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RARE & INCONSISTENT: THE DEATH PENALTY FOR WOMEN

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Victor L. Streib

Abstract

Previous studies of the national landscape around the death penalty for women have identified and analyzed past themes and issues.22 This Article brings the analysis current through 2005, beginning with a reprise of the conversations about gender bias and disparity in the death penalty system. It appears that female offenders have always been treated differently from male offenders in the death penalty system, sometimes for reasons that are easily justifiable but too often simply because of sex bias. The next section of this Article explores the current death penalty era, identifying those women who have been sentenced to death, those whose death sentences were reversed, those who were actually executed, and those still remaining on death row. National data reveal trends and patterns, as well as the death penalty states leading in this practice and the death penalty states that have never executed a woman. Finally, this Article explores the conclusions suggested by these data. In closing, specific means are identified by which death penalty jurisdictions can reconsider policies that result in sex-based disparities and can reduce those instances of sex bias in their death penalty systems.

KEYWORDS: death row, sex, sex bias, death penalty, women, female offenders, penal system, gender bias, disparity

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> There is also overwhelming evidence that the death penalty is employed against men and not women . . .
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> It is difficult to understand why women have received such favored treatment since the purposes allegedly served by capital punishment seemingly are equally applicable to both sexes.[1]

INTRODUCTION

Picture in your mind a condemned murderer being sentenced to death, eating a last meal, or trudging ever-so-reluctantly into the execution chamber. In your mind's eye, do you see this wretched creature as a woman? Most of us do not, given that over ninety-nine percent of the people executed in the United States are men.[2] Female offenders, both girls and women,[3] are so seldom found on our death rows that, once

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[1] Furman v. Georgia, 408 U.S. 238, 365 (1972) (Marshall, J., concurring).

[2] This is well-documented, at least for the past century. *See generally* L. KAY GILLESPIE, DANCEHALL LADIES: EXECUTED WOMEN OF THE 20TH CENTURY (2000) [hereinafter GILLESPIE, DANCEHALL LADIES]; KATHLEEN A. O'SHEA, WOMEN AND THE DEATH PENALTY IN THE UNITED STATES, 1900-1998 (1999) [hereinafter O'SHEA, WOMEN AND THE DEATH PENALTY]; Victor L. Streib, *Gendering the Death Penalty: Countering Sex Bias in a Masculine Sanctuary*, 63 OHIO ST. L.J. 433, 434 (2002) [hereinafter Streib, *Gendering the Death Penalty*]. The history of England and Wales is essentially similar, where fewer than two percent of executions between 1900 and 1950 were of women. ANETTE BALLINGER, DEAD WOMAN WALKING: EXECUTED WOMEN IN ENGLAND AND WALES 1900-1955, at 1-2, 328 (2000) [hereinafter BALLINGER, DEAD WOMAN WALKING]; *see also* PATRICK WILSON, MURDERESS: A STUDY OF THE WOMEN EXECUTED IN BRITAIN SINCE 1843 (1971) [hereinafter WILSON, MURDERESS].

[3] Almost all of the female offenders sentenced to death were age eighteen or older at the time of their crimes and therefore women. A few in the current era, however, were as young as fifteen and in earlier eras as young as twelve. Therefore, this Article uses the term "female offenders" in order to encompass all of these women and girls. *See generally* Victor L. Streib, *Death Penalty for Female Offenders, January 1, 1973, Through December 31, 2005* (January 10, 2006) http://www.onu.edu/faculty/streib/documents/FemDeathDec2005_000.pdf (last visited Jan.

condemned, they may be ignored and forgotten.[4]

We are occasionally made aware of women put to death through media coverage of high profile executions. A recent case with front-page national coverage was that of Karla Faye Tucker, executed in Texas on February 3, 1998.[5] Tucker caught the attention of the popular media in part because of the grisly nature of her crime (murder by pickax) and partly because she was a pretty, photogenic white woman.[6] Indeed, a new play, Karla, based on Tucker's crime, trial, and execution, opened in New York in October 2005.[7] An example of an earlier but similarly famous case was that of Ruth Brown Snyder, who was executed in New York on January 12, 1928.[8] An attending journalist surreptitiously photographed Snyder's execution in New York's electric chair, and that dramatic photograph appeared the next morning on the front page of the newspaper, destined to be reprinted many times subsequently.[9] Journalistic descriptions of collections of numerous cases also abound, often tending to exploit them with lurid details.[10]

29, 2006) [hereinafter Streib, *Femdeath*]; Victor L. Streib & Lynn Sametz, *Executing Juvenile Females*, 22 CONN. L. REV. 3 (1989) [hereinafter Streib & Sametz, *Executing Juvenile Females*]; Victor L. Streib, American Executions of Female Offenders: An Inventory of Names, Dates, and Other Information (7th ed. July 1, 2005) (unpublished research report) (on file with author) [hereinafter Streib, American Executions].

[4] Notable exceptions to this media disinterest do exist. *See, e.g.*, Sam Howe Verhovek, *Dead Women Waiting: Who's Who on Death Row*, N.Y. TIMES, Feb. 8, 1998, at WK1 [hereinafter Verhovek, *Dead Women Waiting*]. A recent investigative report is RACHEL KING & JUDY BELLIN, AM. CIVIL LIBERTIES UNION & AM. FRIENDS SERVICE COMM., THE FORGOTTEN POPULATION: A LOOK AT DEATH ROW IN THE UNITED STATES THROUGH THE EXPERIENCES OF WOMEN (2004) [hereinafter KING & BELLIN, THE FORGOTTEN POPULATION].

[5] *See, e.g.*, Sam Howe Verhovek, *As Woman's Execution Nears, Texas Squirms*, N.Y. TIMES, Jan. 1, 1998, at A1 [hereinafter Verhovek, *As Woman's Execution Nears*]; Sam Howe Verhovek, *Texas, in First Time in 135 Years, is Set to Execute Woman*, N.Y. TIMES, Feb. 3, 1998, at A1; Sam Howe Verhovek, *Divisive Case of a Killer of Two Ends as Texas Executes Tucker*, N.Y. TIMES, Feb. 4, 1998, at A1; *see also* Streib, *Gendering the Death Penalty*, *supra* note 2, at 451-53.

[6] *See* Streib, *Gendering the Death Penalty*, *supra* note 2, at 451-53; Verhovek, *As Woman's Execution Nears*, *supra* note 5.

[7] *See* Phoebe Hoban, *A Woman Sentenced to Pay the Ultimate Price for Crime*, N.Y. TIMES, Oct. 26, 2005, at E3.

[8] *See* David A. Kaplan & Nadine Joseph, *'Live, From San Quentin . . . ,'* NEWSWEEK, Apr. 1, 1991, at 60.

[9] *See id.*; David A. Kaplan & Nadine Joseph, *Funerals Held for Gray, Mrs. Snyder*, N.Y. DAILY NEWS, Jan. 14, 1928, at 1.

[10] An example of reasonably reliable and accurate works is WENZELL BROWN, WOMEN WHO DIED IN THE CHAIR (1958). Brown's work, promoted as "The Dramatic True Stories of Six Women Who Committed The Deadliest Sin," nonetheless attempts a reasonably sober assessment as to the larger issues (Brown's last chapter is entitled "Was It Worth While?" *Id.* at cover page, 179. Other reasonable works include BERNARD O'DONNELL, SHOULD WOMEN HANG? (1956). Another, perhaps more sensational example is TOM KUNCL, DEATH ROW WOMEN (1994), promoted on its cover with the phrases "They killed for money, for

We also have riveting films based on this theme. Some are built around real women's cases. The Florida case of Aileen Wuornos, executed on October 9, 2002, spawned several films. The best known was a semi-fictionalized account entitled Monster,[11] released in 2003 and starring Charlize Theron, a role for which Theron received both a Golden Globe and Oscar.[12] The Wuornos case had been the basis for earlier documentary films based upon her actual life.[13] Nearly half a century ago, the 1958 film I Want to Live provided a reasonably accurate portrayal of the actual case of Barbara Graham, executed in California on June 6, 1955.[14] In a precursor to Theron's recognition for her portrayal of Wuornos, actress Susan Hayward also won both a Golden Globe and an Oscar for her portrayal of Graham.[15] Other films portray fictionalized women under sentences of death. One such example, Last Dance,[16] released in 1996, starred Sharon Stone as a woman sentenced to death and actually executed.[17] Based on a composite of several cases, both real and fictional, Stone portrayed a condemned woman who evolves from a tough, foul-mouthed killer into a nurturing big sister and would-be lover before being

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love, for kicks. Now, they await the final judgment . . . ", and "The Shocking True Stories of America's Most Vicious Female Killers." *Id.* at cover page. Kuncl's reasonably sober assessment is limited to his brief introduction. *Id.* at ix.

[11] MONSTER (Media 8 Entertainment & New Market Films 2003).

[12] *'Lord of the Rings' Dominates the Oscars*, N.Y. TIMES, Mar. 1, 2004, at E1; Sharon Waxman, *An Epic and a Small Film are Stars at Golden Globes*, N.Y. TIMES, Jan. 26, 2004, at E1.

[13] Nick Broomfield & Joan Churchill, AILEEN: LIFE AND DEATH OF A SERIAL KILLER (2004), *available at* http://www.aileenfilm.com (last visited Jan. 20, 2006); Nick Broomfield, AILEEN WUORNOS: THE SELLING OF A SERIAL KILLER (1992), *available at* http://ww.nickbroomfield.com/aileenwournos.html (last visited Jan. 20, 2006); *see also* Nancy Ramsey, *Portraits of a Social Outcast Turned Serial Killer*, N.Y. TIMES, Dec. 30, 2003, at E1.

[14] I WANT TO LIVE (Figaro Films & United Artists 1958).

[15] *See, e.g.*, John Anderson, *The Movies Seldom Combine Real Life with Death Penalty Situations; Dramatic Tension and Pathos, Not the Justice of State-Sponsored Executions, are the Stuff of Most Films on the Subject*, L.A. TIMES, Mar. 17, 2003, at sec. 5, p. 6; Michael Sauter, *Killer Chicks; They Shoot, and Sometimes They Score—On Oscar Night, Look Out for Actresses in Deadly Roles*, ENT. WEEKLY OSCAR GUIDE 2004, Feb. 6, 2004, at 52; Wolfgang Saxon, *Nelson Gidding, 84, Screenwriter of Classics Like 'I Want to Live!,'* N.Y. TIMES, May 14, 2004, at C11; Jim Sherlock, *The Green Mile to Movie Stardom*, HERALD SUN (Melbourne, Australia), Apr. 7, 2004, at 61. *See generally* Roberta M. Harding, *Celluloid Death: Cinematic Depictions of Capital Punishment*, 30 U.S.F. L. REV. 1167 (1996).

[16] LAST DANCE (Touchstone Pictures & Buena Vista Pictures 1996).

[17] *See, e.g.*, Geoff Brown, *Penn Portrait Shaded with a Heavy Hand*, TIMES (London), Aug. 15, 1996; Janet Maslin, *Death Row Diva: A Raw Sharon Stone*, N.Y. TIMES, May 3, 1996, at C1.

executed.[18]

But what of the rest of the women sentenced to death in the real world and, in some cases, actually executed? Who were they, and why were these extremely rare cases singled out to receive this ultimate punishment? Why are such women so commonly condemned but ignored by our death penalty system, by scholarly research on crime and the death penalty, and to some degree by the popular media? These questions have been asked by previous authors: "Few though their numbers may be, they are on death row, and for the most part terribly isolated, invisible, and alone."[19] A recent investigative report labels them "The Forgotten Population."[20] Apparently a similar tendency to ignore such cases is true in Britain as well, where "their cases remain almost totally unknown."[21]

Previous studies of the national landscape around the death penalty for women have identified and analyzed past themes and issues.[22] This Article brings the analysis current through 2005, beginning with a reprise of the conversations about gender bias and disparity in the death penalty system. It appears that female offenders have always been treated differently from male offenders in the death penalty system, sometimes for reasons that are easily justifiable but too often simply because of sex bias. The next section of this Article explores the current death penalty era, identifying those women who have been sentenced to death, those whose death sentences were reversed, those who were actually executed, and those still remaining on death row. National data reveal trends and patterns, as well as the death penalty states leading in this practice and the death penalty states that have never executed a woman. Finally, this Article explores the conclusions

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[18] The author of this Article provided a variety of factual information to the writer-producer of LAST DANCE early in the screen-writing process and then subsequently to Walt Disney Studios and Touchstone Pictures for use in promoting the film. However, despite (because of?) the author's minor involvement, Last Dance, unlike Monster or I Want to Live, was not well received by the critics.

[19] O'SHEA, WOMEN AND THE DEATH PENALTY, *supra* note 2, at xix. On the general tendency for women prisoners to be overlooked, see WOMEN PRISONERS: A FORGOTTEN POPULATION (Beverly R. Fletcher et al. eds., 1993). Two excellent examples of works that seek to reduce this problem are JANE EVELYN ATWOOD, TOO MUCH TIME: WOMEN IN PRISON (2000) and PAULA C. JOHNSON, INNER LIVES: VOICES OF AFRICAN AMERICAN WOMEN IN PRISON (2003). *See also* ANN JONES, WOMEN WHO KILL (1980).

[20] KING & BELLIN, THE FORGOTTEN POPULATION, *supra* note 4.

[21] BALLINGER, DEAD WOMAN WALKING, *supra* note 2, at 342.

[22] *See, e.g.*, O'SHEA, WOMEN AND THE DEATH PENALTY, *supra* note 2; Elizabeth Rapaport, *The Death Penalty and Gender Discrimination*, 25 LAW & SOC'Y REV. 367 (1991) [hereinafter Rapaport, *Death Penalty and Gender Discrimination*]; Streib, *Gendering the Death Penalty*, *supra* note 2. Information about women sentenced to death and executed during the current era (1973-present) of the death penalty can be found in the author's quarterly online report. Streib, *Femdeath*, *supra* note 3.

suggested by these data. In closing, specific means are identified by which death penalty jurisdictions can reconsider policies that result in sex-based disparities and can reduce those instances of sex bias in their death penalty systems.

I. A CONTEXT OF GENDER BIAS AND DISPARITY

Among the many deficiencies of the American death penalty system is a system-wide bias based upon the sex of the offender.[23] Even though scholars[24] continue to debate both the causes and the impacts of this sex

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[23] This background section on gender bias in the death penalty system is based in large part upon the author's earlier (and now dated) work addressing this issue more directly. *See generally* Victor L. Streib, *Death Penalty for Female Offenders*, 58 U. CIN. L. REV. 845 (1990) [hereinafter Streib, *Death Penalty for Female Offenders*]; Streib, *Gendering the Death Penalty*, *supra* note 2; *see also* LINDA E. CARTER & ELLEN KREITZBERG, UNDERSTANDING CAPITAL PUNISHMENT 305-11 (2004).

[24] Professor Elizabeth Rapaport at the University of New Mexico has been writing about this issue for many years and has had enormous influence on its development. *See, e.g.*, Elizabeth Rapaport, *Capital Murder and the Domestic Discount: A Study of Capital Domestic Murder in the Post-Furman Era*, 49 S.M.U. L. REV. 1507 (1996) [hereinafter Rapaport, *Capital Murder*]; Rapaport, *Death Penalty and Gender Discrimination*, *supra* note 22; Elizabeth Rapaport, *Equality of the Damned: The Execution of Women on the Cusp of the 21st Century*, 26 OHIO NU. L. REV. 581 (2000) (hereinafter Rapaport, *Equality of the Damned*]; Elizabeth Rapaport, *Some Questions About Gender and the Death Penalty*, 20 GOLDEN GATE U. L. REV. 501 (1990); Elizabeth Rapaport, *Staying Alive: Executive Clemency, Equal Protection, and the Politics of Gender in Women's Capital Cases*, 4 BUFF. CRIM. L. REV. 967 (2001). Another top scholar on this and related issues is Joan W. Howarth at the University of Nevada at Las Vegas. *See, e.g.*, Joan W. Howarth, *Deciding to Kill: Revealing the Gender in the Task Handed to Capital Jurors*, 1994 WIS. L. REV. 1345 [hereinafter Howarth, *Deciding to Kill*]; Joan W. Howarth, *Executing White Masculinities: Learning from Karla Faye Tucker*, 81 ORE. L. REV. 183 (2002); Joan W. Howarth, *Feminism, Lawyering, and Death Row*, 2 SO. CAL. REV. L. & WOMEN'S STUD. 401 (1992).

Others also have made significant contributions on this general issue. *See, e.g.*, BALLINGER, DEAD WOMAN WALKING, *supra* note 2; GILLESPIE, DANCEHALL LADIES, *supra* note 2; BERNARD O'DONNELL, SHOULD WOMEN HANG? (1956); O'SHEA, WOMEN AND THE DEATH PENALTY, *supra* note 2; WILSON, MURDERESS, *supra* note 2; Joseph Ingle, *Final Hours: The Execution of Velma Barfield*, 23 LOY. L.A. L. REV. 221 (1989); Leonard E. Birdsong, *In Quest of Gender-Bias in Death Penalty Cases: Analyzing the English Speaking Caribbean Experience*, 10 IND. INT'L & COMP. L. REV. 317 (2000); Phyllis L. Crocker, *Is the Death Penalty Good for Women?*, 4 BUFF. CRIM. L. REV. 917 (2001); Thad Rueter, *Why Women Aren't Executed: Gender Bias and the Death Penalty*, 23 HUM. RTS. 10 (1996); Lorraine Schmall, *Forgiving Guin Garcia: Women, the Death Penalty and Commutation*, 11 WIS. WOMEN'S L. J. 283 (1996).

Excellent student work has included Jenny E. Carroll, Note, *Images of Women and Capital Sentencing Among Female Offenders: Exploring the Outer Limits of the Eighth Amendment and Articulated Theories of Justice*, 75 TEX. L. REV. 1413 (1997); Janice L. Kopec, *Avoiding a Death Sentence in the American Legal System: Get a Woman to Do It*, 15 CAP. DEF. J. 353 (2003); Melinda E. O'Neil, *The Gender Gap Argument: Exploring the Disparity of Sentencing Women to Death*, 25 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 213 (1999); Elizabeth Marie Reza, Note, *Gender Bias in North Carolina's Death Penalty*,

bias, indeed its very existence,[25] the discrepancy between men and women in our execution statistics has been recognized, at least in passing, even by the United States Supreme Court.[26] A leading scholar on gender issues has concluded, "Capital jurisprudence—the law for deciding whether to kill—is also a hidden battleground of gender."[27] The working definitions for the gender concepts of masculine and feminine relied upon in this Article also come from Professor Joan Howarth:

> Masculinity or maleness is a social construction, to which some women have access and from which some men are excluded. Similarly, both men and women can and do exhibit "female" qualities of emotionality, intense interrelatedness, and contextual reasoning. But just as countless businessmen can wear pink button-down shirts without eradicating the gender from pink and blue, women who are unemotional, hard-driving, and distant are described as masculine.[28]

The author of this Article has pushed these conclusions even further in a previous work: "This gendering of capital jurisprudence appears to have infected all who come into contact with the entire death penalty system and to have pushed aside concerns about justice and reduction of violent crime."[29] The following sections separate these sources of gender bias into

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12 DUKE J. GENDER L. & POL'Y 179 (2005); Andrea Shapiro, *Unequal Before the Law: Men, Women and the Death Penalty*, 8 AM. U. J. GENDER, SOC. POL'Y & L. 427 (2000).

The author helped to begin this discussion twenty years ago and to spread it to a broader audience. *See, e.g.*, Victor L. Streib, *Executing Women, Children, and the Retarded: Second Class Citizenship in Capital Punishment*, *in* AMERICA'S EXPERIMENT WITH CAPITAL PUNISHMENT: REFLECTIONS ON THE PAST, PRESENT AND FUTURE OF THE ULTIMATE PENAL SANCTION 301 (James R. Acker et al. eds., 2d ed. 2003); Victor L. Streib, *Sentencing Women to Death*, 16 CRIM. JUST 24 (2001); Victor L. Streib, *Death Penalty for Battered Women*, 20 FLA. ST. U. L. REV. 163 (1992); Streib, *Death Penalty for Female Offenders*, *supra* note 3; Victor L. Streib, *Death Penalty for Lesbians*, 1 NAT'L J. SEXUAL ORIENTATION L. 104 (1994), *available at* http://www.ibiblio.org/gaylaw/issue1/index.html (last visited Jan. 20, 2006); Streib, *Femdeath*, *supra* note 3; Streib, *Gendering the Death Penalty*, *supra* note 2; VICTOR L. STREIB, THE FAIRER DEATH: EXECUTING WOMEN IN OHIO (forthcoming June, 2006); Streib & Sametz, *Executing Juvenile Females*, *supra* note 3; Streib, American Executions, *supra* note 3.

[25] *Compare* Rapaport, *Equality of the Damned*, *supra* note 24, *and* Rapaport, *The Death Penalty*, *supra* note 2, *with* Streib, *Gendering the Death Penalty*, *supra* note 2, *and* Streib, *Death Penalty for Female Offenders*, *supra* note 23.

[26] Justice Thurgood Marshall observed, "There is also overwhelming evidence that the death penalty is employed against men and not women. Only thirty-two women have been executed since 1930, while 3,827 men have met a similar fate. It is difficult to understand why women have received such favored treatment since the purposes allegedly served by capital punishment seemingly are equally applicable to both sexes." Furman v. Georgia, 408 U.S. 238, 365 (1972) (Marshall, J., concurring) (footnotes omitted).

[27] Howarth, *Deciding to Kill*, *supra* note 24, at 1347.

[28] *Id.* at 1350.

[29] Streib, *Gendering the Death Penalty*, *supra* note 2, at 437.

the selection of death penalty crimes and the shaping of these crimes through aggravating and mitigating circumstances.

A. Capital Crimes

Legislatures designate certain crimes as eligible for the death penalty, constrained almost solely by United States Supreme Court rulings limiting this choice of crime essentially to murder.[30] Even within the crime of capital murder, however, we find quite different treatment. Domestic homicide—the killing of relatives and sexual intimates—appears to be discounted in perceived seriousness and punishability, at least as compared to homicides by and against strangers.[31] In contrast, the most common crimes committed by those on death row today are felony murders, homicides committed during a dangerous felony such as robbery or rape.[32] This shortcut to death row raises serious jurisprudential questions as well as having a quite different impact upon male offenders and female offenders. Similarly, the tendency to exclude domestic homicides from capital murder, certainly as compared to stranger homicides and felony murders, tends also to exclude women's homicides as compared to men's homicides.[33] One questionable result of this is the societal judgment that convenience store robbers who kill store clerks should face the death penalty more often than mothers who kill their children.[34]

This brief sketch of the definition-of-crime issue illustrates that men and women typically commit different kinds of homicides. Therefore, the attachment of the death penalty to some kinds of murder and not to other kinds of murder can be expected to produce a disparate impact upon males who kill versus females who kill. Similarly, the tendency of prosecutors to push for the death penalty for some kinds of capital murder more than for other kinds of capital murder makes a difference as to men and women being sentenced to death. A similar disparate impact from the gender of the offender can be found in the statutory factors pushing the sentencing jury toward or away from the death penalty.

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[30] *See, e.g.*, Tison v. Arizona, 481 U.S. 137 (1987); Coker v. Georgia, 433 U.S. 584 (1977).

[31] For a particularly persuasive piece on this issue, see Rapaport, *Capital Murder*, *supra* note 24.

[32] *See* Richard A. Rosen, *Felony Murder and the Eighth Amendment Jurisprudence of Death*, 31 B.C. L. REV. 1103, 1115 (1990) [hereinafter Rosen, *Felony Murder*].

[33] *See generally* Rapaport, *Capital Murder*, *supra* note 24.

[34] *See* Streib, *Gendering the Death Penalty*, *supra* note 2, at 458-59.

B. Aggravating and Mitigating Circumstances in Death Penalty Statutes

Although modern death penalty statutes typically list a variety of express factors to be considered in aggravation or mitigation,[35] no such express consideration of the offender's sex appears in any death penalty statute in the United States. An apparently increasing number of other countries (primarily former Soviet Bloc nations) do include express provisions in their death penalty statutes either excluding female offenders or giving them special mitigation (such as pregnancy and the responsibilities of motherhood) in imposing death sentences.[36] American death penalty statutes provide no such sweeping provisions (except for pregnancy), but our schemes of aggravating and mitigating circumstances can and apparently do have a disparate gender impact.

Consider some typical aggravating circumstances found in death penalty statutes. A common aggravator is having committed a murder for hire, either as the hired killer or as the person who hired the killer to commit the homicide.[37] The Ohio statute, for example, is broad and straightforward: "The offense was committed for hire."[38] Women convicted of murder are generally more likely than men to have hired a killer to commit their homicide. However, the killers that women hire are almost always men, as are the killers hired by men. Assuming that the hired killers sentenced to death are almost always men regardless of the sex of the person who hired them, the impact of this aggravating factor may militate somewhat against men. Nonetheless, the use of this aggravating factor against the person hiring the killer probably results in a higher percentage of death sentences for women than of death sentences for men.

Another very common aggravating circumstance is the offender's having a previous record of violent crimes.[39] If the defendant convicted of the present murder also has a previous criminal record of violent crimes, this makes it more likely that the defendant will receive the death penalty instead of a prison sentence. Again, we know that women convicted of murder are generally less likely than men to have prior convictions for

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[35] For general discussions of these factors, see CARTER & KREITZBERG, UNDERSTANDING CAPITAL PUNISHMENT, *supra* note 23, at 95-156; VICTOR L. STREIB, DEATH PENALTY IN A NUTSHELL 69-92 (2d ed. 2005) [hereinafter STREIB, NUTSHELL].

[36] ROGER HOOD, THE DEATH PENALTY: A WORLD-WIDE PERSPECTIVE 22, 91-92 (rev. ed. 1996).

[37] *See, e.g.*, 18 U.S.C.A. § 3592(C)(9) (2001); ARIZ. REV. STAT § 13-703(F)(4) (2005); GA. CODE ANN. § 17-10-30(b)(6) (2005); OHIO REV. CODE ANN. § 2929.04(A)(2) (2005).

[38] *Id.*

[39] *See, e.g.*, OHIO REV. CODE § 2929.04(A)(5)&(B)(5) (2005).

murder, attempted murder, or other violent crimes.[40] Therefore, this aggravating circumstance will be available in a smaller percentage of women's cases than of men's cases. However justifiable this aggravating circumstance may appear to some, it nonetheless strongly favors female capital defendants over male capital defendants.

A third common aggravating circumstance is a finding that the current homicide was part of a felony murder.[41] Common in felony murder formulations within state death penalty statutes are homicides committed during a rape, kidnapping, or armed robbery. Employing the felony murder rule makes successful prosecutions more likely by not having to prove a murderous criminal intent. In a typical felony murder case, the prosecutor simply proves the defendant's criminal intent to commit the associated felony (robbery, rape, etc.) plus the fact that the defendant caused the victim's death during that felony. The felony murder formulation avoids the requirement to prove the defendant's criminal intent to commit murder, often the most difficult part of a murder prosecution. This application of the felony murder rule has resulted in capital murder convictions for a very high percentage of men on death row but for a much smaller percentage of women on death row.[42] In addition to all of the other concerns about the appropriateness of using the felony murder shortcut to obtain a capital conviction, this aggravating factor tends to punish men more than women.

A final example is the aggravating circumstance of a homicide particularly one that is planned or premeditated.[43] The federal statute provides a good example: "The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism."[44] Judges and juries generally find that women convicted of murder are less likely than men to have committed premeditated homicides and more likely than men to have killed while impassioned, angry, or in fear.[45]

Mitigating circumstances make the death penalty less likely to be imposed. As with aggravating circumstances, they also speak both to the seriousness of the crime and to the characteristics of the defendant. A very common mitigating circumstance is that the offender acted under the

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[40] *See* Streib, *Gendering the Death Penalty*, *supra* note 2, at 461.

[41] *See, e.g.*, 18 U.S.C. § 3592(c)(1) (2005); ARIZ. REV. STAT. §13-1105(A)(2)&(B) (2005); GA. CODE ANN. § 17-10-30(b)(2) (2005); OHIO REV. CODE § 2929.04(A)(7) (2005).

[42] *See* Rosen, *Felony Murder*, *supra* note 32.

[43] *See, e.g.*, 18 U.S.C. § 3592(C)(9) (2005); CAL. PEN. CODE § 190.2(a)(15) (2005); OHIO REV. CODE § 2929.04(A)(7) (2005).

[44] 18 U.S.C. § 3592(c)(9) (2005).

[45] *See generally* Streib, *Death Penalty for Female Offenders*, *supra* note 23; Streib, *Gendering the Death Penalty*, *supra* note 2.

influence of duress or emotional disturbance at the time of the homicide.[46] California lists as a mitigator "[w]hether or not the offense was committed while the defendant was under the influence of extreme mental or emotional disturbance."[47] The Ohio statute also is a typical example of the duress mitigator. It considers "[w]hether it is unlikely that the offense would have been committed, but for the fact that the offender was under duress, coercion, or strong provocation."[48] This factor would appear to be present to varying degrees in many homicide cases, but finding convincing evidence of it usually is quite difficult. We do know that judges and juries generally are more likely to find duress or emotional disturbance for female offenders than for male offenders in homicide cases.[49] Even a casual observance of male and female criminal defendants reveals the greater ability of almost all women to manifest their emotional side as compared to men, providing the defense attorney with a more effective means of demonstrating this mitigating circumstance.

The list of mitigating factors in many death penalty statutes includes the factor that the offender acted under the substantial domination of another.[50] Again, the California statute is a good example; it considers "[w]hether or not defendant acted under extreme duress or under the substantial domination of another person."[51] The presumed fact pattern is one in which two or more offenders are involved in the homicide and related criminal activity. When a woman commits a homicide jointly with a man, judges and juries generally are more likely to find that the man was the dominant actor. This occurs with all other variables being the same and only the sex of the offender being different.

Probably the most intriguing and debatable mitigating circumstance is the catch-all provision found at the end of the list.[52] For example, the Ohio list of mitigating factors ends with "[a]ny other factors that are relevant to the issue of whether the offender should be sentenced to death."[53] This open invitation provides the defense the opportunity to present evidence as

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[46] *See, e.g.*, 18 U.S.C. § 3592(A)(2)&(6) (2005); ARIZ. REV. STAT. § 13-703(G)(2) (2005); CAL. PEN. CODE § 190.3(d) (2005); OHIO REV. CODE § 2929.04(B)(2)&(3) (2005).
[47] CAL. PEN. CODE § 190.3(d) (2005).
[48] OHIO REV. CODE § 2929.04(B)(2) (2005).
[49] *See generally* Streib, *Death Penalty for Female Offenders*, *supra* note 23; Streib, *Gendering the Death Penalty*, *supra* note 2.
[50] *See, e.g.*, 18 U.S.C. § 3592(a)(2)&(3) (2005); CAL. PEN. CODE § 190.3(g) (2005); OHIO REV. CODE § 2929.04(B)(6) (2005).
[51] CAL. PEN. CODE § 190.3(g) (2005).
[52] *See, e.g.*, 18 U.S.C. § 3592(a)(8) (2005); ARIZ. REV. CODE § 13-703(G) (2005); CAL. PEN. CODE § 190.3(k) (2005); OHIO REV. CODE § 2929.04(B)(7) (2005).
[53] *Id.*

to "any other" mitigating circumstance, so long as the mitigating evidence is relevant and material to the nature and circumstances of the crime or to the character and background of the defendant.[54] Judges and juries generally are more likely to find sympathetic factors in the lives and backgrounds of women than of men in homicide cases, in part because female defendants may be less reluctant to expose these factors than are male defendants.

This brief sketch of the differential treatment of men and women in our national death penalty system identifies two primary sources. The first is probably unintentional and usually benign, in that some factors in death penalty law and procedure may not intend to treat women differently but nonetheless do have a disparate impact. Obvious examples are using the felony murder rule and a past record of violent crime in considering the death sentence, both of which are more likely to put a man on death row than a woman, albeit perhaps for good reason. The second source of differential treatment may be subconscious, but certainly it is not benign. Examples here are assumptions that women who kill are more likely than men who kill to have been acting under emotional disturbance or under the domination of their co-felons. These mitigating factors provide opportunity for biases in favor of women defendants that are quite difficult to support.

II. DEATH PENALTY FOR WOMEN NATIONALLY[55]

Before turning to the Ohio cases of women executed and sentenced to death, first examine the national context of this practice. We know that women are much less likely than men to commit murder, essentially the only crime currently that might result in a death sentence.[56] In fact, women account for about ten percent of murder arrests nationally. At least some of these murder arrests occur, however, in jurisdictions that don't have the death penalty. In addition, certainly not all of the murders upon which these arrests are based are capital murders.[57] While we have fairly reliable

[54] Eddings v. Oklahoma, 455 U.S. 104, 115 (1982); Lockett v. Ohio, 438 U.S. 586, 594 (1978).

[55] The data in this section are based largely on the author's web report, Streib, *Femdeath*, *supra* note 3.

[56] Almost all non-murder crimes (e.g., rape, robbery, etc.) that historically were eligible for the death penalty have been rejected in the current era. Coker v. Georgia, 433 U.S. 584, 592 (1977). Essentially the only remaining non-murder death penalty crimes are treason and espionage. CARTER & KREITZBERG, UNDERSTANDING CAPITAL PUNISHMENT, *supra* note 23, at 61-93; STREIB, NUTSHELL, *supra* note 35, at 64-68.

[57] *See generally* CARTER & KREITZBERG, UNDERSTANDING CAPITAL PUNISHMENT, *supra* note 23, at 61-84; STREIB, NUTSHELL, *supra* note 35, at 108-12.

data on the number of women arrested for murder in each jurisdiction during any one time period, these are only police data for their characterizations of the crimes committed. The data we do not have, however, would describe the number of these murders that were indeed capital murders, a determination made by prosecuting attorneys and not by the police.[58] We also lack comprehensive, reliable data on the number of murder cases in which capital charges are filed by prosecutors, plea bargained to lesser charges, or actually brought to capital trials.

Coming out the other end of this long, dark tunnel of the early stages of the death penalty process, we do know that women account for only two percent of death sentences imposed at the trial level.[59] This appears to be significant, in that ten percent of murder arrests were of women but only two percent of death sentences for murder are of women. The gender differential gets even worse: Women account for only 1.5 percent persons presently on death row and for only 1.1 percent of persons actually executed in this modern era (1973-present).

A. Executions of Female Offenders

The actual execution of female offenders is quite rare, with only 568 instances in the 374 years from 1632 through 2005.[60] These are documented cases of lawful executions of females and exclude lynchings and similar deaths imposed upon females. Beginning with the earliest American colonial period, these 568 female executions constitute about 2.8 percent of all American executions. Documenting the older executions of female offenders is quite challenging, but we do have fairly complete documentation of these executions since 1900. From 1900 through 2005, only 0.6 percent (50/8339) of all executions were of women. Appendix A lists each of these executions by year and by executing jurisdiction.

During the past 106 years, nineteen states and the federal government have executed female offenders. This was approximately half of the United States jurisdictions that had the death penalty during that time period. They ranged in age from seventeen-year-old Virginia Christian in Virginia to fifty-eight year-old Louise Peete in California. In contrast, the entire northwest quarter of the United States has not seen any executions of female offenders since 1900. This northwest quarter consists of all states west of the Mississippi and north of the southern-most western states. These fifteen contiguous northwestern states are Colorado, Idaho, Iowa,

[58] STREIB, NUTSHELL, *supra* note 35, at 108-12.
[59] Streib, *Death Penalty for Female Offenders*, *supra* note 23, at 3.
[60] Victor L. Streib, American Executions, *supra* note 3.

Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Twelve of these fifteen northwestern states (excluding only Minnesota, Missouri, and Nevada) have never executed any female offenders in their entire histories.[61]

Comparing these post-1900 data with data from previous American eras reveals that this practice is even rarer now than it was in previous centuries. The current death penalty era began in 1973, even though it did not result in actual executions of any offenders until 1977.[62] The previous death penalty era was terminated by the Supreme Court's 1972 decision in *Furman v. Georgia*,[63] which in effect struck down all then-existing death penalty statutes. However, both Florida and Utah enacted new death penalty statutes before the end of 1972, and fifteen more states followed suit in 1973. For simplicity of comparison, this analysis marks the beginning as 1973, allowing for a period of six months following the *Furman* decision for the various jurisdictions to reconsider the death penalty. In 1976, the United States Supreme Court ruled that most of these early-1970s death penalty statutes were constitutional.[64]

Actual executions began soon thereafter, with the first being that of Gary Mark Gilmore on January 17, 1977, in Utah. We finally saw executions of women offenders in 1984, and the last such execution as of this writing was of Frances Newton in Texas in 2005. All executions of female offenders in the current era are listed in Table 1.

TABLE 1:

EXECUTIONS OF FEMALE OFFENDERS BY JURISDICTION, JANUARY 1, 1973, THROUGH DECEMBER 31, 2005

Date of Execution	Date of Crime	State	Name	Race	Age at crime	Age at execution
11-02-1984	02-01-1978	NC	Barfield, Velma	White	52	58
02-03-1998	06-13-1983	TX	Tucker, Karla	White	23	38
03-30-1998	09-16-1971	FL	Buenoano, Judias	White	28	54
02-24-2000	08-06-1983	TX	Beets, Betty Lou	White	46	62

[61] *Id*.
[62] CARTER & KREITZBERG, UNDERSTANDING CAPITAL PUNISHMENT, *supra* note 23, at 41; STREIB, NUTSHELL, *supra* note 35, at 6-8.
[63] 408 U.S. 238 (1972).
[64] Gregg v. Georgia, 428 U.S. 153 (1976).

05-02-2000	11-04-1997	AR	Riggs, Christina	White	26	29
01-11-2001	12-01-1988	OK	Allen, Wanda	Black	29	41
05-01-2001	08-26-1988	OK	Plantz, Marilyn	White	27	40
12-04-2001	07-04-1982	OK	Smith, Lois	White	41	61
05-10-2002	10-04-1993	AL	Block, Linda	White	45	54
10-09-2002	1989-1990	FL	Wuornos, Aileen	White	33	46
09-14-2005	04-07-1987	TX	Newton, Francis	Black	21	40

Only eleven (1.1 percent) of the 1004 total executions from 1973 through 2005 have been of female offenders. This execution pace has changed recently, with only one (0.2 percent) of the 434 executions from 1973 to 1997 being a female offender. Since 1998, ten (1.8 percent) of the 570 total executions have been of female offenders. This recent (1998-2005) execution pace matches almost exactly that beginning in 1900, so it appears that the 1973-1997 lull in executions of female offenders was atypical and that we have now returned to our normal rate. Three women were executed in 2001, all in Oklahoma, the most executions nationally of women in any one year since 1953. The last woman executed, as of this writing, was Francis Newton in Texas on September 14, 2005.

B. Death Sentences Imposed Upon Female Offenders in the Current Era

A total of 155 death sentences were imposed upon female offenders from 1973 through 2005. Table 2 provides these data by individual year. These 155 death sentences for female offenders constitute only 2.1 percent of all death sentences during this period of thirty-three years. The typical annual death sentencing rate for female offenders during the last decade has been between two and seven sentences. The wide fluctuations in the number of women sentenced to death annually are unexplained by changes in statutes, court rulings, or public opinion.

Table 2:

Death Sentences Imposed Upon Female Offenders, January 1, 1973 Through December 31, 2005

Year	Total Death Sentences	Death Sentences for Females	Portion of Total
1973	42	1	2.4%
1974	149	1	0.7%

1975	298	8	2.3%
1976	233	3	1.3%
1977	137	1	0.7%
1978	185	4	2.1%
1979	151	4	2.6%
1980	173	2	1.1%
1981	224	3	1.3%
1982	265	5	1.8%
1983	252	4	1.6%
1984	285	8	2.8%
1985	266	5	1.8%
1986	300	3	1.0%
1987	289	5	1.7%
1988	290	5	1.7%
1989	259	11	4.2%
1990	252	7	2.7%
1991	267	6	2.2%
1992	287	10	3.5%
1993	289	6	2.0%
1994	315	5	1.6%
1995	318	7	2.2%
1996	320	2	0.6%
1997	276	2	0.7%
1998	300	7	2.3%
1999	279	4	1.4%
2000	231	8	3.2%
2001	163	2	1.3%
2002	159	5	3.2%
2003	144	2	1.4%
2004	125	5	4.0%
2005	96**	4	4.2%
Totals	7544**	155	2.1%

** estimates

These 155 death sentences for female offenders since 1973 have been imposed by twenty-five individual states and by the federal government, comprising well over half of the thirty-nine death penalty jurisdictions during this time period. The top five states (California, North Carolina,

Florida, Texas, and Ohio) account for almost half of all such sentences since 1973. Virginia, a leading death penalty state for male offenders, has imposed only one death sentence on a female offender since 1973. Virginia last executed a female offender in 1912 (Virginia Christian, also the last juvenile female executed in the entire United States).[65] Table 3 lists all of the jurisdictions that have imposed death sentences on women since 1973.

TABLE 3:

DEATH SENTENCES FOR FEMALE OFFENDERS BY JURISDICTION, JANUARY 1, 1973 THROUGH DECEMBER 31, 2005

Rank	Sentencing Jurisdiction	White	Black	Latin	Indian	Total Sentenced
(1)	California	8	3	6	0	17
	Texas	11	6	0	0	17
(3)	North Carolina	10	4	0	2	16
(4)	Florida	11	3	1	0	15
(5)	Ohio	5	6	0	0	11
(6)	Alabama	6	3	0	0	9
(7)	Oklahoma	7	1	0	0	8
(8)	Illinois	1	4	2	0	7
	Mississippi	5	2	0	0	7
	Pennsylvania	3	4	0	0	7
(11)	Georgia	5	1	0	0	6
(12)	Missouri	4	0	1	0	5
(13)	Indiana	2	2	0	0	4
(14)	Arizona	3	0	0	0	3
	Kentucky	3	0	0	0	3
	Maryland	1	0	0	2	3
(17)	New Jersey	3	0	0	0	3
(18)	Arkansas	2	0	0	0	2
	Idaho	2	0	0	0	2
	Louisiana	1	1	0	0	2
	Nevada	1	1	0	0	2

[65] VICTOR L. STREIB, DEATH PENALTY FOR JUVENILES 89-90 (1987); Streib & Sametz, *Executing Juvenile Females*, *supra* note 3, at 10.

	Tennessee	2	0	0	0	2
(23)	Delaware	1	0	0	0	1
	Federal (Iowa)	1	0	0	0	1
	South Carolina	1	0	0	0	1
	Virginia	1	0	0	0	1
	Totals	100	41	10	4	155

C. Women Under Death Sentences as of December 31, 2005

Of the 155 death sentences imposed since 1973, only forty-nine women remained under sentences of death in seventeen states and under federal jurisdiction as of the end of 2005. Table 4 below provides data describing the offenders and victims in these cases. Over one-quarter (thirteen out of forty-nine or twenty-seven percent) of these forty-nine female offenders killed their husbands or boyfriends; and almost one-quarter (ten out of forty-nine or twenty percent) killed their children, grandchildren, etc. Two additional women killed both their husbands and their children. The present ages of these forty-nine female offenders range from twenty-one to seventy-two years old, and they have been on death row from two weeks to nearly twenty years.

Table 4:

Characteristics of Offenders and Victims in Female Death Penalty Cases in Force as of December 31, 2005

OFFENDERS

Age at Crime			Age Currently			Race		
18-19	4	8%	18-19	0	0%	American Indian	1	2%
20-29	18	37%	20-29	4	8%	Black	14	29%
30-39	17	35%	30-39	16	33%	Latin	5	10%
40-49	7	14%	40-49	20	41%	White	29	59%
50-59	3	6%	50-59	6	12%			
60-69	0	0%	60-69	2	4%			
70-79	0	0%	70-79	1	2%			
	49	100%		49	100%		49	100%

VICTIMS

Age			Sex			Race		
0-10	26	35%	Male	45	61%	Asian	3	4%
11-17	4	5%	Female	29	39%	Black	6	8%
18-49	31	42%				Latin	18	24%
50+	13	18%				White	47	64%
	74	100%		74	100%		74	100%

More information about each of these forty-nine cases can be found in the Appendix to this Article. This Appendix proves brief case summaries about each of the women, their crimes, and their death sentences. Also indicated is each jurisdiction's last execution of a female offender. Some of these women are on death row in states that have executed women in the current era, including Alabama (2002) and Texas (2005). Others are in states that have not engaged in this practice in some time, including California (1962) and Pennsylvania (1946). For still others of these states, the execution of female offenders is at most a distant memory, including Kentucky (1868) and Tennessee (1837). Two states, Idaho and Indiana, currently have women on death row but have never actually executed a female offender in their entire histories.

III. CONCLUSIONS AND RECOMMENDATIONS FOR CHANGE

The data presented and explored in this Article reveal the instances where the death penalty has been imposed on female offenders during at least the past century and in some cases for several centuries. The most obvious empirical conclusion to be drawn from these data is that this practice has been rare and inconsistent, with little suggestion of it being grounded in a rational process. Perhaps the most striking example comes from Oklahoma. That state has executed only four women in its history: one in 1903 and three in 2001.[68] Nothing about the murder rate by women or the general use of the death penalty in Oklahoma explains why no such executions occurred prior to 1903 or in the near-century between 1903 and 2001. Texas, the clear leader in current executions, has executed well over 1,000 people in its history.[69] Only six of these executions have been of women, however.[70] Two women were executed in the 1850s and one in 1863, but the next Texas execution of a woman was in 1998, leaving a gap

[68] *See* Appendix A, *infra*
[69] Streib, American Executions, *supra* note 3.
[70] *Id.*

of 135 years between executions of women.[71] Other states reflect similarly sporadic patterns.

The other obvious empirical conclusion is that no patterns can be found explaining (1) why certain women are sentenced to death and others are not, and (2) what criteria we use to select the women to be actually executed from those sentenced to death. Admittedly, the same questions can be raised about the death penalty for male offenders, but it appears that these maladies affect the death penalty for women even more acutely. Both of these empirical conclusions should lead us to seek a more rational, gender-neutral death penalty process.

The concerns raised about sex bias and disparate impact based upon sex are quite difficult to address. The author's earlier work provided several recommendations in this regard,[72] but probably the most cogent are (1) to ask the appropriate legislatures to examine their death penalty statutes with these issues in mind, and (2) to implement the federal approach to instructing capital juries about sex bias and requiring written certification from those juries that sex bias was not a factor in their verdict. The first recommendation would require no more than a state-specific examination of death penalty statutes by a legislative committee and/or a special investigator. Such an examination could identify statutory provisions that might fall with different weight upon male and female offenders. The process could then move on to seek means to amend those statutory provisions to make them more gender-neutral.

The second recommendation may do more to make us feel good than to implement any actual progress toward gender-neutrality, but at least it puts the issue on the table. A jury hearing a death penalty case in federal court is instructed by the trial court judge at the close of the sentencing that "it shall not consider the . . . sex of the defendant . . . and the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the . . . sex of the defendant . . . may be."[73] And, if a death verdict is returned, each juror must sign a certificate that the sex of the offender was not considered in reaching that death verdict.[74] Such provisions at least assure that capital jurors focus on the gender issue, even if we have no guarantee that they take the issue seriously.

In the end, one fears that a push toward gender neutrality in the death penalty system may fall more punitively on women than on men, or at least

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[71] *Id.*
[72] Streib, *Gendering the Death Penalty*, *supra* note 2, at 470.
[73] 18 U.S.C. § 3593(f) (2005).
[74] *Id.*

to be a mixed bag. That is, if female capital offenders appear to be screened out more often than male capital offenders, then one might solve this by sentencing more women to death and executing more of them once they are sentenced to death. If capital jurors were asked to avoid sex bias in their deliberations, they might be more likely to treat female defendants as if they were male than to treat male defendants as if they were female. Conversely, legislators might not be inclined to seek ways to execute more women, given the apparent lack of political, social, cultural, and religious support for such a policy. In fact, we may quietly support the premise that our harshest criminal justice process should take it easy on women.

APPENDIX A: EXECUTIONS OF FEMALE OFFENDERS BY JURISDICTION, JANUARY 1, 1900 THROUGH DECEMBER 31, 2005[75]

Jurisdiction	Date of Execution	Name	Race	Age at Crime
Alabama	01-24-1930	Gilmore, Selena	Black	[adult]
	09-04-1953	Dennison, Earle	White	54
	10-11-1957	Martin, Rhonda Belle	White	48
	05-10-2002	Block, Linda Lyon	White	45
Arizona	02-21-1930	Dugan, Eva	White	49
Arkansas	05-02-2000	Riggs, Christina Marie	White	26
California	11-21-1941	Spinelli, Eithel Leta Juanita	White	52
	04-11-1947	Peete, Louise	White	58
	06-03-1955	Graham, Barbara	White	32
	08-08-1962	Duncan, Elizabeth Ann	White	58
Delaware	06-07-1935	Carey, May H.	White	52
Florida	03-30-1998	Buenoano, Judias	White	28
	10-09-2002	Wuornos, Aileen	White	33
Federal			White	
(New York)	06-19-1953	Rosenberg, Ethel[76]	White	32
(Missouri)	12-18-1953	Heady, Bonnie Brown	White	41

[75] The information in Appendix A is taken from Streib, *Femdeath*, *supra* note 3, at 4-5.

[76] Ethel Rosenberg's capital crime was espionage, the only one of these 20th and 21st century executions of female offenders which was imposed for a crime other than murder.

Georgia	03-05-1945	Baker, Lena	Black	44
Illinois	01-28-1938	Porter, Marie	White	38
Louisiana	02-01-1929	LeBoeuf, Ada	White	38
	02-08-1935	Moore, Julia (aka Powers; aka Williams)	Unknown	[adult]
	11-28-1942	Henri, Toni Jo (aka Annie)	White	26
Mississippi	01-13-1922	Perdue, Pattie	Black	[adult]
	10-13-1922	Knight, Ann	Black	[adult]
	04-29-1937	Holmes, Mary	Black	32
	05-19-1944	Johnson, Mildred Louise (aka James)	Black	34
New York	03-29-1909	Farmer, Mary	White	29
	01-12-1928	Snyder, Ruth Brown	White	33
	08-09-1934	Antonio, Anna	White	27
	06-27-1935	Coo, Eva	White	40
	07-16-1936	Creighton, Mary Francis	White	36
	11-16-1944	Fowler, Helen	Black	37
	03-08-1951	Beck, Martha	White	29
North Carolina	01-01-1943	Phillips, Rosana Lightner	Black	25
	12-29-1944	Williams, Bessie May	Black	19
	11-02-1984	Barfield, Velma	White	52
Ohio	12-07-1938	Hahn, Anna Marie	White	32
	01-15-1954	Dean, Dovie Smarr	White	55
	16-12-1954	Butler, Betty	Black	25
Oklahoma	07-17-1903	Wright, Dora	Black	[adult]
	01-11-2001	Allen, Wanda Jean	Black	29
	05-01-2001	Plantz, Marilyn Kay	White	27
	12-04-2001	Smith, Lois Nadeen	White	41
Pennsylvania	02-23-1931	Schroeder, Irene	White	22
	10-14-1946	Sykes, Corrine	Black	22
South Carolina	01-15-1943	Logue, Sue Stidham	White	43
	01-17-1947	Stinette, Rose Marie	Black	49
Texas	02-03-1998	Tucker, Karla Faye	White	38

	02-24-2000	Beets, Betty Lou	White	46
	09-14-2005	Newton, Francis Elaine	Black	21
Vermont	12-08-1905	Rogers, Mary Mabel	White	21
Virginia	08-16-1912	Christian, Virginia	Black	17

APPENDIX B:[77]

Case Summaries for Female Offenders Under Death Sentences as of December 31, 2005

Federal	
- last execution of a female by the federal government on 12-18-1953 - 1 female offender now on federal death row	
Johnson, Angela	White; age 29 at crime and now age 41; murder of white male age 34, white female age 31, white female age 10, and white female age 6 in Mason City, Iowa on 7-25-1993; and murder of white male age 32 in Mason City, Iowa on 11-5-1993; sentenced on 12-20-2005

Alabama	
- last execution of a female by Alabama on 5-10-2002 - 1 female offender now on Alabama's death row	
Blackmon, Patricia	Black; age 29 at crime and now age 36 (DOB 11-3-1969); murder of black female age 2 (her adopted daughter) in Dothan in May 1999; sentenced on 6-7-2002.

[77] The information in Appendix B is taken from Streib, *Femdeath*, *supra* note 3, at 15-20.

Arizona	
- last execution of a female by Arizona on 2-21-1930 - 2 female offenders now on Arizona's death row	
Andriano, Wendi	White; age 30 at crime and now age 35 (DOB: 8-6-1970); murder of male age 33 (her husband) in Mesa on 10-8-2000; sentenced on 12-22-2004.
Milke, Debra Jean	White; age 25 at crime and now age 41 (DOB: 3-10-1964); murder of white male age 4 (her son) in Maricopa County on 12-2-1989; sentenced on 1-18-1991.

California
- last execution of a female by California on 8-8-1962 - 14 female offenders now on California's death row

Alfaro, Maria Delrio (Rosie)	Latin; age 18 at crime and now age 34 (DOB: 10-12-1971); burglary, robbery and murder of Latin girl age 9 in Anaheim on 6-15-1990; sentenced 7-14-1992.
Buenrostro, Dora Luz	Latin; age 34 at crime and now age 45; murder of Latin females ages 4 and 9 and Latin male age 8 (her children) in San Jacinto on 10-25-1994 and 10-27-1994; sentenced on 10-2-1998.
Caro, Socorro	Latin; age 42 at crime and now age 48 (DOB: 3-27-1957); murder of Latin males ages 5, 8, and 11 (her children) in Santa Rosa Valley (Ventura County) on 11-22-1999; sentenced on 4-5-2002.
Carrington, Celeste Simone	Black; age 30 at crimes and now age 44; murders (during burglaries) of Latin male age 34 on 1-26-1992 in San Carlos and of white female age 36 in Palo Alto on 3-11-1992; sentenced on 11-23-1994.
Coffman, Cynthia Lynn	White; age 24 at crime and now age 43 (DOB 1- 19-1962); murder of white female age 20 in San Bernardino County on 11-7-1986; sentenced on 8-31-1989.
Dalton, Kerry Lynn	White; age 28 at crime and now age 45; murder of white female age 23 in Live Oak Springs on 6-26-1988; sentenced on 5-23-1995.
Eubanks, Susan	White; age 33 at crime and now age 42; murder of four white males (her children) ages 4, 6, 7, and 14 in San Marcos (San Diego County) on 10-27-1996; sentenced on 10-13-1999.
Gonzalez, Veronica	Latin; age 26 at crime and now age 36; murder of Latin female age 4 (her niece) in San Diego on 7-21-1995; sentenced on 7-20-1998.
McDermott, Maureen	White; age 37 at crime and now age 58 (DOB 5-15-1947); murder of white male age 27 in Van Nuys (Los Angeles County) on 4-28-1985; sentenced on 6-8-1990.

Michaud, Michelle Lyn	White; age 38 at crime and now age 44; kidnaping, sexual assault, and murder of white female age 22 in Pleasanton (Alameda County) on 12-2-1997; sentenced on 9-25-2002.
Nieves, Sandi Dawn	White; age 34 at crime and now age 41; murder of four Latin females (her children), ages 5, 7, 11 and 12, in Saugus (north of Los Angeles) on 6-30-1998; sentenced on 10-6-2000.
Rodriguez, Angelina	Latin; age 32 at crime and now age 37; murder of Latin male (her husband) age 41 in Montebello (Los Angeles County) on 9-9-2000; sentenced on 1-12-2004.
Samuels, Mary Ellen	White; age 40 at crimes and now age 56; murder (she hired killer) of white male age 40 (her husband) on 12-8-1988 in Northridge (Los Angeles County) and of white male age 27 (her husband's killer) in Ventura County on 6-27-1989; sentenced on 9-16-1994.
Thompson, Catherine	Black; age 42 at crime and now age 57; murder (she hired killer) of black male (her husband) in Westwood (Los Angeles County) on 6-14-1990; sentenced on 6-10-1993.

Delaware	
- last execution of a female by Delaware on 6-7-1935 - 1 female offender on Delaware's death row	
Andriano, Wendi	White; age 53 at crime and now age 57 (DOB: 2-9-1948); murders of white male age 62 (her ex-husband) near Millsboro (Sussex County) on 9-23-2001 and of white male age 45 (her husband) near Bridgeville (Sussex County) on 10-17-2001; sentenced on 6-4-2004.

Georgia	
- last execution of a female by Georgia on 3-5-1945 - 1 female offender now on Georgia's death row	
Gissendaner, Kelly Renee	White, age 28 at crime and now age 37; murder of white male age 30 (husband) in Gwinnett County on 2-7-1997; sentenced on 11-20-1998.

Idaho	
- Idaho has never executed a female offender - 1 female offender now on Idaho's death row	
Row, Robin Lee	White; age 35 at crime and now age 48 (DOB 9-12-1957); murder/arson of white male age 34 (husband), white male age 10 (son), and white female age 8 (daughter) in Boise on February 10, 1992; sentenced on 12-16-1993.

Indiana	
- Indiana has never executed a female offender - 1 female offender now on Indiana's death row	
Brown, Debra Denise	Black; age 21 at crime and now age 43 (DOB 11-11-1962); murder of black female age 7 in Gary on 6-18-1984; sentenced on 6-23-1986; (serving life sentence in Ohio but sentenced to death in Indiana).

Kentucky	
- last execution of a female by Kentucky on 2-7-1868 - 1 female offender now on Kentucky's death row	
Caudill, Virginia Susan	White; age 37 at crime and now age 45 (DOB: 9-10-1960) robbery and murder of black female age 73 in Lexington on 3-15-1998; sentenced on 3-24-2000.

Louisiana	
- last execution of a female by Louisiana on 11-28-1942 - 1 female offender now on Louisiana's death row	
Frank, Antoinette	Black; age 22 at crime and now age 34 (DOB: 4-30-1971); robbery and murder of white male age 25 (police officer), Asian male age 17, and Asian female age 24 in New Orleans on 3-4-1994; sentenced on 9-13-1995.

Mississippi	
- last execution of a female by Mississippi on 5-19-1944 - 1 female offender now on Mississippi's death row	
Byrom, Michelle	White; age 43 at crime and now age 49 (DOB: 11-3-1956): murder (she hired killer) of white male (her husband) age 56 in Tishomingo County on 6-4-1999; sentenced on 11-18-2000.

North Carolina	
- last execution of a female by North Carolina on 11-2-1984 - 4 female offenders now on North Carolina's death row	
Jennings, Patricia JoAnn [Wells]	White; age 47 at crime and now age 63 (DOB: 8-24-1942); murder of white male age 77 (her husband) in Wilson County on 9-19-1989; sentenced on 11-5-1990.
Moore, Blanche Kiser [Taylor]	White; age 56 at crime and now age 72 (DOB: 2-17-1933); murder of white male age 50 (her boyfriend) in Alamance County on 10-7-1986; sentenced on 11-16-1990.
Parker, Carlette Elizabeth	Black; age 34 at crime and now age 42 (DOB: 6-12-1963); murder of white female age 86 in North Raleigh (Wake County) on 5-12-98; sentenced on 4-1-99.
Walters, Christina S.	American Indian; age 20 at crime and now age 27 (DOB: 7-15-1978); murder of white female age 19 and white female age 25 north of Fayetteville in Cumberland County on 8-17-1998; sentenced on 7-6-2000.

Ohio	
- last execution of a female by Ohio on 6-12-1954 - 2 female offenders now on Ohio's death row	
Diar, Nicole Ann	White; Age 28 at crime and now age 30 (DOB: 7-21-1975); murder of Latin male age 4 (her son) on 8-27-2003; sentenced on 11-2-2005.
Roberts, Donna	White; age 58 at crime and now age 61 (DOB: 5-23-1944); murder of white male (her husband) near Warren (Trumbull County) on 12-11-2001; sentenced on 6-21-2003.

Oklahoma	
- last execution of a female by Oklahoma on 12-4-2001 - 1 female offender on Oklahoma's death row	
Andrew, Brenda E.	White; age 37 at crime and now age 42 (DOB: 12-16-1963); murder of white male age 39 (her husband) in Oklahoma City on 11-20-2001; sentenced on 9-22-2004.

Pennsylvania	
- last execution of a female by Pennsylvania on 10-14-1946 - 5 female offenders now on Pennsylvania's death row	
Hill, Donetta Marie (Williams)	Black; ages 23 and 24 at crimes and now age 39 (DOB: 9-23-1966); murders of Asian male age 72 in Philadelphia on 6-20-1990 and of black male age 21 in Philadelphia on 3-24-1991; sentenced on 4-9- 1992.
King, Carolyn Ann (Ewell; Kline)	Black; age 28 at crime and now age 40 (DOB: 12-9-1965); robbery and murder of white female adult in October 1993 in Lebanon; sentenced on 11-30-1994.
Markman, Beth Ann (Gaylord)	White; age 34 at crime and now age 39 (DOB: 1-6-1966); kidnaping and murder of white female age 18 in Cumberland County on 10-4-2000; sentenced in 2001.
Tharp, Michelle Sue	White; age 29 at crime and now age 36 (DOB: 1-20-1969); murder of white female age 7 (her daughter) in Burgettstown (Washington County) on 4-18-1998; sentenced on 11-14-2000.
Walter (aka Walters), Shondra Dee	Black; age 23 at crime and now age 26 (DOB: 7-16-1979); murder of white male age 83 in Lock Haven (Clinton County) on 3-25-2003; sentenced on 4-19-2005.

Tennessee	
- last execution of a female by Tennessee in 1837 - 2 female offenders now on Tennessee's death row	
Owens, Gail (aka Gaile) Kirksey	White; age 32 at crime and now age 53 (DOB: 9-22-1952); murder (she hired killer) of white male (her husband) in Shelby County on 2-17-1985; sentenced on 1-15-1986.
Pike, Christa Gail	White; age 18 at crime and now age 29 (DOB: 3-10-1976); murder of Latin female age 19 in Knoxville on 1-12-1995; sentenced on 3-29-1996.

Texas
- last execution of a female by Texas on 9-14-2005 - 9 female offenders now on Texas's death row

Basso, Suzanne Margaret	White; age 44 at crime and now age 51 (DOB: 5-15-1954); murder of white male age 59 (her boyfriend) in Houston on 8-25-1998; sentenced on 9-1-1999.
Carty, Linda Anita	Black; age 42 at crime and now age 47 (DOB: 10-5-1958); kidnapping and murder of Latin female age 20 (and victim's infant son) in Houston on 5-16-2001; sentenced on 2-21-2002.
Henderson, Cathy Lynn	White; age 37 at crime and now age 49 (DOB: 12-27-1956); murder of white male age 3 months (she was babysitter) near Austin (Travis County) on 1-21-1994; sentenced on 5-25-1995.
Holberg, Brittany Marlowe	White; age 23 at crime and now age 32 (DOB: 1-7-1973); murder of white male age 80 in Amarillo on 11-13-1996; sentenced on 3-27-1998.
McCarthy, Kimberly Lagayle	Black; age 36 at crime and now age 44 (DOB: 5-11-1961); murder of white female age 71 in Lancaster (Dallas County) on 7-21-1997; sentenced on 12-?-1998; reversed in 2001; resentenced on 11-1-2002.
Richardson, Chelsea Lea	White; age 19 at crime and now age 21 (DOB: 3-26-1984); murder of white male age 46 and white female age 45 in Mansfield (Tarrant County) on 12-11-2003; sentenced on 6-1-2005.
Routier, Darla Lynn	White; age 26 at crime and now age 35 (DOB: 1-4-1970); murder of white male age 5 (her son) in Rowlett (Dallas County) on 6-6-1996; sentenced on 2-4-1997.
Sheppard, Erica Yvonne	Black; age 19 at crime and now age 32 (DOB: 9-1-1973); murder of white female age 43 in Houston on 6-30-1993; sentenced on 3-3-1995.

Virginia	
- last execution of a female by Virginia on 8-16-1912 - 1 female offender now on Virginia's death row	
Lewis, Teresa Michelle	White; age 33 at crime and now age 36; murder of white male age 51 (her husband) and white male age 26 (her stepson) in Keeling (Pittsylvania County) on 10-30-2002; sentenced on 6-3-2003.