABEL NOCONTOF='NO CONTEMPORANEOUS OFFENSE';

OTHCONOF=0; IF (NJ89C=11 AND NJ89\_=20) OR (NJ90C=11 AND NJ90\_=20)



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OR (NJ91C=11 AND NJ91\_=20) OR (NJ92C=11 AND NJ92\_=20) OR  
(NJ93C=11 AND NJ93\_=20) OR (NJ93AC=11 AND NJ93A\_=20) OR  
(NJ93BC=11 AND NJ93B\_=20) THEN OTHCONOF=1; LABEL  
OTHCONOF='CONTEMPORANEOUS OFFENSE: OTHER';

HATE\_REV=0; IF ((X135=1) OR (X135=2) OR (X136=1) OR (X136=2))  
THEN HATE\_REV=1; LABEL HATE\_REV='HATRED OR REVENGE MOTIVE';

PECUNMOT=0; IF (NJ108=1 OR NJ108=2) THEN PECUNMOT=1; LABEL  
PECUNMOT='PECUNIARY MOTIVE: BROAD';

HIREDPEC=0; IF (NJ112=1 OR NJ112=2) THEN HIREDPEC=1; LABEL  
HIREDPEC='DEFENDANT A HIRED KILLER:4D';

INSURANC=0; IF (X142A=1 OR X142A=2) THEN INSURANC=1; LABEL  
INSURANC='INSURANCE MOTIVE: 4D';

TRANSMOT=0; IF (NJ113=1 OR NJ113=2) THEN TRANSMOT=1; LABEL  
TRANSMOT='INHERITANCE/PROPERTY TRANSFER MOTIVE: 4D';

CONTOF4G=0; IF ((CONMURD=1) OR (CONROB=1) OR (CONSEXAS=1) OR  
(CONKIDNP=1) OR (CONBURGL=1) OR (CONARSON=1)) THEN CONTOF4G=1;  
LABEL CONTOF4G='A 4G CONTEMPORANEOUS OFFENSE INVOLVED';

CONOF4GX=0; DO;  
IF CONMURD=1 THEN CONOF4GX=CONOF4GX+1;  
IF CONROB =1 THEN CONOF4GX=CONOF4GX+1;  
IF CONSEXAS =1 THEN CONOF4GX=CONOF4GX+1;  
IF CONKIDNP=1 THEN CONOF4GX=CONOF4GX+1;  
IF CONBURGL=1 THEN CONOF4GX=CONOF4GX+1;  
IF CONARSON=1 THEN CONOF4GX=CONOF4GX+1;  
END; LABEL CONOF4GX='NUMBER OF 4G CONTEMP. OFF.';

DCONPRIN=0; IF (X196B=1 OR X196B=2) THEN DCONPRIN=1; IF X196B=9  
THEN DCONPRIN=.; LABEL DCONPRIN='DEFENDANT A CONTRACT PRINCIPAL';

RAGE=0; IF (X139=1 OR X139=2) THEN RAGE=1; LABEL RAGE=  
'IMMEDIATE RAGE/FRUSTRATION MOTIVE';

THRILKIL=0; IF (NJ109=1 OR NJ109=2) THEN THRILKIL=1; LABEL  
THRILKIL='THRILL KILL MOTIVE:4C';

PROWESS=0; IF (NJ110=1 OR NJ110=2) THEN PROWESS=1; LABEL  
PROWESS='PHYSICAL/PSYCH. PROWESS MOTIVE 4C';

WANTON=0; IF (NJ111=1 OR NJ111=2) THEN WANTON=1;  
LABEL WANTON='NO MOTIV-WANTON INDIF.TO VALU OF LIFE:4C';

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SEXMOT=0; IF (X137=1 OR X137=2) OR (NJ14=1 OR NJ14=2) OR (X138=1 OR X138=2) THEN SEXMOT=1; LABEL SEXMOT='SEXUAL MOTIVE';

FACILCOF=0; IF (NJ115=1 OR NJ115=2) THEN FACILCOF=1; LABEL FACILCOF='MOTIVE TO FACILITATE CONTEMP. OFF.';

PANIC=0; IF X144A=1 OR X144A=2 THEN PANIC=1; LABEL PANIC='DEFENDANT PANICKED';

SHOOTOUT=0; IF (X145=1 OR X145=2) THEN SHOOTOUT=1; LABEL SHOOTOUT='SHOOT-OUT WITH CRIME VICTIM';

SILENCEW=0; IF (X143=1 OR X143=2) THEN SILENCEW=1; LABEL SILENCEW='MOTIVE-SILENCE WIT. TO CONTEMP. OFF.:4F';

SILPASTW=0; IF (X144=1 OR X144=2) THEN SILPASTW=1; LABEL SILPASTW='MOTIVE-SILENCE EARLIER WIT. TO A CRIME:4F';

SILENCE=0; IF ((X143=1 OR X143=2) OR (X144=1 OR X144=2)) THEN SILENCE=1; LABEL SILENCE='MOTIVE TO SILENCE A WITNESS:4F';

AVAPREH=0; IF (X146=1 OR X146=2) THEN AVAPREH=1; LABEL AVAPREH='MOTIVE TO AVOID APPREHENSION:4F';

NOMOTIVE=0; IF (NJ117=1 OR NJ117=2) THEN NOMOTIVE=1; LABEL NOMOTIVE='NO APPARENT MOTIVE';

RESFOREN=0; IF (NJ83=1) AND (NJ84=3) THEN RESFOREN=1; IF (NJ83=99 OR NJ84=9) THEN RESFOREN=.; LABEL RESFOREN='FORCED ENTRY OF VIC'S RESIDENCE';

DARMED=0; IF ((NJ85C=1 AND NJ85\_=8) OR (NJ85C=1 AND NJ85\_=8)) THEN DARMED=1; IF ((NJ85=99) OR (NJ85=9) OR (NJ85=.) THEN DARMED=.; LABEL DARMED='DEFENDANT ARRIVED ARMED';

PROPARG=0; IF (X150=1 OR X150=2) THEN PROPARG=1; IF X150=9 THEN PROPARG=.; LABEL PROPARG='MONEY OR PROPERTY DISPUTE';

DRGALARG=0; IF (X151=1 OR X151=2) THEN DRGALARG=1; IF X151=9 THEN DRGALARG=.; LABEL DRGALARG='DISPUTE UNDER INFLUENCE OF DRUG/ALCOHOL';

SPOUFAM=0; IF ((X152C=1 AND X152\_=2) OR (X153C=1 AND X153\_=2)) THEN SPOUFAM=1; IF (X152=9 OR X153=9) THEN SPOUFAM=.; LABEL SPOUFAM='SPOUSE (EX), FAMILY DISPUTE';

LOVERS=0; IF (X154=1 OR X154=2) THEN LOVERS=1; IF X154=9 THEN LOVERS=.; LABEL LOVERS='LOVERS OR EX-LOVERS QUARREL';

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LOVETRIA=0; IF (X155=1 OR X155=2) THEN LOVETRIA=1; IF X155=9 THEN  
LOVETRIA=.; LABEL LOVETRIA='LOVERS TRIANGLE';

MITEVENT=0; IF ((X150C=1 AND X150\_=2) OR (X151C=1 AND X151\_=2) OR  
(X152C=1 AND X152\_=2) OR (X153C=1 AND X153\_=2) OR (X154C=1 AND  
X154\_=2) OR (X155C=1 AND X155\_=2) OR (X156C=1 AND X156\_=2)) THEN  
MITEVENT=1; IF (X150=9 OR X151=9 OR X152=9 OR X153=9 OR X154=9 OR  
X155=9 OR X156=9) AND (MITEVENT NE 1) THEN MITEVENT=.; LABEL  
MITEVENT='SPECIAL/MITIGATING PRECIPITATING EVENT';

HANDGUN=0; IF (NJ119=1 OR NJ120=1 OR NJ121=1) THEN HANDGUN=1;  
IF NJ119=' ' THEN HANDGUN=.;  
LABEL HANDGUN='WEAPON:HANDGUN';

KNIFE=0; IF (NJ119=6 OR NJ120=6 OR NJ121=6) THEN KNIFE=1;  
LABEL KNIFE='WEAPON:KNIFE STAB';

VDEFSLES=0; IF (X161=1 OR X161=2) OR (X162=1 OR X162=2) OR  
(X163=1 OR X163=2) OR (X164=1 OR X164=2) OR (X166=1 OR X166=2) OR  
(X166A='1' OR X166A='2') OR (X167=1 OR X167=2) THEN VDEFSLES=1;  
IF X161=9) OR (X162=9) OR (X163=9) OR (X164=9) OR (X166=9) OR  
(X166A='9') OR (X167=9) THEN VDEFSLES=.;  
LABEL VDEFSLES='DEFENSELESS VICTIM';

PREGVIC=0; IF (X165=1 OR X165=2) THEN PREGVIC=1; LABEL  
PREGVIC='PREGNANT VICTIM';

PUBSERV=0; IF (X168=1 OR X168=2) THEN PUBSERV=1; LABEL  
PUBSERV='PUBLIC SERVANT VICTIM-4H';

VNOPROV=0; IF (X170=1 OR X170=2) THEN VNOPROV=1; IF X170=9 THEN  
VNOPROV=.; LABEL VNOPROV='VICTIM OFFERED NO PROVOCATION';

VKIDNAP=0; IF (NJ124=1 OR NJ124=2) THEN VKIDNAP=1; IF NJ124=9  
THEN VKIDNAP=.; LABEL VKIDNAP='VICTIM WAS KIDNAPPED';

ARAPE=0; IF (NJ125=1 OR NJ125=2) THEN ARAPE=1; LABEL ARAPE=  
'VIC OR OTHR PRSN RAPED OR SEXUALY ABUSED';

NOSPAGG=0; IF X172='24' THEN NOSPAGG=1; IF X172=' ' THEN  
NOSPAGG=.;  
LABEL NOSPAGG='NO SPECIAL AGG CIRCUMSTANCES:DCI Q.94';

FLAG172=.; FLAG173=.; FLAG175=.; FLAG175A=.; FLAG175B=.;  
FLAG175C=.;  
FLAG175D=.; FLAG175E=.; FLAG175F=.; FLAG175G=.;

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IF (X172='01' OR X172='02' OR X172='2A' OR X172='03'  
OR X172='09') THEN FLAG172=1;  
IF (X173='01' OR X173='02' OR  
X173='2A' OR X173='03' OR X173='09') THEN FLAG173=1;  
IF (X175='01' OR X175='02' OR X175='2A' OR X175='03' OR  
X175='09')  
THEN FLAG175=1;  
IF (X175A='01' OR X175A='02' OR X175A='2A' OR X175A='03' OR  
X175A='09') THEN FLAG175A=1;  
IF (X175B='01' OR X175B='02' OR X175B='2A' OR X175B='03' OR  
X175B='09') THEN FLAG175B=1;  
IF (X175C='01' OR X175C='02' OR X175C='2A' OR X175C='03' OR  
X175C='09') THEN FLAG175C=1;  
IF (X175D='01' OR X175D='02' OR X175D='2A' OR X175D='03' OR  
X175D='09') THEN FLAG175D=1;  
IF (X175E='01' OR X175E='02' OR X175E='2A' OR X175E='03' OR  
X175E='09') THEN FLAG175E=1;  
IF (X175F='01' OR X175F='02' OR X175F='2A' OR X175F='03' OR  
X175F='09') THEN FLAG175F=1;  
IF (X175G='01' OR X175G='02' OR X175G='2A' OR X175G='03' OR  
X175G='09') THEN FLAG175G=1;
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```
PAINATK=0; IF (FLAG172=1 OR FLAG173=1 OR FLAG175=1  
OR FLAG175A=1 OR FLAG175B=1 OR FLAG175C=1 OR FLAG175D=1 OR  
FLAG175E=1 OR FLAG175F=1 OR FLAG175G=1) THEN PAINATK=1;  
LABEL PAINATK='PAINFUL METHOD OF ATTACK';
```

```
TORTURE=0; IF (X172='01' OR X173='01' OR X175='01' OR X175A='01'  
OR X175B='01' OR X175C='01' OR X175D='01' OR X175E='01' OR  
X175F='01' OR X175G='01') THEN TORTURE=1; LABEL TORTURE='TORTURE  
INVOLVED';
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```
CLUB=0; IF (X172='02' OR X173='02' OR X175='02' OR X175A='02' OR  
X175B='02' OR X175C='02' OR X175D='02' OR X175E='02' OR  
X175F='02' OR X175G='02') THEN CLUB=1; LABEL CLUB='BRUTAL  
CLUBBING';
```

```
STOMP=0; IF (X172='2A' OR X173='2A' OR X175='2A' OR X175A='2A' OR  
X175B='2A' OR X175C='2A' OR X175D='2A' OR X175E='2A' OR  
X175F='2A' OR X175G='2A') THEN STOMP=1;  
LABEL STOMP='BRUTAL STOMPING/BEATING';
```

```
MUTILATE=0; IF (X172='03' OR X173='03' OR X175='03' OR X175A='03'  
OR X175B='03' OR X175C='03' OR X175D='03' OR X175E='03' OR  
X175F='03' OR X175G='03') THEN MUTILATE=1; LABEL  
MUTILATE='MUTILATION DURING KILLING';
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MULSHOT=0; IF (X172='06' OR X173='06' OR X175='06' OR X175A='06'  
OR X175B='06' OR X175C='06' OR X175D='06' OR X175E='06' OR  
X175F='06' OR X175G='06') THEN MULSHOT=1;  
LABEL MULSHOT='MULTIPLE GUNSHOT WOUNDS';

SLASH=0; IF (X172='08' OR X173='08' OR X175='08' OR X175A='08' OR  
X175B='08' OR X175C='08' OR X175D='08' OR X175E='08' OR  
X175F='08' OR X175G='08') THEN SLASH=1; LABEL SLASH='SLASHED  
THROAT';

MULSTAB=0; IF (X172='09' OR X173='09' OR X175='09' OR X175A='09'  
OR X175B='09' OR X175C='09' OR X175D='09' OR X175E='09' OR  
X175F='09' OR X175G='09') THEN MULSTAB=1;  
LABEL MULSTAB='MULTIPLE STABBING';

BLOODY=0; IF (X172='10' OR X173='10' OR X175='10' OR X175A='10'  
OR X175B='10' OR X175C='10' OR X175D='10' OR X175E='10' OR  
X175F='10' OR X175G='10') THEN BLOODY=1;  
LABEL BLOODY='EXTREMELY BLOODY CRIME';

HOSTAGE=0; IF (X172='12' OR X173='12' OR X175='12' OR X175A='12'  
OR X175B='12' OR X175C='12' OR X175D='12' OR X175E='12' OR  
X175F='12' OR X175G='12') THEN HOSTAGE=1;  
LABEL HOSTAGE='A HOSTAGE TAKEN';

BOUNDGAG=0; IF (X172='13' OR X173='13' OR X175='13' OR X175A='13'  
OR X175B='13' OR X175C='13' OR X175D='13' OR X175E='13' OR  
X175F='13' OR X175G='13') THEN BOUNDGAG=1;  
LABEL BOUNDGAG='VICTIM BOUND OR GAGGED';

DISROBE=0; IF (X172='14' OR X173='14' OR X175='14' OR X175A='14'  
OR X175B='14' OR X175C='14' OR X175D='14' OR X175E='14' OR  
X175F='14' OR X175G='14') THEN DISROBE=1;  
LABEL DISROBE='VICTIM DISROBED';

HIDEBODY=0; IF (X172='15' OR X173='15' OR X175='15' OR X175A='15'  
OR X175B='15' OR X175C='15' OR X175D='15' OR X175E='15' OR  
X175F='15' OR X175G='15') THEN HIDEBODY=1; LABEL  
HIDEBODY='ATTEMPT TO DISPOSE/CONCEAL BODY';

AMBUSH=0; IF (X172='15' OR X173='15' OR X175='15' OR X175A='15'  
OR X175B='15' OR X175C='15' OR X175D='15' OR X175E='15' OR  
X175F='15' OR X175G='15') THEN AMBUSH=1; LABEL  
AMBUSH='LURING/AMBUSH';

PREMED=0; IF (X176=1 OR X176=2) THEN PREMED=1; IF X176=9

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THEN PREMED=.; LABEL PREMED='KILLING PLANNED MORE THAN 5 MIN.';  
EXECUTON=0; IF (X177=1 OR X177=2) THEN EXECUTON=1; LABEL  
EXECUTON='EXECUTION STYLE HOMICIDE';

UNECESAR=0; IF (X178=1 OR X178=2) THEN UNECESAR=1; IF X178=9 THEN  
UNECESAR=.; LABEL UNECESAR='UNNECESSARY KILLING';

VBEAT=0; IF (X178=1 OR X178=2) THEN VBEAT=1; IF X178A=9 THEN  
VBEAT=.; LABEL VBEAT='VICTIM BEATEN';

VICPLEAD=0; IF (X179C=1 AND X179\_=2) THEN VICPLEAD=1; IF X179=9  
THEN VICPLEAD=.; LABEL VICPLEAD='VICTIM PLED FOR LIFE';

VMENTORT=0; IF (X179A=1 AND X179\_=2) THEN VMENTORT=1; IF X179A=9  
THEN VMENTORT=.; LABEL VMENTORT='MENTAL TORTURE OF VICTIM';

VNUDE=0; IF (X180C=1 AND X180\_=2) THEN VNUDE=1; IF X180=9 THEN  
VNUDE=.; LABEL VNUDE='VICTIM NOT CLOTHED AT DEATH';

SEXPERV=0; IF (X181C=1 AND X181\_=2) THEN SEXPERV=1; IF X181=9  
THEN SEXPERV=.; LABEL SEXPERV='SEXUAL ABUSE BEYOND RAPE';

INSTANTD=0; IF NJ126=1 THEN INSTANTD=1; IF (NJ126=9 OR NJ126=.)  
THEN INSTANTD=.; LABEL INSTANTD='INSTANTANEOUS DEATH';

SHORTDIE=0; IF NJ126=2 THEN SHORTDIE=1; IF (NJ126=9 OR NJ126=.)  
THEN SHORTDIE=.;  
LABEL SHORTDIE='DEATH UNDER 30 MINUTES BUT NOT INSTANT';

SLODIE=0; IF (NJ126=3 OR NJ126=4 OR NJ126=5 OR NJ126=6) THEN  
SLODIE=1; IF (NJ126=9 OR NJ126=.) THEN SLODIE=.; LABEL  
SLODIE='DEATH MORE THAN 30 MINUTES';

NOSUFFER=0; IF (NJ127=1 OR NJ127=2 OR NJ127=3 OR NJ127=4) THEN  
NOSUFFER=1; IF (NJ127=.) OR (NJ127=9) THEN NOSUFFER=.; LABEL  
NOSUFFER='NO SEVERE PHYS/MENTAL SUFFERING INVOLVED';

VICPSUF=0; IF (NJ128C=1) AND (NJ128A=1 AND NJ128A\_=3) THEN  
VICPSUF=1; LABEL VICPSUF='VIC(S) HAD SEVERE PHYSICAL SUFFERING';

IF (NJ128A=1 OR NJ128A=2 OR NJ128A=3) THEN VICPSUFX=NJ128;  
IF NJ128A=4 OR NJ128A=5 THEN VICPSUFX=0; IF NJ128A=9 OR NJ128A=.

THEN VICPSUFX=.;  
LABEL VICPSUFX='NO. OF VIC(S) WHO PHYSICALLY SUFFERED';

VICMSUF=0; IF ((NJ129C=1) AND (NJ129A=1 AND NJ129A\_=3)) THEN

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VICMSUF=1; LABEL VICMSUF='VIC(S) HAD SEVERE MENTAL SUFFERING';

IF (NJ129A=0 OR NJ129A=1 OR NJ129A=2 OR NJ129A=3) THEN  
VICMSUFX=NJ129;  
IF (NJ129A=4 OR NJ129A=5) THEN VICMSUFX=0; IF (NJ129A=. OR  
NJ129A=9) THEN VICMSUFX=.;  
LABEL VICMSUFX='NO. OF VIC(S) WHO MENTALLY SUFFERED';

VICSUFFIX=VICMSUFX + VICPSUFX;  
IF (VICMSUFX=. AND VICPSUFX<0.5) THEN VICSUFFIX=VICPSUFX;  
IF (VICPSUFX=. AND VICMSUFX<0.5) THEN VICSUFFIX=VICMSUFX;  
LABEL VICSUFFIX='NO. OF VIC(S) W/PHYS. &/OR MENT. SUFFER';

NDVPSUF=0; IF (NJ130C=1) AND (NJ130AC=1 AND NJ130A\_=3) THEN  
NDVPSUF=1; IF NJ130A=9 THEN NDVPSUF=.;  
LABEL NDVPSUF='NONDECEDNT VIC(S) W/SEVERE PHYS. SUFFER';

NDVMSUF=0; IF ((NJ131C=1) AND (NJ131AC=1 AND NJ131A\_=3)) THEN  
NDVMSUF=1; IF NJ131A=9 THEN NDVMSUF=.;  
LABEL NDVMSUF='NONDECEDNT VIC(S) HAD EXTR MENT. SUFFER';

MODEATKX=0;  
IF NJ132C=1 AND NJ132\_=10 THEN MODEATKX=MODEATKX+1;  
IF NJ132AC=1 AND NJ132A\_=10 THEN MODEATKX=MODEATKX+1;  
IF NJ133C=1 AND NJ133\_=10 THEN MODEATKX=MODEATKX+1;  
IF NJ133AC=1 AND NJ133A\_=10 THEN MODEATKX=MODEATKX+1;  
IF NJ134C=1 AND NJ134\_=10 THEN MODEATKX=MODEATKX+1;  
IF NJ134AC=1 AND NJ134A\_=10 THEN MODEATKX=MODEATKX+1;  
IF VICPSUF=0 THEN MODEATKX=0;  
LABEL MODEATKX='NUMBER OF MODES OF ATTACK: #1 & #2 VIC';

TIMESUF1=NJ136; IF NJ136=9 THEN TIMESUF1=.; LABEL  
TIMESUF1='SUFFERING TIME FOR VICTIM #1';

WHYSUFR=0;  
IF V639C=1 AND V639\_=6 THEN WHYSUFR=WHYSUFR+1;  
IF V640C=1 AND V640\_=6 THEN WHYSUFR=WHYSUFR+1;  
IF V641C=1 AND V641\_=6 THEN WHYSUFR=WHYSUFR+1;  
IF V641AC=1 AND V641A\_=6 THEN WHYSUFR=WHYSUFR+1;  
IF V641BC=1 AND V641B\_=6 THEN WHYSUFR=WHYSUFR+1;  
IF V641CC=1 AND V641C\_=6 THEN WHYSUFR=WHYSUFR+1;  
IF VICPSUF=0 THEN WHYSUFR=0;  
LABEL WHYSUFR='SOURCE OF SUFFERING: VIC #1&#2';

IF (NJ137='U' OR NJ137=' ' OR NJ137='UC') THEN WOUNDV1X=0;  
ELSE WOUNDV1X=NJ137; IF NJ137='UC' THEN WOUNDV1X=8;  
LABEL WOUNDV1X='NUMBER MULTIPLE STAB WOUNDS: V#1';  
\*(NOTE: UC (UNKNOWN COUNT) CODED AT MEDIAN);

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IF NJ137=' ' AND NJ137F=' ' AND NJ142A=' ' THEN WOUNDSX=.;
ELSE DO;
  DUMMY1=NJ137;DUMMY2=NJ137F;DUMMY3=NJ142A;
  IF NJ137=' ' THEN NJ137=0;IF NJ137F=' ' THEN NJ137F='0';IF
  NJ142A=' '
    THEN NJ142A='0';
  IF NJ137='UC' THEN NJ137=1;IF NJ137F='UC' THEN NJ137F='1';
  IF NJ142A='UC' THEN NJ142A='1';
  IF NJ137='U' THEN NJ137=1;IF NJ142A='U' THEN NJ142A='1';
  IF NJ142A='E' THEN NJ142A='15';
  WOUNDSX=NJ137 + NJ137F + NJ142A;
  NJ137=DUMMY1;NJ137F=DUMMY2;NJ142A=DUMMY3;
END;
LABEL WOUNDSX='TOTAL MULTIPLE WOUNDS VICTIM #1';

DKNOWSUF=0; IF (NJ146AÇ=1 AND NJ146A_=3) THEN DKNOWSUF=1; IF
NJ146A=9 THEN DKNOWSUF=.;
LABEL DKNOWSUF='DEFENDANT AWARE OF VICTIM 1 SUFFERING';

DINTENDS=0;IF (NJ147Ç='1' AND NJ147_='3') OR (NJ147AÇ='1' AND
NJ147A_='3') THEN DINTENDS=1; IF NJ147='9' THEN DINTENDS=.;
LABEL DINTENDS='DEFENDANT INTENDS TO CAUSE SUFFERING';

DNOINSUF=0; IF(NJ148Ç=1 AND NJ148_=3) THEN DNOINSUF=1; IF NJ148=9
THEN DNOINSUF=.; LABEL DNOINSUF='VIC SUFFERING KNOWN BUT
INCIDENTAL';

DISMBER=0; IF (NJ151Ç=1 AND NJ151_=4) THEN DISMBER=1; IF NJ151=9
THEN DISMBER=.; LABEL DISMBER='VICTIM DISMEMBERED BEFORE/AFTER
DEATH';

OTHMUT=0; IF (NJ152Ç=1 AND NJ152_=4) THEN OTHMUT=1; IF NJ152=9
THEN OTHMUT=.; LABEL OTHMUT='VICTIM OTHERWISE MUTILATED';

SEXATK=0; IF (NJ153Ç=1 AND NJ153_=4) THEN SEXATK=1; IF NJ153=9
THEN SEXATK=.;
LABEL SEXATK='VIC.SEXUALLY ATTACKED BFR OR AFTER DEATH';

MUTIL4C=0; IF NJ154=1 THEN MUTIL4C=1; IF (NJ154=8 OR NJ154=9)
THEN MUTIL4C=.; LABEL MUTIL4C='DEF. KNOWINGLY MUTILATED CORPSE';

DNOREMOR=0; IF (X183Ç=1 AND X183_=2) THEN DNOREMOR=1; IF X183=9
THEN DNOREMOR=.; LABEL DNOREMOR='DEFENDANT SHOWED NO REMORSE';

DPLEASUR=0; IF (X184Ç=1 AND X184_=2) THEN DPLEASUR=1; IF X184=9
THEN DPLEASUR=.; LABEL DPLEASUR='DEFENDANT EXPRESSED PLEASURE';
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DADCRIME=0; IF (X185C=1 AND X185\_=2) THEN DADCRIME=1; IF X185=9  
THEN DADCRIME=.;  
LABEL DADCRIME='DEF. COMMITTED ADDTNL CRIME(S) AFTR HOM.';

DRESIST=0; IF (X187C=1 AND X187\_=2) THEN DRESIST=1; IF X187=9  
THEN DRESIST=.; LABEL DRESIST='DEF. ACTIVELY RESISTED ARREST';

DFUGITIV=0; IF (NJ157C=1 AND NJ157\_=2) THEN DFUGITIV=1; IF  
NJ157=9 THEN DFUGITIV=.;  
LABEL DFUGITIV='DEF. FUGITIVE FROM PRIOR CRIME.';

DABANVIC=0; IF (NJ161C=1 AND NJ161\_=2) THEN DABANVIC=1; IF  
NJ161=9 THEN DABANVIC=.;  
LABEL DABANVIC='DEF. ABANDONED DYING VICTIM';

DHIDVIC=0; IF (NJ162C=1 AND NJ162\_=2) THEN DHIDVIC=1; IF NJ162=9  
THEN DHIDVIC=.;  
LABEL DHIDVIC='DEF. HID VICTIM REDUCING CHANCE OF HELP';

DATKDIEV=0; IF (NJ162AC=1 AND NJ162A\_=2) THEN DATKDIEV=1; IF  
NJ162A=9 THEN  
DATKDIEV=.; LABEL DATKDIEV='DEFENDANT ATTACKED DYING VICTIM';

SPAGFACX=0;

IF NJ156=1 OR NJ156=2 THEN SPAGFACX=SPAGFACX+1;  
IF NJ157=1 OR NJ157=2 THEN SPAGFACX=SPAGFACX+1;  
IF NJ158=1 OR NJ158=2 THEN SPAGFACX=SPAGFACX+1;  
IF NJ159=1 OR NJ159=2 THEN SPAGFACX=SPAGFACX+1;  
IF NJ159A=1 OR NJ159A=2 THEN SPAGFACX=SPAGFACX+1;  
IF NJ160=1 OR NJ160=2 THEN SPAGFACX=SPAGFACX+1;  
IF NJ161=1 OR NJ161=2 THEN SPAGFACX=SPAGFACX+1;  
IF NJ162=1 OR NJ162=2 THEN SPAGFACX=SPAGFACX+1;  
IF NJ162A=1 OR NJ162A=2 THEN SPAGFACX=SPAGFACX+1;  
IF X183=1 OR X183=2 THEN SPAGFACX=SPAGFACX+1;  
IF X184=1 OR X184=2 THEN SPAGFACX=SPAGFACX+1;  
IF X185=1 OR X185=2 THEN SPAGFACX=SPAGFACX+1;  
IF X186=1 OR X186=2 THEN SPAGFACX=SPAGFACX+1;  
IF X187=1 OR X187=2 THEN SPAGFACX=SPAGFACX+1;  
IF X188=1 OR X188=2 THEN SPAGFACX=SPAGFACX+1;  
IF X189=1 OR X189=2 THEN SPAGFACX=SPAGFACX+1;

LABEL SPAGFACX='NO. OF DEF. SPECIAL AGGRAVATING FACTORS';

TWOVICDF=0; IF NJ162CC=2 THEN TWOVICDF=1;  
LABEL TWOVICDF='DEFENDANT KILLED TWO OR MORE VICTIMS';

IF X251='UC' OR X251='N' THEN NDVPHX=1; ELSE NDVPHX=X251; IF  
X251='N' THEN

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NDVPHX=0; LABEL NDVPHX=' # OF NONDECEDENT VICS PHYSICALLY HARMED';

IF (NJ162F=' ' OR NJ162F='U' OR NJ162F='N' OR NJ162F='UC') THEN  
NDVPSYX=.;  
ELSE NDVPSYX=NJ162F;  
IF NJ162F='N' THEN NDVPSYX=0; IF NJ162F='UC' THEN NDVPSYX=1;  
LABEL NDVPSYX=' # OF NONDECEDENT VICS EMOTIONALLY HARMED';

GRAVERSK=X255; IF X255=9 THEN GRAVERSK=.;  
LABEL GRAVERSK='DEF. CREATED GRV RSK TO NONDECEDT VIC(S)';

IF (X258=' ' OR X258='UC') THEN ATRISKX=0; ELSE ATRISKX=X258;  
IF X258='UC' THEN ATRISKX=1; IF X258='08' THEN ATRISKX=15;  
LABEL ATRISKX=' # OF NONDEC VIC(S) AT RISK OF DEATH';

V4ACAPTR=0; IF (V624=1 OR V624=2 OR V624=3) THEN V4ACAPTR=1; IF  
V624=9 THEN V4ACAPTR=.;  
LABEL V4ACAPTR='CAP. TRIAL ON THE 4A FACTOR';

V4BCAPTR=0; IF (V625=1 OR V625=2 OR V625=3) THEN V4BCAPTR=1; IF  
V625=9 THEN V4BCAPTR=.;  
LABEL V4BCAPTR='CAP. TRIAL ON THE 4B FACTOR';

V4CCAPTR=0; IF (V626=1 OR V626=2 OR V626=3) THEN V4CCAPTR=1; IF  
V626=9 THEN V4CCAPTR=.;  
LABEL V4CCAPTR='CAP. TRIAL ON THE 4C FACTOR';

V4DCAPTR=0; IF (V627=1 OR V627=2 OR V627=3) THEN V4DCAPTR=1; IF  
V627=9 THEN V4DCAPTR=.;  
LABEL V4DCAPTR='CAP. TRIAL ON THE 4D FACTOR';

V4ECAPTR=0; IF (V627A=1 OR V627A=2 OR V627A=3) THEN V4ECAPTR=1;  
IF V627A=9 THEN V4ECAPTR=.;  
LABEL V4ECAPTR='CAP. TRIAL ON THE 4E FACTOR';

V4FCAPTR=0; IF (V628=1 OR V628=2 OR V628=3) THEN V4FCAPTR=1; IF  
V628=9 THEN V4FCAPTR=.;  
LABEL V4FCAPTR='CAP. TRIAL ON THE 4F FACTOR';

V4GCAPTR=0; IF (V629=1 OR V629=2 OR V629=3) THEN V4GCAPTR=1; IF  
V629=9 THEN V4GCAPTR=.;  
LABEL V4GCAPTR='CAP. TRIAL ON THE 4G FACTOR';

V4HCAPTR=0; IF (V630=1 OR V630=2 OR V630=3) THEN V4HCAPTR=1; IF  
V630=9 THEN V4HCAPTR=.;  
LABEL V4HCAPTR='CAP. TRIAL ON THE 4H FACTOR';

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DHELPST=0;IF V669=1 OR V669=2 OR V670=1 OR V670=2 THEN DHELPST=1;  
IF V669=9 OR V670=9 THEN DHELPST=.;  
LABEL DHELPST='DEF. ASST. STATE:5G';

IF CASE=2500 OR CASE=1604 OR CASE=1027 THEN PTRIAL=1;  
\* SEE LINE FOLLOWING MITCRNOX FOR REVERSE CORRECTION \*;

V4AP  
LABEL V4AP='4A FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V4BP  
LABEL V4BP='4B FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V4CP  
LABEL V4CP='4C FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V4DP  
LABEL V4DP='4D FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V4EP  
LABEL V4EP='4E FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V4FP  
LABEL V4FP='4F FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V4GP  
LABEL V4GP='4G FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V4HP  
LABEL V4HP='4H FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V4APTY=0;IF PTRIAL=0 THEN V4APTY=.; IF V624=1 THEN V4APTY=1;  
LABEL V4APTY='PEN. TRIAL JURY FOUND 4A FACTOR';

V4BPTY=0;IF PTRIAL=0 THEN V4BPTY=.; IF V625=1 THEN V4BPTY=1;  
LABEL V4BPTY='PEN. TRIAL JURY FOUND 4B FACTOR';

V4CPTY=0;IF PTRIAL=0 THEN V4CPTY=.; IF V626=1 THEN V4CPTY=1;  
LABEL V4CPTY='PEN. TRIAL JURY FOUND 4C FACTOR';

V4DPTY=0;IF PTRIAL=0 THEN V4DPTY=.; IF V627=1 THEN V4DPTY=1;  
LABEL V4DPTY='PEN. TRIAL JURY FOUND 4D FACTOR';

V4EPTY=0;IF PTRIAL=0 THEN V4EPTY=.; IF V627A=1 THEN V4EPTY=1;  
LABEL V4EPTY='PEN. TRIAL JURY FOUND 4E FACTOR';

V4FPTY=0;IF PTRIAL=0 THEN V4FPTY=.; IF V628=1 THEN V4FPTY=1;

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LABEL V4FPTY='PEN. TRIAL JURY FOUND 4F FACTOR';

V4GPTY=0;IF PTRIAL=0 THEN V4GPTY=.; IF V629=1 THEN V4GPTY=1;  
LABEL V4GPTY='PEN. TRIAL JURY FOUND 4G FACTOR';

V4HPTY=0;IF PTRIAL=0 THEN V4GPTY=.; IF V630=1 THEN V4HPTY=1;  
LABEL V4HPTY='PEN. TRIAL JURY FOUND 4H FACTOR';

V4A HPTY=0;IF PTRIAL=0 THEN V4A HPTY=.;  
IF V4APTY=1 OR V4HPTY=1 THEN V4A HPTY=1;  
LABEL V4A HPTY='PEN. TRIAL JURY FOUND 4A OR 4H FACTOR';

V4D EPTY=0;IF PTRIAL=0 THEN V4D EPTY=.;  
IF V4DPTY=1 OR V4EPTY=1 THEN V4D EPTY=1;  
LABEL V4D EPTY='PEN. TRIAL JURY FOUND 4D OR 4E FACTOR';

V4APTN=0;IF PTRIAL=0 THEN V4APTN=.;  
IF V624=2 THEN V4APTN=1; IF V624=1 THEN V4APTN=0; LABEL  
V4APTN='PEN. TRIAL JURY DID NOT FIND 4A FACTOR';

V4BPTN=0;IF PTRIAL=0 THEN V4BPTN=.;  
IF V625=2 THEN V4BPTN=1; IF V625=1 THEN V4BPTN=0; LABEL  
V4BPTN='PEN. TRIAL JURY DID NOT FIND 4B FACTOR';

V4CPTN=0;IF PTRIAL=0 THEN V4CPTN=.;  
IF V626=2 THEN V4CPTN=1; IF V626=1 THEN V4CPTN=0; LABEL  
V4CPTN='PEN. TRIAL JURY DID NOT FIND 4C FACTOR';

V4DPTN=0;IF PTRIAL=0 THEN V4DPTN=.;  
IF V627=2 THEN V4DPTN=1; IF V627=1 THEN V4DPTN=0; LABEL  
V4DPTN='PEN. TRIAL JURY DID NOT FIND 4D FACTOR';

V4EPTN=0;IF PTRIAL=0 THEN V4EPTN=.;  
IF V627A=2 THEN V4EPTN=1; IF V627A=1 THEN V4EPTN=0;  
LABEL V4EPTN='PEN. TRIAL JURY DID NOT FIND 4E FACTOR';

V4FPTN=0;IF PTRIAL=0 THEN V4FPTN=.;  
IF V628=2 THEN V4FPTN=1; IF V628=1 THEN V4FPTN=0; LABEL  
V4FPTN='PEN. TRIAL JURY DID NOT FIND 4E FACTOR';

V4GPTN=0;IF PTRIAL=0 THEN V4GPTN=.;  
IF V629=2 THEN V4GPTN=1; IF V629=1 THEN V4GPTN=0; LABEL  
V4GPTN='PEN. TRIAL JURY DID NOT FIND 4G FACTOR';

V4HPTN=0;IF PTRIAL=0 THEN V4HPTN=.;  
IF V630=2 THEN V4HPTN=1; IF V630=1 THEN V4HPTN=0; LABEL  
V4HPTN='PEN. TRIAL JURY DID NOT FIND 4H FACTOR';

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AGCRYESX=0;DO;IF V4APTY=1 THEN AGCRYESX=AGCRYESX+1;
      IF V4BPTY=1 THEN AGCRYESX=AGCRYESX+1;
      IF V4CPTY=1 THEN AGCRYESX=AGCRYESX+1;
      IF V4DPTY=1 THEN AGCRYESX=AGCRYESX+1;
      IF V4EPTY=1 THEN AGCRYESX=AGCRYESX+1;
      IF V4FPTY=1 THEN AGCRYESX=AGCRYESX+1;
      IF V4GPTY=1 THEN AGCRYESX=AGCRYESX+1;
      IF V4HPTY=1 THEN AGCRYESX=AGCRYESX+1;
      END;
LABEL AGCRYESX='NO. OF STAT. AGG. FACTRS FND AT PEN. TRL';

V5AP
LABEL V5AP='5A FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V5BP
LABEL V5BP='5B FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V5CP
LABEL V5CP='5C FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V5DP
LABEL V5DP='5D FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V5EP
LABEL V5EP='5E FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V5FP
LABEL V5FP='5F FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V5GP
LABEL V5GP='5G FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V5HP
LABEL V5HP='5H FACTOR PRESENT IN A NON-PENALTY TRIAL CASE';

V5APTY=0;IF PTRIAL=0 THEN V5APTY=.;
IF (V693¢=1 AND V693_=13) THEN V5APTY=1; IF V693=14
THEN V5APTY=0; LABEL V5APTY='MIT. CIR. 5A FOUND AT PEN. TRIAL';

V5BPTY=0;IF PTRIAL=0 THEN V5BPTY=.;
IF (V694¢=1 AND V694_=13) THEN V5BPTY=1; IF V694=14
THEN V5BPTY=0; LABEL V5BPTY='MIT. CIR. 5B FOUND AT PEN. TRIAL';

V5CPTY=0;IF PTRIAL=0 THEN V5CPTY=.;
IF (V695¢=1 AND V695_=13) THEN V5CPTY=1; IF V695=14
THEN V5CPTY=0; LABEL V5CPTY='MIT. CIR. 5C FOUND AT PEN. TRIAL';
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V5DPTY=0;IF PTRIAL=0 THEN V5DPTY=.;  
IF (V696Ç=1 AND V696\_=13) THEN V5DPTY=1; IF V696=14  
THEN V5DPTY=0; LABEL V5DPTY='MIT. CIR. 5D FOUND AT PEN. TRIAL';

V5EPTY=0;IF PTRIAL=0 THEN V5EPTY=.;  
IF (V697Ç=1 AND V697\_=13) THEN V5EPTY=1; IF V697=14  
THEN V5EPTY=0; LABEL V5EPTY='MIT. CIR. 5E FOUND AT PEN. TRIAL';

V5FPTY=0;IF PTRIAL=0 THEN V5FPTY=.;  
IF (V698Ç=1 AND V698\_=13) THEN V5FPTY=1; IF V698=14  
THEN V5FPTY=0; LABEL V5FPTY='MIT. CIR. 5F FOUND AT PEN. TRIAL';

V5GPTY=0;IF PTRIAL=0 THEN V5GPTY=.;  
IF (V699Ç=1 AND V699\_=13) THEN V5GPTY=1; IF V699=14  
THEN V5GPTY=0; LABEL V5GPTY='MIT. CIR. 5G FOUND AT PEN. TRIAL';

V5HPTY=0;IF PTRIAL=0 THEN V5HPTY=.;  
IF (V700Ç=1 AND V700\_=13) THEN V5HPTY=1; IF V700=14 THEN  
V5HPTY=0; LABEL V5HPTY='MIT. CIR. 5H FOUND AT PEN. TRIAL';

V5BPTN=0;IF PTRIAL=0 THEN V5BPTN=.;  
IF V694=14 THEN V5BPTN=1; IF (V694Ç=1 AND V694\_=13)  
THEN V5BPTN=0; LABEL V5BPTN='MIT. CIT. 5B NOT FOUND AT PEN.  
TRIAL';

V5CPTN=0;IF PTRIAL=0 THEN V5CPTN=.;  
IF V695=14 THEN V5CPTN=1; IF (V695Ç=1 AND V695\_=13)  
THEN V5CPTN=0; LABEL V5CPTN='MIT. CIT. 5C NOT FOUND AT PEN.  
TRIAL';

V5DPTN=0;IF PTRIAL=0 THEN V5DPTN=.;  
IF V696=14 THEN V5DPTN=1; IF (V696Ç=1 AND V696\_=13)  
THEN V5DPTN=0; LABEL V5DPTN='MIT. CIT. 5D NOT FOUND AT PEN.  
TRIAL';

V5EPTN=0;IF PTRIAL=0 THEN V5EPTN=.;  
IF V697=14 THEN V5EPTN=1; IF (V697Ç=1 AND V697\_=13)  
THEN V5EPTN=0; LABEL V5EPTN='MIT. CIT. 5E NOT FOUND AT PEN.  
TRIAL';

V5FPTN=0;IF PTRIAL=0 THEN V5FPTN=.;  
IF V698=14 THEN V5FPTN=1; IF (V698Ç=1 AND V698\_=13)  
THEN V5FPTN=0; LABEL V5FPTN='MIT. CIT. 5F NOT FOUND AT  
PEN. TRIAL';

V5GPTN=0;IF PTRIAL=0 THEN V5GPTN=.;  
IF V699=14 THEN V5GPTN=1; IF (V699Ç=1 AND V699\_=13)

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THEN V5GPTN=0; LABEL V5GPTN='MIT. CIT. 5G NOT FOUND AT PEN.  
TRIAL';

V5HPTN=0; IF PTRIAL=0 THEN V5HPTN=.;  
IF V700=14 THEN V5HPTN=1; IF (V700C=1 AND V700=13)  
THEN V5HPTN=0; LABEL V5HPTN='MIT. CIT. 5H NOT FOUND AT PEN.  
TRIAL';

MITFOUDX=0; DO; IF V5APTY=1 THEN MITFOUDX=MITFOUDX+1;  
IF V5BPTY=1 THEN MITFOUDX=MITFOUDX+1;  
IF V5CPTY=1 THEN MITFOUDX=MITFOUDX+1;  
IF V5DPTY=1 THEN MITFOUDX=MITFOUDX+1;  
IF V5EPTY=1 THEN MITFOUDX=MITFOUDX+1;  
IF V5FPTY=1 THEN MITFOUDX=MITFOUDX+1;  
IF V5GPTY=1 THEN MITFOUDX=MITFOUDX+1;  
IF V5HPTY=1 THEN MITFOUDX=MITFOUDX+1;  
END;

LABEL MITFOUDX='NO. OF STAT. MIT. CIR. FND AT PEN. TRIAL';

IF CASE=2500 OR CASE=1604 OR CASE=1027 THEN PTRIAL=0;  
\* CASE CORRECTIONS \* ;

\*\*\*\*\*;  
\* V4APRC AND V5APRC SERIES COMPUTATIONS ;  
\*\*\*\*\*;

V4APRC=V4APTY;  
IF V4APTY=. THEN V4APRC=V4AP ;  
LABEL V4APRC='4A FACTOR FOUND OR PRESENT' ;

V4BPRC=V4BPTY;  
IF V4BPTY=. THEN V4BPRC=V4BP ;  
LABEL V4BPRC='4B FACTOR FOUND OR PRESENT' ;

V4CPRC=V4CPTY;  
IF V4CPTY=. THEN V4CPRC=V4CP ;  
LABEL V4CPRC='4C FACTOR FOUND OR PRESENT' ;

V4DPRC=V4DPTY;  
IF V4DPTY=. THEN V4DPRC=V4DP ;  
LABEL V4DPRC='4D FACTOR FOUND OR PRESENT' ;

V4EPRC=V4EPTY;  
IF V4EPTY=. THEN V4EPRC=V4EP ;  
LABEL V4EPRC='4E FACTOR FOUND OR PRESENT' ;

V4FPRC=V4FPTY;  
IF V4FPTY=. THEN V4FPRC=V4FP ;

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LABEL V4FPRC='4F FACTOR FOUND OR PRESENT' ;

V4GPRC=V4GPTY;
IF V4GPTY=. THEN V4GPRC=V4GP ;
LABEL V4GPRC='4G FACTOR FOUND OR PRESENT' ;

V4HPRC=V4HPTY;
IF V4HPTY=. THEN V4HPRC=V4HP ;
LABEL V4HPRC='4H FACTOR FOUND OR PRESENT' ;

V5APRC=V5APTY;
IF V5APTY=. THEN V5APRC=V5AP ;
LABEL V5APRC='5A FACTOR FOUND OR PRESENT' ;

V5BPRC=V5BPTY;
IF V5BPTY=. THEN V5BPRC=V5BP ;
LABEL V5BPRC='5B FACTOR FOUND OR PRESENT' ;

V5CPRC=V5CPTY;
IF V5CPTY=. THEN V5CPRC=V5CP ;
LABEL V5CPRC='5C FACTOR FOUND OR PRESENT' ;

V5DPRC=V5DPTY;
IF V5DPTY=. THEN V5DPRC=V5DP ;
LABEL V5DPRC='5D FACTOR FOUND OR PRESENT' ;

V5EPRC=V5EPTY;
IF V5EPTY=. THEN V5EPRC=V5EP ;
LABEL V5EPRC='5E FACTOR FOUND OR PRESENT' ;

V5FPRC=V5FPTY;
IF V5FPTY=. THEN V5FPRC=V5FP ;
LABEL V5FPRC='5F FACTOR FOUND OR PRESENT' ;

V5GPRC=V5GPTY;
IF V5GPTY=. THEN V5GPRC=V5GP ;
LABEL V5GPRC='5G FACTOR FOUND OR PRESENT' ;

V5HPRC=V5HPTY;
IF PTRIAL=0 THEN V5HPRC=1;
LABEL V5HPRC='5H FACTOR FOUND OR PRESENT' ;

V4APRCX=SUM(OFF V4APRC--V4HPRC) ;
LABEL V4APRCX='NO OF STAT AGG CIR FOUND/PRESENT (. = 0)' ;
V5APRCX=SUM(OFF V5APRC--V5HPRC) ;
LABEL V5APRCX='NO OF STAT MIT CIR FOUND/PRESENT (. = 0)' ;

UNDRLING=0; IF V671=1 OR V671=2 THEN UNDRLING=1; IF V671=9 THEN
```



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UNDRING=. ; LABEL UNDRING ='DEFENDANT AN UNDERLING IN THE MURDER';

DAIDVIC=0; IF V675=1 OR V675=2 THEN DAIDVIC=1; IF V675=9 THEN DAIDVIC=. ; LABEL DAIDVIC='DEFENDANT AIDED VICTIM';

DREMORSE=0; IF V676=1 OR V676=2 THEN DREMORSE=1; IF V676 =9 THEN

DREMORSE=. ; LABEL DREMORSE='DEFENDANT SHOWED REMORSE';

DADMIT=0; IF NJ171=1 OR NJ171=2 THEN DADMIT=1; IF NJ171=9 THEN DADMIT=. ; LABEL DADMIT='DEFENDANT ADMITTED HIS GUILT';

DCOOP=0; IF NJ171A=1 OR NJ171A=2 THEN DCOOP=1; IF NJ171A=9 THEN DCOOP=. ; LABEL DCOOP='DEFENDANT COOPERATED WITH AUTHORITIES';

DHISTDAB=0; IF NJ171C=1 OR NJ171C=2 THEN DHISTDAB=1; IF NJ171C=9

THEN DHISTDAB=. ;

LABEL DHISTDAB='DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE';

DHISMENT=0; IF NJ171D=1 OR NJ171D=2 THEN DHISMENT=1; IF NJ171D=9

THEN DHISMENT=. ;

LABEL DHISMENT = 'DEFENDANT HISTORY OF MENTAL ILLNESS';

DOUBTINT=0; IF NJ178=0 THEN DOUBTINT=1;

LABEL DOUBTINT='DOUBT EXISTS RE DEF. INTENT TO KILL';

VINJURED=0; IF X284=1 OR X284=2 THEN VINJURED=1; IF X284=9 THEN

VINJURED=. ; LABEL VINJURED='VICTIM PHYSICALLY INJURED DEFENDANT';

VATTACK=0; IF X285=1 OR X285=2 THEN VATTACK=1; IF X285=9 THEN

VATTACK=. ; LABEL VATTACK='VICTIM ATTACKED DEFENDANT';

VTHKILL=0; IF X286=1 OR X286=2 THEN VTHKILL=1; IF X286 =9 THEN

VTHKILL=. ; LABEL VTHKILL='VICTIM THREATENED TO KILL DEFENDANT';

VTHATTAK=0; IF X286A=1 OR X286A=2 THEN VTHATTAK=1; IF X286A=9

THEN VTHATTAK=. ; LABEL VTHATTAK='VERBALLY THREATENED DEFENDANT';

VABUSE=0; IF X287=1 OR X287=2 THEN VABUSE=1; IF X287=9 THEN

VABUSE=. ; LABEL VABUSE='VICTIM VERBALLY ABUSED DEF.';

VPRIORPR=0; IF (X288=1 OR X288=2) OR (X289=1 OR X289=2) OR

(X290=1 OR X290=2) OR (X291=1 OR X291=2) OR (X292=1 OR X292=2)

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THEN VPRIORPR=1; LABEL VPRIORPR='VICTIM PROVOKED DEF. EARLIER';

VSEXAROS=0; IF X292A=1 OR X292A=2 THEN VSEXAROS=1; IF X292A=9  
THEN VSEXAROS=.; LABEL VSEXAROS='VICTIM SEXUALLY AROUSED  
DEFENDANT';

VSHOMON=0; IF X293=1 OR X293=2 THEN VSHOMON=1; IF X293=9 THEN  
VSHOMON=.;  
LABEL VSHOMON = 'VIC. SHOWED OR TALKED LARGE AMT.OF MONEY';

VCRIM=0; IF X296=1 OR X296=2 THEN VCRIM=1; IF X296=9 THEN  
VCRIM=.; LABEL VCRIM = 'VICTIM HAD A CRIMINAL RECORD';

VTHROTHR=0; IF (X298=1 OR X298=2) OR (X299=1 OR X299=2) OR  
(X300=1 OR X300=2) OR (X301=1 OR X301=2) OR (X302=1 OR X302=2) OR  
(X303=1 OR X303=2) OR (X304=1 OR X304=2) OR (X305=1 OR X305=2)  
THEN VTHROTHR=1; LABEL VTHROTHR='VICTIM THREATENED THIRD PERSON  
ETC';

ADMITBT=0; IF NJ185=1 THEN ADMITBT=1;  
LABEL ADMITBT = 'DEF. ADMITD GUILT-CAP. MURDER BFR TRIAL';

INSANEDF=0; IF ((NJ186='05') OR (NJ188=5) OR (NJ190=5)) THEN  
INSANEDF=1; IF NJ186=' ' THEN INSANEDF=.;  
LABEL INSANEDF='DEF. INSANITY DEFNS AT GUILT TRIAL';

PDLAWYER=0; IF V521=1 THEN PDLAWYER=1; IF V521=9 OR V521=. THEN  
PDLAWYER=.; LABEL PDLAWYER = 'DEF. REPRESENTED BY PUBLIC  
DEFENDER';

DINCSTAT=X392; IF X392=9 THEN DINCSTAT=.; LABEL DINCSTAT=  
'DEF. MADE INCUPLATORY STATEMENT';

DLATIN=0; IF (V100=6) OR (V100=7) THEN DLATIN=1; IF V100=. OR  
V100=9 THEN DLATIN=.;  
LABEL DLATIN='D. BORN PUER RICO/OTH LTN AM. COUNTRY';

DOUTSTAT=0; IF NJ18=0 THEN DOUTSTAT=1; IF (NJ18=9) OR (NJ18=.)  
THEN DOUTSTAT=.; LABEL DOUTSTAT='DEFENDANT NOT NEW JERSEY  
RESIDENT';

DOUTCO=0; IF (NJ18=0) OR (NJ19 NE V2) THEN DOUTCO=1; IF (NJ18=9)  
OR (NJ18=.) OR (NJ19=.) OR (NJ19=99) THEN DOUTCO=.; LABEL  
DOUTCO='DEF. NOT A RESIDENT OF COUNTY OF TRIAL';

VPDISOF=0; IF (X81='16') OR (X85=16) OR (X89=16) OR (X93=16) OR  
(X97=16) OR (X101=16) THEN VPDISOF=1;

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LABEL VPDISOF='D. CONV. OF VIOL PERS DSORDRLY PERS OFNS';

DPARPROB=0; IF (V151=1) OR (V151=2) THEN DPARPROB=1; IF (V151=9)  
OR (V151=.) THEN DPARPROB=.;  
LABEL DPARPROB='DEF ON PROBATION OR PAROL AT TIME OF OFFNS';

DDGTREAT=0; IF NJ37=1 THEN DDGTREAT=1; IF NJ37=. OR NJ37=9 THEN  
DDGTREAT=.; LABEL DDGTREAT='DEF. RCVD OUTPT DRUG TREATMENT';

DMENTRET=0; IF NJ37=4 THEN DMENTRET=1; IF (NJ37=9) OR (NJ37=.)  
THEN DMENTRET=.; LABEL DMENTRET='DEF. RCVD OUTPT MEN HLTH  
TRTMNT';

DMILDRET=0; IF NJ41='1' THEN DMILDRET=1; IF (NJ41=' ') OR  
(NJ41='9')  
THEN DMILDRET=.; LABEL DMILDRET='DEF. CLASSED AS MILDLY RETARDED';

VHISES2D=0; IF NJ76=4 THEN VHISES2D=1; IF (NJ76=9) OR (NJ76=.)  
THEN VHISES2D=.;  
LABEL VHISES2D='VIC. HAD PROF. MON. OR WH. COLLAR JOB';

VCOLLEGE=0; IF (NJ77=6) OR (NJ77=7) THEN VCOLLEGE=1; IF (NJ77=.)  
OR (NJ77=9) THEN VCOLLEGE=.;  
LABEL VCOLLEGE='VICTIM COLLEGE GRADUATE';

VMARRIED=NJ78; IF (NJ78=9) OR (NJ78=.) THEN VMARRIED=.; LABEL  
VMARRIED='VIC. MARRIED AT TIME OF OFFENSE';

VPARAMOR=0; IF (NJ82=3) OR (NJ82=4) THEN VPARAMOR=1; IF (NJ82=.)  
OR (NJ82=9) THEN VPARAMOR=1;  
LABEL VPARAMOR='VIC. PARAMOUR OF DEFENDANT';

DWTHKNIF=0; IF (NJ85=5) OR (NJ86=5) THEN DWTHKNIF=1; IF (NJ85=.)  
OR (NJ85=9) THEN DWTHKNIF=.;  
LABEL DWTHKNIF='DEF. CAME TO SCENE OF CRIME W/A KNIFE';

STRANGLE=0; IF (NJ119=14) OR (NJ119=15) THEN STRANGLE=1; IF  
(NJ119=99) OR (NJ119=.) THEN STRANGLE=.;  
LABEL STRANGLE='VICTIM STRANGLED W/HANDS OR ROPE, ETC.';

BIZWEAP=0; IF NJ88A=1 THEN BIZWEAP=1; IF NJ88A=9 THEN BIZWEAP=.;  
LABEL BIZWEAP='KILLING INVOLVED A BIZARRE WEAPON';

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VIHEADSH=0; IF (X172='6A') OR (X173='6A') OR (X175='6A') OR  
(X175A='6A') OR (X175B='6A') OR (X175C='6A') OR (X175D='6A') OR  
(X175E='6A') OR (X175F='6A') OR (X175G='6A') THEN VIHEADSH=1; IF  
X172=' ' THEN VIHEADSH=.; LABEL VIHEADSH='SINGLE SHOT TO HEAD';

V10\_STAB=0; IF (X172='21') OR (X173='21') OR (X175='21') OR  
(X175A='21') OR (X175B='21') OR (X175C='21') OR (X175D='21') OR  
(X175E='21') OR (X175F='21') OR (X175G='21') THEN V10\_STAB=1; IF  
X172=' ' THEN V10\_STAB=.; LABEL V10\_STAB='TEN OR MORE STAB WOUNDS  
OR SHOTS';

MULWOUND=0; IF (V639=3) OR (V640=3) OR (V641=3) OR (V641A=3) OR  
(V641B=3) OR (V641C=3) THEN MULWOUND=1; IF V639=9 THEN  
MULWOUND=.; LABEL MULWOUND='SEVERE PAIN FROM MULTIPLE WOUNDS';

LONGATAK=0; IF (V639=5) OR (V640=5) OR (V641=5) OR (V641A=5) OR  
(V641B=5) OR (V641C=5) THEN LONGATAK=1; IF V639=9 THEN  
LONGATAK=.; LABEL LONGATAK='SEVERE PAIN FROM DURATION OF ATTACK';

MULSHBOD=0; IF NJ141C='01' THEN MULSHBOD=1;  
LABEL MULSHBOD='MULT. GUNSHOT WOUND IN ADTN TO THE HEAD';

DNOVSUF2=0; IF (NJ146B=1) OR (NJ146B=2) THEN DNOVSUF2=1; LABEL  
DNOVSUF2='D. AWARE A 2ND VIC SUFFERED SEVERELY';

VPRIORIN=NJ150; IF NJ150=9 THEN VPRIORIN=.;  
LABEL VPRIORIN='EVDNC OF PRIOR PHYS. MISTREATMENT OF VIC';

DAMBUSH=0; IF (NJ156=1) OR (NJ156=2) THEN DAMBUSH=1; IF NJ156=9  
THEN DAMBUSH=.; LABEL DAMBUSH='DEFENDANT AMBUSHED VICTIM';

DTHRFAM=0; IF (NJ159A=1) OR (NJ159A=2) THEN DTHRFAM=1; IF  
NJ159A=9 THEN DTHRFAM=.;  
LABEL DTHRFAM='DEF THREATENED TO KILL VIC''S FAMILY,ETC';

DTHRWIT=0; IF (X189=1) OR (X189=2) THEN DTHRWIT=1; IF X189=9  
THEN DTHRWIT=.;  
LABEL DTHRWIT='DEF. INTERFERED WITH JUDICIAL PROCESS';

DSURREND=0; IF (V677=1) OR (V677=2) THEN DSURREND=1; IF V677=9  
THEN DSURREND=.; LABEL DSURREND='DEFENDANT SURRENDERED';

VOWNWEAP=0; IF (NJ181=1) OR (NJ181=2) THEN VOWNWEAP=1; IF NJ181=9  
THEN VOWNWEAP=.;  
LABEL VOWNWEAP='VIC (& NOT POLICE) KILLED WITH OWN WEAPN';

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```
DCI_SCAL=NJ210; IF NJ210=. THEN DCI_SCAL=.;  
LABEL DCI_SCAL='DCI AGGRAVATION LEVEL SCALE';
```

```
IF NMISS(VWHITCOL,VHISES2D)=2 THEN DO;SESF1=0;VHSESMIS=1;END;  
ELSE DO;SESF1=(VWHITCOLC0 OR VHISES2DC0); VHSESMIS=0;END;  
LABEL SESF1='VICTIM WITH HIGH SES';  
LABEL VHSESMIS='VICTIM HIGH SOCIOECONOMIC STATUS HAS MISSING  
DATA';
```

```
IF NMISS(VLOWSES,VUNSKILL)=2 THEN DO;SESF2=0;VLSESMIS=1;END;  
ELSE DO;SESF2=(VLOWSESC0 OR VUNSKILLC0); VLSESMIS=0;END;  
LABEL SESF2='VICTIM WITH LOW SES';  
LABEL VLSESMIS='VICTIM LOW SOCIOECONOMIC STATUS HAS MISSING  
DATA';
```

```
IF NMISS(DLOWSES,DUNSKILL)=2 THEN DO;SESF3=0;DLSESMIS=1;END;  
ELSE DO;SESF3=(DLOWSESC0 OR DUNSKILLC0); DLSESMIS=0;END;  
LABEL SESF3='DEFENDANT WITH LOW SES';  
LABEL DLSESMIS='DEF. LOW SOCIOECONOMIC STATUS HAS MISSING  
DATA';
```

```
IF NMISS(DWHITCOL,DHISES)=2 THEN DO;SESF4=0;DHSESMIS=1;END;  
ELSE DO;SESF4=(DWHITCOLC0 OR DHISESC0); DHSESMIS=0;END;  
LABEL SESF4='DEFENDANT WITH HIGH SES';  
LABEL DHSESMIS='DEF. HIGH SOCIOECONOMIC STATUS HAS MISSING  
DATA';
```

```
VSESMIS=0;IF VHSESMIS=1 OR VLSESMIS=1 THEN VSESMIS=1;  
LABEL VSESMIS='MISSING VICTIM''S SES';
```

```
DSESMIS=0;IF DHSESMIS=1 OR DLSESMIS=1 THEN DSESMIS=1;  
LABEL DSESMIS='MISSING DEFENDANT''S SES';
```

```
*****PT DEATH FACTORS*****;
```

```
** PTDEATH FACTORS (AUGUST 1991) **;
```

```
THREAT1 = DTHRWT*(1.678416) + DTHRFAM*(2.311604);  
BLAME1 = MAX(0,0,DNOREMOR)*(1.052782) +  
MAX(0,0,DPLEASUR)*(2.228000);  
BLAME2 = COPERP*(1.162835) + EXECUTON*(1.918016);  
VICTIM1 = MAX(0,0,LANGATAK)*(0.572277) + WHYSUFR*(0.180102) +  
VICMSUF*(0.582653);  
VICTIM2 = TORTURE*(2.555169) + MAX(0,0,NDVPHX)*(1.37043269);  
HIDEBODY= HIDEBODY;  
RPRIOR1 = MAX(0,0,DPARPROB)*(1.019992) +  
MAX(0,0,DUNCTSUP)*(1.005834);
```

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PAINATK = PAINATK;  
CLUB = CLUB;  
MUTILATE= MUTILATE;  
RAGE = RAGE;

LABEL THREAT1='THREATS FACTOR (PTDEATH MODEL)';  
LABEL BLAME1='BLAMEWORTHINESS FACTOR #1 (PTDEATH MODEL)';  
LABEL BLAME2='BLAMEWORTHINESS FACTOR #2 (PTDEATH MODEL)';  
LABEL VICTIM1='VICTIMIZATION FACTOR #1 (PTDEATH MODEL)';  
LABEL VICTIM2='VICTIMIZATION FACTOR #2 (PTDEATH MODEL)';  
LABEL RPRIOR1='RECENT PRIOR/RELEASE (PTDEATH MODEL)';

\*\* DEATH FACTORS \*\*;

VICTIM3 = PAINATK\*(.301999) + MAX(0,0, LONGATAK)\*(.739568) +  
WHYSUPR\*(.18543072) + MAX(0,0, VICSUFFIX)\*(.19002996) +  
MAX(0,0, VBEAT)\*(.285337);  
VICTIM4 = CLUB\*(1.295963) + MAX(0,0, BIZWEAP)\*(1.561595);  
VICTIM5 = COPERP\*(1.205181) + CONROB\*(.734886);  
CONARSON= CONARSON;  
DAMBRC = MAX(0,0, DAMBUSH);  
BLAME6 = WANTON\*(2.912533) + THRILKIL\*(2.011697);  
BLAME7 = MAX(0,0, DPLEASUR)\*(1.861109) + DNOVSUF2\*(1.716909) +  
PROWESS\*(3.552361);  
DNOREMRC= MAX(0,0, DNOREMOR);  
LOVERS = LOVERS;  
UNECESRC= MAX(0,0, UNECESAR);  
THREAT2 = MAX(0,0, DTHRFAM)\*(2.366304) +  
MAX(0,0, DTHRUIT)\*(1.715854);  
DMENTAL1= MAX(0,0, DMILDRET)\*(2.346842) +  
MAX(0,0, DMENTRET)\*(1.525684);  
DHDABRC = MAX(0,0, DHISTDAB);

LABEL VICTIM3='VICTIMIZATION FACTOR #1 (DEATH MODEL)';  
LABEL VICTIM4='VICTIMIZATION FACTOR #2 (DEATH MODEL)';  
LABEL VICTIM5='VICTIMIZATION FACTOR #3 (DEATH MODEL)';  
LABEL DAMBRC='DEFENDANT AMBUSHED VICTIM';  
LABEL BLAME6='BLAMEWORTHINESS FACTOR #3 (DEATH MODEL)';  
LABEL BLAME7='BLAMEWORTHINESS FACTOR #4 (DEATH MODEL)';  
LABEL UNECESRC='UNNECESSARY KILLING';  
LABEL DNOREMRC='DEFENDANT SHOWED NO REMORSE';  
LABEL THREAT2='THREAT FACTOR (DEATH MODEL)';  
LABEL DMENTAL1='DEFENDANT MENTAL FACTOR (DEATH MODEL)';  
LABEL DHDABRC='DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE';

\*\* PTRIAL FACTORS \*\*;

VICTIM6 = MAX(0,0, DATKDIEV)\*(.532896) + TWOVICDF\*(1.149550) +

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```
MAX(0,0,INSTANTD)*(-1.085726)+
MAX(0,0,VICMSUF)*(.61895237);
ISTDMISS= 0; IF INSTANTD=. THEN ISTDMISS=1;
BLAME8 = DNOVSUF2*(1.776630) + RAGE*(1.832076);
VSEXAROS= VSEXAROS;
MITCASE = MAX(0,0,SPOUFAM)*(1.491925) +
MAX(0,0,NOSIGREC)*(1.021220) +
MAX(0,0,DADMIT)*(.761072) + DHELPST*(3.718539);
NSRCMISS= 0;IF NOSIGREC=. THEN NSRCMISS=1;
DHDABRC = MAX(0,0,DHISTDAB);
```

```
LABEL VICTIM6='VICTIMIZATION FACTOR (PTRIAL MODEL)';
LABEL BLAME8='BLAMEWORTHINESS FACTOR (PTRIAL MODEL)';
LABEL MITCASE='MITIGATED SPOUSAL VIC.FACTOR(PTRIAL MOD)';
LABEL ISTDMISS='INSTANT DEATH VARIABLE MISSING';
LABEL NSRCMISS='NO SIG. RECORD VARIABLE MISSING';
```

\*\*\*\*\*;

```
MACRO A CASE NAME SBI PURDEFS FIRSTRL COUNTY OFFDATE OFFYEAR
CONVDATE CONVCTYR SENTDATE SENTRYEAR PDLAWYER %
MACRO O PLEA TRIAL PLEAMAN PLEAGMAN PLECAPMR PLEFELMR PLEMUR
PLEOTHER BENCHTRL CAPCHRG CAPTRIAL MURTRCON %
MACRO C DEPAGE PRIORMUR PRIORMAN VIOLPER
VIOLPERX OTHCONV OTHCONVX DARRESTX DUNCTSUP CONVICTX
DINCARX DPSYCPRB DINSTMI DBRAINX COPERP FEMVIC
OLDVIC YNGVIC VSTRANGR CONATMUR CONMURD CONROB CONSEXAS
CONKIDNP CONBURGL CONARSON NOCONTOF OTHCONOF HATE REV
PECUNMOT HIREDPEC INSURANC TRANSMOT CONTOF4G CONOF4GX
DCONPRIN RAGE THRILKIL PROWESS WANTON SEXMOT FACILCOF
PANIC SHOOTOUT SILENCEW SILPASTW SILENCE AVAPREH NOMOTIVE
RESFOREN DARMED PROPARG DRGALARG SPOUFAM LOVERS LOVETRIA
MITEVENT HANDGUN KNIFE VDEFSLES PREGVIC PUBSERV VNOPROV
VKIDNAP ARAPE NOSPAGG PAINATK TORTURE CLUB STOMP MUTILATE
MULSHOT SLASH MULSTAB BLOODY HOSTAGE BOUNDGAG DISROBE
HIDEBODY AMBUSH PREMED EXECUTON UNECESAR VBEAT VICPLEAD
VMENTORT VNUDE SEXPERV INSTANTD SHORTDIE SLODIE NOSUFFER
VICPSUF VICPSUFX VICMSUF VICMSUFX VICSUFFX NDVPSUF
NDVMSUF MODEATKX TIMESUF1 WHYSUFR WOUNDV1X WOUNDSX
DKNOWSUF DINTENDS DNOINSUF DISMBER OTHMUT SEXATK
MUTIL4C DNOREMOR DPLEASUR DADCRIME DRESIST DFUGITIV
DABANVIC DHIDVIC DATKDIEV SPAGFACK TWOVICDF NDVPHX
NDVPSYX GRAVERSK ATRISKX UNDRLING
DAIDVIC DREMORSE DADMIT DCOOP DHISTDAB DHISMENT DOUBTINT
VINJURED VATTACK VTHKILL VTHATTAK VABUSE VPRIORPR VSEXAROS
VSHOMON VCRIM VTHROTHR ADMITBT INSANEDF DINCSTAT VPDISOF
DPARPROB DDGTREAT DMENTRET DMILDRET VMARRIED VPARAMOR
DWITHKNIF STRANGLE BIZWEAP VIHEADSH MULSTAB V10_STAB
```

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MULWOUND LONGATAK MULSHBOD DNOVSUF2 VPRIORIN DAMBUSH  
DTHRFAM DTHRWIT DSURREND VOWNWEAP DCI\_SCAL DHELPST DYOUNG  
NOSIGREC AF10 AF11 AF12 AF14 AF15 AF16 AF17 MF10 MF11  
MF11MISS AF20 AF21 AF22 AF23 MF12 MF13 %  
MACRO R V98RC RACEVD RACEVD2D WHITED BLACKD HISPD ASOTHERD MINORTYD  
WHITVIC BLACKVIC HISPVIC OTHVIC DLATIN %  
MACRO AM V4ACAPTR V4BCAPTR V4CCAPTR V4DCAPTR V4ECAPTR V4FCAPTR  
V4GCAPTR V4HCAPTR V4APTY V4BPTY V4CPTY V4DPTY V4EPTY V4FPTY  
V4GPTY V4HPTY V4A HPTY V4D EPTY V4APTN V4BPTN V4CPTN V4DPTN  
V4EPTN V4FPTN V4GPTN V4HPTN AGCRYESX AGGCRNOX V5APTY V5BPTY  
V5CPTY V5DPTY V5EPTY V5FPTY V5GPTY V5HPTY V5APTN V5BPTN  
V5CPTN V5DPTN V5EPTN V5FPTN V5GPTN V5HPTN MITFOUDX MITCRNOX %  
MACRO SES DHISE DWHITCOL DBLUECOL DLOWSES DUNEMPLY DUNSKILL DHISCHOL  
VHISE VWHITCOL VBLUECOL VLOWSES VUNEMPLY VUNSKILL VHISCHOL  
VHISES2D VCOLLEGE %  
MACRO G DOUTSTAT DOUTCO NJREGION RURALCO ATLANTIC BERGEN BURLNGTN  
CAMDEN CAPEMAY ESSEX GLOUCSTR HUDSON HUNTERDN MERCER  
MIDDLESX MONMOUTH MORRIS OCEAN PASSAIC SALEM SOMERSET SUSSEX  
UNION WARREN %



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Technical Appendix 9. Methodology Appendix<sup>1/</sup>

This appendix describes the procedures we used to develop the statistical models and scales discussed in section VII.B.2 of the final report and shown in technical appendix 10. Our goal was to develop multivariate models with which to measure defendant culpability on the basis of the case characteristics that appeared to be most important to New Jersey's prosecutors and jurors. Our vehicle for the task was logistic multiple regression analysis.

The first issue was how to include in a model all of the statutory aggravating and mitigating circumstances, let alone any other factors, with such a small sample of cases and especially only 39 death sentence cases. Logistic regression, the preferred technique, we quickly discovered was out of the question. Logistic analyses run in SAS would not converge. To deal with this problem we used discriminant analysis, which is capable of estimating regression coefficients with the same properties as logistic regression coefficients. Most importantly, discriminant analysis can handle a much larger number of independent variables. We tested the comparability of the results from the two procedures with small models that both methods could handle. The results were comparable, and the discriminant analysis showed no signs of bias or tendency toward misspecifications. The

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1. A memorandum attached to this appendix provides additional detail on methodology.

procedure that we used is the DISCRIM procedure in SAS (Statistical Analysis System).

We constructed three sets of models: one for the penalty-trial decision (PTDEATH), one for the decisions advancing cases to a penalty trial (PTRIAL), and one to explain which of all the death-eligible defendants received a death sentence (DEATH).

The first step was to estimate the "1" series of models, using only the statutory aggravating and mitigating circumstances as independent variables. We then added variables for the defendant's and victim's race, the defendant's gender, and the socioeconomic status of the defendant and the victim to estimate the "1RS" series of models. With these we created the "1RSA" (race, SES adjusted) series by purging the race, gender, and SES variables from the "1RS" models. These indices were used to estimate the results presented in Tables 15, 16 and 17.

Next we created the "3RS" series of models. The first step was to compute correlations between Pearson residuals and variables not yet in the 1RS models<sup>2</sup> to identify other variables in Macro C (which contains the nonstatutory aggravating and mitigating characteristics developed for the project) that could add statistical power to the initial model. The variables in Macro C are identified as MACRO C in technical appendix 8. The names and labels for those and all other variables are found in technical appendix 7.

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2. Agresti, A. Categorical Data Analysis, Wiley Interscience, New York, 1990, p. 453.

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Each screening procedure produced a small group of variables which showed a residual relationship with the dependent variable that was statistically significant at the .10 level or beyond and showed a nonperverse statistical relationship, i.e., factors that were aggravators enhanced the statistical likelihood of a death sentence while mitigators reduced the likelihood. The variables that survived the screen and had no significant missing data problems for each model were entered into a factor analysis which produced the factors used in the models shown in technical appendix 10 and in Section VII.B.2 of the report. Also, some other variables that, due to low communality, stood alone in the factor analysis were included. All of these variables that were significant beyond the .50 level were retained in the 3RS models.

The final screening procedure tested whether any of the factors newly created for the other models or any nonperverse variables in MACRO C added statistical power to the models. None did except the variable for an insurance motive. However it was not included in the model because it was found in only a single case (Marshall) and was abnormally large.

It will be observed that a number of the factors and variables in the 3RS models fail to attain statistical significance beyond the .05 or even the .10 level and as a consequence each does not individually add much to the model. When considered as a group, however, they do enhance the discriminatory and predictive power of the models.

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We next created the 3RSA series of models. This was done by purging from the 3RS models the coefficients for the racial and suspect factors. With the remaining coefficients we then re-estimated the intercept and scale factor to allow us to estimate probabilities.<sup>3/</sup> This produced the 3RSA (race, SES adjusted) series of models.

The purpose of adding and then purging the racial and suspect variables from a model is to eliminate the risk that the legitimate variables (some of which are correlated with the racial and suspect variables) may themselves be carrying the effects of the race and suspect variables. If the racial and suspect variables were omitted from the analysis, the resulting index could have "inadvertently incorporated effects of the omitted ethically unacceptable variables."<sup>4/</sup>

Next we created a "3" series of models which were estimated with the variables in the 3RSA models. Finally we created two indices to estimate the race effects reported in Tables 18 and 18A. These indices styled "3SA" (SES adjusted) were identical to

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3. The prediction model was obtained by computing the "purged" index for each case, then fitting a simple "slope-intercept" logistic regression of the outcome on this index. We then multiplied the original coefficients by this slope and added the intercept. This re-scaled index is interpretable as log-odds, and consequently gives valid predicted probabilities and does not alter the rank ordering of cases compared to the original purged index. For the purpose of assessing the relative influences of the different factors in the model, however, the coefficients in the 3RSA models provide more reliable information.

4. Research on Sentencing: The Search for Reform 23 (A. Blumstein et al. Eds. 1983).

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the 3RS models except that the variables for the race of defendant and victims were purged. See Technical Appendix 10, Schedules 6A and 15A.

With each model we created a corresponding scale. Using the models, we estimated for each offender the probability of receiving a death sentence or advancing to a penalty trial depending on the dependent variable involved. On the basis of those predictions we created five level culpability scales which cut the cases at each 20-percentage points of increasing probability of a death sentence, i.e. 0-19, 20-39, etc. However, one scale, SPTD3SA created from index 3SA (PTDEATH), divided the cases into five equal sized groups. This scale underlies table 18. Also two additional scales not specified in technical appendix 10 divide the cases into 10 levels for the PTDEATH and PTRIAL models on schedules 6A and 12A of technical appendix 10.

Several of the models in technical appendix 10 exhibit extremely large coefficients for certain variables. For example, in the "3RS" model for PTDEATH, the coefficient for the 4H factor is 13, which corresponds to an odds multiplier of more than 400,000. There are two possible interpretations of this coefficient. The stronger interpretation is that, other things being equal, a case with a 4H finding will be more than 400,000 times more likely to receive a death penalty than an otherwise identical case without that factor found. This interpretation is unreasonable on its face and is in fact not the correct interpretation of the New Jersey data. The weaker, and more

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generally valid "compensatory" interpretation is that a case with a 4H finding and no other aggravating characteristics is as likely to receive the death penalty as a case with a combination of aggravating factors whose coefficients sum to about 13. For example, a case with 4A (5.4), 4C (1.1), 4G (1.3) and 4C (mutilate) (5.2) is about as aggravated as a case with 4H alone.

The reason the stronger interpretation must be rejected is that in the New Jersey data there are no other cases which lack the 4H finding but are otherwise comparably aggravated. In fact, cases with the 4H finding are not highly aggravated with respect to other factors and are at the low end of the aggravation scale when 4H is ignored. Since two out of the three 4H penalty trial cases received a death sentence, the 4H cases as a group stand out from their "peers," the unaggravated cases lacking the 4H factor. For this reason, the statistical procedure identified 4H as a factor with a large regression coefficient.

It is nevertheless troubling that this finding rests on only three cases. To understand why the regression procedure does not find this fact troubling it must be realized that regression procedures are conditioned on the characteristics of the obtained cases. In other words, a regression procedure assumes that if the sample were replicated the same distribution of case characteristics would occur; in particular, there would be exactly three cases with the 4H finding and those cases would be otherwise unaggravated. The only variation contemplated by a

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regression procedure is the possibility that case dispositions could be different in factually identical cases.

Assumptions such as these are generally harmless when dealing with factors which occur in substantial numbers of cases; however, with comparatively rare factors, some statisticians urge caution in interpreting significant coefficients. Efron's "bootstrap" (Efron, B., The jackknife, the bootstrap and other resampling plans, Society for Industrial and Applied Mathematics, Philadelphia, PA, 1982) is a statistical procedure which does not assume that the case characteristics observed in the sample will be exactly replicated in another sample. It does, however, assume that the relationships among case characteristics observed in the sample are representative of the population. Thus the bootstrap, in contrast to regression procedures, doesn't assume that three out of every 113 cases will have the 4H finding, but it does assume that all cases with the 4h finding will be otherwise unaggravated. The bootstrap is executed by repeatedly resampling with replacement from the obtained sample. This amounts to randomly sampling from the 113 cases until one gets 113 cases, a number of which may be duplicates. To investigate the stability of the 4H coefficient, we did this fifteen times and then ran the statistical analysis on each of the replicate samples.<sup>5/</sup>

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5. The model PTDEATH on which these diagnostic procedures were run was a forerunner of the model in schedule 5 of technical appendix 10, and varied slightly from it in terms of the variables for nonstatutory factors. But it also exhibited

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The PTDEATH "3RS" model on which these diagnostic procedures were run had five variables which are significant by the conventional, "p less than .05" standard (4A, 4C, 4D, 4H and 5H) and one variable which was marginally significant (BLACKD,  $p=.06$ ). When we reestimated that model with fifteen bootstrap replications, we found that only three variables had consistently positive coefficients (4A, 4C and BLACKD). Despite its high statistical significance in the original sample, the 4H factor failed to have a positive coefficient in about 13% of the replicated samples, and 4D also failed in about 13% of the replicated samples. None of the variables which were insignificant in the model consistently had the same sign in all replications.

This failure of 4D and 4H to maintain their significance across replicate samples is clearly due to the small number of cases with one or the other of these factors (3 cases had 4D and 3 had 4H) in contrast to the abundance of cases with the other factors. The conclusion is that the statistical significance of the 4D and 4H factors may be due to an unusual configuration of case characteristics in the data set. However, it is important to understand that for the cases which occurred (as opposed to hypothetical cases which might have occurred), it is statistically impossible to explain the dispositions of those six cases with 4D or 4H without including those factors in the model.

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the same large coefficients.



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An additional reminder that inference about 4D and 4H cases is on less firm ground is provided by the confidence intervals shown in Figures 2 and 3. For the cases with 4D or 4H, especially in the penalty trial model, we are substantially less certain about the death sentencing rate for comparable cases.<sup>6/</sup>

Finally, we conducted standard regression diagnostics on the three principal (3RS) logistic multiple regression models D.A. Belsley, E. Kuh and R.E. Welsh, REGRESSION DIAGNOSTICS (1980). We saw no evidence of multicollinearity to a degree that would threaten the validity of the results.

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6. See, e.g., the 4D cases: Rose (2170); Burroughs (321); Melendez (1638); Clausell (443 & 3007); DiFrisco (119); and the 4H cases: Rose (3003 & 2172); Schiavo (2241); and Parsons (1880).

THE UNIVERSITY OF IOWA



MEMORANDUM<sup>1/</sup>

DATE: September 5, 1991

TO: Leigh Bienen, Esq.  
Woodrow Wilson School of  
Public and International Affairs  
Robertson Hall  
Princeton University  
Princeton, NJ 08544-1013  
FAX 609-258-2809; voice 609-258-4817

FROM: David Baldus and George Woodworth

RE: Proportionality Review Hearing on  
September 6, 1991

This is in response to your memo of August 29, 1991, outlining a series of questions concerning the methodology underlying the draft of our Final Report.

Many of the methodological procedures that we followed are described in technical appendix 9 of the Final Report.

Since we received the final version of the data base in mid-August (August 12, 1991 version), we have reestimated the models in the schedules in technical appendix 10. In answering these questions, we will refer to the procedures we used in estimating those models, since they are the models reported in the Final Report. The procedures we used for the final models are, however, essentially the same as those employed in creating the models presented in the earlier draft.

The following answers follow the order in which you put the questions. We have put numbers on the questions to facilitate discussion, and your original memo with those numbers is attached to this memo as appendix A.

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1. This memo was amended subsequent to the September 6, 1991 meeting to bring it into closer conformity with the Final Report, September 24, 1991.

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1. The missing data were not a particular problem on the key variables. We discuss below in more detail how we handled the missing data in the multivariate analysis. A frequency distribution of the SAS data set titled "Homicide," which contains both the original and the recoded variables, will give you a good picture of the extent of missing data.
2. It is useful in considering variables coded "unknown" to break down the variables into three categories. First are the variables for the aggravating and mitigating circumstances. We had no unknowns on those variables. Second are the variables for race of defendant and race of victim. There were no unknowns on those variables. Third are the SES variables. We had no unknowns for the SES factors related to the defendant except for two of the three Biegenwald cases in which his SES information was inadvertently omitted. When these omissions are corrected, the models change only slightly. However, with these corrections one cannot replicate exactly the models in technical appendix 10. We had a lot of missing information underlying the variables for the victim's SES. To account for it, we created a variable to reflect the cases where all the variables underlying the victim's SES factor was missing. Specifically, the variable VSESMIS is coded 1 for cases in which all variables relating to the defendant/victim socioeconomic status were missing. In those cases, the SES variable is also coded "0." VSESMIS is included in all of the models with race and SES variables included. The purpose of the VSESMIS variable is to avoid the necessity of deleting entirely from the analysis cases with missing SES data, while at the same time not arbitrarily assigning a yes or no classification for the variable when it is missing. The coefficient for the VSESMIS variable also indicates whether the cases with that variable missing are more or less likely to result in a death sentence or penalty trial, as the case may be.

In a fourth category are the factors and other variables for nonstatutory aggravating and mitigating circumstances. Here we drew a distinction between variables coded unknown in which it appeared the decision-maker would have likely also not known whether the factor was present and, for the purpose of evaluating the case, would have treated it as absent (e.g., defendant showed no remorse, defendant was killed with a bizarre weapon) and true missing values for case characteristics of which the decision-maker was obviously aware (e.g., defendant's SES status). Specifically, the PTDEATH model had 3 of the former variables, the PTRIAL model had 4 such variables, and the DEATH model had 10 such variables, for which the missing

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values were set to "0." With one exception, there were from 1 to 7 cases with missing values on these variables. The exception was the DMENTAL1 factor in the DEATH model, which had unknowns coded for 30-odd cases, either for the DMILDRET or for the DMENTRET variable. We also created a missing value variable for it, but it was not statistically significant and was dropped.

For the variables which we considered true missing data situations (with more than one unknown), we created a missing value variable. If it emerged as statistically significant beyond the .50 level, we kept it in the 3RS models, otherwise it was dropped (since its low statistical effect indicated that the missing data were not correlated with the outcome variable).

3. None. Simply a different procedure reflecting a scale based on predicted probabilities of a death sentence rather than sample sizes.
4. The variable PSTGRALD classifies cases before and after Gerald. The only separate analyses that we conducted of before and after Gerald cases were estimates of the models in schedules 5 and 14, technical appendix 10. See Final Report, note 114.
5. See Final Report, p. 17-18. This represents the extent of our analysis of changing community standards.
6. The code for the SES variables is found in technical appendix 8, pp. 28-29.
7. Yes. See technical appendix 9. note 3 and accompanying text.
8. We assume you are referring to the multivariate analysis here. County was not included in the models. It is not clearly a suspect variable. The SES of the victim and the defendant, and the gender of the defendant, were forced into the multivariate models. The gender of the victim was treated as a legitimate variable, and did not emerge as significant in the models.
9. No other variables were purged from the models. Compare, e.g., Final Report, schedules 11 and 12 of technical appendix 10, which show the death model (schedule 11) with the race and SES variables included, and the same model (schedule 12), with those variables purged. As described in the technical appendix 9 of the Final Report, it was necessary to rescale the purged index in order to produce

accurate estimates of probabilities. Rescaling involves multiplying all coefficients by a factor (e.g., 1.07) and then adjusting the intercept to make probability predictions as accurate as possible.

The purpose of rescaling is to make model predictions more easily interpretable (either as probabilities or as log odds). The procedure does not alter the relative importance of the predictor variables or the rank-ordering of cases. The 3RS models give, however, the best picture of the absolute (as distinct from relative) importance of the independent variables).

The series "3" models were reestimated anew with the same variables as are found in the 3RSA models.

10. The prior record variables were included in the macro C, which is found on p. 31 of technical appendix 8. In the screening process, they were treated the same as the other variables in that macro.
11. We did not scale the prior record variables. No composite was created. The only variables for prior record were those found in macro C.
12. For all the models, we forced in the statutory aggravating and mitigating circumstances. For the RS models, that is, those with the SES and race variables included, we forced in the race and SES variables. The remaining variables in the larger models were selected or created in a factor analysis. The factor analysis commenced with variables which had a statistically significant relationship with the dependent variable after controlling for the variables in the 1RS models. The factor analysis also identified variables that appeared appropriate to include alone in their own right. These variables were entered into the models as a group. However, some of them had a very low level of statistical significance. We eliminated those variables on a one-by-one basis, so that all of the variables in the final 3RS models had a level of statistical significance of at least .50. The county variables were not included in the screening analysis.
13. The groupings of counties into the regions of New Jersey were determined by the senior staff of the Criminal Practice Section of the Administrative Office of the Courts.
14. The only analysis using the counties as explanatory variables is reported in tables 4 and 5 of the Final Report.

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15. No.

16. No.

17. The measure of goodness of fit estimated in our multivariate analyses calculates the proportion of life- and death-sentenced cases that were misclassified by the model. A case is deemed to be incorrectly classified as a life-sentence case if it in fact received a death sentence and the predicted likelihood of a death sentence was less than .50. A case is incorrectly classified as a death sentence case if it resulted in a life sentence but the model predicted a greater than .50 probability of a death sentence. The following tabulation indicates the percentage of misclassifications of the life and death cases in each of the models:

<u>A</u> Models	<u>B</u> % of Life-Sentenced Cases Misclassified	<u>C</u> % of Death-Sentenced Cases Misclassified
<u>PTDEATH models</u>		
1	13	28
1RS	12	28
3	8	21
3RS	1	12
<u>DEATH models</u>		
1	6	61
1RS	6	51
3	7	23
3RS	5	18
<u>PTRIAL models<sup>2/</sup></u>		
1	20	32
1RS	23	27

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2. For the penalty-trial cases, read "death sentence" as a "penalty trial" and read "life sentence" as "no penalty trial."

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3	17	24
3RS	18	19

18. Attached as appendix B to this memo is a compilation which indicates the variables and the data base "SELECT IF" that was used in the analysis on which the table or figure is based.
19. We have changed the language of the labels for the factors to refer more directly to the blameworthiness and victimization components of our qualitative culpability model.
20. The only variable in schedule 12 that is not listed in footnote 103 [of the Final Report draft] is DFUGTVRC, which by oversight was omitted from the footnote. The rest of the variables mentioned in footnote 103 are in schedule 12 of the earlier version of technical appendix 10. This model, however, as noted above, has been replaced by a new model.
21. The weight assigned the variable in the factor analysis was insufficient to account for all of the association between the variable and the outcome variable.
22. The predictions in tables 14 and 16 are based on two distinct models, one of penalty-trial decision-making and the other of death-sentencing decisions that reflect the combined effects of prosecutorial and jury decisions. The two models have different variables. In addition, the two models weight the variables differently. For example, the 4e factor, which relates to Marshall, is weighted more heavily in the penalty-trial model than it is in the overall (DEATH) model.
23. See generally Final Report, technical appendix 9. As noted above, the factors were created in a 3-stage process. First, after controlling for the aggravating and mitigating circumstances and the racial and SES variables in model 1RS, we identified variables which still appeared to have potential explanatory power on the dependent variable. With those variables, we then created factors using a standard factor analysis package. Weights assigned to a factor are indicated for the factors on pp. 29-31 of technical appendix 8. As noted above, the factors and other variables that survived the screening process were entered into the models and then pruned to eliminate any that had a level of statistical significance (p value) greater than .50. We

then ran a final screen of the variables in macro C to see if any additional factors added additional explanatory power and appeared to be appropriate for inclusion. At this stage, a variable that showed a statistically significant association was not added to the model if the sign of the coefficient was perverse (in the opposite direction theory would clearly predict) or the coefficient was abnormally large because of small sample size. This latter situation occurred with respect to the variable for insurance, which was present in only a single case, Marshall.

24. See the answer to question 23.
25. Yes. A suggested level of significance beyond .10 was the criterion used to enter a variable into a factor analysis. You will see that, in a number of the models, a variable is in the model in its own right and not as a part of a factor. Those variables did not come together well in a factor analysis with other variables. They seemed to have independent explanatory power.
26. See Final Report, p. 93, for a brief description of factor analysis.
27. See Marshall report, September 24, 1991, note 50, for a description of confidence intervals. The magnitude of a confidence interval reflects the statistical significance of the variables in a model, as well as the number of other cases in the analysis which share the key characteristics of the case as well as the proportion of death sentences imposed in other similar cases. There is no reason for them to be similar, since they refer to different populations.
28. See description of tables 19 and 20 in appendix B attached.
29. Hispanic defendants and victims were classified as such, not as white. The race data were verified with court documents, presentencing reports, and Bureau of Vital Statistics records.
30. The primary source of information on cases that did not reach a penalty trial was the presentencing report (PSI). In some cases, appellate briefs, judicial opinions, and trial transcripts were consulted. We found the mental mitigating factor when the preponderance of evidence suggested that some significant impairment was present at the time of the offense. Defendant statements on impairment were accepted if corroborated and not otherwise refuted by the circumstances.



Memo from Baldus to Bienen (answers) - 9/5/91

31. The data sources the AOC staff used in coding the DCI are listed in Final Report, technical appendix 6, pp. 2-3.
32. The AOC staff conducted edit checks for out-of-range variables and logical inconsistencies over the past several months. Every variable was checked against any other variable which covered similar ground, and any apparent inconsistency in the response was checked against the source documents. Key variables were double-checked and, in effect, recoded several times against both source documents and narrative summaries.
33. For the identification of homicide cases, we used the state police homicide arrest and disposition list, the AOC files, the Public Defender homicide list, the Department of Corrections inmate files, and the Promis/Gavel system (see final report, p. 2). For initial screening of cases, the AOC staff used the PSI (Presentence Report) and the JOC (Judgment of Conviction).
34. Consistency checks were done with the screening data base to insure that the categorization given a case matched the underlying coding.
35. No. County personnel do not send notice of homicide indictments to the AOC. Homicide convictions are tracked through our homicide data base and through the Promis/Gavel system.
36. The final version of the DCI data base (August 12, 1991) includes 246 cases. That sample includes a number of cases which are not death-eligible under current law. The variable that reflects death-eligibility under current law is NJ211. It is coded 1 when it is death-eligible under current law and 0 when it is not. When the cases are limited to death-eligible under current law (NJ211=1), the sample is 227 cases. See Final Report note 9, p. 11-12 for more detail on the contents of the data set.

DCB:mpm

Enclosures

To: David Baldus, Special Master, State U. of Iowa School of Law  
From: Leigh Bienen  
Date: August 29, 1991  
Re: Proportionality Review Hearings on September 6th

On September 6, 1991 at the Proportionality Review Meeting I want to put on the record some technical questions and answers regarding the data and analysis in the draft version of the Final Report. The purpose of putting these questions in the record is so that attorneys and other interested parties can find the answers to some technical questions without coming back to the AOC with questions. The questions are routine questions about methodology.

These are some of the questions I wish to put on the record.

1. How much missing data was there on the DCI for those cases which are included in the data base. What variables were likely to have large numbers of missing values, in addition to the variables identified in the Report.
2. How were missing values treated in the regression models?
3. What is the significance of the culpability index being divided into five parts when it was divided into seven parts in the Second Interim Report?
4. On Table 1, the data seem to break after the year 1987, with values for the years prior to 1987 fluctuating around 20 and values for the years after 1987 fluctuating around 5. Was a separate analysis done of cases before and after 1987. Was a separate analysis done of cases which went to penalty phase before or after the decision of the New Jersey Supreme Court in State v. Gerald?
5. How were changing community standards represented in a time variable, such as year of the offense or year of a particular decision, e.g. the Gerald decision.
6. How was SES measured for defendant and victim? The variable is indicated as being present in some of the models.
7. Our understanding is that this model treats race according to what was recommended by the National Science Foundation, namely the model was estimated and then the race effects were purged from the model. Is this correct?
8. How were other suspect variables treated, e.g. county, SES, age of victim and defendant, gender of victim and defendant. Please describe this process.
9. The Report says that the models followed by the labels RSA mean that race and SES are purged from the model. Were other effects purged from these models, or just these variables?



10. How was prior record handled in the screening process?
11. How were the prior record variables scaled. Was a composite variable used for prior record. If yes, then how was that composite record created?
12. Were principal variables forced into the model, or were they screened through a regressions selection technique. Please describe the method used. For example was county estimated as part of the screening methodology and was county subsequently forced into the model?
13. How were the decisions made for the groupings of counties?
14. Was any analysis done using individual counties as variables? Was any analysis done using other county groupings? What were the results of those analyses?
15. Was a separate analysis done on cases from any one of the larger counties, e.g. Essex County, Hudson County. If yes, what were the results of those analyses?
16. Was any separate analysis done of the cases which were in the mid-range in terms of level of aggravation? What was the result of those analyses?
17. How do the models differ from one another in terms of power. What is the relative improvement of the models with the additional variables. How much improved is the model after the factor analysis. How much more does the model explain with the additional variables added after the factor analysis.
18. For the Final Report we suggest that additional labels be added so that it is clear what model applies to what table and what database (N = xxx) is being used for each table or figure.
19. We also suggest that neutral language be substituted for the names of the variables added after the factor analysis, so that the variable now titled "mean defendant" be retitled in a value neutral way, e.g. DfrcAFXX (defendant related aggravating factor number xx) or Viremfx (victim related mitigating factor number xx).
20. With regard to Table 13 and Schedule 12, why does Schedule 12 not conform to the variables in footnote 103?
21. Why is a variable which is part of a combination variable also included as a separate variable in that model, e.g. AF14?
22. What kind of overall patterns in the two data sets would account for a particular case changing its ranking from one data set to another, e.g. the change in ranking for Marshall from Table 14 to Table 16?
23. How were the regression variables which are not statutory



23. aggravating and mitigating factors constructed for both regression equations? What weights were assigned to the different variables in the factor analysis?  
(Cont)
24. What was the screening process which resulted in some variables being retained and others being discarded?
25. Were the only significant variables those which were then combined in the factor analysis and included in the models?
26. What is factor analysis and how did factor analysis result in the additional variables being created and then selected for the regression equations?
27. What is the meaning of the confidence interval in Figures 2 and 3? Why is there such a difference in the bands in Figure 2 and Figure 3?
28. Please explain how Table 19 and Table 20 were constructed.
29. How was race coded for defendant and victim? Was Hispanic a separate identification for either defendant or victim? How was race data verified? For race of defendant and victim?
30. What was the source of information on mitigating factors for cases which did not reach penalty trial? How were the mental mitigating factors coded for cases which did not reach penalty phase. How were data verified on mitigating factors for cases which did not reach penalty phase?
31. Where is it indicated what data sources the staff actually used in collecting data for a particular case?
32. What were the verification and cross checking procedures which were used for specific data points on the DCI?
33. What data sources did the staff use for the initial screening and identification of homicide cases?
34. What verification and error checks were institutionalized for the screening procedure?
35. Do county personnel routinely send a notice of homicide indictments and judgments to the Administrative Office of the Courts, and are these records available in machine readable form?
36. The version of the DCI in our possession at the moment contains 246 cases. What are the cases beyond 227? Are these multiple victims and retrials?

9/5/91

Appendix B

1. Crosstab DEATH by CONSENYR; NJ211=0 excluded
2. Col. A - PTDEATH by CONSENYR  
Col. B - PTDEATH by CONSENYR, PTWEIGH=1 + NJ211=1
3. Col A - PTRIAL by CONSENYR  
Col. B - PTRIAL by CONSENYR; NJ211=0 excluded
4. Col. A, Part I - RURALCO by DEATH; NJ211=0 excluded  
Col. B, Part I - PTDEATH by PTDEATH; NJ211=1  
Col. C, Part I - RURALCO by PTRIALC; NJ211=0 excluded  
Col. A, Part II - NJ211=0 excluded; crosstab DEATH by NJREGION  
Col. B, Part II - PTWEIGH=1 + NJ211=1; crosstab NJREGION + PTDEATH  
Col. C, Part II - NJ211=0 excluded; crosstab ptrial BY NJREGION

Table 5

- Col. B NJ211=0 excluded crosstab COUNTY by DEATH  
Col. C NJ211=1; crosstab COUNTY by PTDEATH  
Col. D NJ211=0 excluded; crosstab PTRIAL by COUNTY

Table 7 NJ211=1

- Col. A Crosstab SALFACT2 by PTDEATH  
Crosstab SALFACT1 by PTDEATH  
Col. B Crosstab SALFACT2 by DEATH  
Crosstab SALFACT1 by DEATH  
Col. C Crosstab SALFACT2 by PTRIAL  
Crosstab SALFACT1 by PTRIAL

Table 8 NJ211=1; Crosstab AGCRYESX by PTDEATH by MITFOUND

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Table 9 NJ211=1; crosstab V4APRCX by DEATH by V5APRCX

Table 10 NJ211=1

Col. A Crosstab PTDEATH by V4APTY series and V5APTY series

Col. B Crosstab DEATH by the V4APRC series separately + the V5APRC series separately

Table 11

NJ211=1; crosstab PTDEATH by SPTD3RSA

Table 12

NJ211=1; the predicted probability of a death sentence (YHAT) with a 95%-confidence interval estimated with the model in schedule 6, technical appendix 10; the death sentencing rate among near neighbors in table 11

Table 13

NJ211=1; crosstab DEATH by SDTH3RSA

Table 14

NJ211=1; the predicted probability of a death sentence (YHAT) with a 95%-confidence interval estimated from the model in schedule 12, technical appendix 10; the death sentencing rate among near neighbors in table 13

Table 15 NJ211=1

Col. B - crosstab PTDEATH by SPTD1RSA

Col. C - crosstab DEATH by SDTH1RSA

Table 16 NJ211=1

The predicted probability of a death sentence (YHAT) with a 95%-confidence interval estimated from the model in schedule 3, technical appendix 10

Table 17 NJ211=1

The predicted probability of a death sentence (YHAT) with a 95%-confidence interval estimated from the model in schedule 9, technical appendix 10

Table 18

Exclude PTWEIGH=0; crosstab SPTD3SA by PTDEATH by BLACKD

Table 18A

Exclude PTWEIGH=0; crosstab SPTR3SA by PTRIAL by WHITEVIC

Table 19

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The four columns of numbers are, respectively, the death-sentencing rates among similar penalty-trial cases for each case in (a) table 7 (col. B), (b) table 8, (c) table 15 (col. B), and (d) table 11.

Table 20

The four columns of numbers are, respectively, the death-sentencing rates among all similar cases in the proposed universe (penalty trial and nonpenalty trial) for each case in (a) table 7 (col. C), (b) table 9, (c) table 15 (col. C), and (d) table 13.

Figure 2 - The figure presents the predicted probability of a death sentence and a 95%-confidence interval estimated with the model in schedule 6, technical appendix 10.

Figure 3 - The figure presents for all death-eligible cases a predicted likelihood of a death sentence with a 95%-confidence interval estimated with the model in schedule 12, technical appendix 10.

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Technical Appendix 10. Logistic Multiple-Regression Models and Scales

SCHEDULE 1 - MODEL 1 (PTDEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-1.667	1.144	-1.46	0.1451
PEN. TRIAL JURY FOUND 4A FACTOR	V4APTY	2.225	1.293	1.72	0.0853
PEN. TRIAL JURY FOUND 4B FACTOR	V4BPTY	0.341	0.788	0.43	0.6650
PEN. TRIAL JURY FOUND 4C FACTOR	V4CPTY	2.222	0.724	3.07	0.0021
PEN. TRIAL JURY FOUND 4D FACTOR	V4DPTY	5.183	1.306	3.97	0.0001
PEN. TRIAL JURY FOUND 4E FACTOR	V4EPTY	2.894	1.962	1.48	0.1402
PEN. TRIAL JURY FOUND 4F FACTOR	V4FPTY	0.188	0.734	0.26	0.7980
PEN. TRIAL JURY FOUND 4G FACTOR	V4GPTY	1.617	0.743	2.18	0.0294
PEN. TRIAL JURY FOUND 4H FACTOR	V4HPTY	4.982	1.702	2.93	0.0034
MIT. CIR. 5A FOUND AT PEN. TRIAL	V5APTY	-0.160	0.511	-0.31	0.7543
MIT. CIR. 5B FOUND AT PEN. TRIAL	V5BPTY	0.341	1.063	0.32	0.7482
MIT. CIR. 5C FOUND AT PEN. TRIAL	V5CPTY	-0.810	0.738	-1.10	0.2726
MIT. CIR. 5D FOUND AT PEN. TRIAL	V5DPTY	-1.092	0.540	-2.02	0.0430
MIT. CIR. 5E FOUND AT PEN. TRIAL	V5EPTY	-0.707	0.846	-0.84	0.4032
MIT. CIR. 5F FOUND AT PEN. TRIAL	V5FPTY	-0.121	0.541	-0.22	0.8235
MIT. CIR. 5G FOUND AT PEN. TRIAL	V5GPTY	-1.627	1.529	-1.07	0.2869
MIT. CIR. 5H FOUND AT PEN. TRIAL	V5HPTY	-1.618	0.622	-2.60	0.0093

PREDICTED PROBABILITY : PPTD1

SCALE : SPTD1=INT(PPTD1\*5) + 1;

SCHEDULE 2 - MODEL 1RS (PTDEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-1.576	2.022	-0.78	0.4354
PEN. TRIAL JURY FOUND 4A FACTOR	V4APTY	2.905	1.469	1.98	0.0479
PEN. TRIAL JURY FOUND 4B FACTOR	V4BPTY	0.981	0.996	0.98	0.3251
PEN. TRIAL JURY FOUND 4C FACTOR	V4CPTY	2.462	0.719	3.42	0.0006
PEN. TRIAL JURY FOUND 4D FACTOR	V4DPTY	5.453	1.438	3.79	0.0001
PEN. TRIAL JURY FOUND 4E FACTOR	V4EPTY	4.049	2.212	1.83	0.0671
PEN. TRIAL JURY FOUND 4F FACTOR	V4FPTY	0.034	0.809	0.04	0.9665
PEN. TRIAL JURY FOUND 4G FACTOR	V4GPTY	1.633	0.988	1.65	0.0983
PEN. TRIAL JURY FOUND 4H FACTOR	V4HPTY	6.628	2.038	3.25	0.0011
MIT. CIR. 5A FOUND AT PEN. TRIAL	V5APTY	-0.072	0.651	-0.11	0.9116
MIT. CIR. 5B FOUND AT PEN. TRIAL	V5BPTY	0.239	1.224	0.20	0.8454
MIT. CIR. 5C FOUND AT PEN. TRIAL	V5CPTY	-1.053	0.836	-1.26	0.2077
MIT. CIR. 5D FOUND AT PEN. TRIAL	V5DPTY	-1.207	0.705	-1.71	0.0869
MIT. CIR. 5E FOUND AT PEN. TRIAL	V5EPTY	-1.212	1.105	-1.10	0.2726
MIT. CIR. 5F FOUND AT PEN. TRIAL	V5FPTY	-0.258	0.699	-0.37	0.7114
MIT. CIR. 5G FOUND AT PEN. TRIAL	V5GPTY	-1.301	1.710	-0.76	0.4467
MIT. CIR. 5H FOUND AT PEN. TRIAL	V5HPTY	-1.505	0.738	-2.04	0.0413



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ONE OR MORE WHITE VICTIMS	WHITVIC	0.683	0.794	0.86	0.3898
BLACK DEFENDANT	BLACKD	1.685	0.677	2.49	0.0128
MALE DEFENDANT	MALEDEF	-0.815	1.788	-0.46	0.6484
VICTIM WITH HIGH SES	SESF1	0.748	0.666	1.12	0.2610
VICTIM WITH LOW SES	SESF2	-0.160	0.829	-0.19	0.8470
DEFENDANT WITH LOW SES	SESF3	-1.507	0.743	-2.03	0.0426
DEFENDANT WITH HIGH SES	SESF4	-0.775	1.322	-0.59	0.5579
MISSING VICTIM'S SES	VSESMIS	-0.397	2.122	-0.19	0.8517

PREDICTED PROBABILITY : PPTD1RS  
 SCALE : SPTD1RS=INT(PPTD1RS\*5) + 1;

SCHEDULE 3 - MODEL 1RSA (PTDEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-1.710	1.119	-1.53	0.1263
PEN. TRIAL JURY FOUND 4A FACTOR	V4APTY	2.299	1.226	1.88	0.0607
PEN. TRIAL JURY FOUND 4B FACTOR	V4BPTY	0.776	0.795	0.98	0.3291
PEN. TRIAL JURY FOUND 4C FACTOR	V4CPTY	1.948	0.673	2.90	0.0038
PEN. TRIAL JURY FOUND 4D FACTOR	V4DPTY	4.315	1.280	3.37	0.0007
PEN. TRIAL JURY FOUND 4E FACTOR	V4EPTY	3.204	1.616	1.98	0.0474
PEN. TRIAL JURY FOUND 4F FACTOR	V4FPTY	0.027	0.703	0.04	0.9697
PEN. TRIAL JURY FOUND 4G FACTOR	V4GPTY	1.292	0.669	1.93	0.0535
PEN. TRIAL JURY FOUND 4H FACTOR	V4HPTY	5.245	2.503	2.10	0.0362
MIT. CIR. 5A FOUND AT PEN. TRIAL	V5APTY	-0.057	0.495	-0.12	0.9077
MIT. CIR. 5B FOUND AT PEN. TRIAL	V5BPTY	0.189	1.076	0.18	0.8611
MIT. CIR. 5C FOUND AT PEN. TRIAL	V5CPTY	-0.833	0.683	-1.22	0.2225
MIT. CIR. 5D FOUND AT PEN. TRIAL	V5DPTY	-0.956	0.532	-1.80	0.0725
MIT. CIR. 5E FOUND AT PEN. TRIAL	V5EPTY	-0.959	0.883	-1.09	0.2775
MIT. CIR. 5F FOUND AT PEN. TRIAL	V5FPTY	-0.205	0.527	-0.39	0.6980
MIT. CIR. 5G FOUND AT PEN. TRIAL	V5GPTY	-1.029	1.313	-0.78	0.4330
MIT. CIR. 5H FOUND AT PEN. TRIAL	V5HPTY	-1.191	0.538	-2.21	0.0269

PREDICTED PROBABILITY : PPTD1RSA  
 SCALE : SPTD1RSA=INT(PPTD1RSA\*5) + 1;

SCHEDULE 4 - MODEL 3 (PTDEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-4.138	1.242	-3.33	0.0009
PEN. TRIAL JURY FOUND 4A FACTOR	V4APTY	3.511	1.056	3.33	0.0009
PEN. TRIAL JURY FOUND 4B FACTOR	V4BPTY	0.309	1.141	0.27	0.7864
PEN. TRIAL JURY FOUND 4C FACTOR	V4CPTY	1.125	0.962	1.17	0.2424
PEN. TRIAL JURY FOUND 4D FACTOR	V4DPTY	8.938	1.541	5.80	0.0000
PEN. TRIAL JURY FOUND 4E FACTOR	V4EPTY	1.725	2.646	0.65	0.5144
PEN. TRIAL JURY FOUND 4F FACTOR	V4FPTY	-0.462	1.300	-0.36	0.7226
PEN. TRIAL JURY FOUND 4G FACTOR	V4GPTY	1.715	1.087	1.58	0.1148

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PEN. TRIAL JURY FOUND 4H FACTOR	V4HPTY	8.557	1.728	4.95	0.0000
MIT. CIR. 5A FOUND AT PEN. TRIAL	V5APTY	-0.937	0.942	-1.00	0.3197
MIT. CIR. 5B FOUND AT PEN. TRIAL	V5BPTY	-1.474	1.836	-0.80	0.4220
MIT. CIR. 5C FOUND AT PEN. TRIAL	V5CPTY	-0.782	1.020	-0.77	0.4431
MIT. CIR. 5D FOUND AT PEN. TRIAL	V5DPTY	-1.792	0.847	-2.12	0.0343
MIT. CIR. 5E FOUND AT PEN. TRIAL	V5EPTY	-1.761	1.255	-1.40	0.1606
MIT. CIR. 5F FOUND AT PEN. TRIAL	V5FPTY	0.346	1.024	0.34	0.7354
MIT. CIR. 5G FOUND AT PEN. TRIAL	V5GPTY	-5.328	1.265	-4.21	0.0000
MIT. CIR. 5H FOUND AT PEN. TRIAL	V5HPTY	-3.385	0.988	-3.43	0.0006
THREATS FACTOR (PTDEATH MODEL)	THREAT1	1.042	0.873	1.19	0.2325
BLAMEWORTHINESS FACTOR #1 (PTDEATH MODEL)	BLAME1	0.709	0.695	1.02	0.3082
BLAMEWORTHINESS FACTOR #2 (PTDEATH MODEL)	BLAME2	1.343	0.387	3.47	0.0005
VICTIMIZATION FACTOR #1 (PTDEATH MODEL)	VICTIM1	1.066	0.860	1.24	0.2150
VICTIMIZATION FACTOR #2 (PTDEATH MODEL)	VICTIM2	0.397	0.444	0.90	0.3708
ATTEMPT TO DISPOSE/CONCEAL BODY	HIDEBODY	0.806	1.417	0.57	0.5694
RECENT PRIOR/RELEASE (PTDEATH MODEL)	RPRIOR1	0.560	0.662	0.85	0.3976
PAINFUL METHOD OF ATTACK	PAINATK	0.274	1.322	0.21	0.8352
BRUTAL CLUBBING	CLUB	2.213	1.147	1.93	0.0536
MUTILATION DURING KILLING	MUTILATE	3.726	3.460	1.08	0.2815
IMMEDIATE RAGE/FRUSTRATION MOTIVE	RAGE	1.829	0.909	2.01	0.0442

PREDICTED PROBABILITY : PPTD3

SCALE : SPTD3=INT(PPTD3\*5) + 1;

SCHEDULE 5 - MODEL 3RS (PTDEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-5.963	4.005	-1.49	0.1365
PEN. TRIAL JURY FOUND 4A FACTOR	V4APTY	5.454	1.577	3.46	0.0005
PEN. TRIAL JURY FOUND 4B FACTOR	V4BPTY	0.599	1.413	0.42	0.6716
PEN. TRIAL JURY FOUND 4C FACTOR	V4CPTY	1.105	0.924	1.20	0.2317
PEN. TRIAL JURY FOUND 4D FACTOR	V4DPTY	10.163	2.232	4.55	0.0000
PEN. TRIAL JURY FOUND 4E FACTOR	V4EPTY	3.266	2.549	1.28	0.2002
PEN. TRIAL JURY FOUND 4F FACTOR	V4FPTY	-1.315	1.033	-1.27	0.2030
PEN. TRIAL JURY FOUND 4G FACTOR	V4GPTY	1.374	0.915	1.50	0.1334
PEN. TRIAL JURY FOUND 4H FACTOR	V4HPTY	13.083	2.523	5.19	0.0000
MIT. CIR. 5A FOUND AT PEN. TRIAL	V5APTY	-1.050	1.003	-1.05	0.2956
MIT. CIR. 5B FOUND AT PEN. TRIAL	V5BPTY	-2.746	5.125	-0.54	0.5920
MIT. CIR. 5C FOUND AT PEN. TRIAL	V5CPTY	-1.037	1.129	-0.92	0.3581
MIT. CIR. 5D FOUND AT PEN. TRIAL	V5DPTY	-2.463	0.643	-3.83	0.0001
MIT. CIR. 5E FOUND AT PEN. TRIAL	V5EPTY	-2.856	2.072	-1.38	0.1682
MIT. CIR. 5F FOUND AT PEN. TRIAL	V5FPTY	0.066	0.875	0.08	0.9402
MIT. CIR. 5G FOUND AT PEN. TRIAL	V5GPTY	-5.962	2.571	-2.32	0.0204
MIT. CIR. 5H FOUND AT PEN. TRIAL	V5HPTY	-3.459	0.766	-4.52	0.0000
THREATS FACTOR (PTDEATH MODEL)	THREAT1	1.480	1.242	1.19	0.2333
BLAMEWORTHINESS FACTOR #1 (PTDEATH MODEL)	BLAME1	0.586	0.713	0.82	0.4111
BLAMEWORTHINESS FACTOR #2 (PTDEATH MODEL)	BLAME2	1.731	0.393	4.41	0.0000
VICTIMIZATION FACTOR #1 (PTDEATH MODEL)	VICTIM1	1.121	0.806	1.39	0.1642

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VICTIMIZATION FACTOR #2 (PTDEATH MODEL)	VICTIM2	0.890	0.441	2.02	0.0438
ATTEMPT TO DISPOSE/CONCEAL BODY	HIDEBODY	0.996	1.230	0.81	0.4179
RECENT PRIOR/RELEASE (PTDEATH MODEL)	RPRIOR1	1.422	0.850	1.67	0.0941
PAINFUL METHOD OF ATTACK	PAINATK	1.136	1.304	0.87	0.3838
BRUTAL CLUBBING	CLUB	2.079	1.319	1.58	0.1150
MUTILATION DURING KILLING	MUTILATE	5.167	1.846	2.80	0.0051
IMMEDIATE RAGE/FRUSTRATION MOTIVE	RAGE	2.330	1.008	2.31	0.0208
ONE OR MORE WHITE VICTIMS	WHITVIC	1.075	0.971	1.11	0.2683
BLACK DEFENDANT	BLACKD	2.921	1.097	2.66	0.0077
MALE DEFENDANT	MALEDEF	0.828	2.668	0.31	0.7558
VICTIM WITH HIGH SES	SESF1	0.474	0.713	0.67	0.5061
VICTIM WITH LOW SES	SESF2	0.022	1.121	0.02	0.9840
DEFENDANT WITH LOW SES	SESF3	-3.472	1.267	-2.74	0.0061
DEFENDANT WITH HIGH SES	SESF4	-1.518	1.641	-0.93	0.3550
MISSING VICTIM'S SES	VSESMIS	-3.074	1.775	-1.73	0.0833

PREDICTED PROBABILITY : PPTD3RS  
 SCALE : SPTD3RS=INT(PPTD3RS\*5) + 1;

SCHEDULE 6 - MODEL 3RSA (PTDEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-3.576	1.241	-2.88	0.0040
PEN. TRIAL JURY FOUND 4A FACTOR	V4APTY	3.344	1.090	3.07	0.0021
PEN. TRIAL JURY FOUND 4B FACTOR	V4BPTY	0.367	1.014	0.36	0.7174
PEN. TRIAL JURY FOUND 4C FACTOR	V4CPTY	0.678	0.985	0.69	0.4915
PEN. TRIAL JURY FOUND 4D FACTOR	V4DPTY	6.231	1.228	5.08	0.0000
PEN. TRIAL JURY FOUND 4E FACTOR	V4EPTY	2.002	2.118	0.95	0.3447
PEN. TRIAL JURY FOUND 4F FACTOR	V4FPTY	-0.806	1.181	-0.68	0.4946
PEN. TRIAL JURY FOUND 4G FACTOR	V4GPY	0.842	1.075	0.78	0.4336
PEN. TRIAL JURY FOUND 4H FACTOR	V4HPY	8.021	3.007	2.67	0.0077
MIT. CIR. 5A FOUND AT PEN. TRIAL	V5APTY	-0.644	0.735	-0.88	0.3816
MIT. CIR. 5B FOUND AT PEN. TRIAL	V5BPTY	-1.684	1.666	-1.01	0.3125
MIT. CIR. 5C FOUND AT PEN. TRIAL	V5CPTY	-0.636	0.810	-0.79	0.4325
MIT. CIR. 5D FOUND AT PEN. TRIAL	V5DPTY	-1.510	0.725	-2.08	0.0372
MIT. CIR. 5E FOUND AT PEN. TRIAL	V5EPTY	-1.751	1.380	-1.27	0.2044
MIT. CIR. 5F FOUND AT PEN. TRIAL	V5FPTY	0.040	0.749	0.05	0.9569
MIT. CIR. 5G FOUND AT PEN. TRIAL	V5GPY	-3.655	1.201	-3.04	0.0023
MIT. CIR. 5H FOUND AT PEN. TRIAL	V5HPY	-2.121	0.808	-2.62	0.0087
THREATS FACTOR (PTDEATH MODEL)	THREAT1	0.908	0.764	1.19	0.2352
BLAMEWORTHINESS FACTOR #1 (PTDEATH MODEL)	BLAME1	0.359	0.486	0.74	0.4599
BLAMEWORTHINESS FACTOR #2 (PTDEATH MODEL)	BLAME2	1.061	0.399	2.66	0.0078
VICTIMIZATION FACTOR #1 (PTDEATH MODEL)	VICTIM1	0.687	0.765	0.90	0.3692
VICTIMIZATION FACTOR #2 (PTDEATH MODEL)	VICTIM2	0.546	0.378	1.45	0.1485
ATTEMPT TO DISPOSE/CONCEAL BODY	HIDEBODY	0.610	1.264	0.48	0.6291
RECENT PRIOR/RELEASE (PTDEATH MODEL)	RPRIOR1	0.872	0.565	1.54	0.1228
PAINFUL METHOD OF ATTACK	PAINATK	0.696	1.467	0.48	0.6348
BRUTAL CLUBBING	CLUB	1.275	1.079	1.18	0.2376
MUTILATION DURING KILLING	MUTILATE	3.168	1.720	1.83	0.0667

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IMMEDIATE RAGE/FRUSTRATION MOTIVE RAGE 1.428 0.947 1.51 0.1313

PREDICTED PROBABILITY : PPTD3RSA  
 SCALE : SPTD3RSA=INT(PPTD3RSA\*5) + 1;

SCHEDULE 6A - MODEL 3SA (PTDEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-4.010	2.145	-1.87	0.0615
PEN. TRIAL JURY FOUND 4A FACTOR	V4APTY	5.274	1.581	3.34	0.0008
PEN. TRIAL JURY FOUND 4B FACTOR	V4BPTY	0.579	1.290	0.45	0.6534
PEN. TRIAL JURY FOUND 4C FACTOR	V4CPTY	1.069	1.154	0.93	0.3544
PEN. TRIAL JURY FOUND 4D FACTOR	V4DPTY	9.827	3.237	3.04	0.0024
PEN. TRIAL JURY FOUND 4E FACTOR	V4EPTY	3.158	3.074	1.03	0.3044
PEN. TRIAL JURY FOUND 4F FACTOR	V4FPTY	-1.272	2.130	-0.60	0.5505
PEN. TRIAL JURY FOUND 4G FACTOR	V4GPTY	1.328	1.757	0.76	0.4496
PEN. TRIAL JURY FOUND 4H FACTOR	V4HPTY	12.650	3.474	3.64	0.0003
MIT. CIR. 5A FOUND AT PEN. TRIAL	V5APTY	-1.015	0.883	-1.15	0.2506
MIT. CIR. 5B FOUND AT PEN. TRIAL	V5BPTY	-2.655	2.523	-1.05	0.2923
MIT. CIR. 5C FOUND AT PEN. TRIAL	V5CPTY	-1.003	1.623	-0.62	0.5366
MIT. CIR. 5D FOUND AT PEN. TRIAL	V5DPTY	-2.382	0.991	-2.40	0.0163
MIT. CIR. 5E FOUND AT PEN. TRIAL	V5EPTY	-2.761	1.693	-1.63	0.1029
MIT. CIR. 5F FOUND AT PEN. TRIAL	V5FPTY	0.063	1.083	0.06	0.9530
MIT. CIR. 5G FOUND AT PEN. TRIAL	V5GPTY	-5.765	2.896	-1.99	0.0465
MIT. CIR. 5H FOUND AT PEN. TRIAL	V5HPTY	-3.345	0.888	-3.77	0.0002
THREATS FACTOR (PTDEATH MODEL)	THREAT1	1.431	1.420	1.01	0.3135
BLAMEWORTHINESS FACTOR #1 (PTDEATH MODEL)	BLAME1	0.566	0.454	1.25	0.2120
BLAMEWORTHINESS FACTOR #2 (PTDEATH MODEL)	BLAME2	1.674	0.471	3.56	0.0004
VICTIMIZATION FACTOR #1 (PTDEATH MODEL)	VICTIM1	1.084	1.021	1.06	0.2882
VICTIMIZATION FACTOR #2 (PTDEATH MODEL)	VICTIM2	0.860	0.383	2.25	0.0248
ATTEMPT TO DISPOSE/CONCEAL BODY	HIDEBODY	0.963	1.541	0.63	0.5320
RECENT PRIOR/RELEASE (PTDEATH MODEL)	RPRIOR1	1.375	0.994	1.38	0.1667
PAINFUL METHOD OF ATTACK	PAINATK	1.098	1.949	0.56	0.5734
BRUTAL CLUBBING	CLUB	2.010	1.450	1.39	0.1657
MUTILATION DURING KILLING	MUTILATE	4.996	2.518	1.98	0.0473
IMMEDIATE RAGE/FRUSTRATION MOTIVE	RAGE	2.253	1.212	1.86	0.0632
MALE DEFENDANT	MALEDEF	0.801	2.080	0.39	0.7002
VICTIM WITH HIGH SES	SESF1	0.458	0.998	0.46	0.6462
VICTIM WITH LOW SES	SESF2	0.022	1.951	0.01	0.9912
DEFENDANT WITH LOW SES	SESF3	-3.357	1.340	-2.51	0.0122
DEFENDANT WITH HIGH SES	SESF4	-1.467	1.934	-0.76	0.4479
MISSING VICTIM'S SES	VSESMIS	-2.972	1.661	-1.79	0.0735

PREDICTED PROBABILITY : PPTD3SA  
 SCALE : IF PPTD3SA>.00 THEN SPTD3SA=1;  
 IF PPTD3SA>.0019 THEN SPTD3SA=2;  
 IF PPTD3SA>.012 THEN SPTD3SA=3;  
 IF PPTD3SA>.145 THEN SPTD3SA=4;

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IF PPTD3SA>.8905 THEN SPTD3SA=5;  
SCALE : SPTD3SAT=1. + INT(PPTD3SA\*10);

SCHEDULE 7 - MODEL 1 (DEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-1.501	1.414	-1.06	0.2882
4A FACTOR FOUND OR PRESENT	V4APRC	3.178	1.505	2.11	0.0347
4B FACTOR FOUND OR PRESENT	V4BPRC	0.265	0.957	0.28	0.7818
4C FACTOR FOUND OR PRESENT	V4CPRC	2.378	0.885	2.69	0.0072
4D FACTOR FOUND OR PRESENT	V4DPRC	5.058	1.923	2.63	0.0085
4E FACTOR FOUND OR PRESENT	V4EPRC	3.575	2.703	1.32	0.1858
4F FACTOR FOUND OR PRESENT	V4FPRC	1.221	0.936	1.31	0.1919
4G FACTOR FOUND OR PRESENT	V4GPRC	1.320	0.998	1.32	0.1862
4H FACTOR FOUND OR PRESENT	V4HPRC	6.794	4.502	1.51	0.1313
5A FACTOR FOUND OR PRESENT	V5APRC	0.298	0.707	0.42	0.6738
5B FACTOR FOUND OR PRESENT	V5BPRC	0.923	1.074	0.86	0.3903
5C FACTOR FOUND OR PRESENT	V5CPRC	-0.492	1.006	-0.49	0.6248
5D FACTOR FOUND OR PRESENT	V5DPRC	-0.969	0.726	-1.34	0.1819
5E FACTOR FOUND OR PRESENT	V5EPRC	-0.838	1.136	-0.74	0.4605
5F FACTOR FOUND OR PRESENT	V5FPRC	-0.036	0.753	-0.05	0.9617
5G FACTOR FOUND OR PRESENT	V5GPRC	-1.362	1.914	-0.71	0.4765
5H FACTOR FOUND OR PRESENT	V5HPRC	-3.723	0.992	-3.75	0.0002

PREDICTED PROBABILITY : PDTH1  
SCALE : SDTH1=INT(PDTH1\*5) + 1;

SCHEDULE 8 - MODEL 1RS (DEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-2.062	2.605	-0.79	0.4289
4A FACTOR FOUND OR PRESENT	V4APRC	3.328	1.436	2.32	0.0205
4B FACTOR FOUND OR PRESENT	V4BPRC	0.385	0.980	0.39	0.6943
4C FACTOR FOUND OR PRESENT	V4CPRC	2.366	0.862	2.75	0.0060
4D FACTOR FOUND OR PRESENT	V4DPRC	5.253	2.083	2.52	0.0117
4E FACTOR FOUND OR PRESENT	V4EPRC	4.241	2.549	1.66	0.0961
4F FACTOR FOUND OR PRESENT	V4FPRC	1.202	1.008	1.19	0.2329
4G FACTOR FOUND OR PRESENT	V4GPRC	1.138	1.004	1.13	0.2572
4H FACTOR FOUND OR PRESENT	V4HPRC	7.617	4.838	1.57	0.1155
5A FACTOR FOUND OR PRESENT	V5APRC	0.278	0.738	0.38	0.7062
5B FACTOR FOUND OR PRESENT	V5BPRC	1.118	1.048	1.07	0.2860
5C FACTOR FOUND OR PRESENT	V5CPRC	-0.427	1.061	-0.40	0.6877
5D FACTOR FOUND OR PRESENT	V5DPRC	-0.948	0.761	-1.25	0.2128
5E FACTOR FOUND OR PRESENT	V5EPRC	-1.055	1.353	-0.78	0.4354
5F FACTOR FOUND OR PRESENT	V5FPRC	0.019	0.880	0.02	0.9824
5G FACTOR FOUND OR PRESENT	V5GPRC	-1.448	2.054	-0.71	0.4808

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5H FACTOR FOUND OR PRESENT	V5HPRC	-3.751	1.081	-3.47	0.0005
ONE OR MORE WHITE VICTIMS	WHITVIC	0.638	0.777	0.82	0.4116
BLACK DEFENDANT	BLACKD	0.951	0.792	1.20	0.2298
MALE DEFENDANT	MALEDEF	0.000	2.355	0.00	1.0000
VICTIM WITH HIGH SES	SESF1	0.974	0.845	1.15	0.2493
VICTIM WITH LOW SES	SESF2	0.077	1.026	0.08	0.9402
DEFENDANT WITH LOW SES	SESF3	-0.849	0.758	-1.12	0.2623
DEFENDANT WITH HIGH SES	SESF4	-0.507	1.742	-0.29	0.7711
MISSING VICTIM'S SES	VSESMIS	0.082	1.150	0.07	0.9434

PREDICTED PROBABILITY : PDTH1RS  
 SCALE : SDTH1RS=INT(PDTH1RS\*5) + 1;

SCHEDULE 9 - MODEL 1RSA (DEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-1.345	0.931	-1.44	0.1487
4A FACTOR FOUND OR PRESENT	V4APRC	2.203	0.841	2.62	0.0088
4B FACTOR FOUND OR PRESENT	V4BPRC	0.255	0.549	0.47	0.6419
4C FACTOR FOUND OR PRESENT	V4CPRC	1.566	0.503	3.12	0.0018
4D FACTOR FOUND OR PRESENT	V4DPRC	3.477	1.467	2.37	0.0177
4E FACTOR FOUND OR PRESENT	V4EPRC	2.807	1.627	1.73	0.0845
4F FACTOR FOUND OR PRESENT	V4FPRC	0.796	0.666	1.20	0.2317
4G FACTOR FOUND OR PRESENT	V4GPRC	0.753	0.610	1.24	0.2168
4H FACTOR FOUND OR PRESENT	V4HPRC	5.042	2.574	1.96	0.0502
5A FACTOR FOUND OR PRESENT	V5APRC	0.184	0.502	0.37	0.7136
5B FACTOR FOUND OR PRESENT	V5BPRC	0.740	0.799	0.93	0.3539
5C FACTOR FOUND OR PRESENT	V5CPRC	-0.283	0.625	-0.45	0.6513
5D FACTOR FOUND OR PRESENT	V5DPRC	-0.628	0.473	-1.33	0.1845
5E FACTOR FOUND OR PRESENT	V5EPRC	-0.699	0.890	-0.79	0.4325
5F FACTOR FOUND OR PRESENT	V5FPRC	0.013	0.528	0.02	0.9809
5G FACTOR FOUND OR PRESENT	V5GPRC	-0.958	1.410	-0.68	0.4971
5H FACTOR FOUND OR PRESENT	V5HPRC	-2.483	0.587	-4.23	0.0000

PREDICTED PROBABILITY : PDTH1RSA  
 SCALE : SDTH1RSA=INT(PDTH1RSA\*5) + 1;

SCHEDULE 10 - MODEL 3 (DEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-1.310	2.524	-0.52	0.6038
4A FACTOR FOUND OR PRESENT	V4APRC	3.105	1.350	2.30	0.0214
4B FACTOR FOUND OR PRESENT	V4BPRC	-0.055	1.646	-0.03	0.9737
4C FACTOR FOUND OR PRESENT	V4CPRC	1.058	1.229	0.86	0.3892
4D FACTOR FOUND OR PRESENT	V4DPRC	6.772	2.417	2.80	0.0051
4E FACTOR FOUND OR PRESENT	V4EPRC	1.542	5.251	0.29	0.7688

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4F FACTOR FOUND OR PRESENT	V4FPRC	0.440	1.188	0.37	0.7114
4G FACTOR FOUND OR PRESENT	V4GPRC	0.223	1.027	0.22	0.8282
4H FACTOR FOUND OR PRESENT	V4HPRC	9.499	3.874	2.45	0.0142
5A FACTOR FOUND OR PRESENT	V5APRC	0.659	1.127	0.59	0.5585
5B FACTOR FOUND OR PRESENT	V5BPRC	1.161	1.867	0.62	0.5339
5C FACTOR FOUND OR PRESENT	V5CPRC	-0.684	1.460	-0.47	0.6398
5D FACTOR FOUND OR PRESENT	V5DPRC	-1.128	1.128	-1.00	0.3173
5E FACTOR FOUND OR PRESENT	V5EPRC	-2.683	1.758	-1.53	0.1270
5F FACTOR FOUND OR PRESENT	V5FPRC	0.284	1.075	0.26	0.7918
5G FACTOR FOUND OR PRESENT	V5GPRC	-4.054	1.933	-2.10	0.0359
5H FACTOR FOUND OR PRESENT	V5HPRC	-6.239	1.686	-3.70	0.0002
VICTIMIZATION FACTOR #1 (DEATH MODEL)	VICTIM3	0.964	0.774	1.25	0.2131
VICTIMIZATION FACTOR #2 (DEATH MODEL)	VICTIM4	0.634	0.491	1.29	0.1971
VICTIMIZATION FACTOR #3 (DEATH MODEL)	VICTIM5	0.604	0.767	0.79	0.4313
CONTEMPORANEOUS OFFENSE: ARSON	CONARSON	1.704	1.367	1.25	0.2128
DEFENDANT AMBUSHED VICTIM	DAMBRC	1.615	1.171	1.38	0.1676
BLAMEWORTHINESS FACTOR #3 (DEATH MODEL)	BLAME6	0.806	0.480	1.68	0.0932
BLAMEWORTHINESS FACTOR #4 (DEATH MODEL)	BLAME7	0.483	0.402	1.20	0.2290
DEFENDANT SHOWED NO REMORSE	DNOREMRC	0.657	1.097	0.60	0.5492
LOVERS OR EX-LOVERS QUARREL	LOVERS	-1.772	1.273	-1.39	0.1636
UNNECESSARY KILLING	UNECESRC	1.062	1.324	0.80	0.4226
THREAT FACTOR (DEATH MODEL)	THREAT2	0.665	0.679	0.98	0.3271
DEFENDANT MENTAL FACTOR (DEATH MODEL)	DMENTAL1	-0.260	0.624	-0.42	0.6774
DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE	DHDABRC	-0.892	0.920	-0.97	0.3320

PREDICTED PROBABILITY : PDTH3

SCALE : SDTH3T=1. + INT(PDTH3\*10);

SCALE : SDTH3=INT(PDTH3\*5) + 1;

SCHEDULE 11 - MODEL 3RS (DEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-1.768	3.077	-0.58	0.5653
4A FACTOR FOUND OR PRESENT	V4APRC	3.331	1.188	2.80	0.0051
4B FACTOR FOUND OR PRESENT	V4BPRC	0.282	1.637	0.17	0.8634
4C FACTOR FOUND OR PRESENT	V4CPRC	0.898	0.953	0.94	0.3457
4D FACTOR FOUND OR PRESENT	V4DPRC	7.147	2.711	2.64	0.0084
4E FACTOR FOUND OR PRESENT	V4EPRC	2.481	5.542	0.45	0.6542
4F FACTOR FOUND OR PRESENT	V4FPRC	0.278	1.123	0.25	0.8041
4G FACTOR FOUND OR PRESENT	V4GPRC	-0.256	1.088	-0.24	0.8134
4H FACTOR FOUND OR PRESENT	V4HPRC	11.186	3.447	3.25	0.0012
5A FACTOR FOUND OR PRESENT	V5APRC	0.632	1.161	0.55	0.5858
5B FACTOR FOUND OR PRESENT	V5BPRC	1.232	2.861	0.43	0.6665
5C FACTOR FOUND OR PRESENT	V5CPRC	-0.604	1.714	-0.35	0.7248
5D FACTOR FOUND OR PRESENT	V5DPRC	-1.208	1.000	-1.21	0.2270
5E FACTOR FOUND OR PRESENT	V5EPRC	-3.456	2.249	-1.54	0.1243
5F FACTOR FOUND OR PRESENT	V5FPRC	0.268	1.530	0.18	0.8611
5G FACTOR FOUND OR PRESENT	V5GPRC	-4.833	2.112	-2.29	0.0221

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5H FACTOR FOUND OR PRESENT	V5HPRC	-6.598	1.692	-3.90	0.0001
VICTIMIZATION FACTOR #1 (DEATH MODEL)	VICTIM3	1.315	0.638	2.06	0.0392
VICTIMIZATION FACTOR #2 (DEATH MODEL)	VICTIM4	0.638	0.414	1.54	0.1228
VICTIMIZATION FACTOR #3 (DEATH MODEL)	VICTIM5	0.846	0.889	0.95	0.3411
CONTEMPORANEOUS OFFENSE: ARSON	CONARSON	0.975	1.282	0.76	0.4473
DEFENDANT AMBUSHED VICTIM	DAMBRC	1.912	1.390	1.38	0.1688
BLAMEWORTHINESS FACTOR #3 (DEATH MODEL)	BLAME6	0.828	0.480	1.73	0.0843
BLAMEWORTHINESS FACTOR #4 (DEATH MODEL)	BLAME7	0.626	0.364	1.72	0.0858
DEFENDANT SHOWED NO REMORSE	DNOREMRC	0.711	0.854	0.83	0.4048
LOVERS OR EX-LOVERS QUARREL	LOVERS	-1.883	1.085	-1.74	0.0827
UNNECESSARY KILLING	UNECESRC	1.247	1.283	0.97	0.3311
THREAT FACTOR (DEATH MODEL)	THREAT2	0.723	0.608	1.19	0.2344
DEFENDANT MENTAL FACTOR (DEATH MODEL)	DMENTAL1	-0.298	0.438	-0.68	0.4952
DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE	DHDABRC	-0.989	0.883	-1.12	0.2627
ONE OR MORE WHITE VICTIMS	WHITVIC	0.886	1.330	0.67	0.5054
BLACK DEFENDANT	BLACKD	1.276	1.383	0.92	0.3560
MALE DEFENDANT	MALEDEF	0.234	1.564	0.15	0.8808
VICTIM WITH HIGH SES	SESF1	0.566	1.386	0.41	0.6825
VICTIM WITH LOW SES	SESF2	0.234	1.885	0.12	0.9013
DEFENDANT WITH LOW SES	SESF3	-1.986	1.089	-1.82	0.0682
DEFENDANT WITH HIGH SES	SESF4	-2.399	3.080	-0.78	0.4360
MISSING VICTIM'S SES	VSESMIS	-0.268	1.603	-0.17	0.8674

PREDICTED PROBABILITY : PDTH3RS

SCALE : SDTH3RS=INT(PDTH3RS\*5) + 1;

SCHEDULE 12 - MODEL 3RSA (DEATH)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	-1.440	1.572	-0.92	0.3597
4A FACTOR FOUND OR PRESENT	V4APRC	2.199	0.850	2.59	0.0096
4B FACTOR FOUND OR PRESENT	V4BPRC	0.186	1.021	0.18	0.8556
4C FACTOR FOUND OR PRESENT	V4CPRC	0.593	0.818	0.73	0.4685
4D FACTOR FOUND OR PRESENT	V4DPRC	4.719	1.676	2.82	0.0049
4E FACTOR FOUND OR PRESENT	V4EPRC	1.638	2.604	0.63	0.5293
4F FACTOR FOUND OR PRESENT	V4FPRC	0.184	0.769	0.24	0.8111
4G FACTOR FOUND OR PRESENT	V4GPRC	-0.169	0.767	-0.22	0.8251
4H FACTOR FOUND OR PRESENT	V4HPRC	7.386	2.438	3.03	0.0024
5A FACTOR FOUND OR PRESENT	V5APRC	0.418	0.736	0.57	0.5700
5B FACTOR FOUND OR PRESENT	V5BPRC	0.813	1.370	0.59	0.5525
5C FACTOR FOUND OR PRESENT	V5CPRC	-0.399	0.991	-0.40	0.6877
5D FACTOR FOUND OR PRESENT	V5DPRC	-0.798	0.639	-1.25	0.2120
5E FACTOR FOUND OR PRESENT	V5EPRC	-2.282	1.132	-2.02	0.0439
5F FACTOR FOUND OR PRESENT	V5FPRC	0.177	0.740	0.24	0.8111
5G FACTOR FOUND OR PRESENT	V5GPRC	-3.191	1.534	-2.08	0.0375
5H FACTOR FOUND OR PRESENT	V5HPRC	-4.356	0.861	-5.06	0.0000
VICTIMIZATION FACTOR #1 (DEATH MODEL)	VICTIM3	0.868	0.524	1.66	0.0971
VICTIMIZATION FACTOR #2 (DEATH MODEL)	VICTIM4	0.421	0.351	1.20	0.2305



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VICTIMIZATION FACTOR #3 (DEATH MODEL)	VICTIM5	0.559	0.506	1.10	0.2696
CONTEMPORANEOUS OFFENSE: ARSON	CONARSON	0.643	1.188	0.54	0.5878
DEFENDANT AMBUSHED VICTIM	DAMBRC	1.262	0.800	1.58	0.1148
BLAMEWORTHINESS FACTOR #3 (DEATH MODEL)	BLAME6	0.547	0.307	1.78	0.0744
BLAMEWORTHINESS FACTOR #4 (DEATH MODEL)	BLAME7	0.413	0.270	1.53	0.1260
DEFENDANT SHOWED NO REMORSE	DNOREMRC	0.469	0.721	0.65	0.5150
LOVERS OR EX-LOVERS QUARREL	LOVERS	-1.243	0.955	-1.30	0.1929
UNNECESSARY KILLING	UNECESRC	0.823	0.850	0.97	0.3330
THREAT FACTOR (DEATH MODEL)	THREAT2	0.478	0.419	1.14	0.2543
DEFENDANT MENTAL FACTOR (DEATH MODEL)	DMENTAL1	-0.197	0.391	-0.50	0.6143
DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE	DHDABRC	-0.653	0.635	-1.03	0.3039

PREDICTED PROBABILITY : PDTH3RSA  
 SCALE : SDTH3RSA=INT(PDTH3RSA\*5) + 1;

SCHEDULE 12A - MODEL 1RS (PTRIAL)

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LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	0.297	1.274	0.23	0.8158
4A FACTOR FOUND OR PRESENT	V4APRC	2.133	0.884	2.42	0.0157
4B FACTOR FOUND OR PRESENT	V4BPRC	-0.129	0.501	-0.26	0.7964
4C FACTOR FOUND OR PRESENT	V4CPRC	0.996	0.404	2.46	0.0138
4D FACTOR FOUND OR PRESENT	V4DPRC	0.123	1.547	0.08	0.9362
4E FACTOR FOUND OR PRESENT	V4EPRC	2.280	2.485	0.92	0.3586
4F FACTOR FOUND OR PRESENT	V4FPRC	1.599	0.479	3.34	0.0008
4G FACTOR FOUND OR PRESENT	V4GPRC	-0.517	0.445	-1.16	0.2456
4H FACTOR FOUND OR PRESENT	V4HPRC	1.270	0.906	1.40	0.1609
5A FACTOR FOUND OR PRESENT	V5APRC	1.027	0.355	2.90	0.0038
5B FACTOR FOUND OR PRESENT	V5BPRC	0.127	1.041	0.12	0.9029
5C FACTOR FOUND OR PRESENT	V5CPRC	0.938	0.403	2.33	0.0198
5D FACTOR FOUND OR PRESENT	V5DPRC	0.313	0.348	0.90	0.3681
5E FACTOR FOUND OR PRESENT	V5EPRC	-0.049	0.931	-0.05	0.9585
5F FACTOR FOUND OR PRESENT	V5FPRC	-0.028	0.377	-0.07	0.9410
5G FACTOR FOUND OR PRESENT	V5GPRC	1.551	1.309	1.19	0.2360
5H FACTOR FOUND OR PRESENT	V5HPRC	-2.231	0.460	-4.85	0.0000
ONE OR MORE WHITE VICTIMS	WHITVIC	0.605	0.398	1.52	0.1285
BLACK DEFENDANT	BLACKD	-0.320	0.384	-0.83	0.4048
MALE DEFENDANT	MALEDEF	0.013	1.061	0.01	0.9896
VICTIM WITH HIGH SES	SESF1	0.915	0.535	1.71	0.0871
VICTIM WITH LOW SES	SESF2	0.564	0.470	1.20	0.2294
DEFENDANT WITH LOW SES	SESF3	0.406	0.366	1.11	0.2666
DEFENDANT WITH HIGH SES	SESF4	-0.235	0.912	-0.26	0.7964
MISSING VICTIM'S SES	VSESMIS	-1.191	0.529	-2.25	0.0244

PREDICTED PROBABILITY : PPTR1RS  
 SCALE : SPTR1RS=INT(PPTR1RS\*5) + 1;

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SCHEDULE 13 - MODEL 3 (PTRIAL)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	1.643	0.783	2.10	0.0359
4A FACTOR FOUND OR PRESENT	V4APRC	1.299	0.691	1.88	0.0604
4B FACTOR FOUND OR PRESENT	V4BPRC	-0.525	0.543	-0.97	0.3335
4C FACTOR FOUND OR PRESENT	V4CPRC	0.814	0.448	1.82	0.0692
4D FACTOR FOUND OR PRESENT	V4DPRC	0.506	1.329	0.38	0.7032
4E FACTOR FOUND OR PRESENT	V4EPRC	1.994	1.199	1.66	0.0965
4F FACTOR FOUND OR PRESENT	V4FPRC	1.370	0.477	2.87	0.0041
4G FACTOR FOUND OR PRESENT	V4GPRC	-0.606	0.435	-1.39	0.1639
4H FACTOR FOUND OR PRESENT	V4HPRC	2.392	0.897	2.67	0.0077
5A FACTOR FOUND OR PRESENT	V5APRC	0.776	0.382	2.03	0.0422
5B FACTOR FOUND OR PRESENT	V5BPRC	0.333	0.807	0.41	0.6803
5C FACTOR FOUND OR PRESENT	V5CPRC	1.111	0.400	2.78	0.0055
5D FACTOR FOUND OR PRESENT	V5DPRC	0.545	0.379	1.44	0.1507
5E FACTOR FOUND OR PRESENT	V5EPRC	1.699	0.729	2.33	0.0198
5F FACTOR FOUND OR PRESENT	V5FPRC	0.235	0.472	0.50	0.6185
5G FACTOR FOUND OR PRESENT	V5GPRC	2.633	0.960	2.74	0.0061
5H FACTOR FOUND OR PRESENT	V5HPRC	-2.587	0.466	-5.55	0.0000
VICTIMIZATION FACTOR (PTRIAL MODEL)	VICTIM6	0.730	0.210	3.48	0.0005
INSTANT DEATH VARIABLE MISSING	ISTDMISS	-0.698	0.379	-1.84	0.0656
BLAMEWORTHINESS FACTOR (PTRIAL MODEL)	BLAME8	0.204	0.182	1.12	0.2619
VICTIM SEXUALLY AROUSED DEFENDANT	VSEXAROS	2.562	0.867	2.96	0.0031
MITIGATED SPOUSAL VIC.FACTOR(PTRIAL MOD)	MITCASE	-1.000	0.250	-4.00	0.0001
NO SIG. RECORD VARIABLE MISSING	NSRCMISS	0.018	0.484	0.04	0.9697
DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE	DHDABRC	-0.515	0.371	-1.39	0.1642

PREDICTED PROBABILITY : PPTR3  
 SCALE : SPTR3=INT(PPTR3\*5) + 1;  
 SCALE : SPTR3T=1. + INT(PPTR3\*10);

SCHEDULE 14 - MODEL 3RS (PTRIAL)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	0.356	1.447	0.25	0.8057
4A FACTOR FOUND OR PRESENT	V4APRC	2.448	0.978	2.50	0.0123
4B FACTOR FOUND OR PRESENT	V4BPRC	-0.641	0.553	-1.16	0.2465
4C FACTOR FOUND OR PRESENT	V4CPRC	0.630	0.501	1.26	0.2088
4D FACTOR FOUND OR PRESENT	V4DPRC	1.357	1.386	0.98	0.3276
4E FACTOR FOUND OR PRESENT	V4EPRC	2.418	2.550	0.95	0.3431
4F FACTOR FOUND OR PRESENT	V4FPRC	1.370	0.525	2.61	0.0091
4G FACTOR FOUND OR PRESENT	V4GPRC	-0.737	0.502	-1.47	0.1421
4H FACTOR FOUND OR PRESENT	V4HPRC	1.876	1.014	1.85	0.0643
5A FACTOR FOUND OR PRESENT	V5APRC	0.845	0.406	2.08	0.0374
5B FACTOR FOUND OR PRESENT	V5BPRC	-0.082	1.245	-0.07	0.9474
5C FACTOR FOUND OR PRESENT	V5CPRC	1.304	0.458	2.85	0.0044

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5D FACTOR FOUND OR PRESENT	V5DPRC	0.853	0.434	1.97	0.0494
5E FACTOR FOUND OR PRESENT	V5EPRC	1.623	1.212	1.34	0.1806
5F FACTOR FOUND OR PRESENT	V5FPRC	0.243	0.491	0.50	0.6199
5G FACTOR FOUND OR PRESENT	V5GPRC	1.694	1.329	1.28	0.2023
5H FACTOR FOUND OR PRESENT	V5HPRC	-2.913	0.612	-4.76	0.0000
VICTIMIZATION FACTOR (PTRIAL MODEL)	VICTIM6	0.784	0.243	3.23	0.0012
BLAMEWORTHINESS FACTOR (PTRIAL MODEL)	BLAME8	0.371	0.215	1.72	0.0847
VICTIM SEXUALLY AROUSED DEFENDANT	VSEXAROS	3.063	1.053	2.91	0.0036
MITIGATED SPOUSAL VIC.FACTOR(PTRIAL MOD)	MITCASE	-1.016	0.282	-3.61	0.0003
DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE	DHDABRC	-0.837	0.437	-1.92	0.0555
INSTANTD MISSING	ISTDMISS	-0.659	0.420	-1.57	0.1169
NOSIGREC MISSING	NSRCMISS	0.403	0.574	0.70	0.4827
ONE OR MORE WHITE VICTIMS	WHITVIC	1.242	0.467	2.66	0.0078
BLACK DEFENDANT	BLACKD	0.110	0.436	0.25	0.8010
MALE DEFENDANT	MALEDEF	0.225	1.014	0.22	0.8243
VICTIM WITH HIGH SES	SESF1	1.448	0.564	2.57	0.0103
VICTIM WITH LOW SES	SESF2	0.609	0.608	1.00	0.3163
DEFENDANT WITH LOW SES	SESF3	0.533	0.435	1.23	0.2194
DEFENDANT WITH HIGH SES	SESF4	-0.296	0.943	-0.31	0.7535
MISSING VICTIM'S SES	VSESMIS	-1.169	0.593	-1.97	0.0487

PREDICTED PROBABILITY : PPTR3RS

SCALE : SPTR3RS=INT(PPTR3RS\*5) + 1;

SCHEDULE 15 - MODEL 3RSA (PTRIAL)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	1.643	0.798	2.06	0.0394
4A FACTOR FOUND OR PRESENT	V4APRC	2.134	1.040	2.05	0.0401
4B FACTOR FOUND OR PRESENT	V4BPRC	-0.559	0.520	-1.08	0.2824
4C FACTOR FOUND OR PRESENT	V4CPRC	0.550	0.474	1.16	0.2460
4D FACTOR FOUND OR PRESENT	V4DPRC	1.183	1.462	0.81	0.4185
4E FACTOR FOUND OR PRESENT	V4EPRC	2.109	1.672	1.26	0.2069
4F FACTOR FOUND OR PRESENT	V4FPRC	1.194	0.473	2.52	0.0116
4G FACTOR FOUND OR PRESENT	V4GPRC	-0.643	0.466	-1.38	0.1679
4H FACTOR FOUND OR PRESENT	V4HPRC	1.636	0.917	1.79	0.0743
5A FACTOR FOUND OR PRESENT	V5APRC	0.737	0.387	1.90	0.0569
5B FACTOR FOUND OR PRESENT	V5BPRC	-0.072	0.808	-0.09	0.9291
5C FACTOR FOUND OR PRESENT	V5CPRC	1.137	0.394	2.89	0.0039
5D FACTOR FOUND OR PRESENT	V5DPRC	0.744	0.403	1.85	0.0647
5E FACTOR FOUND OR PRESENT	V5EPRC	1.415	0.738	1.92	0.0554
5F FACTOR FOUND OR PRESENT	V5FPRC	0.212	0.460	0.46	0.6448
5G FACTOR FOUND OR PRESENT	V5GPRC	1.478	1.016	1.46	0.1457
5H FACTOR FOUND OR PRESENT	V5HPRC	-2.540	0.491	-5.18	0.0000
VICTIMIZATION FACTOR (PTRIAL MODEL)	VICTIM6	0.684	0.211	3.24	0.0012
INSTANT DEATH VARIABLE MISSING	ISTDMISS	-0.575	0.391	-1.47	0.1416
BLAMEWORTHINESS FACTOR (PTRIAL MODEL)	BLAME8	0.324	0.193	1.67	0.0943
VICTIM SEXUALLY AROUSED DEFENDANT	VSEXAROS	2.671	0.943	2.83	0.0046

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MITIGATED SPOUSAL VIC.FACTOR(PTRIAL MOD)	MITCASE	-0.886	0.235	-3.78	0.0002
NO SIG. RECORD VARIABLE MISSING	NSRCMISS	0.351	0.489	0.72	0.4728
DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE	DHDABRC	-0.730	0.387	-1.89	0.0590

PREDICTED PROBABILITY : PPTR3RSA  
 SCALE : SPTR3RSA=INT(PPTR3RSA\*5) + 1;

SCHEDULE 15A - MODEL 3SA (PTRIAL)

LABEL	NAME	BETA	STD	EST_T	EST_P
	CONST	1.071	1.335	0.80	0.4226
4A FACTOR FOUND OR PRESENT	V4APRC	2.419	1.212	2.00	0.0459
4B FACTOR FOUND OR PRESENT	V4BPRC	-0.633	0.559	-1.13	0.2576
4C FACTOR FOUND OR PRESENT	V4CPRC	0.623	0.505	1.23	0.2172
4D FACTOR FOUND OR PRESENT	V4DPRC	1.341	1.535	0.87	0.3821
4E FACTOR FOUND OR PRESENT	V4EPRC	2.390	2.110	1.13	0.2572
4F FACTOR FOUND OR PRESENT	V4FPRC	1.354	0.519	2.61	0.0092
4G FACTOR FOUND OR PRESENT	V4GPRC	-0.728	0.508	-1.43	0.1516
4H FACTOR FOUND OR PRESENT	V4HPRC	1.854	1.006	1.84	0.0652
5A FACTOR FOUND OR PRESENT	V5APRC	0.835	0.422	1.98	0.0478
5B FACTOR FOUND OR PRESENT	V5BPRC	-0.081	1.028	-0.08	0.9370
5C FACTOR FOUND OR PRESENT	V5CPRC	1.289	0.411	3.13	0.0017
5D FACTOR FOUND OR PRESENT	V5DPRC	0.843	0.432	1.95	0.0512
5E FACTOR FOUND OR PRESENT	V5EPRC	1.603	0.907	1.77	0.0771
5F FACTOR FOUND OR PRESENT	V5FPRC	0.240	0.477	0.50	0.6143
5G FACTOR FOUND OR PRESENT	V5GPRC	1.674	1.103	1.52	0.1288
5H FACTOR FOUND OR PRESENT	V5HPRC	-2.879	0.564	-5.10	0.0000
VICTIMIZATION FACTOR (PTRIAL MODEL)	VICTIM6	0.775	0.244	3.18	0.0015
INSTANT DEATH VARIABLE MISSING	ISTDMISS	-0.651	0.403	-1.62	0.1061
BLAMEWORTHINESS FACTOR (PTRIAL MODEL)	BLAME8	0.367	0.225	1.63	0.1033
VICTIM SEXUALLY AROUSED DEFENDANT	VSEXAROS	3.027	0.893	3.39	0.0007
MITIGATED SPOUSAL VIC.FACTOR(PTRIAL MOD)	MITCASE	-1.004	0.263	-3.81	0.0001
NO SIG. RECORD VARIABLE MISSING	NSRCMISS	0.398	0.529	0.75	0.4521
DEFENDANT HISTORY OF ALCOHOL/DRUG ABUSE	DHDABRC	-0.827	0.456	-1.82	0.0694
MALE DEFENDANT	MALEDEF	0.222	0.904	0.25	0.8057
VICTIM WITH HIGH SES	SESF1	1.431	0.566	2.53	0.0115
VICTIM WITH LOW SES	SESF2	0.602	0.556	1.08	0.2788
DEFENDANT WITH LOW SES	SESF3	0.527	0.419	1.26	0.2080
DEFENDANT WITH HIGH SES	SESF4	-0.292	0.426	-0.32	0.7528
MISSING VICTIM'S SES	VSESMIS	-1.155	0.596	-1.94	0.0527

PREDICTED PROBABILITY : PPTR3SA  
 SCALE : SPTR3SA=INT(PPTR3SA\*5) + 1;  
 SCALE : SPTR3SAA=1. + INT(PPTR3SA\*10);-