

# No evidence of death penalty discrimination

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## Elliot Cramer

Chris Fitzsimon writes that, “Race plays a role in determining who receives the death penalty in North Carolina, specifically the race of the victim of a crime.” The claim is that murderers of whites are more likely to get the death penalty than murderers of blacks. What he neglects to state is that 94 percent of the murderers of blacks are blacks themselves, while 72 percent of the murderers of whites are white. As the News and Observer has editorialized, this supposed discrimination could be remedied by sentencing more blacks to death. Few supporters or opponents of the death penalty would advocate that.

The study Fitzsimon cites has not been published nor peer reviewed. In fact, it is simply dreadful. Under state law, juries must balance 11 possible aggravating circumstances, such as kidnapping and robbery, against mitigating circumstances, such as age and prior criminal history. The authors consider only two of the 11 statutory aggravating circumstances and do not consider mitigating circumstances at all. They equate murder in the course of a carjacking with a rape-murder-kidnapping. The authors do not claim that black murderers are more likely to get the death penalty than white murderers once aggravating circumstances are taken into account. Murderers of whites (mostly white) are more likely to get the death penalty because they are likely to have more aggravating circumstances and fewer mitigating circumstances.

Fitzsimon states that, “The findings also reinforce the conclusions of a similar study released nine years ago ... [that] was widely reported at the time and fiercely attacked by cranks and death penalty supporters.” I am the most prominent critic of that study and I am neither a “crank” nor a “death penalty supporter.” Unlike the authors of these two studies, I am a scientist and statistician and have been studying statistical issues of the death penalty for 20 years.

On April 19, 2001, the *News and Observer* reported that Chris Fitzsimon, then executive director of the Commonsense Foundation, which sponsored the study, “twice invited critics of the study to examine the data.” To this day, he and the authors have refused to make the data public and the report has never been published, despite submissions to a number of scientific journals. What do they have to hide?

There is no valid evidence that “race plays a role in who receives the death penalty” and not even opponents of the death penalty claim that blacks are more likely to get the death penalty than whites when aggravating circumstances are taken into account.

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