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Conviction Odds in Chicago Homicide Cases: Does Race/Ethnicity Matter?

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This study investigates disparity as it exists in the conviction of Latino, African American, and White offenders in Chicago homicide cases. The study participants were adults who had been identified by the Chicago Police Department as suspects in homicide incidents for the years 1990 through 1995. Information about the offender, victim, homicide incident, and adjudication of the homicide case in court was collected from police and court records. Logistic regression modeling was used to determine the odds of conviction for Latino, African American, and White homicide offenders at the adjudication decision point of criminal case processing. Results indicated that in Chicago homicide cases, when deciding guilt or no guilt for Class M Felony murder, neither race nor ethnicity mattered; what did matter the most was the offender–victim relationship, the number of charges filed against the offender, and the mode of conviction. This study continues the important tradition in racial and ethnic disparity studies of measuring the effect of offender–victim dyads on case outcomes. It builds on prior research in 2 ways: (a) by measuring the impact of the offender–victim dyad’s race and ethnicity on conviction odds and (b) by expanding the scope of case-processing research through examining decision making at the pre-sentence adjudication stage, a point researchers have heretofore rarely examined.

KEY TERMS Racial-ethnic disparity, conviction odds, extra-legal factors, homicide, prosecutorial discretion

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There is substantial empirical evidence that victim and offender race has both main and interaction effects on case-processing outcomes (Baldus, Woodworth, & Pulaski, 1990; Black, 1976; Chiricos & Crawford, 1995; McDonald & Carlson, 1993; Quinney, 1970; Spohn, 2000; Steffensmeier & Demuth, 2001; Zatz, 1987). Baldus, Woodworth, and Pulaski (1983, 1990) realized, in their study on racial discrimination in death penalty sentencing, the importance of analyzing race effects of the victim and offender on case outcomes. They discovered that in cases with White victims and African American defendants, the race of the defendant was especially influential on outcome decisions in homicide cases and that punishment decisions were harsher in these cases. Conversely, they found that cases with African American or non-White victims and White offenders received outcomes that were relatively lenient.

Another factor that has an impact on case outcomes, in addition to offender–victim race, is offender–victim ethnicity (see Demuth & Steffensmeier, 2004; Holmes & Daundistel, 1984; LaFree, 1985; Lee, Martinez, & Rodriguez, 2000; Petersilis, 1983; Steffensmeier & Demuth, 2000, 2001; Welch, Spohn, & Gruhl, 1985; Zatz, 1985). Some scholars have shown that to properly identify Black–White differences in case-processing outcomes it is necessary that ethnic groups be separated from racial groups and be included as a comparison group in analyses of case outcomes. For example, Demuth and Steffensmeier (2004) showed that when Latinos were compared with Whites and Blacks, the outcomes were not the same as when their numbers were included as part of these groups. They discovered that when Latino participants were combined with Whites into one large White race group, which is often the case when one is working with race and ethnicity data, the differences in outcomes between Blacks and Whites were cancelled out or reversed.

Contemporary research has shown that case-processing outcomes for Latinos have a different pattern than those for African Americans or Whites. Outcomes for Latinos vary based on contextual factors such as their geographic location or the type of offense with which they are charged (Martinez, 2003; Nielsen, Lee, & Martinez, 2005). Researchers have discovered nuances inherent in studying ethnic and immigrant groups that pose a different set of problems than when one is studying racial groups in the United States. For example, populations of racial groups are widespread across the United States and are more easily aggregated for national-level or multi-city investigations. Populations of immigrant and ethnic groups, however, are often limited to certain regions of the country, and their experiences with the criminal justice system vary from one location to the next. Martinez (2003), in an early study of Mexican crime rates (see Taylor, 1931, p. 235), found that “patterns of criminal involvement varied considerably across cities” (p. 28). Immigrant experiences, which in large part represent the Latino experience, “are heavily shaped by local conditions ... these circumstances influence
criminal involvement to a larger degree than the cultural traditions of the groups themselves" (Martinez, 2003, p. 28). These findings support the need to include ethnicity in contemporary investigations of criminal justice system disparity; however, studies examining racial and ethnic differences in case outcomes continue to be rare (Hawkins, 1994; Martinez, 2002, 2003).

In response to the need for a greater understanding of the effect ethnicity has on outcomes in the criminal justice system, the present study features ethnicity as a factor in understanding disparity in conviction odds. And in order to preserve the influence that local conditions have on ethnic and immigrant groups’ experiences with the criminal justice system (important elements that might be lost if the data are aggregated from multiple locations), participants in this study were drawn from a single city, Chicago, Illinois, which has a sizeable population of Latino homicide offenders.

In addition to needing to add ethnicity as a factor in disparity studies, researchers must investigate case outcomes at multiple stages of processing (Albonetti, 1990; Crutchfield, Bridges, & Pitchford, 1994; Miethe & Moore, 1986; Wooldredge & Thistlethwaite, 2004; Zatz, 1985). The majority of studies that examine the impact of race and ethnicity on criminal justice decision making and case-processing outcomes focus on the sentencing decision point (Albonetti, 1997; Baldus et al., 1990; Blumstein, Cohen, Martin, & Tonry, 1983; Chiricos & Crawford, 1995; Crawford, Chiricos, & Kleck, 1998; Garfinkel, 1949; Hagan & Bumiller, 1983; Johnson, 2003; Kleck, 1985; Pierce & Radelet, 2002; Spohn & Holleran, 2000; Steffensmeier & Demuth, 2000; Steffensmeier, Ulmer, & Kramer, 1998). Studies such as these investigate case outcomes with offenders who have been convicted. This leaves out offenders who have been arrested and prosecuted but not convicted, thereby excluding from analysis the impact of race and ethnicity and other factors that may or may not be present before sentencing. By selecting offenders who were charged and prosecuted for homicide, this investigation of conviction odds sheds light on empirical examinations of criminal case processing, as the analysis was conducted at a decision point that has not been thoroughly examined: the conviction and adjudication stage.

The need to analyze racial and ethnic disparity in case processing at multiple stages in the criminal justice system is supported by Crutchfield et al. (1994) and others. Crutchfield et al. advocated for investigations at multiple decision points and across multiple jurisdictions to clarify some of the mixed and contradictory findings found in the case-processing research. The focus of the present study is on outcomes at the conviction stage of case processing. Relatively few studies concerning the case outcome of racial and ethnic groups in the criminal justice system concentrate on outcomes at this stage, despite repeated calls to investigate racial and ethnic disparity at decision points prior to sentencing (Albonetti, 1990; Spohn, Gruhl, & Welch, 1987; Zatz, 1985).
Not only is there a shortage of research focusing on decision making at the conviction stage of case processing, but the findings from research that does exist are inconsistent. For example, Petersilia (1985) found that all offenders regardless of race had the same chance of being convicted of a felony, with White defendants being more likely to be convicted by plea bargain. Spohn (2000) found that Blacks were more likely to be convicted of felonies than misdemeanors but were no more or less likely than Whites to be convicted on any specific charge. Eisenstein and Jacob (1977) reported that in Chicago, it was the nature of the charges filed, not the defendant’s race, that affected whether defendants were convicted.

The current study contributes to the research on racial and ethnic disparity by including ethnicity as a factor in investigating disparity in conviction odds; by addressing an underinvestigated stage of case processing, the conviction stage; and by analyzing the impact of not only offender–victim race dyads but also offender–victim racial and ethnic dyads on conviction odds. The influence of offender and victim characteristics, homicide characteristics, and case-processing characteristics on conviction odds in Chicago homicide cases were analyzed in this study. Most case-processing studies focus on general felony court samples and their sentencing outcomes (Auerhahn, 2007), and therefore little is known about specific patterns of case-processing outcomes among defendants accused of and convicted of homicide. The present study provides a rare look at the criminal case processing of homicide offenders.

THEORETICAL FRAMEWORK

The focal concerns theory of judicial decision making in sentencing outcomes, introduced by Steffensmeier (1980) and later expanded by others (Spohn & Holleran, 2000; Steffensmeier & Demuth, 2001; Steffensmeier et al., 1998; Ulmer, 1997; Ulmer & Johnson, 2004), provides a useful framework for hypothesizing and predicting the results of the current study. Focal concerns theory explains the state of affairs in the courtroom that has a bearing on case-processing outcomes. It places attention on court workers’ decision making during case processing. Court workers base decisions on the blameworthiness of the offender, the protection of the community, and practical constraints and consequences (Demuth & Steffensmeier, 2004). In addition, courtroom working conditions such as time constraints, workload and resource issues, and an overload of pre-sentence information with sparse definitive data on defendant background and character all work together to generate ambiguity and uncertainty for making satisfactory decisions (Albonetti, 1991; Steffensmeier & Demuth, 2006).

These constraints and uncertainties result in the adoption of a perceptual shorthand for deciding who is dangerous and who influences decision making. This shorthand makes the most of attributes about the case and
the defendant’s characteristics, such as race and ethnicity, and results in disparate outcomes for some racial and ethnic groups. When one applies focal concerns theory to decision making at the conviction decision point, it is expected that the odds of conviction will be greater for African Americans and Latinos than for White defendants.

Hawkins (1981) introduced an idea that is central to the focal concerns perspective. Hawkins suggested that perceptions among decision makers concerning criminal behavior and punishment have a significant influence on offender outcomes. He proposed that these perceptual differences could lead to conclusions about the offender’s rehabilitation potential, his or her threat to society, and the types of criminal sanctions that should be imposed.

Hawkins (1987) further theorized that decisions made in criminal cases are also associated with the types of crimes committed and that the influence of the courtroom workgroups’ perceptions of offenders becomes less salient when the crimes committed are more severe. Hawkins introduced the idea that there are “racial status-related notions of propriety and impropriety (p. 728)” associated with crime types. For example, white-collar crime is seen by decision makers as crime committed by Whites, whereas street crime is perceived as crime committed by non-Whites. Offenders who commit crimes outside of their crime type are punished more harshly, which results in racial disparity in criminal outcomes.

What is particularly relevant to this research, however, is Hawkins’s exception to this crime-typing theory: The more serious the crime, the less stringent the crime typing. Hawkins (1987) predicted that “after controlling for relevant legal variables and race of victim, smaller Black–White differentials will be observed for homicide than for any other type of crime” (p. 730). In support of Hawkins’s theory, Spohn and Cederblom (1991) discovered that judges relied on explicit legal relevance when making decisions about sentencing, and like others who conduct research on disparity in criminal justice outcomes (Blumstein et al., 1983; Crawford et al., 1998; Hawkins, 1986; Spohn, 2000; Wooldredge, 1998), they discovered that non-Whites were sentenced more harshly than Whites when they were convicted of less serious crimes.

**HYPOTHESES AND METHODS**

Focal concerns theory and Hawkins’s theory concerning crime typing are both plausible frameworks for formulating a hypothesis for the current study and for predicting the results. When both theories are taken into account, there should be a race and ethnicity effect on the odds of conviction; however, because offenders in this study were accused of homicide (a severe crime), Hawkins would predict that there will be more equity in how offenders are treated, once the victim’s race and ethnicity are controlled. Based on Hawkins’s theory, race and ethnicity effects on conviction odds are expected
to be small or not significant. Therefore, the hypothesis for this study is that there is no race and ethnicity effect of offender–victim dyads on conviction odds in Chicago homicide cases.

Methods

A stratified random sample of homicide suspects was selected from police arrest records. Individuals suspected or arrested by the Chicago Police Department in connection with homicides that occurred between 1994 and 1995 were compiled and stratified by their race and ethnicity and the race and ethnicity of their victims. Nine offender–victim racial and ethnic population strata were developed. All but two of the nine population strata were 100% samples. In other words, the entire population of victims and offenders who met those specific racial and ethnic pairings was chosen for the study with the exception of two pairings. Two populations of racial/ethnic pairings (Latino offenders/Latino victims and Black offenders/Black victims) were too large to choose the entire population. A sampling formula was used to select a representative sample from each of these populations.

For one of the population strata (White offenders/Black victims), there were only 11 cases recorded in 1994 and 1995. To increase the numbers in that specific offender/victim pairing, additional offenders were selected from earlier years and included in the study. White defendants with Black victims were selected from among homicides that occurred in 1990 through 1995. The criteria for inclusion in the study were that each offender be fully prosecuted with an adjudication of guilty or not guilty of Class M Felony murder. A resulting total sample of 703 fully prosecuted offenders was selected and included in the study.

Data and Measures

The data for this study were collected from two sources: Chicago Police Department arrest records and court case records from the Cook County Circuit Court Clerk’s Office. A number unique to each defendant, assigned at arrest to the defendant’s fingerprints, was recorded in both the arrest and corresponding court case records. This unique identifier was used to locate defendant records across agencies and to merge all information pertaining to the defendant, victim, homicide incident, and case-processing decisions together into a single database. Records from the sampled suspects’ police arrests were matched with the suspects’ court records in the clerk’s database. Demographic information about each sampled offender and victim and information about the homicide incident were recorded in police records and merged with information about the corresponding homicide case, which was recorded in court records.
Dependent Variable

The dependent variable in this investigation was dichotomous and measured whether the offender was guilty or not of Class M Felony murder. Class M Felony murder is the most serious offense in the Illinois statutes and is punished the most severely.

Class M Felony Murder and the Illinois Felony Classification System

Several offenses in the Illinois statutes are considered severe and are punished according to their severity. Offenders involved in homicide incidents are typically charged with more than one type of offense. In Illinois, punishment for felony crimes is based on an offense classification system that groups offenses into nine categories or classes that are punishable with varying degrees of severity from life in prison with no possibility of parole to probation. Since the time of data collection, the death penalty has been abolished in Illinois; thus, the most severe punishment at present in this state is life in prison with no possibility of parole. This classification system includes first-degree murder, which is Class M, and five additional felony classes that range in seriousness from X to 1, through 4. This system also includes three misdemeanor classes that range in seriousness from A to C. First-degree murder is at the top of the classification system and is the most severely punished. The punishment for Class M Felony murder at the time of data collection included death, life with no parole, or between 20 and 60 years in prison. Each of the 703 sampled participants in the study was charged with at least one count of Class M Felony murder; 73% \( (n = 513) \) were convicted of Class M Felony murder and 27% \( (n = 190) \) were not. Because the dependent variable (guilty or not of Class M Felony murder) was dichotomous, logistic regression was the technique most appropriate for analysis.

Additional Relevant Variables

Additional variables used in this study are displayed in Table 1, which shows the descriptive statistics for each variable by the percentage guilty of Class M Felony murder. The independent variable (offender–victim racial-ethnic dyad) was coded as nine dummy variables for analysis.

Variables that measure offender/victim characteristics are recognized by many scholars as extralegal factors. Hagan (1974) defined extralegal factors as perceived characteristics of the offender that are legally irrelevant to the imposition of sentence, or in this case conviction. In the current study, variables that fit that description included the following: offender–victim race and ethnicity dyad, offender gender, offender age, victim gender, and victim age. The relationship between the victim and offender (stranger or not) was an additional measure of victim and offender characteristics. Based on Hawkins’s crime-typing theory, neither race nor will ethnicity have an
impact on conviction odds because of the serious nature of the offender's crime. However, even though a relationship between the offender and victim can be operationalized as an extralegal factor there is evidence that it does have an impact on case outcome even when offenders are charged with the most serious offenses.

Black (1989) reported that in the area of death penalty cases, the degree of intimacy between the offender and victim influences the outcome of the
offender’s case. Specifically, offenders who know their victims (particularly when they are family members) will receive a more lenient outcome than those who are strangers to their victims. Therefore, even though Hawkins’s crime-typing theory suggests that the independent variable (offender–victim race and ethnicity dyad) should have no impact on conviction odds, Black’s theory suggests that the offender–victim relationship will matter and that offenders who are strangers to their victims should have an increased odds of conviction.

In addition to extralegal factors, data were also collected that measured characteristics of the homicide case as factors that may have influenced conviction odds. The weapon used in the murder (gun or not) was included, as was the number of Class M Felony murder charges filed against the offender. The dependent variable in this study measured whether the offender was adjudicated guilty or not of Class M Felony murder. The distinction between the dependent measure (adjudicated of Class M Felony murder) and the independent measure (charged with Class M Felony murder) is that the dependent variable was a measure of conviction, whereas the independent variable was a measure of charge severity.

Sorensen and Wallace (1999) suggested that prosecutors are “unhampered” in their discretion during the initial charging of offenders, which includes the decision to charge an offender with first-degree murder versus a lesser murder charge or to file aggravating factors, indicating that a case is eligible for the death penalty. Prosecutors have complete discretion to charge offenders in court cases. There seems to be no limitation on the number of counts or charges a prosecutor can charge a defendant with in a single homicide. The Illinois Code of Criminal Procedures (725 ILCS 5/3–4) states that two or more offenses can be charged in the same incident in a separate count for each offense if the offenses are based on the same act or on two or more acts that are part of the same incident (West’s Illinois Criminal Law and Procedure, 2002).

Gilbert (2001) recognized the practice by prosecutors of overcharging. She commented that,

> the discretion exercised by prosecutors is, by and large, unchecked in determining charges . . . In overcharging . . . prosecutors build in leverage to coax defendants to plead guilty. Overcharging is usually in the form of multiple charges. The carrot held out by the prosecutor is reduced charges or a favorable sentencing recommendation to the court our both. (p. 225)

The number of Class M Felony murder charges was a characteristic of the homicide incident and measured charge severity. The mode of conviction was an additional variable collected in this study that measured decision making during case processing. It indicated whether the offender’s adjudication was processed by a jury trial, plea bargain, or a bench trial.
THE PLEA BARGAIN AS A MEASURE OF CASE PROCESSING

The use of plea bargaining as a predictor of conviction odds can be redundant with the outcome (guilty or not of Class M Felony murder) and can cause model misspecification because, by definition, anyone who plea bargains is convicted guilty. Although everyone in the study who chose the option to plea bargain their case was adjudicated guilty, not all of them were adjudicated guilty of Class M Felony murder. The dependent variable did not just measure whether the offenders were guilty, it measured whether they were guilty of the most serious offense: Class M Felony murder. As Table 1 illustrates, 31% (n = 218) of the 703 offenders in the study chose to plea bargain their cases. Of those who plea bargained their cases, 87% were convicted of Class M Felony murder and 13% were not. This can be compared with the other modes of conviction. For example, nearly as many (86%) of the offenders who chose jury trials were convicted of Class M Felony murder, compared with much fewer (55%) who chose bench trials.

Analysis

A logistic regression model was developed for the dichotomous outcome variable guilty or not guilty of Class M Felony murder. A stratified random sampling technique was used to select the sample for this study. Two of the samples were a proportion of their populations, whereas the remaining were 100% of their populations. Because participants had an unequal probability of being selected (they were sampled disproportionately), and because these subsamples were combined for analysis, the overall combined sample was no longer random. That is, participants within some strata had a higher probability of selection than those within other strata (see Bailey, 1982, p. 105). To solve this problem, it was necessary to assign weights to each sample stratum or subsample so that participants were proportionately represented during analysis. The weighted data were used in the regression model because the subsamples were combined for analysis. All but one of the variables in the regression model was dichotomous. The number of Class M Felony murder charges was a continuous variable.

RESULTS

Table 2 presents the results of the logistic regression analysis of race and ethnicity and conviction odds. The final column is especially useful because it lists the odds ratio, representing the ratio of the probability that guilt will occur to the probability that it will not. For example, in Table 2, the odds ratio of 2.403 for offender/victim relationship indicates that offenders that
were strangers to their victims were twice as likely to be found guilty as those who were not strangers to their victims. This interpretation relies on the odds ratio of 2.403 and the log odds coefficient, which was significant and positive.

The hypothesis for this study, framed by Hawkins’s crime-typing theory, predicted that there would be no race and ethnicity effect on conviction odds in Chicago homicide cases because of the severity of the offense, which lessens crime-typing stereotypes used by decision makers. The findings from
the results of the regression analysis supported this hypothesis. The race and ethnicity of victims and offenders had no statistically significant impact on conviction odds.

The only extralegal factors that had an impact on conviction odds were those associated with the victim. Research has shown that the race of the victim conditions the effect of the race of the defendant on case outcomes (Baldus et al., 1990; Spohn & Spears, 1996; Walsh, 1987). In the current study, however, it was the victim’s gender, age, and relationship to the offender that swayed the odds of conviction. The odds of conviction were decreased for offenders with male victims (vs. female victims) and with young adult victims (vs. victims 65 and older). The offender–victim relationship had a strong influence on conviction odds. The odds of conviction were increased for offenders who were strangers to their victims: Those who were strangers were twice as likely to be convicted as those who knew their victims (odds ratio = 2.403, \( p < .001 \)).

Two additional factors associated with the homicide incident had an impact on conviction odds: The weapon used to kill and the number of Class M Felony murder charges filed both decreased the odds of conviction. For offenders who did not use a gun to kill their victims, the odds of conviction decreased; conviction odds also decreased as the number of Class M Felony murder charges increased. The latter result was surprising and even counterintuitive. This relationship was significant and strong (\( p < .001 \)). Logically one would assume that more murder charges would increase the odds of conviction, and some researchers have already identified the strategy among prosecutors to overcharge offenders at the beginning of their case with hopes to increase the chances for a conviction (Gilbert, 2001; Spohn, 2000). However, in this study more murder charges resulted in a decrease in conviction odds.

In addition to strong significant relationships between conviction odds, the offender–victim relationship, and the number of Class M Felony murder charges, the mode of conviction was also important. The odds of conviction were decreased for offenders whose cases were processed by bench trials compared with jury trials, and this relationship was strong and statistically significant (\( p < .001 \)).

In sum, the following six factors influenced the odds of conviction: the victim’s gender, the victim’s age, the relationship between the offender and victim, the weapon used in the homicide, the number of Class M Felony murder charges filed against the defendant, and the mode of conviction. The race and ethnicity of the offender–victim dyad had no impact on conviction odds. Of the six factors that mattered, three were especially important as predictors of conviction odds: the offender–victim relationship, the number of Class M Felony murder charges, and the mode of conviction (all significant at the .001 level).
Discussion

This study has investigated whether race and ethnicity are associated with conviction outcomes for offenders prosecuted in Chicago homicide cases. The findings from this study are consistent with Hawkins’s ideas concerning the seriousness of the offense and corresponding lack of racial discrimination in outcomes. Race and ethnicity do not sway conviction odds in Chicago homicide cases, but victim, homicide incident, and case-processing characteristics do make a difference. Hawkins and others discovered that the severity of the offense results in less discretion being given to courtroom workers, which equates to racial bias being held in check. This finding contradicts results from research conducted by Baldus et al. (1990) and others.

Baldus et al. (1990), in their review of research that examined racial bias in capital sentencing, discovered that racial inequality did exist in the punishment of homicide and that this discrimination was highly influenced by the race of the victim. The contradiction in the findings from the current study may be due to the decision point in case processing that is under investigation. In the current study, racial bias was investigated at the adjudication (conviction) phase of case processing, whereas Baldus et al. (1990) focused their examination on decisions made at the sentencing decision point. The current findings may indicate that bias in outcomes is not the same at every decision point in case processing, thus supporting the continued need to research disparity and discrimination at multiple stages in the criminal justice system. Sorensen and Wallace (1995) found that capital punishment cases involving White victims were more likely to result in capital murder convictions based on studies that examined the determination of guilt by jurors (Bowers, 1983; Foley, 1987; Nakell & Hardy, 1987). This finding also contradicts the results of the current study concerning race and ethnicity and conviction odds. One explanation for this contradiction is that the previous research focused on a single mode of conviction (jury convictions), whereas the current study focused on three modes of conviction (jury trial, bench trial, and plea bargaining).

The factors that were most significant in influencing conviction odds, those that were significant at the .001 level, included the relationship between the offender and victim, the number of Class M Felony murder charges filed against the offender, and the mode of conviction. The finding concerning the relationship between the offender and victim is not surprising, given that the odds of conviction increase when the victim is a stranger and that this fact is supported by research (Black, 1989; Simon, 1996). According to Black (1989), the degree of intimacy between the offender and victim will influence the outcome. Offenders who know their victims (particularly when they are family members) will receive a more lenient outcome than those who are strangers to their victims. Results from research conducted by Simon (1996)
confirm that a bias exists in favor of treating non-stranger offenders more leniently while treating stranger offenders more harshly.

Findings concerning the impact of charge severity on conviction, measured by the number of Class M Felony murder charges filed against the offender, indicate a strong yet counterintuitive relationship in that conviction odds decreased as the number of Class M Felony charges increased. This relationship was strongly significant at the .001 level. This finding may be an indication that prosecutors in their discretion in the early stages of case processing are overcharging offenders, which is then moderated later in court as the judge’s discretion comes more into play. This scenario relates to how the Chicago courtroom workgroup may operate. Sorensen and Wallace (1999) suggested that prosecutors are “unhampered” in their discretion during the initial charging of offenders, and Gilbert (2001) recognized the practice by prosecutors of overcharging, suggesting that “the discretion exercised by prosecutors is, by and large, unchecked in determining charges . . . In overcharging . . . prosecutors build in leverage to coax defendants to plead guilty. Overcharging is usually in the form of multiple charges” (p. 225).

Based on previous research and the results from the current study it can be argued that prosecuting attorneys use overcharging strategies that rely on the quantity of charges to increase the seriousness of cases filed against offenders in Chicago homicide cases. All of the offenders in this study were charged with first-degree murder (Class M Felony murder), and because of the narrow range in punishment for this offense, prosecutors perhaps maximized the number of charges filed against them in a single case. By charging several counts of the same offense, prosecutors increased the severity of the case, which, according to Spohn (2000), increased the severity of the sentence handed down at the end of the case and the chances that the offender would receive a guilty verdict or finding.

What is interesting about the findings from the current study, however, is that conviction odds did not increase as the number of Class M Felony charges increased. Quite the opposite happened: As the number of murder charges increased, the odds of conviction decreased. This finding supports notions of courtroom culture in Chicago presented by Eisenstein and Jacob (1977) that an interdependence of courtroom workers serves to temper bias and unfairness during decision making and case processing at the conviction stage. Based on findings from the current study, it is reasonable to speculate that prosecutors use their discretion to overcharge as a strategy to win cases at the beginning of case processing. This strategy is offset in the final outcome, however, because of judicial discretion, which allows judges to decide whether the prosecutor’s case holds up in court.

Discretion in the courtroom may be a common thread that ties together the results found concerning charge severity and the mode of conviction on conviction odds. As with initial charging, offenders who opted to plea
bargain their cases continued to be at the mercy of the prosecutor. Their
decision to plea bargain rather than choose a jury trial had no significant
impact on their conviction odds for Class M Felony murder. In other words,
for offenders who plea bargained their case, conviction odds for Class M
Felony murder did not decrease, as might be expected, but neither did their
conviction odds increase. Offenders who chose bench trials, in contrast,
which are under the exclusive authority of the judge, compared with jury
trials did have a significant decrease in conviction odds. These findings
indicate that taking the prosecutor’s offer to plea bargain did not influence
conviction odds for the most serious offense (Class M Felony murder) any
more than if the offender had taken his chances with a jury. In other words,
offenders who plea bargain their cases are not better or worse off than those
who take their chances with a jury.

What is most interesting about these findings concerning mode of con-
viction is the shift that occurs among the courtroom players in who has the
most discretion in decision making and how this discretion is demonstrated
by the mode of conviction that is used to process the offender’s case. For
example, prosecutors have the most discretion in decision making for cases
that are plea bargained, whereas judges have the most discretion in cases
that are tried by the bench. The findings indicate that offenders fare better
at adjudication with judges than they do with prosecutors. This implies that
in Chicago homicide cases, judges have a different opinion of offender guilt
than prosecutors and the jury—namely, that offenders are not as culpable as
their charges suggest. Assuming that judges are not faulty in their decision
making, and based on the results that indicate that when a judge processes
the case the offender’s odds of conviction decrease, it is reasonable to spec-
ulate that the judge is using his or her discretion to offset decisions made
at the prosecutor’s discretion early in the case, decisions made prior to the
offender being brought before the judge that might have been erroneous or
presented with sparse evidence of guilt.

Results from the current study indicate that neither racial nor ethnic
effects are found in Chicago capital cases at the conviction stage. What
does have an impact on conviction odds are victim characteristics, including
gender, age, and relationship to the offender; characteristics of the homicide
incident, including the weapon used and the severity of the original
offense charged; as well as case-processing characteristics, specifically the
mode of conviction. This study confirms findings by Radelet (1981) and oth-
ers (Radelet & Pierce, 1985; Spohn, 2000) who have pointed to prosecutorial
decision making in charging as the location for racial discrimination in homi-
cide cases. This study also finds that those who plea bargain in homicide
cases fare no better or worse than those defendants who ask for a jury trial.
Finally, despite the study’s contribution to the research on racial and eth-
nic disparity by including ethnicity as a factor in investigating disparity in
conviction odds, the study found that the odds of conviction were not affected by ethnicity. As with African American and White offenders, there was no statistically significant increase in the odds of conviction for Latino offenders regardless of the race/ethnicity of their victims.

The findings from this study make a compelling argument for future empirical investigations to be directed toward earlier stages of case processing, namely the charging stage, when prosecutors have the most discretion in how a case gets processed. Future research needs to focus on prosecutor discretion and whether this discretion is influenced by race or ethnicity. This direction in research toward the charging phase of case processing is especially salient because of the increased discretion that has been afforded to prosecutors (and the corresponding decrease in judicial discretion) as a result of sentencing policy reforms implemented in the 1980s and 1990s (Martin, 2011). Research that investigates the effect of race and ethnicity on charge severity has important policy implications, particularly in light of the very recent trend in sentencing policy to shift discretion back into the hands of judges. This recent shift in discretion has occurred through U.S. Supreme Court rulings that have given judges greater leeway in setting prison time, which loosens the restrictions placed on their discretion by the sentencing guidelines established in the 1980s.

Study Limitations

Welch et al. (1985) made the case that after decades of studying racial and ethnic differentials in criminal case outcomes, there is some consensus that race and ethnicity do not impact decisions made at the sentencing and conviction stages of decision making as much as would be expected based on the amount of discrimination experienced in U.S. society. Despite this consensus she acknowledged the considerable disagreement in findings concerning racial and ethnic differentials in convicting and sentencing due to the diverse compilation of methods and techniques used to research this topic. Therein lies the limitation of this body of research and of the current study, namely the inability to compare and generalize in a way that can determine the overall nature and extent of differences in the convicting and sentencing of Blacks, Latinos, and Whites in the United States.

What Spohn (1985) suggested as a solution to this problem is to conduct studies in different places at the same time with the same methodology in order to compare jurisdictions and be better able to generalize findings. Although the current study examined participants from a single jurisdiction, the contributions of this study to research on racial and ethnic disparity, as outlined previously, are unique and relevant.

The data used in this study came from participants whose homicide cases were processed in the 1990s, specifically 1994 and 1995, instead of from more current cases processed since 2000. These data represent the
most current data that have been collected from the Chicago Police Department and merged with corresponding data from the court system. Decision making that occurred during the time period of this study represents the peak of sentencing reform, when judges’ discretion was curtailed through mandatory minimums and determinate sentencing. Sentencing policy is currently undergoing a transition as policymakers begin to slowly and quietly dismantle sentencing practices of the past. Although the current study used data collected in 1994 and 1995 to answer the question of what impacts conviction odds, it is still a very robust and unique data set with information that facilitates an important investigation into criminal justice system decision making during a period of stability in sentencing policy. Plans are under way to update the data so that a future investigation can be made of conviction odds in Chicago homicide cases.

CONCLUSIONS

The findings from this study show no relationship between race and ethnicity and conviction odds. What does have an impact on the odds of conviction are victim characteristics (gender, age, and relationship to offender); characteristics of the homicide incident (weapon used and severity of the original offense charged); as well as case-processing characteristics, specifically the mode of conviction. The most important factors in determining the odds of conviction in Chicago homicide cases were whether the offender was a stranger to the victim (which increased the odds of conviction), the severity of the charges filed against the offender (as measured in the number of Class M Felony murder charges, which surprisingly decreased the odds of conviction), and the mode of conviction (which indicated whether the case was decided by a judge and showed that bench trials significantly decreased the odds of conviction compared with jury trials).

The study’s hypothesis was framed by Hawkins’s crime-typing theory of criminal punishment, in which he predicts that the seriousness of the offense, especially for homicide, should decrease crime typing, resulting in less or no race/ethnicity effects on outcomes. The findings of this study support this theory. The turnover in discretion from prosecutor in the early stages of case processing to judge in later stages as the case progresses through court provides a possible explanation for the inverse charge severity effect on conviction odds. As the number of Class M Felony murder charges increases, the odds of conviction for the identical class of murder decreases. It is well documented that prosecuting attorneys have wide discretion in their decisions to charge; however, findings from this study indicate that increased charging does not result in an increased odds of conviction. On the contrary, the findings from this study indicate that decision making that falls under the purview of the judge as the case is processed in court and adjudicated
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appears to offset possible overcharging that might have occurred earlier in the process by prosecutors. Further support for the theory that judges are using their authority to offset the strategies of prosecutors is found in the results concerning the mode of conviction. Bench trials, which represent decision making that is solely under the discretion of judges, also result in decreased odds of conviction. The findings from this study illustrate the need to continue to investigate the relationship between race and ethnicity on criminal outcomes, to more deeply probe the ramifications of decision makers’ discretion on criminal outcomes, and to investigate criminal outcomes at multiple stages of case processing.

NOTES

1. The court information from homicide cases for the study participants was stored on hard-copy paper documents. The process of locating the court cases of homicide offenders, printing hard copies of these records, and then automating the information from the hard copies for analysis proved to be expensive and cumbersome. To expedite the data collection process and facilitate a cost-effective research project, samples were selected of homicide offenders from the two largest racial/ethnic populations (Latino offenders/Latino victims and Black offenders/Black victims).

2. The calculation for the Black-on-Black sample was \( n = \frac{.50(1−.50)}{(.05÷1.96)^2 + .50(1−.50)÷1,131} \). The calculation for the Latino-on-Latino sample was \( n = \frac{.50(1−.50)}{(.05÷1.96)^2 + .50(1−.50)÷234} \).

3. For this study, a technique of weighting referred to as “grossing-up weights” was used. Weights or a number were assigned to members in each subsample that replicated the numbers in that sample to their numbers in their population so that the sample accounted for the total population. See Babbie (1995, p. 221) for an example of this type of weighting.

REFERENCES


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Christine Martin has a PhD in Sociology and is an Assistant Professor in the Department of Criminology, Law, and Justice at the University of Illinois at Chicago. Her areas of research include the effects of race/ethnicity on criminal justice system decision making, racial disparity in court outcomes, disproportionate minority contact with the juvenile justice system, and homicide studies.