

Temporal Characteristics of Capital Murder Trials Between 1982-1998

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Abstract

Research on jury decision making in capital murder trials has revealed that extralegal, or irrelevant factors, such as victim ethnicity, defendant ethnicity, and even defendant's physical appearance, may influence sentencing decisions, particularly when guilt phase evidence is ambiguous or weak. The purpose of this archival study was to examine the temporal characteristics, or length in days, of bifurcated capital murder trials in North Carolina between 1982 and 1999. Archival data were collected on 284 capital murder cases on appeal, based on standardized records in non-electronic Case Briefs which are routinely filed post-conviction with the North Carolina Supreme Court. In addition to descriptive data, data were analyzed by trial era (1982-1991 vs. 1992-1998), sentencing decision by the jury (life or death), and race of the defendant (white vs. non-white). Data were analyzed using Chi-Squared (χ^2) tests of independence and one-way ANOVAs. Results indicated that the length of capital trials increased only slightly between 1982 and 1998, and that defendants who got life were slightly younger than those who got death. Capital trials for non-white defendants were slightly shorter than trials for white defendants, and overall trial length did not vary by trial era. Finally, the overall length of a capital trial was most strongly correlated with the length of the guilt phase, while it was weakly related to the length of the sentencing phase.

1. Introduction

In *Furman v. Georgia* (1972)⁸, the United States Supreme Court temporarily abolished the use of capital punishment across the country because of growing concerns about the arbitrary nature of jury decision making in sentencing decisions (life without parole or death) for convicted capital defendants. In response, legislatures across the country set out to re-write their capital punishment statutes to provide greater guidance and structure for juries making life or death decisions. North Carolina passed its current capital punishment statute in June of 1977, conforming to the standards upheld by the United States Supreme Court in *Gregg v. Georgia* (1976)¹⁰, which ruled that capital punishment could once again resume in states across the country.

Revisions to North Carolina's capital punishment statute were designed to make jury decision-making in capital trials more structured, guided, and fair, including the following new provisions: (a) the use of aggravating and mitigating factors which must be weighed by capital juries in final sentencing, (b) the designation that only the jury (and not a judge) can make a capital sentencing decision, and (c) the bifurcation of the trial into two parts, known as guilt phase and sentencing (or penalty) phase¹⁶.

The addition of a bifurcated capital trial separated the guilt phase of a trial from the sentencing phase, although both occur close in time and are decided by the same jury. Once a jury is selected, the trial begins with the presentation of guilt phase evidence, which results in a jury verdict of guilty or not guilty. If the defendant is found guilty, the sentencing phase of the trial begins immediately, starting with the state's presentation of aggravating factors, or reasons the jury should give this defendant the death penalty. The defense is then allowed to present evidence of mitigating factors, or reasons the jury should consider a sentence of life without parole. This bifurcation provides an

opportunity to examine temporal characteristics of a capital trial by phase, rather than examining only the total length of a capital trial.

Over the past 30 years, psychological science in psychology and law has shown that extra-legal, or legally irrelevant factors, often influenced jury decision making in capital murder trials, particularly when the evidence at guilt phase is weak or ambiguous⁶. Defendants who kill female victims were more likely to get the death penalty^{12,13}, and capital jurors responded more harshly when sentencing defendants of different races than their own⁵. Unattractive defendants are slightly more likely to be convicted than attractive defendants⁵, and black defendants who possess more stereotypically black facial features were more likely to get death than those who possess less stereotypically black facial features, even when the seriousness of an offense was held constant⁷.

This study focused on temporal characteristics of capital murder cases in North Carolina as a potential extra-legal factor, with emphasis on the guilt phase, sentencing phase, and total length of the capital trial in days. Temporal characteristics have not been studied beyond the use of total trial length to assess the costs of capital trials, although they may in fact be an extra-legal source of influence. Anecdotally, trial phase lengths are often the source of casual conversations among the legal participants in a capital trial, who speculate frequently about trial length and the days on which jury decisions are likely to be returned.

Prior research on capital trial length has shown that capital trials were longer than other homicide trials (e.g., non-capital murder trial), and that most tried a single (vs. multiple) defendant at a time¹¹. By self-report, attorneys spend more time on capital vs. non-capital murder trials, and more time on guilt phase than penalty phase¹¹. Capital cases in Colorado required an average of 1902 days from arrest to sentence by jury, in contrast to 526 days for non-capital murder trials, and capital prosecutions averaged 40 days while non-capital trials averaged 17 days in length². Finally, federal capital defenders worked an average of 2815 hours on a capital case, but only 637 hours on a non-capital case⁹.

This study examined capital murder trials in North Carolina between 1982 and 1998, an era during which capital murder convictions and death sentences were steadily rising. The rate of death sentences in North Carolina peaked in 1999, and public support for the death penalty was at its highest¹⁴. Capital cases during this era represented the beginning of the implementation of North Carolina's new capital punishment statute, which required attorneys, who are not often schooled in psychology, to conduct mitigation investigations to gain relevant information about the defendant for purposes of sentencing. Mitigation specialists and private investigators were not mandated for capital defense teams until 2002, well after the trials in this study were held¹.

This archival study examined three temporal characteristics associated with capital trials over two decades: (a) guilt phase in days, which included jury selection, (b) sentencing phase in days, and (c) total length of the trial in days. In addition to descriptive data, data were analyzed by trial era (1982-1991 vs. 1992-1998), sentencing decision by the jury (life or death), and race of the defendant (white vs. non-white). Data were also collected on possible correlates of trial length and decision making, including the number of murder convictions in a single case, ethnicity of the defendant, and gender of the jury foreperson. Finally, data was collected on the day of week a jury verdict and sentence were most likely to be rendered, and the most common month (or time of year) for a capital trial to commence.

In general, it was hypothesized that capital murder trials increased significantly in length over these two decades, partly to due numerous advances in forensic science and expected improvements in attorney training, preparation, and presentation of evidence at a capital trial. It was further hypothesized that there would be no differences in temporal characteristics of the trial by defendant's race, or by the defendant's ultimate sentence as imposed by the jury.

2. Methodology

2.1 Subjects

Subjects in this study were represented by collecting archival data using Case Briefs for capital murder trials in North Carolina between 1982 and 1998. Data were collected in a non-random manner from the shelves of the law library at Wake Forest University, and the data were only available in non-electronic form. Under North Carolina law, capital murder trials which result in a death sentence are automatically appealed, while trials resulting in life without parole are optional and must be filed within 10 days of sentencing. This data set, therefore, only contains information about defendants who were convicted of capital murder, sentenced to life and/or death, and were granted or elected to file an appeal with the North Carolina Supreme Court.

The initial sample consisted of 300 cases, but only 284 cases were included in the final analyses. Cases were excluded for missing data in the Case Briefs, which were critical to data analyses.

2.2 Materials

Each defendant's capital case file was reviewed and later excerpted from Case Briefs, which are filed to the North Carolina Supreme Court or Court of Appeals by attorneys for the state and the defense. Case briefs contain a standardized list of documents of relevance to the appeal for every case, including underlying records or documentation where relevant.

To collect data relevant to this study, the following documents were copied and excerpted from the Case Briefs for each defendant: (a) Organization of the Trial Tribunal, which briefly summarizes the history and present outcome of the trial, including dates, (b) Statement of the Facts, which summarized evidence presented at the trial in narrative form, (c) signed jury Verdict Forms, which indicate whether the defendant is guilty or not guilty, (d) signed Issues and Recommendations as to Punishment forms, which document the jury's final decision about the sentence for the defendant, and (e) a Judgment and Commitment form completed by the state post-trial, which includes relevant demographic and trial-related data.

2.3 Procedures

Data collection was conducted by teams of research assistants who served as coders and were trained in the standardized contents of legal Case Briefs for capital cases on appeal in North Carolina. Instruction was also provided concerning the location of data relevant to this study, found in every case file. A data sheet was developed to collect data on each trial or case, which was completed independently by two coders for each case. Required calculations using interval level variables were completed by two raters, and inter-rater agreement for demographic and calculated variables was 100%.

3. Results

Data analysis was completed using descriptive statistics, Chi-Square (χ^2) tests of independence, and one-way ANOVAs in Excel. This study was primarily designed to describe temporal characteristics of capital trial over a 20-year period, specifically total length, guilt phase (which included jury selection) and the sentencing phase of a capital trial, all measured in days. Frequency counts were also examined for the month a trial began, the day of week a verdict was rendered, and the day of week a sentence was delivered by the jury.

A secondary goal was to examine changes in temporal characteristics of capital cases by sentence (life vs. death) over time (by Era 1 vs. Era 2), and by race of the defendant (non-white vs. white), which were treated as dichotomous independent variables for the purposes of this study. Finally, data were collected on potential correlates of temporal trial characteristics, including age and gender of defendant, gender of the jury foreperson, and whether or not the trial was joindered (i.e., was the defendant the only one on trial for this offense).

3.1 Descriptive Data for the Total Sample

This data set initially included 300 case briefs for capital cases in North Carolina between 1982 and 1998, which was reduced to 284 when cases with critical missing data were excluded.

Figure 1 summarizes demographic and other descriptive data for the total sample of capital cases ($n = 284$), which can be summarized as follows: (a) 53 % of trials resulted in a death sentence, (b) 95% of defendants were male, (c) 55% of defendants were non-white, (d) 90% of trials were of a single defendant (not joindered), (e) 84% of trials involved a single murder conviction, and (f) 70% of these cases were decided by juries with a male foreperson. Era 1 (1982-1991) and Era 2 (1992-1998) were designated to even the sample sizes for both eras over this 20-year period of time. On average, capital defendants were 31 years ($SD = 9.74$), with a range of 16-68 years.

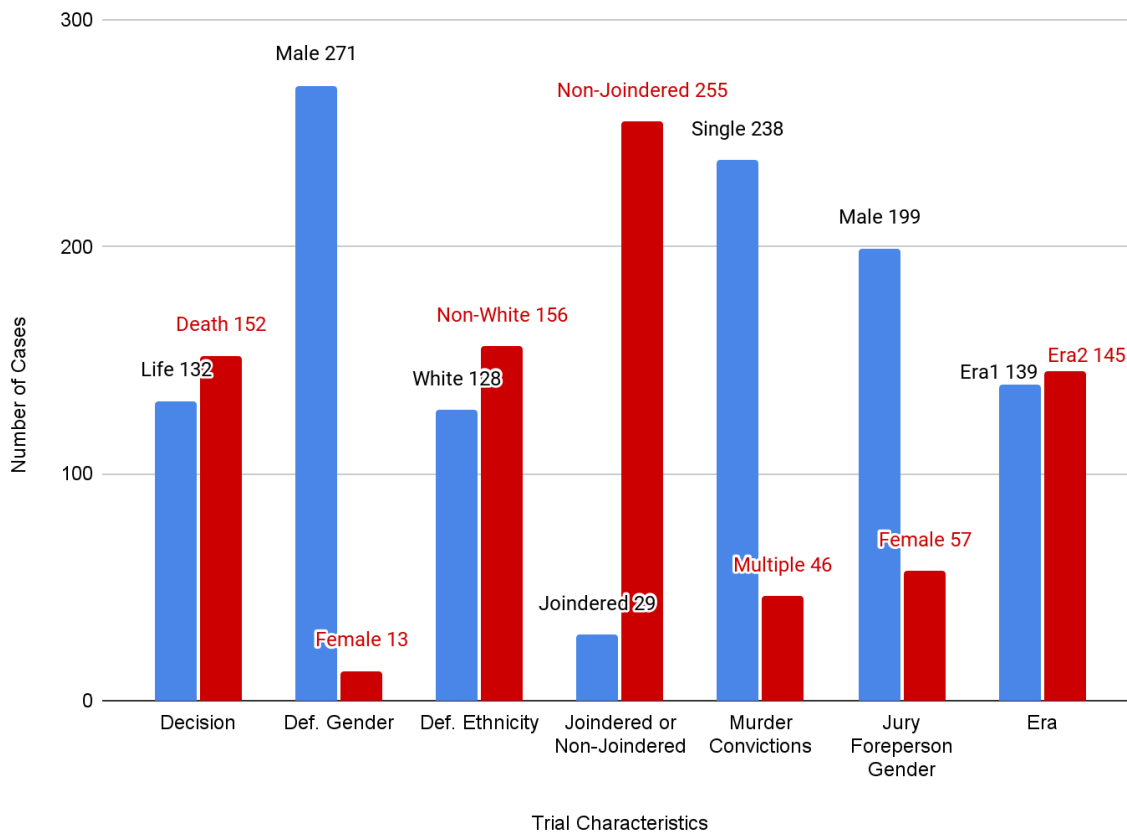


Figure 1. Descriptive Characteristics of Total Sample (n=284)

Note. For the variable labeled Jury Foreperson Gender, 28 cases were excluded due to missing information.

Table 1 summarizes descriptive statistics for the temporal characteristics of the trial, including guilt phase length, sentencing length, and total trial length, all in days. For the total sample, the average length of guilt phase was 17 days, sentencing phase lasted 5 days, and the total trial lasted 21 days, or approximately 3 weeks. Table 1 also summarizes temporal characteristics by sentence (life v. death), by era (Era 1 v. Era 2), and by race of the defendant.

Table 1. Temporal Characteristics of Trial by Decision (Life v. Death), Trial Era, and Race of Defendant

		Total Trial (days)	Guilt Phase (days)	Sentencing Phase (days)	
Total Sample (n=284)	Mean	20.82	16.85	5.03	
	Standard Deviation	14.81	13.48	3.16	
	Range	3-116	2-103	1-34	
Decision	LWOP (n=132)	Mean	19.45	16.09	4.38 **
		Standard Deviation	15.09	13.90	2.39
		Range	3-116	2-103	1-15
	DP (n=152)	Mean	22.01	17.53	5.60 **
		Standard Deviation	14.51	13.11	3.62
		Range	5-116	3-103	1-34
Era	Era 1 (n=139)	Mean	19.96	16.29	4.70 *
		Standard Deviation	15.90	14.53	2.58
		Range	3-116	3-103	1-14
	Era 2 (n=145)	Mean	21.65	17.40	5.34 *
		Standard Deviation	13.69	12.42	3.61
		Range	4-94	2-82	1-34
Race	White (n=128)	Mean	22.65 *	18.35 *	5.31
		Standard Deviation	18.88	17.09	2.87
		Range	3-116	3-103	1-17
	Non-White (n=156)	Mean	19.32 *	15.61 *	4.79
		Standard Deviation	10.17	9.37	3.37
		Range	4-60	2-57	1-34

** Differences are statistically significant

* Differences are marginally statistically significant

As can be seen in *Table 1*, the average total length of a capital trial between 1982-1998 ranged from 19-22 days, while the average guilt phase ranged from 15 to 17 days. The average sentencing phase ranged from 4-5 days and was consistently the shortest phase of a capital trial. The standard deviation for the length of the sentencing phase ranged from 2.4 to 3.6, with an overall range of 1 to 34 days.

In *Figure 2*, the total sample was examined to determine the most frequent day of the week for a jury to return a verdict (guilt phase) and a sentence (sentencing phase). Consistent with courtroom folklore, verdicts and sentences were most likely to be returned on Thursdays or Fridays.

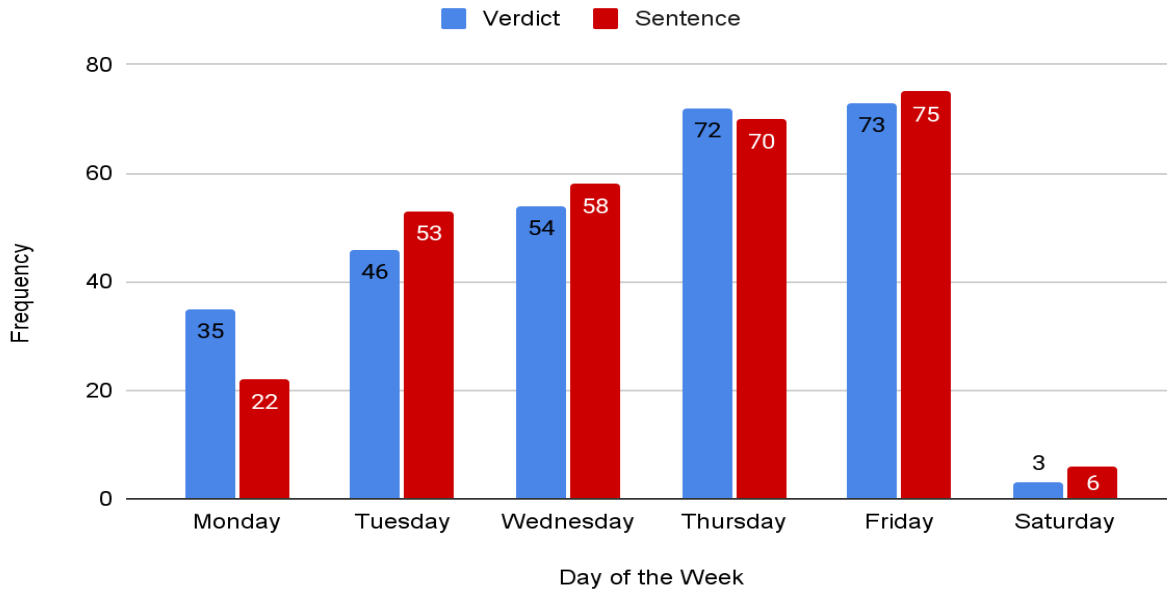


Figure 2. Frequency of Verdicts and Sentences Returned by Day of the Week for Total Sample

In an effort to examine the time of year during which most capital trials are started, frequency counts were examined, as can be seen in *Figure 3*. Most capital trials were commenced in January, May, and October, while capital trials were least frequently started in March, June and December.

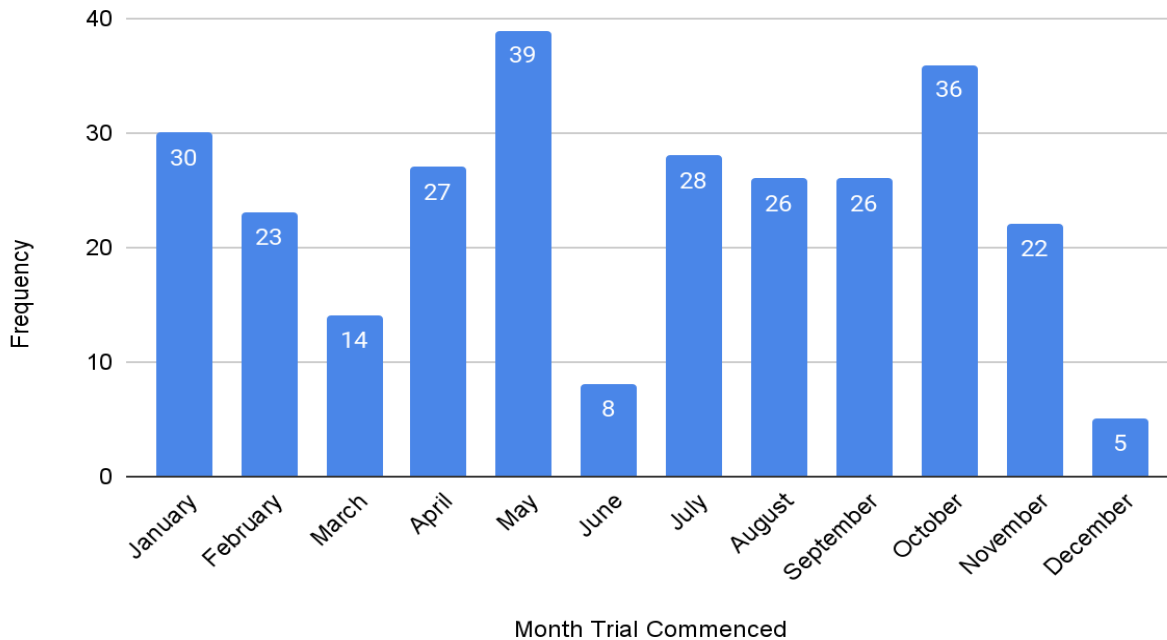


Figure 3. Frequency Count of Cases by Trial Start Month for Total Sample

3.2 Comparison of Trial Characteristics by Sentence (Life vs. Death)

Based on the total sample, 132 capital trials resulted in life (Life), and 152 received the death penalty (DP) (see *Figure 1*). The average total length of trial for those who got life was 19.45 days, compared to 22.00 days for those who got death. The average length of guilt phase was 16.1 days life sentences, and 17.5 days for those who got death. The average length of the sentencing phase was 4.38 days for those who got life, and 5.60 days for those who got death. Total trial lengths ranged from 3-116 days, guilt phase lengths ranged from 2-103 days, and sentencing phase ranged from 1-34 days.

One-way, between-subjects ANOVAs (Table 2) were run to determine if there were significant differences in temporal and other trial characteristics based on the sentence given to the defendant by the jury (life or death). Results of ANOVA tests showed a significant difference in the age of the Life group, compared to the DP group ($F(1,282) = 6.02, p = .01$). The mean age of defendants who got LWOP was 29.5 years compared to an average age of 32.3 years for those who got death. No significant differences were found by sentence on the average length of guilt phase ($F(1,281) = .80, p = .37$ n.s.) or the total trial length ($F(1,283) = 2.1, p = .15$ n.s.). In sum, the length of guilt phase in a capital trial did not differ between those who got LWOP and those who got the DP.

By contrast, there were significant differences between life and death on the sentencing phase length of the trial ($F(1,281) = 10.82, p = .001$) by sentence type. On average, the length of the sentencing phase was 4.4 days, for those who got life, compared to those who got death, whose sentencing phases averaged 5.6 days in length.

Chi-Square tests of independence were also conducted to identify differences in the temporal characteristics of the life and death groups. Results indicated a significant difference in life vs. death sentences for the start month of the trial ($X^2(11, n=284) = 23.50, p = .02$), reflecting more life sentences rendered in trials starting in March, April, and October, and more death sentences in trials which start in May and August. There was also a significant difference in life vs. death decisions and the joinder or non-joinder status of the case ($X^2(1, n = 284) = 4.71, p = .03$), in that trials which included more than one defendant for a single offense (i.e., joinder trials) were more likely to result in death. Finally, there was a significant difference in decision (life vs. death) and trial era (Era 1 vs. Era 2) ($X^2(1, n = 284) = 11.74, p = .00$), documenting a significant increase in death penalty sentences over time.

There were no significant differences by sentencing decision for the day of the week the verdict was rendered by the jury ($X^2(5, n=284) = 4.75, p = .45$), the day of the week the jury sentenced the defendant ($X^2(5, n=284) = 6.78, p = .24$), or the gender of the jury foreperson who guided the sentencing decision ($X^2(1, n = 256) = .15, p = .7$).

3.3 Comparison of Trial Characteristics by Era 1 (1982-1991) vs. Era 2 (1992-98)

This archival study spanned two decades and included trials between 1982 and 1998. To control for differences in sample sizes between the two decades, cases were divided into two eras: Era 1 consisted of 139 cases, while Era 2 consisted of 145 cases. As can be seen in Table 1, cases conducted in Era 1 lasted 20 days for the total trial, while those in Era 2 averaged 21.5 days. The average guilt phase length for Era 1 trials was 16.3 days, and 17.4 days for Era 2 trials. The average sentencing phase length was 4.7 days for those who got life, and 5.3 days for those who got death.

One-way, between-subjects ANOVAs showed no significant difference in the two eras for the total length of the trial ($F(1,283) = .93, p = .34$ n.s.), or the length of the sentencing phase of trial ($F(1,281) = .47, p = .49$ n.s.). There was a marginally significant result when comparing the length of guilt phase by era ($F(1,282) = 3.01, p = .08$). The average length of guilt phase for Era 1 was one day shorter than the average guilt phase for trials held during Era 2. The lack of a statistically significant difference between the two eras for the total trial length and the sentencing phase disconfirmed the hypothesis that the cases would increase in length over the two decades in question.

3.4 Comparison of Trials by Race of Defendant

This sample of 284 cases included 128 white defendants, 140 black defendants, and 16 others (multi-ethnic, Pacific Islander, Native American, Hispanic.). The “other” category was combined with the “black” category to create a single category described as non-white. This resulted in a study of 128 white defendants, and 156 non-white defendants.

A series of one-way ANOVAs were performed to test for differences in the central temporal characteristics of trials by the defendant's race. There was no significant relationship between defendant race and the sentencing phase length of the trial ($F(1,282) = 1.90, p = .17$). There was a marginally significant effect for defendant's race and total trial length ($F(1,283) = 3.58, p = .06$), in that white defendants had trials averaging 22.6 days, while non-white defendants had

trials which lasted 19 days. There was also a marginally significant relationship between race and the guilt phase length of the trial ($F(1,281)=2.91, p = .09$), with white defendants averaging a guilt phase lasting 18.3 days, compared to 15.6 days for non-white defendants.

3.5 Correlations between the Temporal Characteristics of Capital Trials

All three temporal variables, total length of trial, guilt phase length, and sentencing phase length, were significantly correlated (Table 3), revealing an $r = .98, p = .00$, between the total trial length and the guilt phase length of the trial. The correlation between total trial length and sentencing phase length was $r = .5, p = .00$, and the correlation between the length of guilt and sentencing phases was $r = .34, p = .00$.

In sum, while the guilt phase is only moderately correlated with sentencing length, the guilt phase is the longest section of the trial and the greatest predictor of the total trial length. The correlation between the length of guilt phase and sentencing phase was lowest, perhaps due to the lack of variability in sentencing phase length, compared to greater variability in guilt phase length.

Table 3. Correlation between Length of Guilt Phase, Sentencing Phase, and Total Trial for Total Sample

Temporal Correlations X Trial Phase

	<i>Guilt Phase</i>	<i>Sentencing Phase</i>	<i>Total Trial Length</i>
<i>Guilt Phase</i>	1		
<i>Sentencing Phase</i>	0.34	1	
<i>Total Trial Length</i>	0.98	0.51	1

Note: p = .00 for all three correlations.

4. Discussion

In the 1980s and 1990s, significant advances were made in forensic science, law enforcement practices, and attorney training in capital litigation. The science of DNA was still under development and rarely used in court during the 1980s, but it was used with regularity by the early 1990s in North Carolina. Capital attorneys in the 1980s were often real estate attorneys by day, but training and eligibility for capital attorneys had improved significantly by the 1990s. Given these advances, it was expected that capital trials would increase in length between 1982-1998, simply as a result of a rapidly increasing knowledge base about the practice of capital murder investigation and litigation in general.

Overall, these results found that the length of guilt phase, sentencing phase, and the total length of capital trials did not change meaningfully in the 1980s and 1990s, even though there were a few statistically significant differences. Capital defendants who got life were younger than those who got death, and the length of the sentencing phase in those cases was slightly longer for defendants who got death. The average length of guilt phase increased slightly from Era 1 to Era 2, and capital trials with non-white defendants tended to be slightly shorter in days than those with white defendants. Finally, the best predictor of overall trial length was the length of guilt phase, which also did not change in a meaningful way over these two decades.

There are several potentially significant limitations of this study. First, the archival data were not randomly selected and included only capital defendants who filed a post-conviction appeal. Second, the operational definition of “guilt phase” included jury selection days, which was less than ideal, but jury selection length proved to be difficult to reliably measure. Third, the operational definition of all 3 temporal variables in this study (e.g., length of guilt phase) included weekend days in the calculation, primarily to capture the actual experience of being a juror or a litigant in a capital trial.

One final limitation was that the data collected in this study represented only the first two decades of capital litigation after the 1977 rewrite of the capital punishment statute in North Carolina. In the early 2000s, the state began to require

that capital defendants be appointed a mitigation specialist and two experienced capital attorneys, which is likely to have increased the length of capital trials as a result.

Future research on the temporal characteristics of capital trials should include more capital cases from the late 1990s, and a large sample of cases or trials held during the 2000s. To present a complete picture of temporal characteristics, it would be helpful to determine the length of jury selection, separate from guilt phase, and to examine the date of arrest of the defendant, which could provide a more long-term perspective on the temporal characteristics of a capital case.

5. Acknowledgement

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