

Aggravating Circumstances in First Degree Murder Case
Maricopa County, AZ: 2002-2012

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This report details the findings of the review of first-degree murder cases that occurred from 2002 through 2012 in Maricopa County, Arizona. The set of first-degree murder cases was the product of a public records request. Working from that list, I examined court records obtained from the Arizona State Courts. The review consisted of assessing death eligibility of these cases, i.e. determining whether, for each first-degree murder, an aggravating circumstance was present.

Methodology

My research assistant and I reviewed the documents for each case and coded each case for the presence of statutory aggravating circumstances. To ensure that we were using the same decision rules in coding cases, we first double-coded 25 cases from 2010. The inter-rate reliability was very high—95.6%.

The initial data file (an Excel file with case numbers and the names of defendants) included 1,432 cases. We first excluded cases involving defendants who were not indicted for first-degree murder. We then excluded cases involving defendants who were juveniles (i.e., were under the age of 18) at the time of the offense, cases that involved crimes that occurred prior to June 24, 2002 (the date of the *Ring* decision), and cases that were dismissed after the indictment was filed. This left 867 cases, which included 4 cases with missing documents that we were therefore unable to code. Our basis for analysis was 862 defendants whose crimes occurred after June 24, 2002, who were indicted for first degree murder and were at least 18 years old at the time of the offense, and whose cases were not dismissed.

Stage One of the Analysis. We first determined whether the case included one or more of the 14 statutory aggravating circumstances per A.R.S. sec. 13-751(F). We made this determination after reviewing official court documents in the case, including (1) the indictment, (2) the state's notice of intent to seek the death penalty, (3) the state's allegations of aggravating circumstances other than prior convictions, (4) the state's sentencing memorandum, (5) information contained in the court information sheet and the presentence report, and (6) court records from prior convictions of the same defendant.

Of the 862 cases included in the analysis, there was at least one aggravating circumstance in 858 (99.5%) of the cases; in other words, there were only four cases without any of the 14 aggravating circumstances. By year, the percentages of cases with at least one aggravating

factor were 100% (2002), 98.3%(2003), 100% (2004), 98.8% (2005), 98.9% (2006), 98.9% (2007), 100% (2008), 100% (2009), 100% (2010), 100% (2011) and 100% (2012). The most common aggravating circumstance was F2 (revised), followed by F5, F3, and F6. Of the 858 persons eligible for a death sentence (using the 14 aggravating factors) during this timeframe, 38 have been sentenced to death. **This represents a death sentencing rate of 4.4% under the current statute.**

Stage Two of the Analysis. The second stage of the analysis used the same underlying data to determine whether the case included one or more of the 10 statutory aggravating circumstances available in 2001-2002, per A.R.S. sec 13-703 (G). For this analysis we excluded the changes to the aggravating circumstances that post-dated 2001: (1) “Convictions for serious offenses committed on the same occasion as the homicide, or not committed on the same occasion but consolidated for trial with the homicide” (A.R.S. sec. 13-751 (F2)); (2) “Whether the defendant committed the offense while on probation for a felony offense” (A.R.S. sec 13-751 (F7)); (3) “The defendant was an adult at the time the offenses was committed or was tried as an adult and the murdered person . . . was an unborn child in the womb at any stage of its development (A.R.S. sec 13-751 (F9)); (4) “The defendant committed the offense with the intent to promote, further or assist the objectives of a criminal street gang or criminal syndicate or to join a criminal street gang or criminal syndicate” (A.R.S. sec 13-751 (F11)); (5) The defendant committed the offense to prevent a person’s cooperation with an official law enforcement investigation, to prevent a person’s testimony in a court proceeding, in retaliation for a person’s cooperation with an official law enforcement investigation or in retaliation for a person’s testimony in a court proceeding” (A.R.S. sec 13-751 (F12)); (6) The offense was committed in a cold, calculated manner without pretense of moral or legal justification” (A.R.S. sec 13-751 (F13)); and (7) “The defendant used a remote stun gun or an authorized remote stun gun in the commission of the offense” (A.R.S. sec 13-751 (F14)). Put another way, we examined the cases under the 2001 statute.

Of the 862 cases included in the analysis, there was at least one of the 10 aggravating circumstances specified in the 2001-2002 statute in 843 (97.8%) of the cases; in other words, there were only 19 cases without at least one of these aggravating circumstances. By year, the percentages of cases with at least one aggravating circumstance present were 100% (2002),¹ 95% (2003), 100% (2004), 98.8% (2005), 96.6% (2006), 96.6% (2007), 100% (2008), 97.1% (2009), 97.9% (2010), 99% (2011), and 95.9% (2012). Of the 843 persons eligible for a death sentence during this timeframe, 38 have been sentenced to death. **This represents a death sentencing rate of 4.5% under the 2001 statute.**

¹ The Stage One analysis in the original report also indicated a 100% eligibility rate for 2002. The cases from that year, as reported in the original report, each had one of the ten aggravating circumstances present as they existed in 2001.