

**DECLARATION OF KEVIN McNALLY REGARDING THE GEOGRAPHIC
LOCATION OF FEDERAL CASES, THE FREQUENCY OF AUTHORIZATIONS AND
DEATH SENTENCES AND THE RACE AND GENDER OF DEFENDANTS AND VICTIMS**

EXHIBIT B

Declaration of LAUREN COHEN BELL, Ph.D., regarding the imposition of the federal death penalty in cases involving white, female victims.

1. I am currently Professor of Political Science and Dean of Academic Affairs at Randolph-Macon College in Ashland, Virginia, where I have been a faculty member since September 1999. Among the subjects I teach regularly are judicial process, constitutional law, and research methodology.
2. My research areas include the federal judiciary and the United States Congress. In my research, I regularly perform quantitative analysis of data and rely on the Statistical Package for the Social Sciences (SPSS) to organize and analyze such data. The use of quantitative analysis in social science and the use of SPSS in particular is an integral part of the research methodology course I teach. I have authored or coauthored a total of 23 books, book chapters, and peer-reviewed articles, and have presented more than 30 academic papers at scholarly meetings. I am a former member of the editorial board of *Justice System Journal* and a regular manuscript reviewer for *Legislative Studies Quarterly*, *American Politics Research*, Routledge Publishers, *The Journal of Politics*, Congressional Quarterly Press, Longman Publishers, Cambridge University Press, *Law and Society Review*, *American Journal of Political Science*, *Justice System Journal*, *Political Studies Quarterly*, and *PS: Political Science and Politics*.
3. Between August 2006 and August 2007, I served as one of four United States Supreme Court Fellows. I was posted at the U.S. Sentencing Commission where I worked closely with the Office of Research and Data on the design and implementation of the Commission's 2007 study of the effect of minor offenses on the calculation of offenders' criminal history scores.

4. I hold Masters and Ph.D. degrees in political science from the University of Oklahoma's Carl Albert Congressional Research and Studies Center. A copy of my *curriculum vitae* is attached.
5. I have been asked to conduct an analysis of federal capital prosecutions focusing on the dynamics of death sentencing in cases involving white female victims. Specifically, I have been asked to assess whether defendants who are convicted of killing white female victims are sentenced to death at a higher rate than defendants whose victims are not white women.
6. In order to conduct this analysis, I was provided with an Excel spreadsheet containing data maintained by Kevin McNally on behalf of the Federal Death Penalty Resource Counsel Project, concerning the race and gender of victims in 489 federal death penalty prosecutions. I used SPSS to create a database of 483 cases authorized and completed as capital prosecutions by the U.S. Department of Justice between 1989 and April 2016. For purposes of analyzing sentencing dynamics, I excluded from the analysis six cases: one in which the charged offense was treason and there were no identified victims; and five in which there were mass numbers of victims. (These were large-scale terrorist attacks: the Oklahoma City bombing, the September 11 attack, and the bombing of two U.S. embassies in Africa.) These six cases were excluded because where there is either no victim or where there are mass casualties it is not possible to isolate a white female victim effect on sentencing. This is consistent with the way other researchers have addressed this issue. This left 483 authorized capital prosecutions for analysis.

7. I used statistical procedures generally applied in the analysis of quantitative data to assess whether the death penalty was imposed disproportionately on defendants who killed white females as opposed to other types of victims: descriptive statistics provide a "snapshot" of the characteristics of the data; crosstabulations show how two variables interact with one another; and chi-square analysis provides an indicator of whether an observed relationship occurs by chance or because of a systematic interaction between the two variables.
8. My analysis, as reflected in the charts below, demonstrates that defendants who kill white female victims receive the death penalty at a substantially higher rate than defendants whose victims are not white women and that this correlation between white female victims and death sentencing is not the result of chance.
9. The data used in the analysis have the following characteristics:

<u>Condition of Interest</u>	<u>Number of cases</u>
All Authorized Cases	489
Authorized Cases Involving Victim	488 (see paragraph 6, above)
Authorized Cases Excluding Mass Killings	483 (see paragraph 6, above)
Death Penalty Imposed:	73
Death Penalty Not Imposed:	410
White Female Victim (WFV)	90
No WFV	393
Sentencing Trial Completed	220
Sentencing Trial Involving WFV	47
Sentencing Trial, No WFV	173
Death Penalty Imposed, WFV	28
Death Penalty Imposed, No WFV	45

10. The results of the chi-square analysis are as follows. Table 1 summarizes the analysis of death sentences among the set of 483 authorized federal capital cases. As explained in paragraph 6, this includes all but six authorized prosecutions.

Table 1: Relationship between the Presence of a White Female Victim (WFV) and Imposition of a Death Sentence, All Authorized Cases (Excluding Mass Killings) [N=483]

Data Source	Condition (N)	Percent (Formula)
Set of All Cases (N=90) with WFV	Death-Sentenced (28)	31.1% (28 of 90)
	Non-Death Sentenced (62)	68.9% (62 of 90)
Set of All Cases (N=393) with no WFV	Death-Sentenced (45)	11.5% (45 of 393)
	Non-Death-Sentenced (348)	88.5% (348 of 393)
Set of All Cases (N=73) Involving a Death Sentence	Cases with WFV (28)	38.4% (28 of 73)
	Cases with no WFV (45)	61.6% (45 of 73)
Set of All Cases (N=410) Not Involving a Death Sentence	Cases with WFV (65)	15.1% (62 of 410)
	Cases with no WFV (348)	84.9% (348 of 410)

11. Table 1 indicates that defendants in cases involving a white female victim were sentenced to death 31.1 percent of the time (in 28 of 90 cases). Defendants in cases not involving a white female victim were sentenced to death 11.5 percent of the time (in 45 of 393 cases). A defendant charged with killing a white female victim was 2.7 times more likely to be sentenced to death than a defendant charged with killing a victim who was not a white female. These results are statistically significant at the $p < .001$ level, indicating that the probability that this result would occur if there were no relationship between the variables is essentially zero.

12. Table 2 looks at the smaller set of authorized capital cases that proceeded through to a capital sentencing trial. It indicates that among those for whom life or death decisions were made by judges or juries, defendants in cases involving a white female victim received a death sentence 55.3 percent of the time (in 26 of 47 cases). Defendants in cases where there was no white female victim were sentenced to death 25.4 percent of the time (in 44 of 173 cases). A defendant in a federal capital trial thus was more than twice (2.18 times) as likely to be sentenced to death in a case involving a white female victim than a defendant in a case in which there was no white female victim. These results are statistically significant at the $p < .001$ level, indicating that the probability that this result would occur if there were no relationship between the variables is essentially zero.

Table 2: Relationship between the Presence of a White Female Victim (WFV) and Imposition of a Death Sentence, Trial Cases Only (Excluding Mass Killings) [N=220]

Data Source	Condition (N)	Percent (Formula)
Set of All Cases (N=47) with WFV	Death-Sentenced (26)	55.3 % (26 of 47)
	Non-Death Sentenced (21)	44.7 % (21 of 47)
Set of All Cases (N=173) with no WFV	Death-Sentenced (44)	25.4 % (44 of 173)
	Non-Death-Sentenced (129)	74.6 % (129 of 173)
Set of All Cases (N=70) Involving a Death Sentence	Cases with WFV (26)	37.1% (26 of 70)
	Cases with no WFV (44)	62.9% (44 of 70)
Set of All Cases (N=150) Not Involving a Death Sentence	Cases with WFV (21)	14.0 % (21 of 150)
	Cases with no WFV (129)	86.0 % (129 of 150)

13. Based on the bivariate results discussed here, I conclude without hesitation that there is a statistically significant and systematic correlation between the presence of a white female victim and the likelihood of a death sentence in a federal capital case. Defendants who

killed white female victims are overrepresented among federal death sentenced defendants. They represent 18.6 percent of all authorized prosecutions (90 of 483) and 21.4 percent of authorized prosecutions completing a penalty phase trial (47 of 220); however they represent 37.1 percent of death sentences (26 of 70).

14. The analysis reveals a robust correlation between the presence of a white female victim and the imposition of a death sentence. Social scientists consider a result to be robust when changing the assumptions undergirding an analysis would be unlikely to affect its results. The generally accepted standard for statistical significance in political science research is $p < .05$, meaning that the probability that there is no relationship between the variables of interest is less than five percent. In the case of these analyses, the findings are statistically significant at a higher level of $p < .001$, meaning that the likelihood that there is no relationship between the variables of interest is less than one-tenth of one percent, or one in one thousand. Given the robust quality of these findings, it is my opinion to a reasonable degree of scientific certainty that this correlation of more severe sentencing outcomes and white female victims is unlikely to disappear even in the presence of other potentially explanatory variables.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 31st day of May, 2016.



Lauren Cohen Bell

Appendix: Bivariate SPSS Results Used to Generate Tables 1 and 2:

Table 1:

Case Processing Summary						
	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
WhiteFemaleVictim * Death Penalty Imposed	483	100.0%	0	0.0%	483	100.0%

WhiteFemaleVictim * Death Penalty Imposed Crosstabulation					
			Death Penalty Imposed		Total
			No	Yes	
WhiteFemaleVictim	No	Count	348	45	393
		% within Death Penalty Imposed	84.9%	61.6%	81.4%
	Yes	Count	62	28	90
		% within Death Penalty Imposed	16.1%	38.4%	18.6%
Total		Count	410	73	483
		% within Death Penalty Imposed	100.0%	100.0%	100.0%

Chi-Square Tests					
	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	22.084 ^a	1	.000		
Continuity Correction ^b	20.558	1	.000		
Likelihood Ratio	18.961	1	.000		
Fisher's Exact Test				.000	.000
Linear-by-Linear Association	22.018	1	.000		
N of Valid Cases	483				

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 13.60.

b. Computed only for a 2x2 table

Table 2:

Case Processing Summary						
	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
WhiteFemaleVictim * Death Penalty Imposed	220	100.0%	0	0.0%	220	100.0%

WhiteFemaleVictim * Death Penalty Imposed Crosstabulation					
			Death Penalty Imposed		Total
			No	Yes	
WhiteFemaleVictim	No	Count	129	44	173
		% within WhiteFemaleVictim	74.6%	25.4%	100.0%
		% of Total	58.6%	20.0%	78.6%
	Yes	Count	21	26	47
		% within WhiteFemaleVictim	44.7%	55.3%	100.0%
		% of Total	9.5%	11.8%	21.4%
Total	Count	150	70	220	
	% within WhiteFemaleVictim	68.2%	31.8%	100.0%	
	% of Total	68.2%	31.8%	100.0%	

Chi-Square Tests					
	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	15.216 ^a	1	.000		
Continuity Correction ^b	13.870	1	.000		
Likelihood Ratio	14.395	1	.000		
Fisher's Exact Test				.000	.000
Linear-by-Linear Association	15.147	1	.000		
N of Valid Cases	220				

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 14.95.

b. Computed only for a 2x2 table