

Are death row cases plagued with racial bias?

December 13 2016, by Kristen Parker , Catherine Grosso



Catherine Grosso (left) and Barbara O'Brien, associate professor of law. Credit: G.L. Kohuth, Michigan State University

Defendants charged with murder in North Carolina from 1990 to 2009 were more than twice as likely to receive the death penalty if the victims were white, Michigan State University researchers have found.

Catherine Grosso and Barbara O'Brien, associate professors at MSU College of Law, conducted the most comprehensive study of its kind to date, also finding the race of the defendant doesn't carry much weight.

"The white victim effect was the clearest and strongest finding in this study analysis," Grosso said. "Race still matters in the [criminal justice](#) system, and it shouldn't."

At the same time, the researchers found cases involving both a black defendant and a black victim were more than two times less likely to advance to a capital trial, where a jury decides whether to impose a [death penalty](#) or a life sentence.

"The dismissing of black-on-black crime is so salient right now," Grosso said. "There's under policing in black communities, and that may be what's going on here. It's the [justice system](#) that seems to be driving this scenario."

The study was inspired by North Carolina's Racial Justice Act of 2009, which allowed death row inmates to challenge their sentencing based on evidence of racial discrimination. Since statistical evidence was needed, the researchers were tapped to conduct the study.

Prosecutors don't seek a [death sentence](#) in the majority of cases that North Carolina law says are eligible for the death penalty, the researchers said. So with a team of about 45, Grosso and O'Brien examined 5,000-6,000 cases to understand how the law is implemented and to identify cases to include.

The end result was a data set of 1,500 cases - a sample of defendants against whom prosecutors could have but didn't seek a death sentence and all defendants for whom a jury decided to impose either the death penalty or a life sentence. This included everyone on death row in North

Carolina.

Researchers identified the race of every defendant and victim and coded information relating to the defendant, the victim and the circumstances of the crime. In addition, research team members visited every courthouse in the state.

The scholars obtained unusually complete information due in part to cooperation from North Carolina officials, Grosso said.

While the MSU Law study was exclusive to cases in North Carolina, the results echo an alarming trend occurring throughout the United States, O'Brien said.

"I have a hard time believing that a preference for white victim [cases](#) doesn't reflect a fundamental bias in our criminal justice system," she said. "What we worry about is the extent to which these biases play out even before a case gets to sentencing. There's every reason to think it's not just appearing at that stage in the process."

The study was published in the most recent edition of *North Carolina Law Review*.

Provided by Michigan State University

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