



Bureau of Justice Statistics

Spouse Murder Defendants in Large Urban Counties

In spouse murder cases, wife defendants were less likely to be convicted and to receive severe sentences than husband defendants



U.S. Department of Justice
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Contents

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Highlights

Number of spouse murder defendants and their demographic characteristics

In 1988, the justice system in the Nation's 75 largest counties disposed of an estimated 540 spouse murder cases. Husbands charged with killing their wife outnumbered wives charged with killing their husband. Of the 540, 318 — or 59% — were husband defendants and 222 — or 41% — were wife defendants.

Blacks comprised 55% of the 540 defendants and whites comprised 43%. Among husband defendants 51% were black and 45% were white. Among wife defendants 61% were black and 39% were white. In 97% of the murders, both spouses were the same race.

Ages of spouse murder defendants ranged from 18 to 87. The average age was 39. The average age of husband defendants was 41; of wife defendants, 37 years.

Arrest charge

First-degree murder was the most frequent charge at arrest, accounting for 70% of defendants. In descending order of seriousness, charges were distributed this way across the 540 spouse murder defendants:

- 70% first-degree murder
- 24% second-degree murder
- 6% nonnegligent manslaughter

How the justice system disposed of spouse murder cases

Cases were disposed of in one of three ways:

- (1) the prosecutor declined to prosecute; or
- (2) the defendant pleaded not guilty, stood trial, and was either acquitted or convicted; or
- (3) the defendant pleaded guilty.

Of the 540 spouse murder defendants, 232 — or 43% — pleaded guilty to killing their spouse and 238 — or 44% — pleaded not guilty and stood trial. The remaining 70 persons — or 13% — were not prosecuted.

Outcome for spouse murder defendants who pleaded not guilty and stood trial

Of the 238 who pleaded not guilty, 63% were tried by a jury and the remaining 37% were tried by a judge. Together, judges and juries acquitted 16% of the 238 spouse murder defendants and convicted 84% — or 199 persons — of killing their spouse.

Bench trials (trials before a judge) had a higher acquittal rate than jury trials: 26% of bench trials ended in acquittal, versus 11% of jury trials.

Defendants convicted of killing their spouse

Of the 540 spouse murder defendants, 431 (or 80%) were ultimately convicted of killing their spouse. Their conviction was the result of either pleading guilty (232 persons) or being convicted at trial (199 persons).

While most persons arrested (70%) for spouse murder were charged with first-degree murder, most persons convicted (52%) of spouse murder had negligent or nonnegligent manslaughter as their conviction offense.

Sentences for defendants convicted of killing their spouse

Of the 431 defendants convicted of killing their spouse, 89% were sentenced to a State prison, 1% were sentenced to a county jail, and the remaining 10% received a sentence of straight probation (no prison or jail confinement).

An estimated 12% of the 431 convicted spouse murderers received a sentence to life imprisonment and 1% received the death penalty.

Excluding life and death sentences, the average prison term imposed was 13 years.

Wife defendants less likely to be convicted

Wife defendants had a lower conviction rate than husband defendants —

- Of the 222 wife defendants, 70% were convicted of killing their mate. By contrast, of the 318 husband defendants, 87% were convicted of spouse murder.
- Of the 100 wife defendants tried by either a judge or jury, 31% were acquitted. But of the 138 husbands tried, 6% were acquitted.
- Of the 59 wife defendants tried by a jury, 27% were acquitted. But of the estimated 91 husband defendants tried by a jury, none was acquitted.

Convicted wife defendants sentenced less severely

An estimated 156 wives and 275 husbands were convicted of killing their spouse. Convicted wives were less likely than convicted husbands to be sentenced to prison, and convicted wives received shorter prison sentences than their male counterparts —

- 81% of convicted wives but 94% of convicted husbands received a prison sentence.
- On average, convicted wives received prison sentences that were about 10 years shorter than what husbands received. Excluding life or death sentences, the average prison sentence for killing a spouse was 6 years for wives but 16.5 years for husbands.

- Among wives sentenced to prison, 15% received a sentence of 20 years or more (including life imprisonment and the death penalty); among husbands, it was 43%.

Victim provocation more often present in wife defendant cases

According to information contained in prosecutor files, more wife defendants (44%) than husband defendants (10%) had been assaulted by their spouse (threatened with a weapon or physically assaulted) at or around the time of the murder.

Self-defense as possible explanation for wives' lower conviction rate

In certain circumstances, extreme victim provocation may justify taking a life in self-defense. Provocation was more often present in wife defendant cases, and wife defendants were less likely than husband defendants to be convicted, suggesting that the relatively high rate of victim provocation characteristic of wife defendant cases was one of the reasons wife defendants had a lower conviction rate than husband defendants. Consistent with that, of the provoked wife defendants, 56% were convicted, significantly lower than either the 86% conviction rate for unprovoked wife defendants or the 88% conviction rate for unprovoked husbands.

No explanation for why State prison sentences were, on average, 10 years shorter for wife defendants than husband defendants

Wives received shorter prison sentences than husbands (a 10-year difference, on average) even when the comparison is restricted to defendants who were alike in terms of whether or not they were provoked —

- The average prison sentence for unprovoked wife defendants was 7 years, or 10 years shorter than the average 17 years for unprovoked husband defendants.

Victim's race unrelated to outcomes

The victim was black in 55% of cases and white in 43%. The likelihood of a defendant being convicted of spouse murder was about the same whether the murder victim was white or black. Among spouse murder defendants whose victim was white, 81% were convicted. Among those whose victim was black, 79% were convicted.

Likewise, the sentence was unrelated to the victim's race. The likelihood of a convicted spouse murderer receiving a prison sentence was about the same whether the murder victim was white or black: the convicted spouse murderer was sentenced to prison in 93% of cases where the victim was white, not significantly different from the 87% of cases where the victim was black. The length of the prison sentence imposed on a convicted spouse murderer was generally unrelated to whether the murder victim was white or black —

- For conviction for first-degree murder, the average prison term (excluding life and death sentences) was 29 years in white-victim cases, not significantly different from the 32 years in black-victim cases.
- For conviction for second-degree murder, the average prison term (excluding life sentences) was 19 years in white-victim cases, significantly longer than the 13 years in black-victim cases. However, 23% of convicted second-degree murder defendants in black-victim cases received a sentence of life imprisonment, compared to 8% of defendants in white-victim cases.

- For conviction for nonnegligent manslaughter, the average prison term (excluding life sentences) was 8 years in white-victim cases, not significantly different from the average 6 years in black-victim cases.

Defendant's race unrelated to outcomes

The likelihood of conviction, and of a prison sentence if convicted, and the length of the prison sentence were about the same whether the spouse murder defendant was white or black —

- 78% of white defendants were convicted, not significantly different from the 80% of black defendants.
- Among convicted spouse murderers, 93% of white defendants were sentenced to prison, not significantly different from the 88% of black defendants.

Processing time

Three measures of processing time were taken from the day of the murder — to arrest, to indictment, and to final disposition. Most spouse murder defendants were arrested on the same day the killing occurred. Average time to indictment was 4 months. Average time to final disposition was almost exactly 1 year.

For husbands tried by a jury, 12 ½ months was the average elapsed time from the day of the murder to the conclusion of the jury trial. For wives tried by a jury it was significantly longer, about 18 ½ months.

Survey of murder defendants

In 1988 State prosecutors, judges, and juries across the 75 most populous U.S. counties convicted, acquitted, or otherwise disposed of an estimated 9,600 murder defendants. Six percent — or an estimated 540 defendants — were persons charged with murdering their spouse.

Information on the 540 comes from a representative sample of murder cases disposed of in 1988. The sample was drawn from State prosecutor files in 33 of the 75 counties. The counties were widely scattered, from Los Angeles and San Diego, Denver and Dallas, to Philadelphia and Dade County (Miami). For each defendant, data collectors filled out a lengthy questionnaire and prepared a brief narrative from file information. Prosecutor files include such items as the police arrest report, investigator reports, and information on how the case was disposed. Questionnaires and narratives are the sources of data for this report.

The 75 largest counties are where a little over half of all murders in the Nation occur.¹ Consequently, survey results summarized in this report have broad relevance because they are from the courts where the majority of the Nation's murder trials are held. This case processing study of spouse murder defendants is the most geographically comprehensive study on the topic. While the survey covers murder cases processed 7 years ago in 1988, the Bureau of Justice Statistics knows from long experience with surveying courts that changes in case processing are quite gradual. The report's results are therefore likely to be applicable today.

The same database used in this report was previously analyzed by John M. Dawson and Barbara Boland (*Murder in Large Urban Counties, 1988*, BJS Special Report, NCJ-140614, May 1993) and by John M. Dawson and Patrick A. Langan (*Murder in Families*, BJS Special Report, NCJ-143498, July 1994).

¹The Nation consists of 3,109 counties; thus, murders are concentrated in a relatively small number of places.

Characteristics of spouse murder defendants

Sex of defendant

Husbands outnumbered wives as spouse murder defendants. Of the 540 defendants, 318 — or 59% — were husbands charged with killing their wife, and 222 — or 41% — were wives charged with killing their husband (table 1). By definition, the 540 included no divorced couples but did include both common-law and separated spouses.²

Year and location of murder

About eighty percent of the alleged murders that were disposed of in 1988 occurred in 1988 or 1987 (table 2). The rest were earlier, dating to 1975 in one case. Nearly 90% took place in the home.

Time to arrest

In about 80% of cases, defendants were arrested either on the day of the murder or on the following day.

Murder weapon

More of the wives (95%) than the husbands (69%) used a gun or knife to inflict death (table 3). For a smaller person to kill a larger person (such as for a wife to kill her husband), a lethal weapon is generally required.

Race and age of defendants

Of the 540 defendants, 55% were black and 43% were white. Among husbands charged with spouse murder, 51% were black and 45% were white (table 4). Among wives charged, 61% were black and 39% were white. Ninety-seven percent of the murders were intraracial. One percent were black husbands killing white wives. Other interracial murders — either

²Case narratives indicate that 8% were separated, but the actual figure was probably greater than that because separation status was probably not always recorded.

white husbands killing black wives, white wives killing black husbands, or black wives killing white husbands — accounted for the remaining 2%.³

Ages of spouse murder defendants ranged from 18 to 87. On average, spouse murder defendants (mean age 39) were considerably older than murder defendants overall (mean age 28). The average age of husband defendants was 41 years; of wife defendants, 37 years.

Arrest charge

The sample consisted exclusively of persons charged with (in descending order of seriousness) first-degree murder, second- (or third-) degree murder, or nonnegligent (or voluntary) manslaughter —

First-degree murder is premeditated murder (for example, murder by poisoning, murder while lying in wait) or felony murder (for example, rape-murder, robbery-murder).

Second- (or third-) degree murder is all other murder.

³Historical data for the United States indicate that the risk of spouse murder is over 7 times greater for spouses in interracial than intraracial marriages. See James A. Mercy and Linda E. Saltzman, "Fatal Violence among Spouses in the United States, 1976-85," *American Journal of Public Health*, May 1989, Vol. 79, No 5.

Nonnegligent manslaughter is willful killing, without premeditation, in the heat of passion.

Less serious classes of homicide — namely, negligent manslaughter and justifiable homicide — were not

Table 1. Spouse murder defendants in 75 largest counties, 1988

Murder defendant	Total number	Percent of total
All	540*	100%
Husband	318	59
Wife	222	41

* Excludes divorced persons but does include common-law and separated spouses.

Table 2. Spouse murder defendants: Year and location of murder, and time to arrest, 1988

	Percent of spouse murder defendants
Year of murder	
All	100%
1988	30
1987	48
1986	14
1985	3
1984	4
Pre-1984	1
Murder location	
All	100%
Victim's home	86
Elsewhere	14
How long after murder defendant was arrested	
All	100%
Same day	62
Next day	17
Later	21

Table 3. Spouse murder defendants: Weapons used, 1988

Murder defendant	Total number	Percent of spouse murder defendants							
		Total	Firearms					Knife	Other*
			All types	Handgun	Shotgun	Rifle			
All	540	100%	53%	45%	4%	4%	26%	21%	
Husband	318	100	50	41	6	3	19	31	
Wife	222	100	58	51	2	5	37	5	

*Hands, feet etc.

sampled. However, some defendants initially charged with one of the more serious homicides were ultimately convicted of negligent homicide. Likewise, some initially charged with criminal homicide were later exonerated on grounds they acted in self-defense.

First-degree murder was the predominant initial charge. Charges were distributed in this way —

- first-degree murder: 70%
- second-degree murder: 24%
- nonnegligent manslaughter: 6% (table 5)

Similarities between defendants

Certain characteristics did *not* vary significantly between husband defendants and wife defendants (table 6) —

Number of victims

- 4% of husbands and 1% of wives had been charged with killing more than one person.⁴

Percentage that were contract killings

- 3% of husbands and 6% of wives had been charged with a contract killing.

Percentage with history of mental illness

- 11% of husband defendants and 15% of wife defendants had a history of mental illness.

Percentage that involved a firearm

- 50% of husbands and 58% of wives had used a firearm.

Differences between defendants

Certain characteristics *did* vary significantly between husband defendants and wife defendants —

- More husbands (20%) than wives (10%) had killed in a fit of jealousy over the mate's real or imagined infidelity.

Table 4. Spouse murder defendants: Race and age, 1988

Murder defendant	Total number	Percent of spouse murder defendants								Mean age
		Total	Race			Age (in years)				
			White	Black	Other	18-19	20-29	30-59	60 or older	
All	540	100%	43%	55%	2%	1%	22%	66%	11%	39 yrs
Husband	318	100	45	51	4	0	14	74	12	41
Wife	222	100	39	61	0	2	33	55	10	37

Table 5. Spouse murder defendants: Arrest offense, 1988

Murder defendant	Total number	Percent of arrest offenses of spouse murder defendants			
		Total	First-degree murder	Second-degree murder	Nonnegligent manslaughter
			70%	24%	6%
All	540	100%	70%	24%	6%
Husband	318	100	69	28	3
Wife	222	100	71	18	11

Table 6. Spouse murder defendants: Defendant use of firearm, history of mental illness, charged with multiple or contract murder, motivation, 1988

Murder defendant	Total number	Percent of spouse murder defendants				
		Firearm use	History of mental illness	Multiple murder	Contract murder	Murder motivated by jealousy
			53%	13%	3%	4%
All	540	53%	13%	3%	4%	16%
Husband	318	50	11	4	3	20
Wife	222	58	15	1	6	10

⁴Counting as multiple murder all those committed against pregnant women, the percentage of men with multiple victims then becomes 5%, a conservative estimate since pregnancy was not recorded in every case.

- More husbands (31%) than wives (9%) had a history of drug abuse (table 7).
- More husbands (22%) than wives (3%) had been using drugs at the time of the murder.
- More husbands (66%) than wives (37%) had been drinking alcohol at the time of the murder.⁵

⁵Altogether, 55% of defendants were drinking at the time of the murder. Drinking, either by the defendant or the victim, was involved in 66% of cases.

Table 7. Spouse murder defendants: Substance abuse by defendants, 1988

Murder defendant	Percent of spouse murder defendants		Alcohol use at time of murder
	Drug use		
	At time of murder	In past	
All	14%	22%	55%
Husband	22	31	66
Wife	3	9	37

Note: Of the 540 cases, drug use at the time of murder was known in 255; in past, 540; alcohol use, 335.

Spouse murder cases disposed by the prosecutor

Following the defendant's arrest, prosecutors review the case, deciding whether to screen it out or to prosecute.⁶

Of the 540 defendants, 70 — or 13% — were not prosecuted. Prosecutors did not screen out significantly more of the wives than the husbands —

- 16% of wives and 11% of husbands were not prosecuted (table 8).

Most of the wives not prosecuted were screened out because prosecutors concluded from the evidence that these wives had killed their husband in self-defense. By contrast, self-defense was rarely the reason prosecutors gave for not prosecuting husbands. For husbands, reasons were more diverse: he committed suicide after killing his wife; he took her life in a mercy killing or in a gun accident.

⁶As used throughout the report, cases "disposed by the prosecutor" include cases *screened out*, *rejected*, *declined for prosecution*, cases classified as *nolle prosequi*, and cases in which the judge *dismissed* charges.

Table 8. Spouse murder defendants: Percent prosecuted, 1988

Murder defendant	Total number	Percent of spouse murder defendants		
		Total	Prosecuted	Not prosecuted
All	540	100%	87%	13%
Husband	318	100	89	11
Wife	222	100	84	16

Spouse murder defendants not prosecuted

*Notes taken on prosecutors' records**

Dallas case #79 The wife (the victim) is 89 and has been married 65 years. A recent stroke leaves her in terrible pain. She pleads with the doctor to kill her. The doctor refuses. The 87-year-old husband goes to the hospital and shoots her. He is immediately arrested.

New Orleans case #54 For years, the 43-year-old husband (the victim), a dry cleaner operator, has beaten his 35-year-old wife. At the time of the murder the two are fighting, and the husband stabs her in the back. She grabs the knife and stabs him, causing him to bleed to death. She is arrested the same day. She claims self-defense, and the victim's family voices no objection.

New Orleans case #95 The 28-year-old husband (the victim) has a long history of assaulting his 25-year-old wife. At the time of the murder a witness sees the husband in the kitchen chasing the wife with a machete in his hand. The fight ends when the wife stabs the husband once. She is arrested the same day and claims self-defense.

Los Angeles case #21 During an argument the 50-year-old housewife (the victim) pulls out a gun and threatens to kill her 39-year-old unemployed husband. The two struggle. He flees the house and gets in his car. She moves in front of the car, raises the gun and takes aim. He runs over her. He is arrested a day later.

*Case numbers are those assigned in the dataset. Notes are not necessarily complete in having all relevant details.

Columbus (OH) case #2 The wife, age 75, has mental problems. One morning, while her husband (the victim), a 75-year-old retired welder, is still asleep, she stabs him to death. She says she heard a voice tell her to kill him.

Orange County (CA) case #64 When police arrive at the scene, they find the body of the wife (the victim) with 15 stab wounds and the husband's body with 5. Police believe there was an argument, the husband stabbed the wife in a struggle, and then sliced his own neck. Both have been dead for 1 or 2 days.

San Diego case #89 Three weeks before the murder the 32-year-old husband beats his 35-year-old wife (the victim) severely. She tells others that next time he is going to kill her. She wants a divorce, but he wants a reconciliation. On the day of the murder, the two are at a bar, and he is drinking. Later a witness sees her outside a car in the middle of the street. The wife screams, then slumps to the ground, dying from multiple stab wounds in the chest. The husband flees the scene. Later he is found dead from a drug overdose.

Orlando (FL) case #7 The husband comes home drunk and demands money from his wife. She refuses, and he attacks her with a metal pipe. She gets a butcher knife from the kitchen and stabs him once through the heart.

Spouse murder cases disposed by trial verdict

Overall, 44% of spouse murder defendants pleaded not guilty and stood trial. Percentages standing trial were nearly identical for husband defendants and wife defendants —

- 45% of wives and 43% of husbands stood trial (table 9).

Convictions and acquittals

Among spouse murder defendants who stood trial, 16% were acquitted and 84% were convicted. Judges and juries acquitted more wives than husbands —

- 31% of wives who stood trial were acquitted, compared to just 6% of husbands (table 10).

Insanity acquittals, however, were equally likely —

- Among spouses who stood trial, 3% of wives and husbands were found not guilty by reason of insanity.⁷

⁷The number who pleaded not guilty by reason of insanity but who were convicted is unknown.

Those who went to trial and those ultimately convicted at trial did not differ in terms of arrest offense —

- Most of those who went to trial (69%) (table 11) and most of those who were convicted at trial (70%) had first-degree murder as their arrest offense (table 12). About 2% had a nonnegligent manslaughter arrest.

Table 10. Spouse murder defendants who stood trial: Percent acquitted, 1988

Murder defendant	Number standing trial	Total	Percent of spouse murder defendants who stood trial		
			Total	Insanity acquittal	Convicted
All	238	100%	16%	3%	84%
Husband	138	100	6	3	94
Wife	100	100	31	3	69

Table 9. Spouse murder defendants: Percent tried, 1988

Murder defendant	Total number	Percent of spouse murder defendants		
		Total	Stood trial	Not tried
All	540	100%	44%	56%
Husband	318	100	43	57
Wife	222	100	45	55

Table 11. Spouse murder defendants who stood trial: Arrest offense, 1988

Murder defendant	Number standing trial	Total	Percent of spouse murder defendants who stood trial and whose arrest offense was —		
			First-degree murder	Second-degree murder	Nonnegligent manslaughter
All	238	100%	69%	29%	2%
Husband	138	100	68	30	2
Wife	100	100	70	27	3

Table 12. Defendants convicted at trial of killing their spouse: Arrest and conviction offense, 1988

Murder defendant	Number tried and convicted	Percent of tried and convicted spouse murder defendants					
		Total	First-degree murder	Second-degree murder	Nonnegligent manslaughter	Negligent manslaughter	Weapon offense
Arrest offense							
All	199	100%	70%	27%	3%	0%	0%
Husband	130	100	68	30	2	0	0
Wife	69	100	76	21	3	0	0
Conviction offense							
All	199	100%	35%	31%	24%	9%	1%
Husband	130	100	37	30	22	10	1
Wife	69	100	32	33	29	6	0

However, trial conviction offenses were less serious than arrest offenses —

- Among those convicted at trial, 70% had first-degree murder as their arrest offense but 35% had first-degree murder as their conviction offense. A quarter of those convicted at trial had nonnegligent manslaughter as their conviction offense.

The reduction from first-degree murder to a lesser charge did not occur at indictment: Of all trial defendants, 95% were indicted at the same level as their arrest offense. Nor did the small number of first-degree murder convictions result from a higher rate of acquittal: Acquittal rates did not vary significantly by charge level.

Rather, the reason might have been that the evidence did not support conviction to the highest charge, or perhaps juries could seldom agree on conviction to the highest level. What-

Table 13. Defendants convicted at trial of killing their spouse: Convicted of arrest offense or lesser offense, 1988

Murder defendant	Number tried and convicted	Percent of spouse murder defendants tried and convicted of —		
		Total	Arrest offense	Lesser offense
All	199	100%	52%	48%
Husband	130	100	53	47
Wife	69	100	51	49

ever the reason, where there was a conviction, it was to a lesser charge in about half of cases, whether the defendant was the wife or the husband —

- 49% of wives and 47% of husbands convicted at trial had a conviction of offense less serious than their original arrest offense (table 13).

Bench trials (trials before a judge) had a higher acquittal rate than jury trials —

- 26% of bench trials ended in acquittal, versus 11% of jury trials (table 14).

Overall, 63% of defendants who stood trial were tried by a jury, and the remaining 37% were tried by a judge. Wives were not significantly more likely than husbands to choose a bench trial —

- 41% of wife defendants and 34% of husband defendants chose a bench trial rather than a jury trial (table 15).

Wives were more likely than husbands to be acquitted by a jury —

- Juries acquitted 27% of wives but none of the husbands (table 16).⁸

⁸The unweighted sample size was 34 husbands tried before a jury. Not one of the 34 was acquitted. Extrapolated to the 75 largest counties, the 34 represent an estimated 91 cases.

Table 14. Spouse murder defendants who stood trial: Percent acquitted, by trial type, 1988

Type of trial	Number standing trial	Percent of spouse murder defendants who stood trial		
		Total	Acquitted	Convicted
All	238	100%	16%	84%
Jury	150	100	11	89
Bench	88	100	26	74

Despite a sizable difference in the bench trial acquittal rate between wives and husbands, the difference was not statistically significant, possibly because estimates were based on too few sample cases —

- Judges acquitted 37% of wives and 17% of husbands (table 16).

Table 15. Spouse murder defendants who stood trial: Type of trial, 1988

Murder defendant	Number standing trial	Percent of spouse murder defendants who stood trial		
		Total	Jury	Bench
All	238	100%	63%	37%
Husband	150	100	66	34
Wife	88	100	59	41

Table 16. Spouse murder defendants who stood trial: Percent acquitted, by trial type, 1988

Type of trial and murder defendant	Number standing trial	Percent of spouse murder defendants who stood trial		
		Total	Acquitted	Convicted
Jury trial				
All	150	100%	11%	89%
Husband	91	100	0	100
Wife	59	100	27	73
Bench trial				
All	88	100%	26%	74%
Husband	47	100	17	83
Wife	41	100	37	63

Sentencing of those convicted at trial

While wives were not significantly less likely than husbands to receive a prison sentence, the length of their prison sentence was shorter than what husbands received —

- An estimated 82% of wives and 95% of husbands convicted at trial of killing their spouse received a prison sentence (table 17).⁹
- Wives convicted at trial received an average sentence to prison of 10 years, 11 years shorter than what husbands received (an average 21-year term in prison).

⁹"Convicted of killing their spouse" is not precisely correct, since one of the defendants, a husband, was convicted of only a weapon offense. All the rest were convicted of killing or assisting in the killing of a spouse.

**Table 17. Defendants convicted at trial of killing their spouse:
Type of sentence, 1988**

Murder defendant	Number tried and convicted	Percent of spouse murder defendants convicted at trial and sentenced to—				Mean prison term*
		Total	Prison	Jail	Probation	
All	199	100%	90%	3%	7%	17 years
Husband	130	100	95	2	3	21
Wife	69	100	82	3	15	10

*Excludes life and death sentences.

Spouse murder defendants who stood trial: Trial acquittals

Notes taken on prosecutors' records

Miami case #84 The couple has an on-again, off-again relationship for 20 years. Several weeks prior to the murder, she sees her common-law husband (the victim) leave a motel with another woman. Subsequently, the couple has several violent confrontations until one day she shoots him. Outcome: *The jury acquitted her of all charges.*

Chicago case #15 The couple is arguing when the 25-year-old wife finds a love letter to her 25-year-old husband (the victim, a fast-food restaurant employee) from a co-worker. The wife gets a kitchen knife and stabs him. She claims she was a victim of battered wife syndrome and was only defending herself. Outcome: *At a bench trial the judge acquitted her.*

Chicago case #28 The couple is arguing when the 64-year-old husband (the victim) swings a pipe at his 34-year-old wife. She gets a knife and stabs him to death. Outcome: *The jury acquitted her.*

Chicago case #52 The 49-year-old husband (the victim) is drunk and gets into an argument with his 50-year-old wife. According to her, at some point he throws a fan at her. She gets a knife and lunges at him, cutting his abdomen. Outcome: *The jury acquitted her.*

Philadelphia case #47 The 35-year old husband (the victim) comes home drunk after work and begins fighting with his 31-year-old common-law wife over money he is missing. The husband is throwing things at the wife and her children until she gets a knife and stabs the husband once in the chest. Outcome: *At a bench trial the judge acquitted her.*

Cambridge (MA) case #16 The 38-year-old husband has been hospitalized several times for mental illness. He feels everyone is out to get him. He comes home one evening and sees his 30-year-old wife (the victim) talking with a friend. He immediately thinks she is talking about him, and he later strangles her. Outcome: *At a bench trial the judge found him not guilty by reason of insanity.*

Dallas case #65 The unemployed 58-year-old husband is released from a mental hospital two weeks before the murder. He fears his 56-year-old wife (the victim), a secretary, will leave him for another man and have him put back in the mental hospital. He stabs her to death. Outcome: *At a bench trial the judge found him not guilty by reason of insanity.*

St. Louis case #9 The wife, now age 42, has grown increasingly depressed over the years. On the day of the murder she is so distraught she shoots her 51-year-old husband (the victim) several times in the head while he is napping. Outcome: *The jury found her not guilty by reason of insanity.*

Detroit case #98 The two are out drinking. They return home and begin arguing. According to the wife, age 30, her 25-year-old husband (the victim) attacked her. She grabs a knife and stabs him. She claims he has beaten her before. No witnesses are present at the time of the murder. Outcome: *She was acquitted of second-degree murder at a bench trial.*

Manhattan case #72 She, a 29-year-old artist, has lived with her 47-year-old common-law husband (the victim), a musician, for a few years. He frequently beats, starves, and tortures her. He repeatedly tells her he is going to kill her. For some time leading up to the murder, he has not let her eat or shower. On the day of the murder they are going to a bar when she asks him to let her go home because she is tired. He says "no" and begins hitting her and calling her names. The beating ends when she stabs him. He has numerous past arrests and convictions. Outcome: *The jury acquitted her.*

Spouse murder defendants who stood trial: Trial convictions

Notes taken on prosecutors' records

Oklahoma City case #24 The 59-year old husband (the victim) comes home intoxicated and continues drinking. His 52-year old wife claims he became violent and began to beat her. She says she shot him in self-defense. The prosecution counters that there are no bruises or other signs of a beating. The prosecution contends she shot him while he lay in bed sleeping. Outcome: *The jury convicted her of first-degree murder. She was sentenced to life imprisonment.*

Rochester (NY) case #26 Throughout their turbulent 4-year marriage, the husband (the victim) verbally and physically abuses his wife. She never once leaves him, though. Prior to the night of the murder, the husband buys a gun and puts it in his dresser. The night of the murder, the husband is slapping the wife around, telling her to get out of the house. He calls the police to have her removed from the premises. While he is on the phone, telling police "she's a whore," the wife grabs his gun and shoots him four times. Outcome: *The jury convicted her of second-degree murder. She was sentenced to 15 years in prison.*

Bakersfield (CA) case #34 The husband (the victim) and wife jointly own a bar. She claims he showed up at the bar angry at her about something and slapped her. She says she became scared, saw a gun, and shot him. The prosecution disputes that, contending instead she murdered him so that she would gain sole ownership of the bar. Outcome: *The jury found her guilty of nonnegligent manslaughter. She was sentenced to 8 years in prison.*

Philadelphia case #169 They have been married 20 years. Both are heavy drinkers. During an argument he, a longshoreman, hits his 53-year-old wife (the victim) on the head, and several days later she dies. Evidence is uncovered that she was a battered wife. The couple's children

testify that he has beaten her for at least 15 years. She has been to hospitals throughout the city for cuts and bruises inflicted by him. He has a long history of arrests and convictions. Outcome: *The jury convicted him of negligent manslaughter. He was sentenced to 3 years in prison.*

Oklahoma City case #1 The 35-year-old husband has threatened his 29-year-old wife (the victim) in the past. The threats cause her to leave him. On the day of the murder she is drinking and returns to his apartment with her mother to get clothes and food. He is there and also has been drinking. He stabs to death both her and her mother. He then flees. He has numerous prior arrests and convictions. Outcome: *The jury found him guilty of two counts of first-degree murder. He was sentenced to the death penalty.*

San Diego case #15 He, age 41, has been sadistically abusing his 41-year-old wife (the victim) for about 8 years. He frequently binds, gags, and blindfolds her and forces her to perform sex acts on him. He sometimes cuts and burns her while she is bound. A year prior to the murder she calls the police following a beating. He is arrested and convicted and then thrown out of the Navy, terminating a 22-year career. Soon after, they separate. On the night of the murder, he has drunk about 20 beers and calls his estranged wife, ordering her to take off her clothes and await his arrival. When he enters her apartment, she is nude and holds out her wrists to him. He binds, gags and blindfolds her, cuts her with a knife, and wraps tape and rope around her neck, strangling her. Hours later he is arrested. He admits killing her and intending to do so for some time. He blames her for ruining his career, saying he was going to kill her sooner or later. Outcome: *The jury convicted him of first-degree murder. He was sentenced to 26 years in prison.*

Seattle case #32 Two weeks before the murder, the 43-year-old husband, an aircraft worker, is jailed for assaulting his 31-year-old wife (the victim). She and the children then move out of the house. On the day of the murder the children are being watched by a babysitter in their new lodgings. The wife returns home and the husband appears out of hiding. He orders the babysitter to lie down and tells the wife that she is going to watch the babysitter die. He begins stabbing the babysitter in the back, but the babysitter breaks free. The husband turns his attack on the wife, who dies from multiple stab wounds. Outcome: *The jury convicted him of first-degree murder. He was sentenced to 45 years in prison.*

Brooklyn case #54 The 52-year-old husband suspects his 45-year-old wife (the victim) is having an affair. While at home the two argue and she, a factory worker, admits to the affair. He bludgeons her with a hammer. Outcome: *The jury found him guilty of using a dangerous weapon (other than a firearm). He was sentenced to straight probation (no confinement in prison or jail).*

Dallas case #178 The wife (the victim), a 24-year-old postal clerk, is having an affair with another man. The 26-year-old husband arrives at the other man's house and finds his wife in bed with the man. The husband shoots and kills them both. Outcome: *The jury convicted him of two counts of nonnegligent manslaughter. He was sentenced to 50 years in prison.*

Riverside (CA) case #1 The husband (the victim) beats and abuses his wife for many years. One night, after being abused, she gets up, grabs a rifle and shoots him while he is sleeping. She then takes her children and flees. Outcome: *The jury found her guilty of nonnegligent manslaughter. She was sentenced to 8 years in prison.*

Spouse murder cases disposed by guilty plea

Of the 540 defendants, 43% pleaded guilty to killing their spouse. Wives and husbands were about equally likely to plead guilty —

- 39% of wives and 46% of husbands pleaded guilty to killing their spouse (table 18).

The vast majority of pleas were to a reduced charge —

- Most of those who pleaded guilty (67%) had first-degree murder as their arrest offense (table 19). Ten percent had nonnegligent manslaughter.

- The guilty plea was to first-degree murder in just 10% of cases and to nonnegligent manslaughter in 58% of the spouse murder cases (table 19).

Comparing husbands and wives who pleaded guilty to killing a spouse, wife defendants were more likely than husband defendants to have been arrested for the least serious degree of murder, nonnegligent manslaughter (19% of wives and 5% of husbands). Having less serious arrest offenses in the first place, the offenses they pleaded guilty to therefore tended also to be less serious than those of husbands —

- When wives pleaded guilty, the plea was to manslaughter (negligent or non-negligent) in 87% of cases; but when

Table 18. Spouse murder defendants: Percent who pleaded guilty to killing their spouse, 1988

Murder defendant	Total number	Percent of spouse murder defendants		
		Total	Pleaded guilty	Disposed some other way
All	540	100%	43%	57%
Husband	318	100	46	54
Wife	222	100	39	61

Table 19. Defendants who pleaded guilty to killing their spouse: Arrest and conviction offense, 1988

Murder defendant	Number pleading guilty	Percent of convicted spouse murder defendants who pleaded guilty				
		Total	First-degree murder	Second-degree murder	Nonnegligent manslaughter	Negligent manslaughter
Arrest offense						
All	232	100%	67%	23%	10%	0%
Husband	145	100	64	31	5	0
Wife	87	100	70	11	19	0
Conviction offense						
All	232	100%	10%	20%	58%	12%
Husband	145	100	12	28	50	10
Wife	87	100	6	7	72	15

husbands pleaded guilty, the plea was to manslaughter in 60% (table 19).

Nevertheless, a plea to reduced charges was no more likely among wives than husbands —

- When wives pleaded guilty, the plea was to a reduced charge in 71% of cases; and when husbands pleaded guilty, the plea was to a reduced charge about as often, in 76% of cases (table 20).

Sentencing of those who pleaded guilty

Probably the majority of guilty pleas were the product of negotiation between the prosecution and the defense. In such negotiations a "bargain" is struck. In exchange for the prosecutor reducing the seriousness or number of charges (a charge reduction), the defendant agrees to plead guilty. Or, in exchange for the prosecutor's recommending a less severe sentence (a sentence reduction), the defendant agrees to plead guilty as charged.

Plea bargains have advantages for both sides. To the prosecutor hampered by an evidence problem, for instance, the guilty plea at least assures conviction, even if not to the most serious charge. To the guilty defendant, a plea bargain will usually result in a reduced sentence from what might otherwise have been imposed.

Table 20. Defendants who pleaded guilty to killing their spouse: Conviction offense compared to arrest offense, 1988

Murder defendant	Number pleading guilty	Percent of convicted spouse murder defendants who pleaded guilty to —		
		Total	Arrest offense	Lesser offense
All	232	100%	26%	74%
Husband	145	100	24	76
Wife	87	100	29	71

The advantage of pleading guilty to homicide is not always immediately obvious to the defendant deciding whether to plead guilty. A trial offers at least the chance of acquittal, whereas pleading guilty guarantees conviction and makes prison a near certainty. However, the possible advantage of a guilty plea becomes clear when sentences are compared between spouse murder defendants convicted at trial and those convicted through a guilty plea —

- Though guilty plea and trial conviction cases were about equally likely to receive a prison sentence (88% and 90%, respectively), a life sentence was given to 1% of those who pleaded guilty but 25% of those who were convicted at trial (prison term sentences in tables 21 and 17; life sentences for pleas or convictions not shown in a table).

- Among those sentenced to prison but not to a life term, the average prison sentence was 10 ½ years for defendants who pleaded guilty but 17 years for defendants convicted at trial.

These longer sentences for defendants convicted at trial were to some extent in line with the lower likelihood of their receiving a charge reduction —

- When defendants pleaded guilty, the plea was to a reduced charge in 74% of cases (table 20); but when they were convicted at trial, the conviction was to a reduced charge in 48% of cases (table 13).

Partly reflecting their less serious conviction offenses, wives were given less severe sentences than husbands.

Although wives were not significantly less likely than husbands to receive a prison sentence, the length of their prison sentence was shorter than that of husbands —

- Of those who pleaded guilty, 81% of wives and 93% of husbands were sentenced to State prison (table 21).
- 4 years was the average prison sentence length for wives who pleaded guilty, 10 years shorter than the 14-year average for husbands who entered a guilty plea (table 21).

Table 21. Defendants who pleaded guilty to killing their spouse: Type of sentence, 1988

Murder defendant	Number pleading guilty	Percent of spouse murder defendants pleaded guilty and sentenced to —				Mean prison term*
		Total	Prison	Jail	Probation	
All	232	100%	88%	0%	12%	10.5 years
Husband	145	100	93	0	7	14
Wife	87	100	81	0	19	4

*Excludes life and death sentences.

Spouse murder defendants who pleaded guilty

Notes taken on prosecutors' records

Philadelphia case #69 Both are retired. They have been married 47 years. The 65-year-old wife (the victim) has recently suffered a stroke. Her health and state of mind deteriorate rapidly. According to her 68-year-old husband, she had become "mentally disturbed." He feels he can no longer meet her health demands and decides to "put her out of her misery." He shoots her with a rifle. Outcome: *He pleaded guilty to nonnegligent manslaughter and was sentenced to straight probation (no confinement in prison or jail).*

Queens (NY) case #5 According to neighbors, the husband and his common-law wife (the victim) regularly get drunk and argue. On the day of the murder, they are arguing and the common-law husband places his 69-year-old wife in a sofa bed and closes it. He later says he tried but was unable to open it. She dies in the sofa bed. Outcome: *He pleaded guilty to negligent manslaughter and was sentenced to straight probation (no confinement in prison or jail).*

San Diego case #1 The husband is a construction worker and the wife is on welfare. The 23-year-old husband (the victim) beats his 21-year-old wife and their 18-month-old daughter the night prior to the murder. On the night of the murder, the wife and her husband are asleep in their bedroom and the daughter is in another room. The child begins to cry, waking the husband. He orders the wife to stop the child's crying. The wife leaves the bedroom, returns with a gun and shoots the husband. Evidence emerges that the wife and the daughter

have been repeatedly physically abused by the victim. Hospital examination at the time of the murder finds multiple bruises on the child and the defendant in various stages of healing. Outcome: *She pleaded guilty to nonnegligent manslaughter and was sentenced to 10 months in prison.*

New Haven case #2 She, a 28-year old secretary, suffers years of physical and sexual abuse at the hands of her 30-year-old husband (the victim). Several times he tries to kill her. She stays with him at first because she thinks he will stop; then because she fears he will find her wherever she goes; and then because she fears losing her kids. At some point she buys a gun to defend herself. On the night of the murder she thinks he is possibly going to kill her. In the middle of a beating she grabs the gun from under the mattress and shoots him. Outcome: *She pleaded guilty to negligent manslaughter and was sentenced to straight probation (no confinement in prison or jail).*

Pittsburgh case #15 The husband (the victim) has a history of beating his wife. On the night of the murder, the husband comes home and begins ordering her around, as he frequently does. The wife leaves the room. When she returns she notices him looking through the closet for his gun. The wife earlier hid it under the bed. While he is searching, the wife retrieves the gun and shoots him repeatedly. She claims she was tired of the abuse. Outcome: *She pleaded guilty to nonnegligent manslaughter and was sentenced to straight probation (no confinement in prison or jail).*

Ft. Lauderdale case #62 Late one night the husband (the victim) and the wife, a mail carrier, are arguing. Police arrive and convince the husband to leave for the night. The wife locks the door, arms herself with a handgun and sleeps in the hall. The husband returns the next morning, enters the apartment, and finds the wife locked in the bathroom. When the husband tries to get into the bathroom, the wife fires a shot through the door, striking the husband in the leg. The action moves into the bedroom where the husband is shot in the head. Outcome: *She pleaded guilty to non-negligent manslaughter and was sentenced to straight probation (no confinement in prison or jail).*

Austin (TX) case #4 The husband (the victim) and his common-law wife, a housekeeper, frequently drink and fight. On the day of the murder, both are intoxicated and begin fighting. The wife gets a gun and shoots her husband. She then calls the police. The wife has injuries she says she received from being beaten by her common-law husband. Outcome: *She pleaded guilty to negligent manslaughter and was sentenced to 10 years in prison.*

Dayton (OH) case #3 The husband (the victim) and his common-law wife are arguing about a variety of things. Throughout the argument the husband beats her. When the common-law husband comes after her in the kitchen, she grabs a knife. She stabs him in the back as he is walking away. Outcome: *She pleaded guilty to negligent manslaughter and was sentenced to 2 years in prison.*

Spouse murder defendants who pleaded guilty (continued)

Albuquerque case #9 Both are unemployed. One week before the murder, the 22-year-old husband is released from prison and moves in with his 22-year-old wife (the victim), who is living at his grandmother's house. At the time of the murder the wife tells the husband that she wishes to leave him to be with a man she was seeing while the husband was in prison. She also informs him that she might be pregnant by the other man. The husband strangles her, tells the grandmother he killed his wife, and calls police. Family members and friends say he has a history of assaulting his wife and threatening her life. He also has a long criminal record. Outcome: *He pleaded guilty to nonnegligent manslaughter and was sentenced to 16 years in prison.*

Prince George's County (MD) case #13 On the night of the murder, the husband and a friend pick up the wife (the victim) and are driving down the road when the husband stops to "repair the car." While the husband is looking under the hood, the friend begins slashing the wife with a razor. The husband states he earlier joked with the friend about killing her, but he claims he did not really mean it. Seeing her suffering, he says, he shoots her to put her out of her misery. Outcome: *The husband pleaded guilty to first-degree murder and was sentenced to life in prison.*

New Haven (CT) case #7 The couple have a history of physical abuse. The 56-year-old husband has a stab wound inflicted by his 38-year old wife (the victim) in an earlier altercation. On the day of the murder the husband claims his wife jumped on him and said she was going to kill him. He stabs her to death. He has a long history of arrests and convictions. Outcome: *He pleaded guilty to nonnegligent manslaughter and was sentenced to 20 years in prison.*

Denver case #18 He is a 34-year-old steel mill worker, and she is a 24-year-old waitress. An argument develops between the two, partly over whether the pregnant wife (the victim) should have an abortion. The husband tells her to leave. She refuses. She threatens him with a knife. He gains control of the knife and stabs her. Outcome: *He pleaded guilty to second-degree murder and was sentenced to 24 years in prison.*

Memphis case #2 The 39-year-old husband claims that, during an argument, his 34-year-old wife (the victim) beat him with a phone. The wife is much larger than the husband. The husband states that the wife went for a handgun kept in a closet and the two struggled over it. In the struggle the gun fires once, killing the wife. The husband then calls police. Outcome: *The husband pleaded guilty to negligent manslaughter and was sentenced to 2 years in prison.*

Cambridge (MA) case #2 Both the 58-year-old husband, a mail clerk, and his 44-year-old wife (the victim) have been hospitalized for psychiatric disorders. On the day of the murder the wife returns from a 6-month stay at a mental hospital. She refuses to take her medication and, according to the defendant, goes crazy. She threatens the husband with a broken bottle, begins hallucinating, and beats the husband. For hours he tries to calm her until, at one point, he applies too much pressure to her neck and she dies. Outcome: *The husband pleaded guilty to nonnegligent manslaughter and was sentenced to 20 years in prison.*

Oklahoma City case #30 The 29-year-old wife (the victim) accuses the 32-year-old husband of being interested in another woman. An argument turns into a fight. The wife is armed with a kitchen knife. The husband has scissors. Both sustain stab wounds, but her wounds are fatal. Outcome: *The husband pleaded guilty to negligent manslaughter and was sentenced to 5 years in prison.*

Philadelphia case #96 Both are retired. The 73-year-old husband has Alzheimer's disease, causing him to be confused at times. On the day of the murder he decides to kill his 73-year-old wife (the victim). He beats her to death with a crowbar and then calls police. Outcome: *The husband pleaded guilty to nonnegligent manslaughter and was sentenced to straight probation (no confinement in prison or jail).*

Overview of case disposition of spouse murder defendants

All sampled defendants were charged with murdering a spouse, and all were disposed of in 1988. How they were disposed of varied —

- Not prosecuted: 13%
- Plead guilty: 43%
- Convicted at trial: 37%
- Acquitted at trial: 7%

Although wives were not significantly less likely than husbands to be prosecuted (16% versus 11%), or to stand trial (45% versus 43%), or to plead guilty (39% versus 46%) (table 22), they were less likely than husbands to be convicted of killing their spouse —

- 30% of wives but 13% of husbands were either not prosecuted or were prosecuted but acquitted at trial.

- Conversely, 70% of wives were convicted of killing their spouse, versus 87% of husbands (table 23).

Wives were about half as likely as husbands to be convicted of first-degree or second-degree murder —

- 25% of wives but 46% of husbands were convicted of first-degree or second-degree murder.

Table 22. Spouse murder defendants: Type of disposition, 1988

Murder defendant	Total number	Percent of spouse murder defendants					
		Total	Not prosecuted	Tried			Plead guilty
				Total	Acquitted	Convicted	
All	540	100%	13%	44%	7%	37%	43%
Husband	318	100	11	43	2	41	46
Wife	222	100	16	45	14	31	39

Nevertheless, the percentage of husbands and wives convicted of a lesser offense (an offense less serious than the one they were arrested for) did not differ significantly —

- 43% of wives and 54% of husbands were convicted of a lesser offense (table 24).

Table 23. Spouse murder defendants: Percent convicted of killing their spouse, by conviction offense, 1988

Murder defendant	Total number	Percent of spouse murder defendants							
		Total	Not convicted: disposed some other way	Convicted of —					
				Total	First-degree murder	Second-degree murder	Nonnegligent manslaughter	Negligent manslaughter	Weapon offense
All	540	100%	20%	80%	17%	20%	34%	9%	--
Husband	318	100	13	87	21	25	32	9	--
Wife	222	100	30	70	12	13	37	8	0

--Less than 1%.

Table 24. Spouse murder defendants: Percent convicted of killing their spouse, by whether conviction was to arrest offense or lesser offense, 1988

Murder defendant	Total number	Percent of spouse murder defendants				
		Total	Not convicted: disposed some other way	Convicted of —		
				Total	Arrest offense	Lesser offense
All	540	100%	20%	80%	30%	50%
Husband	318	100	13	87	33	54
Wife	222	100	30	70	27	43

The likelihood of conviction did not vary significantly by arrest offense —

- 78% of defendants arrested for first-degree murder were convicted, compared to 84% of defendants arrested for second-degree murder or nonnegligent manslaughter (table 25).

The likelihood of conviction to reduced charges was associated with the seriousness of the arrest offense. The more serious the arrest offense, the more likely the conviction was to a reduced charge —

- 53% of defendants arrested for first-degree murder were convicted of a lesser offense, versus 29% of defendants arrested for nonnegligent manslaughter (table 26).

Wives were less likely than husbands to be convicted and sentenced to prison —

- 57% of wives were convicted and sentenced to prison for killing their spouse, compared to 81% of husbands (table 27).

Table 25. Spouse murder defendants: Percent convicted of killing their spouse, by arrest and conviction offense, 1988

Arrest offense	Total number	Percent of spouse murder defendants							
		Total	Not convicted: disposed some other way	Convicted of —					
				All offenses	First-degree murder	Second-degree murder	Nonnegligent manslaughter	Negligent manslaughter	Weapon offense
All	540	100%	20%	80%	17%	20%	34%	9%	--
First-degree murder	377	100	22	78	25	15	31	7	--
Second-degree murder	129	100	16	84	0	40	36	8	0
Nonnegligent manslaughter	34	100	16	84	0	0	55	29	0

--Less than 1%.

Table 26. Spouse murder defendants: Percent convicted, by arrest offense and by whether conviction was to arrest offense or lesser offense, 1988

Arrest offense	Total number	Percent of spouse murder defendants				
		Total	Not convicted: disposed some other way	Convicted of —		
				All offenses	Arrest offense	Lesser offense
All	540	100%	20%	80%	30%	50%
First-degree murder	377	100	22	78	25	53
Second-degree murder	129	100	16	84	40	44
Nonnegligent manslaughter	34	100	16	84	55	29

Table 27. Spouse murder defendants: Percent convicted, by type of sentence, 1988

Murder defendant	Total number	Percent of spouse murder defendants							
		Total	Not convicted: disposed some other way	Convicted and sentenced to —					
				Total sentences	Prison			Straight probation	
					Total prison	Life	Death	Jail	
All	540	100%	20%	80%	71%	10%	1%	1%	8%
Husband	318	100	13	87	81	13	2	1	5
Wife	222	100	30	70	57	6	0	1	12

Sentencing of defendants convicted of killing their spouse

Among *convicted* defendants, virtually all were convicted of either murder or manslaughter (table 28). Because of charge reduction, conviction offenses were generally less serious than arrest offenses. Charge reduction was more common in arrests for first-degree

murder than nonnegligent manslaughter —

- Among convicted defendants whose arrest was for first-degree murder, 68% had a conviction offense less serious than their arrest offense (table 29).

- Among convicted defendants whose arrest was for nonnegligent manslaughter, 34% had a conviction offense less serious than their arrest offense.

Among those convicted, the conviction offense differed markedly from the arrest offense —

- The predominant arrest offense of convicted defendants was the most serious form of homicide, first-degree murder (68%) (table 30).

- But the predominant conviction offense was the least serious form, negligent or nonnegligent manslaughter.

Convicted wives were more likely than convicted husbands to have manslaughter as their conviction offense —

- 64% of convicted wives had manslaughter (negligent or nonnegligent) as their conviction offense, compared to 46% of convicted husbands.

Table 28. Convicted spouse murder defendants: Conviction offense, by arrest offense, 1988

Arrest offense	Number convicted	Total	Percent of spouse murder defendants convicted of —				
			First-degree murder	Second-degree murder	Non-negligent manslaughter	Negligent manslaughter	Weapon offense
All	431	100%	22%	25%	42%	10%	1%
First-degree murder	294	100	32	19	40	8	1
Second-degree murder	108	100	0	48	42	10	0
Nonnegligent manslaughter	28	100	0	0	66	34	0

Table 29. Convicted spouse murder defendants: Conviction to arrest offense or lesser offense, by arrest offense, 1988

Arrest offense	Number convicted	Percent of spouse murder defendants convicted of —		
		Total	Arrest offense	Lesser offense
All	431	100%	38%	62%
First-degree murder	294	100	32	68
Second-degree murder	108	100	48	52
Nonnegligent manslaughter	28	100	66	34

Table 30. Spouse murder defendants convicted of killing their spouse: Arrest and conviction offense, 1988

Defendant	Percent of convicted spouse murder defendants					
	Total	Convicted				
		First-degree murder	Second-degree murder	Nonnegligent manslaughter	Negligent manslaughter	Weapon offense
Arrest offense						
All	100%	68%	25%	7%	0%	0%
Husband	100	66	31	3	0	0
Wife	100	73	15	12	0	0
Conviction offense						
All	100%	22%	25%	42%	10%	1%
Husband	100	24	29	36	10	1
Wife	100	17	19	53	11	0

Still, charge reduction was not more common among convicted wives than convicted husbands —

- 61% of convicted wives had a lesser offense (an offense less serious than their arrest offense) as their conviction offense, compared to 62% of convicted husbands (table 31).

Wives convicted of killing their husband were generally sentenced less severely than husbands convicted of killing their wife —

- A smaller percentage of convicted wives (81%) than convicted husbands (94%) received a prison sentence (table 32).

- However, convicted wives (8%) were not significantly less likely than convicted husbands (15%) to receive a life sentence.

- There was a significant difference between the percentages of wives and husbands receiving a prison sentence of 20 or more years (including life

imprisonment and the death penalty). Among wives sentenced to prison, 15% received a sentence of 20 years or more; among husbands, 43%.

- Excluding life or death sentences, the average prison sentence was 6 years for wives convicted of killing their husband, about 10 years shorter than the average 16 ½ years husbands received for killing their wife.

Table 31. Convicted spouse murder defendants: Conviction to arrest offense or lesser offense, 1988

Murder defendant	Number convicted	Percent of spouse murder defendants convicted of —		
		Total	Arrest offense	Lesser offense
All	431	100%	38%	62%
Husband	275	100	38	62
Wife	156	100	39	61

Table 32. Defendants convicted of killing their spouse: Type of sentence imposed, by conviction offense, 1988

Murder defendant	Number convicted	Total sentences	Percent of spouse murder defendants convicted and sentenced to —					Mean prison term*
			Total prison	Prison			Straight probation	
				Life	Death	Jail		
All	431	100%	89%	12%	1%	1%	10%	13 yrs
Husband	275	100	94	15	2	1	5	16.5
Wife	156	100	81	8	0	1	18	6

*Excludes life and death sentences.

Penalties imposed on convicted spouse murder defendants varied according to the seriousness of the

murder, with first-degree murder punished most severely and negligent manslaughter least severely (table 33) —

- | | |
|--|---|
| <ul style="list-style-type: none"> • For conviction for first-degree murder
least severe penalty — 10 years in prison
most severe penalty — death
life in prison — 36%
average non-life prison sentence — 31 years. • For conviction for second-degree murder
least severe penalty — straight probation
most severe penalty — life in prison
life in prison — 17%
average non-life prison sentence — 16 years. | <ul style="list-style-type: none"> • For conviction for nonnegligent manslaughter
least severe penalty — straight probation
most severe penalty — 50 years in prison
life in prison — 0%
average non-life prison sentence — 7 years. • For conviction for negligent manslaughter
least severe penalty — straight probation
most severe penalty — 10 years in prison
life in prison — 0%
average non-life prison sentence — 5 years. |
|--|---|

Table 33. Convicted spouse murder defendants: Type of sentence imposed, by conviction offense, 1988

Conviction offense	Number convicted	Percent of spouse murder defendants convicted and sentenced to —						Mean prison term ^b
		Total sentences	Prison				Straight probation	
			Total prison	Life	Death	Jail		
All	431 ^a	100%	89%	12%	1%	1%	10%	13 yrs
First-degree murder	93	100	100	36	6	0	0	31
Second-degree murder	108	100	94	17	0	0	6	16
Nonnegligent manslaughter	183	100	89	0	0	0	11	7
Negligent manslaughter	45	100	54	0	0	11	35	5

^aIncludes convictions for weapon offense

^bExcludes life and death sentences.

Processing time in spouse murder cases

Time to arrest: All cases Most spouse murder defendants were arrested on the same day the killing occurred. Consequently, the median number of days from the day of the murder to the day the defendant was arrested was 0 days. The mean was 28 days (table 34).

Time to indictment: All cases The median period of time from the day of the murder to the day of indictment (for those who were indicted) was just under 2 months and the mean was 4 months.

Time to final disposition Final disposition is the date the case was either

rejected by the prosecutor (or dismissed in court), acquitted or convicted at trial, or concluded through a guilty plea.

All cases Median elapsed time from the day of the murder to the day the case was finally disposed was 9 months. The mean was almost 1 year.

Trials versus pleas Median disposition time from the day of the murder to final disposition was 8½ months for plea cases and 1 year for trial cases. Mean disposition time was 1 year for plea cases and 1 year and 2 months for trial cases.

Jury versus bench trials Cases disposed by bench trial (elapsed time of about 13 months) were not disposed of significantly faster than those disposed by jury trial (elapsed time of about 15 months).

Jury trials For husbands tried by a jury, average elapsed time from the day of the murder to the conclusion of the trial was about 12 ½ months; for wives it was significantly longer, about 18½ months.

Table 34. Spouse murder defendants: Median and mean number of days from the murder to arrest, indictment, and final disposition, by case type, 1988

Case type, defendant	Total number	Number of days from date of murder to—					
		Arrest		Indictment		Final disposition	
		Median	Mean	Median	Mean	Median	Mean
All cases^a							
All	540	0 days	28 days	54 days	125 days	267 days	378 days
Husband	318	0	30	46	98	232	353
Wife	222	0	26	58	163	303	414
Trial cases							
All	238	0	42	45	106	357	430
Husband	138	0	43	45	105	292	385
Wife	100	0	40	46	107	471	490
Bench cases							
All	88	0	2	46	81	367	392
Husband ^b	47	0	2	71	106	446	393
Wife ^b	41	0	1	32	56	357	392
Jury cases							
All	150	0	65	45	121	331	451
Husband	91	0	63	41	105	217	382
Wife ^b	59	0	69	62	143	508	559
Plea cases							
All	232	0	21	59	155	255	373
Husband	145	0	24	46	97	263	339
Wife ^b	87	0	16	88	243	243	429

^aIncludes cases disposed by prosecutor.

^bMean and median are based on fewer than 30 sample cases.

Less severe dispositions for wife defendants: Summary of evidence

Though wives were about as likely as husbands to be charged with first-degree murder (table 5) and about as likely to be prosecuted (table 8) or indicted, in other respects the justice system treated wives less severely than husbands. Most notably —

Wives had a lower conviction rate than husbands —

- 70% of wives but 87% of husbands were convicted of killing their mate (table 23).
- At trial, judges and juries acquitted 31% of wives but 6% of husbands (table 10).
- Among cases tried before a jury, 27% of wives were acquitted but none of the husbands (table 16).

Convicted wives were less likely than convicted husbands to be sentenced to prison, and convicted wives received shorter prison sentences than their male counterparts —

- 81% of convicted wives but 94% of convicted husbands received a prison sentence (table 32).
- Excluding life or death sentences, the average prison sentence for killing a spouse was 6 years for wives but 16½ years for husbands.
- Among wives sentenced to prison, 15% received a sentence of 20 years or more; among husbands, 43%.

The likelihood of a spouse murder defendant ultimately being convicted and sent to prison was lower for wives than husbands —

- Of the 222 wife defendants, 57% ended up in prison. Of the 318 husband defendants, 81% were sentenced to prison.

Self-defense as a possible explanation for wives' lower conviction rates

In some cases the wife or the husband killed the spouse only after being physically attacked or threatened with a weapon by the spouse. In such cases the defendant may claim self-defense. Justice system officials then decide whether and to what extent the victim's own conduct contributed to his/her death. Additionally, officials consider whether the defendant could have fled the scene rather than stay and defend him/herself and whether the defendant could have used less than lethal force. In certain cases of extreme victim provocation, where the homicide is ultimately determined to have been justifiable, the prosecutor declines to prosecute, the grand jury votes not to indict, or the judge or jury acquits the defendant. In less extreme cases the charge or conviction offense is lowered.

The possibility investigated below is that wives were less likely to have been convicted than husbands because wife defendants were more

likely than husband defendants to have been severely provoked by their spouse and therefore more likely to have been absolved on grounds of self-defense.

Grounds for claiming self-defense more often present in wife defendant cases than in husband defendant cases

Possible evidence to support a self-defense claim — evidence that, somewhere along the chain of events leading to the murder, the victim provoked the defendant — was more often present when wives killed their husband than when husbands killed their wife —

- More wives (44%) than husbands (10%) had been assaulted by their spouse (threatened with a weapon or physically assaulted) at or around the time of the murder (table 35).¹⁰

¹⁰In some cases the survey questionnaire did not indicate that the defendant had been provoked, but the case narrative clearly revealed provocation. In such instances the defendant was classified as provoked.

Table 35. Spouse murder defendants: Victim provocation, 1988

Evidence of victim provocation	Percent of —		
	All defendants	Husband defendants	Wife defendants
Victim assaulted defendant			
At time of murder	24%	10%	44%
At time of murder or in past	29	10	58
Defendant had prior arrest or conviction for any crime	52	70	27
Victim had prior arrest or conviction	34	12	51
Victim was the only one drinking at time of murder	12	4	25
Victim was armed at time of murder	15	11	21

Note: Of the 540 cases, information on provocation was known in 460; on defendant criminal history, 409; on armed victim, 507; on victim use of alcohol, 265. Table percentages are based on known cases.

- More wives (58%) than husbands (10%) had been assaulted by their spouse at the time of the murder *or* in the past. Consistent with that, more wives (51%) than husbands (12%) had killed a spouse who had at least one prior arrest or conviction (not necessarily an arrest or conviction for a crime against the defendant, though).

The possibility that more wife defendants than husband defendants killed in self-defense is further supported by two victim differences, though neither difference is statistically significant —

- Situations in which the victim is armed are probably more characteristic of provoked than unprovoked murders. If more wife defendant than husband defendant cases involved an armed victim, that would tend to corroborate other evidence suggesting that more wife than husband defendants were provoked. Of relevance, then, is the fact that the victim was armed in 21% of wife defendant cases but 11% of husband defendant cases.

- Previous research has shown that, compared to unprovoked murders, provoked spouse murders tend more often to involve alcohol use by the victim. One additional check of whether more wife defendants than husband defendants were provoked is to compare the two in terms of victim alcohol use. They should differ, with victim alcohol use being more prevalent in wife defendant than husband defendant cases. Relevant to the question of provocation, then, is the fact that the victim had been the only one drinking in 25% of cases where the wife killed the husband. That compares to just 4% of husband defendant cases, where the wife had been the only one drinking.

Victim provocation reduces likelihood of conviction

Victim provocation (meaning that the defendant was apparently assaulted or threatened with a weapon by the victim at or around the time of the homicide) appeared to reduce the likelihood of conviction —

- Of the provoked wives, 56% were convicted.¹¹ That is lower than either the 86% for unprovoked wives or the 88% of unprovoked husbands.

No difference between provoked and unprovoked wives in terms of likelihood of receiving a prison sentence or length of prison sentence

Risk of conviction is lower for provoked than unprovoked defendants. But if convicted, the provoked defendant gets no obvious break at sentencing —

- 84% of convicted wife defendants were sent to prison, whether or not they were provoked.

- The average prison sentence was 5 years for provoked wife defendants and 7 years for unprovoked wife defendants, but the difference was not statistically significant.

These results do not necessarily mean, however, that the justice system disregards victim provocation at sentencing. Following are three alternate, but not mutually exclusive, interpretations of why the average sentence lengths do not differ between wives who killed their husband upon provocation and those who were not provoked.

¹¹No conviction rate is given for provoked husbands because there were too few cases for a reliable estimate. Also, cases used to investigate the effect of provocation on sentencing excluded cases where provocation was unknown. Consequently, average sentences in this section may differ from averages shown elsewhere.

Victim provocation indirectly mitigates the sentence through reduced charges

To illustrate, the prosecutor takes provocation into account by agreeing to a plea to a reduced charge. The sentence the provoked wife receives is less severe than what she would have received had the prosecutor not made allowance for provocation. Similarly, the judge or jury takes provocation into account by convicting the wife defendant of a lower charge. Again, the result is a less severe sentence than what she otherwise would have received. Such indirect mitigation is not necessarily observable when sentences are compared between provoked and unprovoked defendants.

Despite provoked wives' testimony that they had been assaulted, their testimony in some cases was insufficient to convince prosecutors, judges, or juries.

Perhaps their claim was uncorroborated. Unsupported defendant testimony is generally less persuasive than eyewitness testimony, physical signs of abuse on the defendant, or documentary evidence from hospital or legal records of past abuse by the victim. Another possibility is that prosecutors, judges, or juries believed provocation had occurred but also believed that the defendant could have fled the scene or, even if that was not possible, did not have to resort to lethal force.

The small sample size is a reason the 5-year sentence for provoked wives is not significantly shorter than the 7-year sentence for unprovoked wives.

With a larger sample, the 2-year difference would be statistically significant.

No explanation for why State prison sentences were, on average, 10 years shorter for wife defendants than husband defendants

- The average prison sentence for convicted wife defendants was 6 years, or about 10 years shorter than the average 16.5 years for husband defendants (table 32).

More spouse killings by wives than husbands were mitigated by victim provocation, and wives received shorter sentences than husbands, but attributing wives' shorter sentences to this one particular mitigating factor is not necessarily justified. Wife and husband defendants differed on factors besides provocation that might explain the 10-year difference. Moreover, the 10-year disparity persists even when the comparison is restricted to defendants who were alike in terms of whether they were provoked—

- The average prison sentence for unprovoked wife defendants was 7 years, or 10 years shorter than the average 17 years for unprovoked husband defendants.¹²

¹²It would also be desirable to compare sentence lengths between provoked husbands and provoked wives. That comparison was not made because too few husband defendants were provoked to form the basis for a reliable comparison.

Further reading

Key findings reported here correspond closely to what Professor Marvin Wolfgang found four decades ago in his classic study of the justice system's handling of homicides in Philadelphia from 1948 to 1952. Comparing outcomes between spouse murder defendants, Wolfgang reported these apparent disparities¹³ —

- a higher proportion of husbands (64%) than wives (55%) were found guilty;
- a higher proportion of wives (34%) than husbands (4%) were acquitted;
- husbands were convicted of more serious degrees of homicide than were wives.

No firm explanation for the disparities was offered, but Wolfgang did suggest that they might largely be explained by differences between defendants in terms of victim provocation. Sixty percent of wife defendants were strongly provoked by their mate, compared to 10% of husband defendants.

¹³See *Patterns in Criminal Homicide* (Philadelphia: University of Pennsylvania Press, 1958) p. 217.

Race in spouse murder cases

The race of the murder victim was known in 529 of the 540 cases. Of the 529 total, the victim was black in 292 cases — or 55% — and white in 225 — or 43%. Other races (Asian, American Indian, Pacific Islander, or Alaska Native) made up the balance of the 529.

Conviction rate unrelated to race of victim

The likelihood of a defendant being convicted of spouse murder was about the same whether the murder victim was white or black —

- The defendant was convicted in 81% of cases where the spouse murder victim was white, not significantly different from the 79% of cases where the victim was black (table 36).

Table 36. Spouse murder defendants: Percent convicted, by race of victim, 1988

Victim race	Total number	Percent of spouse murder defendants		
		Total	Con- victed	Not convicted
All	540*	100%	80%	20%
White	225	100	81	19
Black	292	100	79	21

*Includes victims of unknown race and other races not shown separately. Victim race was known in 529 of the 540 cases.

Sentence unrelated to race of victim

The likelihood of a convicted spouse murderer receiving a prison sentence was about the same whether the murder victim was white or black —

- The convicted spouse murderer was sentenced to prison in 93% of cases where the victim was white, not significantly different from the 87% of cases where the victim was black (table 37).

The length of the prison sentence imposed on a convicted spouse murderer was generally unrelated to whether the murder victim was white or black ¹⁴—

- For conviction for first-degree murder, the average prison term (excluding life and death sentences) was 29 years in white-victim cases, not significantly different from the 32 years in black-victim cases.
- For conviction for second-degree murder, the average prison term (excluding life sentences) was 19 years in white-victim cases, significantly longer than the 13 years in black-victim cases. However, 23% of convicted second-degree murder defendants in black-victim cases

¹⁴Sentences for negligent manslaughter are not compared because they are based on too few cases to be considered statistically reliable.

received a sentence of life imprisonment, compared to 8% of defendants in white-victim cases.

- For conviction for nonnegligent manslaughter, the average prison term (excluding life sentences) was 8 years in white-victim cases, not significantly different from the average 6 years in black-victim cases.

Race of defendant also unrelated to outcomes

Virtually all — 97% — of spouse murders were intraracial. When a white was murdered by a spouse, the likelihood was about 97% that the alleged murderer was white. When the spouse murder victim was black, the likelihood was 97% that the alleged murderer was also black. Given the highly intraracial nature of spouse murder, statistics relating the victim's race to specific outcomes are interchangeable with those relating the defendant's race to outcome.

The overall conclusion that the victim's race is unrelated to outcome applies equally well to the defendant's race. The likelihood of conviction, and of a prison sentence if convicted, and the length of the prison sentence were about the same whether the spouse murder defendant was white or black —

- 78% percent of white defendants were convicted, not significantly different from the 80% of black defendants.
- Among convicted spouse murderers, 93% of white defendants were sentenced to prison, not significantly different from the 88% of black defendants.

Table 37. Defendants convicted of killing their spouse: Type of sentence, by race of victim, 1988

Victim race	Number convicted	Percent of convicted spouse murder defendants					
		Total	Prison				Straight probation
			Total prison	Life	Death	Jail	
All	431*	100%	89%	12%	1%	1%	10%
White	181	100	93	12	2	2	6
Black	230	100	87	10	1	1	12

*Includes victims of unknown race and other races not shown separately. Victim race was known in 529 of the 540 cases.

Methodology

Sample selection

The 33 counties in the sample were selected to be representative of the Nation's 75 largest counties. The ranking of counties in which the 75 largest were identified was based on a combination of crime data (1980 and 1984 Uniform Crime Report Part I arrests) and population data (1980 population from the Census Bureau's City County Data Book). Rankings reflected the size of the prosecutors' offices. The original sample plan identified 34 counties, 1 of which declined to participate.

The following are the 33 counties whose prosecutors' offices participated in the study reported here —

Arizona

Pima

California

Los Angeles
Orange
Kern
San Diego
Riverside

Colorado

Denver
Arapahoe

Connecticut

New Haven

Florida

Dade
Orange
Broward

Illinois

Cook

Louisiana

Orleans

Maryland

Prince
George's

Massachusetts

Middlesex

Michigan

Wayne

Missouri

St. Louis

New Mexico

Bernalillo

New York

Kings
Monroe
New York
Queens

Ohio

Franklin
Montgomery

Oklahoma

Oklahoma

Pennsylvania

Philadelphia
Allegheny

Tennessee

Shelby

Texas

Dallas
Tarrant
Travis

Washington

King

A total of 2,539 murder cases were sampled. These cases were a sample of about half of all murder-charge cases disposed of in the sampled 33 counties in 1988. Not eligible for sample selection were nonmurder defendants or any whose most serious charge was attempted murder, negligent or involuntary manslaughter, or vehicular homicide. In counties with 200 or fewer disposed murder cases in 1988, all were selected for inclusion in the sample. In counties with more than 200, a systematic sample of 200 was chosen. Only 6 of the 33 counties had more than 200 murder cases.

Virtually all cases meeting the 1988-disposition criterion were disposed for all defendants in the case. Of the 3,119 defendants on whom data were obtained, only 13 had not yet had their cases adjudicated at the time the survey was carried out in 1990. Another 25 defendants had died of suicide or other causes, either at about the time of the murder or later, before final disposition.

Sample of spouse murder defendants

Of the 3,119 sampled murder defendants, 187 were spouse murder defendants. The 187 consist of 111 husband defendants and 76 wife defendants. Extrapolating to the 75 largest counties, the 187 represent an estimated 540 spouse murder defendants. The figure 540, then, is based on a sample size approximately one-third of 540. Readers wishing to determine for themselves the approximate sample size on which any of the report's statistics are based need only to multiply the table estimate by one-third.

Nonavailability of cases

The survey goal to track murder cases across justice system stages was not met in nine counties. In one of the nine, legal restrictions barred access to cases rejected by the prosecutor. In the remaining eight counties, some of the sampled cases could not be located.

Computation of estimates from sample data

Case weights were applied to statistics on the sampled cases to form estimates for the universe of the 75 largest counties, the key assumption being that cases not sampled were similar to the cases sampled. A case weight was the inverse of the probability that a case would be in the survey. That probability was the product of both the probability that a given county would be chosen and the probability of selection of that case in that county. Case weights were adjusted to compensate for the loss of one nonparticipating county.

Statistically weighted, the 3,119 defendants in the sample cases represented 9,576 murder defendants in the Nation's 75 largest counties.

Response rates

Except as noted below, this report focused exclusively on characteristics that were successfully obtained in a high percentage of sample cases ("response rate").

The case records identified age, race, sex, and ethnicity for nearly all defendants (approximately 98%).

Also obtained in nearly all cases were the relationships between victims and defendants; the circumstances preceding the homicide; the arrest or indictment charge; and whether the defendant was convicted, and if so, the conviction offense. In incarceration or probation cases, the length of the term of sentence was usually known.

Defendant criminal history was available in three-quarters of the cases, but victim criminal history was obtained in only a third of the cases. The juvenile portion of the criminal history information was probably less complete than the adult portion.

Sampling error

Data collected in this murder study were from a probability sample rather than a complete enumeration. Because counties and cases were sampled, a sampling error (standard error) is associated with each number in the report. In general, if the difference between two numbers is greater than twice the standard error for that difference, there is at least 95% confidence that the two numbers are in fact different; that is, the apparent difference is not simply the result of surveying a sample rather than the entire population. Similarly, if the difference between two numbers is greater than 1.6 standard errors, we are at least 90% confident that the two numbers are different. In this report the term "statistically significant" was used to denote a

difference in which there is at least 90% confidence.

Except where explicitly indicated otherwise, all differences discussed in this report had a confidence level at or above 90% (virtually all were above 95%). Standard error estimation was based on software that takes into account the survey's sample design features.

Limited data on provocation

The report reaches no firm conclusion about the possible impact of victim provocation on case outcomes, in part because thorough analysis requires more cases and more details than are available from this study's spouse murder database. For instance, the survey does **not** show —

- which defendants actually claimed self-defense;
- which of the spouses in each case was the first to strike or threaten the other;
- which defendants received a charge or sentence reduction because prosecutors, judges, or juries decided victim provocation was present;¹⁵
- which claims of self-defense were supported by strong evidence;
- which defendants claiming self-defense had the option of fleeing rather than using deadly force.

¹⁵However, the survey did document instances where the prosecutor screened out the case expressly because of victim provocation.