

Explaining Gender Neutrality in Capital Punishment Research by Way of a Systematic Review of Studies Citing the ‘Espy File’

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Abstract: Peer-reviewed journal articles provide the data for this study, given that their findings undergird the quantitative data referenced by prominent organizations, courts, and policy-makers. The “Espy file”, based on the research of Major Watt Espy, Jr., is used to identify studies due to the dataset’s esteem and prolific usage. It is the largest known dataset of men’s and women’s executions in the United States since 1608 and has been of monumental significance to capital punishment research. The protocol established by the Preferred Reporting of Items for Systematic Reviews and Meta-Analyses (PRISMA) is the methodology followed due to its conformity to scientific standards and acceptance in scholarly communities. The initial sampling frame involved 613 studies which were narrowed to 79 peer-reviewed journal articles that cited or utilized the Espy file. The empirical findings justify the contention that past and current studies, while interdisciplinary, require new voices and approaches to contribute to the study of capital punishment. Mainstream death penalty research does not generally incorporate critical theories including, for example, gender, intersectional, Black feminist, Queer, and other theories that focus less on quantitative data and more on how capital punishment is a reflection of institutional, historical, and social processes that are hierarchical and defined by power. The findings suggest that not only are executed women removed from many analyses, but so are inclusionary methodologies and theoretical approaches that could bolster the legitimacy of academic studies (inside academia as well as the judicial system) and our understanding of capital punishment in general.



Citation: Schulze, C. Explaining Gender Neutrality in Capital Punishment Research by Way of a Systematic Review of Studies Citing the ‘Espy File’. *Sexes* **2024**, *5*, 521–543. <https://doi.org/10.3390/sexes5040036>

Academic Editors: David L. Rowland and Sally Guttmacher

Received: 10 June 2024

Revised: 28 September 2024

Accepted: 10 October 2024

Published: 12 October 2024



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Keywords: American executions; capital punishment; death penalty; Espy file; PRISMA; systematic review

1. Introduction

The fate of capital punishment hinges on judicial interpretations, case precedent, and research supporting state actions. Judicial actors, who tend to favor descriptive statistics as evidence, are often reluctant to consider the quantitative analyses of academics whose findings are ideologically incongruous with their own beliefs [1]. This is understandable given the apparent near consensus among academics who do not support the death penalty [2]. Moreover, that same research often diverges from public expectations and contributes to suspicions of academic bias [2]. Nonetheless, data collection and empirical analyses are integral to court decisions, policymaking, and the public’s understanding of capital punishment in the United States (U.S.). These studies are crucial to capital punishment non-profit organizations like, to name just a few, the Death Penalty Information Center (DPIC), the Equal Justice Initiative (EJI), and the American Civil Liberties Union (ACLU). These organizations supply evidence of endemic racism and explain how vulnerable communities are disproportionately sentenced to death and how their experiences differ from those of more privileged communities [3]. Aside from the occasional high-profile case that captures the public’s interest, women’s experiences, particularly as understood within the broader socio-historical context, rarely receive much scholarly attention.

This study presents a summary of the quantitative research relying on arguably the most commonly utilized dataset, known as the “Espy file” [4], that was based on the research compiled by the late Major Watt Espy, Jr. [4]. It was unprecedented at the time of its introduction to the Inter-university Consortium for Political and Social Research (ICPSR) in 1988 as it was the first attempt to quantify and offer a computerized file for state-sanctioned executions since colonial days. Despite issues raised about the dataset’s inaccuracies [5,6], with or without modification, it continues to fill gaps for which there are no quantified data.

One of the file’s more consequential omissions is the 310 missing women (195 of whom were Black women), who will remain invisible in any research, academic or not, that relies only on the Espy file for data analyses or descriptive statistics (see David V. Baker [7]). These 310 women are nearly double the number of women encompassed in the file. The file itself represents only a fraction of Espy’s research, elaborated upon later, which is publicly accessible thanks to the University of Albany’s M.E. Grenander Department of Special Collections. While the methodology here accounts for how women are (or are not) portrayed in peer-reviewed journal articles, it also assesses the degree to which gender, gender theory, and intersectionalities are included in studies that utilized the Espy file. That is, simple counts of bodies or reports of sample statistics do not suffice if historical and social patterns of women’s (and therefore men’s) experiences, using theoretical approaches that integrate gender as a primary lens of analysis, are ignored.

The factual discrepancies and omissions in the Espy file are concerning, as is the apparent non-concern of some of its users, there are areas that have undoubtedly changed the way in which the death penalty is viewed. In other words, while other sources certainly exist, it is chosen for the research questions addressed here due to its ubiquity in scholarly usage, its breadth of coverage, the fact that it remains the only data file spanning the entirety of U.S. history, and its use by judicial actors, and countless organizations. This study not only seeks to provide an overview of how the Espy file is used in peer-reviewed research, the foundation of academic knowledge and consequently judicial decisions, but it utilizes this opportunity to highlight one of the most poorly documented areas in quantitative research—the effects of gendered mechanisms that affect all aspects and stages of death penalty cases.

A systematic review, the purpose of which is to identify and critically evaluate the content of the existing literature and clarify omissions in need of further research, is most appropriate given that, to the best of this author’s knowledge, no equivalent study exists.

Objective and Research Questions

Systematic reviews are increasingly employed in areas outside of health and medicine due to their utility in summarizing the existing research, but also in assisting future scholars in providing a source of references and promoting innovation and improvements. The protocol established by the Preferred Reporting of Items for Systematic Reviews and Meta-Analyses (PRISMA) is employed due to its scientific rigor and adherence to strict reporting guidelines [8,9]. The Espy file [4], which serves as the focal point of this study, deserves first consideration for such a review of death penalty research given its widespread respect in academic communities and oft-quoted statistics online, in court decisions, and in classrooms. The method will be outlined following the theoretical explanation and justification. The guiding questions of this research are:

1. To what extent, and for what purpose, are Espy file data used in academic research?
2. How prevalent and what approach is taken for those studies identified as “gendered”, “raced”, or otherwise utilized intersectional frameworks?
3. Are there differences among men and women scholars in research focus and methodology?
4. How is the Espy file accessed and to whom is it attributed and/or supplemented with other data sources? Are weaknesses acknowledged and/or addressed?

After addressing these questions, the implications for future research, particularly the framing of capital punishment, will be discussed. A summary background for the above questions, with a special emphasis on the Espy file, is examined first. While ubiquitous in death penalty research, not all scholars will be familiar with the work of M. Watt Espy. As stated, no systematic reviews on the topic of the death penalty and methodologies using the Espy file exist. With this qualifier in mind, it is hoped that future scholars will consider examining other data sources and analytical approaches as a focus for a systematic review, meta-analysis, or similar methodology with an intention to reassess the theoretical lens through which we view the death penalty.

2. Background

2.1. *The Espy File*

Upon reviewing the articles published citing the file, a striking commonality was the credit afforded to M. Watt Espy. The most obvious explanation is that it is well deserved; he did not hold multiple degrees, dedicated his life to research and abolition efforts, and corresponded with hundreds of criminal justice practitioners and historians. Rarely mentioned in the articles reviewed was the co-author of the Espy file, John O. Smykla, or the students involved in the tedious task of coding and entering data. This lack of attribution is curious given that Espy's voluminous research is not represented by the dataset and he himself wished to distance himself from that project. Nonetheless, the typical acknowledgment read as follows:

We especially wish to acknowledge the debt this project owes to the research and scholarship of M. Watt Espy, Jr., the death penalty's premier historian [. . .]. The best single source of information on executions in the United States is the data compiled by M. Watt Espy, Jr. [10] (pp. 861–862).

The authors did, however, repeatedly stress that the data collection was "ongoing", but statements about women appeared to be made without hesitation or investigation. They declare, for instance, that up until 1991, only four of the three-hundred and thirty-five Tennessee executions were of women [10] but the number is closer to 13—more than three times than what was stated [7]. Instead of verifying women's executions in Tennessee by using the same records accessed in the study (e.g., department of corrections, newspapers, and judicial and state records), the mistake seems more a dismissal of gender than concern over the Espy file's missing data. Scholars have stressed the need for "fact-based" evidence in death penalty research [11] but the need for better data tends to center on underprivileged men. This is obviously needed but push for critical theories that assess how the state targets certain men and uses masculinity to condemn men to death is relatively new to capital punishment research. Studies stressing the importance of identity (e.g., disability status, ethnicity, and citizenship) are often put forth as "gender-neutral" without explaining why gender does not receive the same consideration as other social identity markers. Not to belabor the point, but studies that do not consider masculinities can lead to simplistic conclusions—as if, for example, women are beneficiaries of a chivalrous criminal justice system or conclude that many men are on death row because they are men without further clarification [12,13]. Studies that treat the criminal justice system in which intersectionalities involving race, gender, and sexual orientation identity, for example, help understand the system as a whole are also better situated in explaining individual outcomes [14].

The Tennessee study's misstatement is just an example of how little attention women receive in capital punishment research. Women are viewed as a small, thus inconsequential, fraction of total executions—the incompatible "other" from the expected. Thus, condemned women have received only sporadic interest from the public due to undercounts and widespread misperceptions about gender and the death penalty.

This pattern is reproduced in research that seems to reinforce the inconsequentiality of gender as both a demographic descriptor of interest and as a methodological approach. For example, the fact that men's and women's executions were similar in number to that of men's until the Revolutionary War is both relatively unknown and underexamined. The

ways in which the presentation of the Espy file distorts reality can only be addressed once researchers practice some degree of self-reflexivity in their approaches to the accepted “knowns” about capital punishment. One of these beliefs seems to be that men have always outnumbered women in executions when, in fact, there are considerable fluctuations in the proportions of men and women executed over time. Further obfuscating the historical significance of women’s executions is the Espy file’s statement that only executions committed under civil authority are included in the dataset is false. Military executions inflate the proportion of men to women being executed during and after the Revolutionary War. Another misstatement of the Espy file is that lynchings were said to be excluded but many were included in the dataset [6].

2.2. *It’s a “Guy Thing”*

The problem of excluding gender and women in death penalty research is not just explained by numbers but also by a lack of awareness as to why men are overrepresented. This overrepresentation is a result of a myriad of gendered and raced social processes that could be explained via the contributions of (broadly speaking) gender theory, masculinity theory, intersectionality theory, and other critical theories [12–17]. The ensuing provides a systematic review of the literature to examine commonalities in death penalty research but also intends to describe the themes and contours of studies that purportedly rely on the Espy file for evidentiary support that ultimately impacts the criminal justice system.

That masculinities and the criminal justice system are inextricably linked [12–14], that race and intersectionalities are integral to the research of crime and justice [15,16], that these social constructs manifest in every aspect of the criminal justice system [17], are no longer peripheral or radical ideas in academia. Yet, capital punishment research appears largely unaware of the depth of hegemonic masculine assumptions and values in issues and practices involving the death penalty. Only a handful of academics have attempted to demonstrate how heterosexism and masculinities affect interactions and outcomes in the courtroom [18]. Moreover, only a few scholars have examined the linkages between historical circumstances unique to women and the current-day experiences of women [19–21]. Quantitative data analysis, like that of Schmuhl and colleagues who attempt to link macro-level gendered variables to capital punishment [22], is rarer still. The connection between abortion and capital punishment is also an exciting area of emerging scholarship that takes a critical approach to understanding policies from a gendered perspective [23,24]. The criminalization of feticide is as important an issue today as it was in colonial times.

Yet, studies accounting for the gendered terrain of capital punishment tend to fall outside of mainstream research, particularly ones that are primarily abolitionist in purpose, by concentrating on male experiences or treating the death penalty as “gender-neutral”. When women are included, they are often reduced to a variable or act as a subsidiary to the male narrative (e.g., women as victims and how that affects men sentenced to death).

Aside from the disproportionate number of men sentenced to death [3], the majority of experts (with notable exceptions), have also been men. The National Death Penalty Archive Collection (NDPA) [25] has carefully collated the history of capital punishment and the research of people like Espy [26]. It features leading scholars and activists noted for their exceptional contributions, the diversity in backgrounds, and many boast impressive careers in abolitionist efforts. Distinguished professors featured are primarily men (e.g., James Acker, Steven King Ainsworth, David Baldus, Hugo A. Bedau, Robert Gross, Steve Hall, Steven Hawkins, Rick Halperin, Michael A. Mello, Michael Meltsner, Michael Radelet, Jonathan Sorensen, Victor L. Streib, David Von Drehle, and Ernest Van Den Haag) [25]. For women, though fewer in number, and certainly venerated scholars, their abolitionist efforts are especially remarkable. Women, whose works are featured in the NDPA, include Leigh B. Bienen, Marie Deans, Celeste Fitzgerald, Clare Hogenauer, Karli Keator, Margery Koosed, Elisabeth Semel, and Margaret Vandiver [25].

M. Watt Espy remains a unique figure in the NDPA Collection for many reasons notwithstanding his nonacademic background, relentless data collection that spanned

decades, and the many connections forged with academics and practitioners. To date, no one has committed as much time and effort to collecting data for the entirety of U.S. history as he has—and it began as what could be described as a “hobby”. For clarity, the Espy collection, the research stored at the NDPA both online and in hard copies in file folders and boxes, will be referred to as the “Espy papers” [26]. They represent the culmination of decades of data collection, whereas the “Espy file” [4], the dataset of interest here, presents only a fraction of the thousands of handwritten notes, articles, official documents, and correspondence. The Espy file was created from some of Espy’s handwritten ledgers which were then converted into readable computer files. The University of Albany’s M.E. Grenander Department of Special Collections, in collaboration with the NDPA, contains the entirety of Espy’s work due to the donations made by himself, his nephew Major Allen Espy, and Professor Daniel Allen Hearn. Some of the most knowledgeable individuals of the papers and consequently of the Espy file’s errors and omissions are undoubtedly the librarians and archivists themselves [27].

Some of these omissions involve the women, particularly of executed Black and Native American women. Apart from David V. Baker’s decades of research [28–31], underrepresented racial groups have received minimal attention from Espy file users. Additionally, the miscoding of variables, including the crimes of the executed and the misspelling of names, often led to misgendering and difficulties in tracking down the primary data sources [6,7]. For both men and women, important variables are missing for more than half the dataset (e.g., age at execution) [5]. Espy himself was reluctant to share publicly what he noted as an incomplete dataset. Quite possibly the consummate historian on the death penalty, Daniel Allen Hearn, who had worked closely with Espy and was entrusted with continuing the work, noted hundreds of glaring omissions (as interviewed by Professor Lewis Laska) [6]. It is only the use of the Espy file that is assessed—not the file itself.

Work on the death penalty has also been male dominated in terms of authorship. Indeed, the advisory group that approved John Ortiz Smykla’s NES grant to make the Espy file possible was composed entirely of men (the majority presumably identifying as “white”). Professor Patricia Hill-Collins, author of *Black Feminist Thought*, explains that the gender and racial identity of an academic (a term largely defined by white men) has significant implications for societal understandings of history and how we think about the world today [32]. Regardless of the researcher’s commitment to social justice (e.g., David Baldus, one of the eight, whose scholarship and tireless testimonies to the U.S. Supreme Court on behalf of racial justice is legendary), the identity of a person represents a lifetime of experiences that are invaluable to knowledge production. Awareness of gender discrimination in authorship is important [33] but Black women’s undervaluing as scholars continues to be a prominent feature of academic institutions. Similarly, valuing diversity on boards that approve grants, among supervisors that hire the data collectors, and the data collectors themselves can make a difference in not only who is publishing but also how and what is published.

2.3. Credit-Giving without Giving Credit Where It Is Due

Superfluous citing of the Espy file, an apparent effort to credit Espy’s work, was also pervasive. An example of this can be found in the extensive investigations of Linders, Casanova, and Shupe who researched the clothing choices of men and women on the day of execution [34]. Using the Library of Congress in addition to other newspaper archives from 1840 to 1940 they claim to require the Espy file as a way of identifying cases used in their analysis. Given the apparent thoroughness of their research, it is possible that no one was overlooked but, if the Espy file was indeed the sampling frame, particularly for that time period, the sample’s representativeness might be called into question. Between the 1840s and the 1870s, the Espy file vacillates between representing only 50% and 70% of the executions identified in the Espy papers [6] (p. 215). During that same time, more than fifty women are missing from the Espy file [7].

To access the Espy file for data analysis, the most obvious source would appear to be the ICPSR website where the file is freely available for download regardless of membership. The study by Linders and colleagues did just that referencing their citation as follows:

Espy, M. Watt and John Ortiz Smykla. 1994. Executions in the United States, 1608–1991: The Espy File. 3rd ICPSR ed. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor]. [34].

Many studies chose to cite the DPIC which provides an indirect way to access the data because one could first visit the DPIC website and then follow the link to ICPSR [3]. The website specifically states some of the issues with the Espy file and claims responsibility only for data collected after 1976. Nowhere on that page does the DPIC suggest that scholars access the entirety of Espy's papers from the NDPA. As instructed by the DPIC website:

To download the complete Espy File, visit the ICPSR website at www.icpsr.umich.edu/NACJD [. . .]. Some information in the Espy File differs slightly from DPIC information since 1976, with respect to the dates of execution and the race of the inmate, but not the names, places, or methods of execution. In these instances, DPIC has verified through Department of Corrections' websites and news accounts that the information on DPIC pages is correct [3].

The Espy file's reach is in part due to the support it receives from what many consider the most important hub of information on executions in the United States, the DPIC. As this analysis will demonstrate, the DPIC is often referenced in lieu of the direct ICPSR Espy file citation. While certainly emblematic of the DPIC's reach, it might also highlight the need for researchers to be more careful to use and cite data at their source. Indeed, as this next section will demonstrate, a wide search net was cast given that the Espy file is such a presence in death penalty research that its use is not always explicitly stated. The late Victor L. Streib, for example, relied heavily on the Espy file to keep researching women and juveniles executed in the United States, but neither he nor Espy are mentioned on the DPIC website that claims 576 women have been executed.

3. Data and Methodology

3.1. Selection of Studies

PRISMA guidelines [9] serve as the methodological guide for gathering and reporting the results. The protocol was registered retroactively on 24 June 2024 with Open Science Framework. The data collection of the Espy file's usage in peer-reviewed studies initially began in October of 2023 and concluded in January of 2024. The final data used in this study were the result of three stages. First, Scopus, Nexis Uni, Google Scholar, and the ICPSR listing of Espy file publications [4] were used to construct four separate datasets. For the first three databases, articles were identified via the search term "Espy file", with the only restriction being that the publication was from a peer-reviewed scholarly outlet. No other search restrictions (e.g., language restrictions) were used, resulting in 613 publications. Without search restrictions, any mention of the Espy file, whether it be in the abstract, the manuscript, or the references, was included. That way, even articles that cited the DPIC website (see the example in the previous section) were nonetheless included in the screening component. Figure 1 illustrates the process of elimination which started with 608 hits and ultimately resulted in a total of 79 journal articles.

The second stage involved comparing the Scopus and Nexis Uni datasets to remove duplicates and publications that were not research articles (e.g., PowerPoint presentations or abstracts). The same process was repeated with the Google Scholar and the ICPSR listings. The most duplicates were found in comparing the latter datasets. The third stage involved combining the four datasets and once again screening for duplicates which resulted in a total of 186 records being downloaded. It was only then that the term "Espy" was used in the full-text manuscript searches so as not to omit any articles that might have, for example, referenced "Espy & Smykla" versus "Espy file". Of the remaining 93 peer-reviewed journal articles, six were excluded due to the overall intent of their studies being

to critique data usage in the social sciences and the judicial system. While invaluable to this study’s theoretical justification, these were not studies that used the Espy file for purposes of testing a hypothesis or citing substantive facts in support of findings [1,4,6,11,35,36]. The remaining studies were removed because the subject matter did not pertain to capital punishment and the Espy file received only a trivial mention.

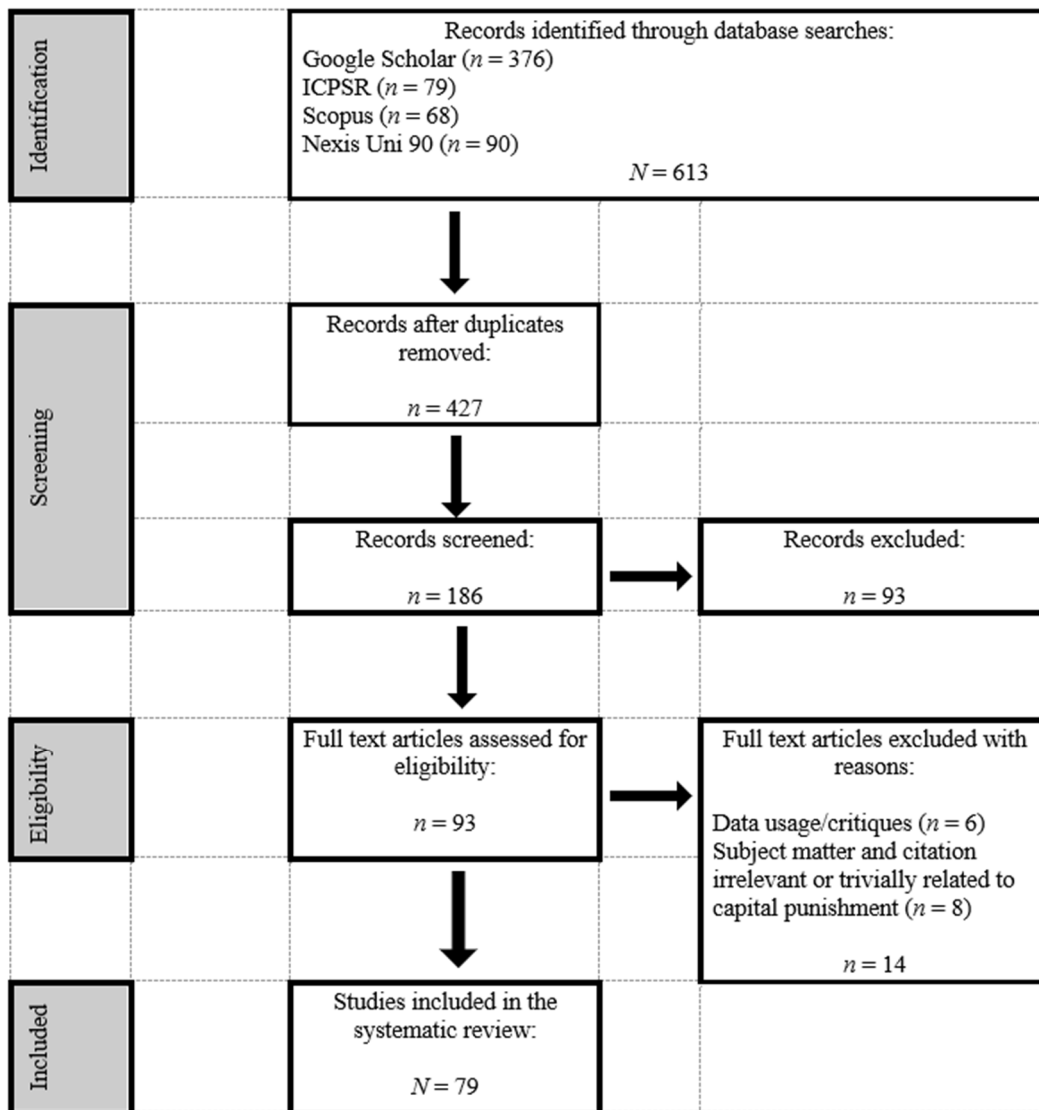


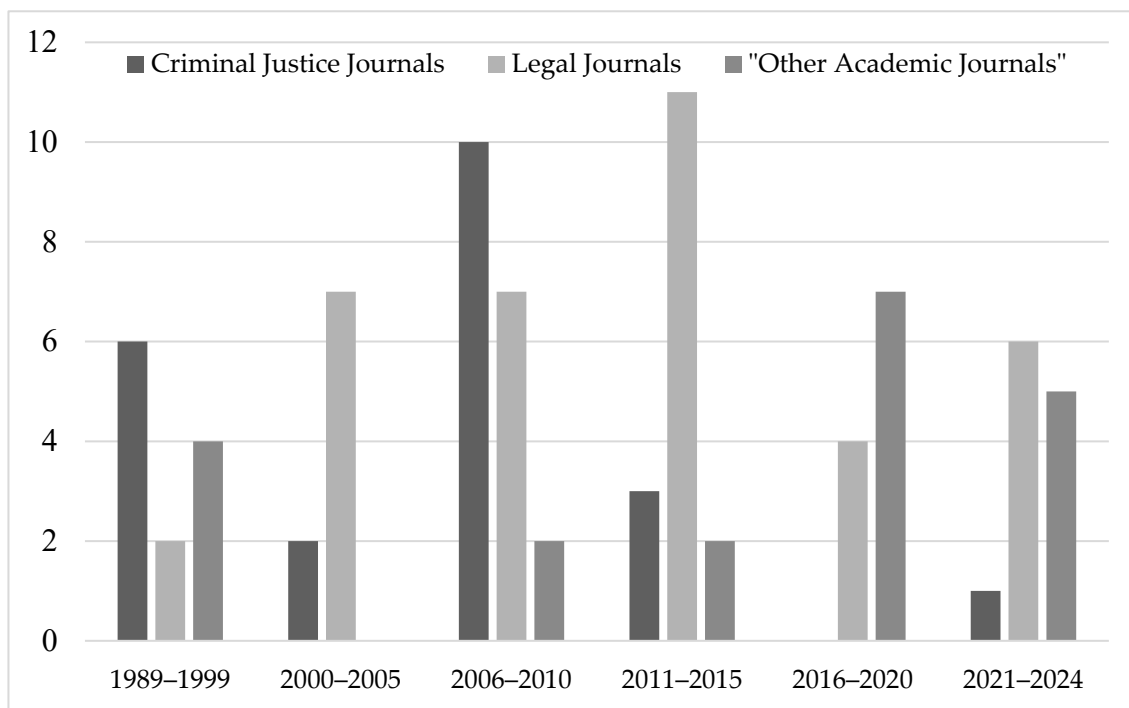
Figure 1. PRISMA flowchart illustrating study identification, screening, eligibility, and inclusion decisions.

The final dataset consisted of 79 peer-reviewed journal articles which were individually assessed as to how the primary research questions could best be addressed. Up until this point, it was thought that multiple coders would be needed to identify different theoretical approaches and the extent to which intersectionality was addressed. The lack of theoretical diversity in studies, which will be made clearer in the following, rendered additional coders unnecessary and essentially answered part of Research Question #2: “how prevalent and what approach is taken for those studies identified as ‘gendered’, ‘raced’, or otherwise utilized intersectional framework”. The answer is “not very prevalent”.

First, to help answer how and the extent to which the file is used, studies were identified by how much of the data from the file was used for data analysis. If the Espy file data were used for variables as part of an analysis or to identify executed persons, for example, these studies were coded as using the Espy file as being a major component

of the study. As for the prevalence of the use of critical theories, the second research question, each study was carefully read before determining that there simply were none that used an intersectional approach or whose research design was centered around a critical theoretical approach like, for example, the work of Angela Harris [14], who centered her entire analyses around the intersection of race, gender, and sexuality in understanding violence and the criminal justice system. Instead, the coding was simplified to a series of “gendered” terms like “women”, “woman”, “female”, “girl”, “gender”, “sex”, and gendered pronouns. For race, search terms included “race”, “racism”, “black”, “white”, “Caucasian”, “African American”, “Hispanic”, “Latin(x)”, etc. Racially coded terms like “foreign” and “immigrant” were also included to cast the widest net possible. To summarize, instead of finding an “intersectional approach” [15,16] to studying the death penalty, I searched for the terms “intersectional”, “intersectionality”, and even “Crenshaw”.

To help add some depth to Research Question #3, addressing the effects of scholar gender identity with the above limitations in mind, the journal outlets were categorized into the three largest categories to account for stylistic and more fundamental differences between disciplines. The final dataset consisted of 37 publications in legal journals, 22 in criminal justice journals, and 20 published in a diversity of outlets (e.g., communications, economics, history, political science, sociology). Figure 2 separates these three categories and displays the number of peer-reviewed articles citing the Espy file published from 1989 to January 2024.



Years of Publication by Outlet Type

Figure 2. Number of peer-reviewed articles citing the Espy file published from 1989 to January 2024
 Note: *N* = 79.

The graphic is somewhat misleading because the first time interval covers ten years (1989–1999), whereas the last time period really only covers three years, given that the data collection ended in January 2024. Publications using the Espy file seem to have increased, particularly among what are considered “other” academic journal outlets. Still, if one sees the past 4 years as evidence of a trend, the Espy file may continue to grow in usage.

3.2. Themes and Study Characteristics

Four major study designs emerged and were labeled with the awareness that disciplines differ in methodological preferences as well as verbiage. Twenty studies were identified as being primarily “descriptive” whereas thirty-one relied primarily on inferential statistics though certainly descriptive statistics were also used. The latter were labeled as “quantitative” to include studies that used statistical techniques which are viewed in some disciplines as correlational. However, if significance testing was a component of the correlational designs, these studies were designated as “quantitative”. Descriptive studies are those that rely either solely on descriptive statistics or qualitative data.

The “abolitionist” label was assigned to 17 studies whose primary purpose was easily identified as making an argument for the repeal of the death penalty versus testing hypotheses or describing historical phenomena. These studies assessed case law, statutes, historical practices, and/or legislative decisions and blended current socio-political circumstances and legal developments to make a case for abolition. They ranged from discussing the constitutionality of lethal injections [37] to comparing the United States to other countries [38], to examining individual states’ experiences with abolition [39]. “Historical” studies might involve all the data finding and analytical techniques as the aforementioned but are primarily intent on an in-depth exploration of intimate partner violence and capital punishment [19]. Clearly, the labels contain some degree of overlap. For instance, studies that use historical state practices to demonstrate how the continuing use of the death penalty has had deleterious effects in the current day [40]. That study is labeled as “abolitionist” because the data, in this case, historical documentation, are used to make an argument for repeal of the death penalty.

To summarize, categories were labeled to encompass the primary methodology that best comported with the aim of the studies. Tables 1–3 provide the data for Figure 1 and are organized by general discipline area, arranged by the dates of publication, and provide study design summaries and/or study descriptions. Asterisks in Tables 1–3 indicate those studies in which the Espy file was a substantial component of the data collection and/or analysis. The bolded names are those that made gender or used some type of gendered framework or made gender central to their studies.

Twenty-two studies in 15 different journals are represented in criminal justice and criminology outlets. Most studies rely on quantitative data, whether they be primarily descriptive ($n = 6$) or involved predictive models ($n = 9$), with six predicting executions [41–46], two predicting homicide [47,48], and one predicting mass shootings [49]. Studies that involved descriptive statistics documented the gender and racial identities of the executed [28,31] execution methods [50,51], and overall changes in executions across time and place [52,53]. All studies, except one of the four categorized as “historical” [54], involved a socio-political temporal element meaning that findings extended beyond whatever timeframe was being considered. Whether it be predicting attitudes about homicide and executions [55] or using Charles Starkweather’s execution as a harbinger of changing social and political approaches to justice [56], many of these criminal justice publications drew on historical events and practices to extrapolate (e.g., Vandiver and colleagues’ exposition of Tennessee’s 1858 slave code for understanding institutionalized racism) [40]. In other words, recognizing the significance of institutional memory and social arrangements in predicting death penalty outcomes.

Table 1. Listing of publications in criminal justice journals and brief study descriptions (N = 22).

Authors and Years of Publication	Sample n and/or Study Description (Research Designs in Parentheses)	Study Time Frames
Schneider & Smykla (1990) * [52]	60 years examining changes in executions and effects of wars on executions (descriptive)	1900–1960
Schumacher (1990) * [53]	128 countries/examining changes in execution over time (descriptive)	1965–1987

Table 1. Cont.

Authors and Years of Publication	Sample <i>n</i> and/or Study Description (Research Designs in Parentheses)	Study Time Frames
Keil & Vito (1992) * [42]	87 years examining changes after the Furman decision and the effects of race on executions (quantitative)	1900–1987
Thomson (1997) [46]	2028 homicide offenders/examining changes over time and effects of race (quantitative)	1982–1991
Marvell & Moody (1998) * [48]	63 years (predicting homicide rates over time) (quantitative)	1929–1992
Baker (1999) * [28]	357 executed women/over time (quantitative)	1632–1984
Duwe, Kovandzic, & Moody (2022) [49]	888 mass shootings/how shootings over time led to different policy effects (quantitative)	1976–1999
Vandiver, Giacompassi, & Curley (2003) * [40]	Tennessee’s 1858 slave code and effects thereof (abolitionist)	--
Poveda (2006) * [45]	85 counties/changes over time with an emphasis on geographic predictors (quantitative)	1978–2004
Seitz (2006) *	160 executions/in North Carolina (descriptive)	1910–1935
DeFronzo et al. (2007) *	50 states/rates of male serial killings (quantitative)	1883–1992
Baker (2007) * [29]	History of Native American executions (descriptive)	1600s–
Baker (2008) * [30]	History of enslaved Black women (historical)	1600s–
Denver, Best, & Haas (2008) * [50]	12 census years (documenting execution methods) (historical)	1880–2000
Henry (2008) [57]	New Jersey’s experience with the death penalty (historical)	1600s–
LaChance (2009) [56]	The social effects of Charles Starkweather (historical)	1958–
Keil & Vito (2009) * [43]	68 years/predict lynchings by executions (quantitative)	1866–1934
Harmon, Acker, & Rivera (2010) * [58]	276 governor commutations/relationship between politics and executions (quantitative)	1900–1963
Baker (2012) [31]	179 lynchings of women/an inventory (descriptive)	1600s–1940
Acker & Bellandi (2012) [54]	safeguards to protect the innocent with a focus on Maryland (abolitionist)	--
Roth (2012) [55]	3350 articles/attitudes about homicide (descriptive)	1600s–1800s
Monahan, Vito, & Vito (2021) * [44]	249 executions and clemencies/changes over time (quantitative)	1901–2019

Notes. * research that relied heavily on the Espy file for data analysis or the central aim of the study. Authors’ names in bold are those that accounted for gender as a major part of the study.

However, gender theory, and even the reporting of the binary sex assigned at birth, was minuscule—this even in studies where a gendered analysis would seem most appropriate. Only two authors made gender a major component of their analysis but only in so far as their concentration was on women [28,31]. An additional study of serial killers reported the sex of the sample as being composed of men [47] and another used victim sex as a predictor variable [58]. The remaining studies did not mention gender and simply assumed a male sample. A little less than half of the studies included at least some discussion of the salience of race in capital punishment [7,31,40,42,43,45,46,50,56,58].

Much like the criminal justice sample, the research purview in legal outlets was diverse, representing 30 journal outlets (Table 2). Similar to criminal justice publications, legal studies also categorized as “abolitionist”, prioritized racism [59,60], and elaborated on successful experiences with abolition within and outside the United States [38,39,61–64]. Not unexpected in legal studies, there were a few that focused on the application and interpretations of the Eighth Amendment [37,65–67] and the implications of the involvement of law enforcement and the military [68,69].

Table 2. Listing of publications in law journals and brief study descriptions (N = 37).

Authors and Years of Publication	Sample <i>n</i> and/or Study Description (Design in Parentheses)	Study Time Frames
Beck, Massey, & Tolnay (1989) * [70]	48 years/relationship between executions and voting (quantitative)	1882–1930
Hunter, Ralph, & Marquart (1993) * [41]	2190 life-term and death-sentenced rapists (descriptive)	1875–1971
Vandiver & Coconis (2001) * [10]	150 convictions for first degree murder (descriptive)	1916–1949
Galliher & Galliher (2001) [71]	19 legislative sessions discussing capital punishment (descriptive)	1975–1995
Ramsey (2002) * [72]	405 first degree murder indictments (quantitative)	1879–1893
Baker (2003) [59]	Race and the application of the death penalty (abolitionist)	--
Kubik & Moran (2003) * [73]	842 states and years/gubernatorial elections and executions (quantitative)	1977–2000
Pfeifer (2003) [74]	Lynchings in the Pacific Northwest (historical)	1882–1902
Shepherd (2004) [75]	13,059 monthly murder rates/effects of the death penalty on deterrence (quantitative)	1977–1999
Ramsey (2006) [19]	History of IPV homicide and capital punishment (historical)	1880–1920
Kreitzberg & Richter (2007) [37]	Lethal injections as constitutional or not (abolitionist)	--
Marcus (2007) [38]	Status of capital punishment in the world (abolitionist)	--
Bessler (2009) [61]	Abolitionist movements in the U.S. (abolitionist)	--
Rapaport & Streib (2009) [21]	24 executed women in North Carolina and current day (descriptive)	1720–1984
Martin (2010) [39]	New Jersey’s repeal of death penalty (abolitionist)	--

Table 2. Cont.

Authors and Years of Publication	Sample <i>n</i> and/or Study Description (Design in Parentheses)	Study Time Frames
Kendall & Tamura (2010) * [76]	1409 panel data of 32 states/predicting murder rates (quantitative)	1957–2002
Siena (2010) [66]	Louisiana’s death penalty statute (abolitionist)	--
Ramsey (2011) [20]	History of IPV homicide/capital punishment (historical)	1860–1930
Schick (2011) [65]	Lethal injections as cruel and unusual (abolitionist)	--
Adger & Weiss (2011) * [69]	431 death sentences since Gregg v. Georgia (quantitative)	1976–
Pierce & Radelet (2011) [77]	191 first degree murder in East Baton Rouge Parish (quantitative)	1990–2008
Linde (2011) * [78]	183 executed juveniles and racial discrimination (descriptive)	1642–2003
Warden (2012) [63]	Illinois’s experience with abolishing the death penalty (abolitionist)	--
Sarat et al. (2013) * [79]	2477 newspaper articles of “botched executions” and how they have contributed little to abolitionism (descriptive)	1900–2010
Thaxton (2013) [80]	400 cases in which prosecutors sought the death penalty (quantitative)	1993–2000
Compa (2014) [81]	Importance of civil litigation (abolitionist)	--
Smith (2014) [68]	The military and its participation in the death penalty as challenging state legitimacy (abolitionist)	--
Baumgartner & Lyman (2015) [82]	241 Louisiana death verdict cases/finding 316 victims of whom only 20% were Black males (quantitative)	1976–2015
Mills, Dorn, & Hritz (2016) [83]	2295 juveniles sentenced to life without parole/examination of policies and practice (descriptive)	2015
Baumgartner et al. (2016) * [84]	475 counties and the federal government/geography and executions (quantitative)	1608–2015
LaChance (2017) * [85]	941 execution stories/elite, journalists, etc. attitudes about the death penalty (descriptive)	1915–1940
Kovarsky (2019) [64]	How the U.S. decides to execute using criteria, like future dangerousness, that are in effect arbitrary (abolitionist)	--
Klein (2021) [62]	Focus on Virginia with the abolition of the death penalty (abolitionist)	--
Meyn (2021) [60]	How Jim Crow is still embedded in and affects the judicial system (abolitionist)	--
Klein (2022) [67]	Law enforcement’s participation in capital punishment and maintaining state legitimacy (abolitionist)	--

Table 2. *Cont.*

Authors and Years of Publication	Sample <i>n</i> and/or Study Description (Design in Parentheses)	Study Time Frames
Linders (2022)	The move from public to private executions (historical)	1833–1937
LaChance (2023) * [86]	667 news articles/of male executions finding white men received coverage that was more respectful (quantitative)	1877–1936
Jarvis (2023) [87]	The mutiny murder case on the slave ship Enterprise (historical)	1886

Notes. * research that relied heavily on the Espy file for data analysis or the central aim of the study. Authors' names in bold are those that accounted for gender as a major part of the study.

Eight of the 10 quantitative studies predicted execution likelihood [70,72,73,75,77,80,82,84,86] and the remaining two predicted murder rates [76,78]. The two quantitative studies that were identified as “gender focused” would certainly not be considered ones employing any type of gender or feminist framework. One makes several assumptions to support the idea that men are discriminated against through applications of the death penalty [80] and the other suggests correlations between the rates of unmarried women to murder rates [78]. Frankly, finding any mention of women, girls, or gender, beyond three or four times was so challenging that “gender focused” meant simply that women or men were explicitly identified as the subject matter.

The descriptive studies included one in which women were clearly the focus [21] but the remaining were male or “gender neutral”. The two studies involving samples of juveniles did include race as part of the juveniles’ identities [79,83]. The remaining descriptive studies documented the characteristics of the (gender neutral/men) executed [10,41], the so-called “botched” executions [71], and dialectical understandings of capital punishment and society [85,88]. Three of the six legal studies categorized as historical had a gender and race component, whereas the other three pertained to lynchings and slavery without specifying gender [74,87,89]. In total, of the legal studies, six studies centered on gender and all of those accounted for race [19,20,76,78,80,90].

Table 3 demonstrates the ubiquity of raced but gender-less people across disciplines even when the samples involved demographic characteristics (“cases”, “lynchings”, etc.) [91–96]. The only two studies that used a gendered framework were categorized as historical [32,97]. Six studies, albeit gender seemed relatively inconsequential, reported sex as a variable or mentioned gender-specific search terms at least once [98–103].

Table 3. Listing of publications in “other” journals and brief study descriptions (N = 20).

Authors and Dates of Publication	Sample <i>n</i> and/or Study Description (Design in Parentheses)	Study Time Frames
Harries (1993) * [97]	3961 executions in the United States (quantitative)	1930–1987
Harries (1995) * [98]	13,329 executions/related to race, place, and murder rates in the United States (quantitative)	1608–1985
Aguirre & Baker (1997) * [99]	244 executed Hispanic Americans/building on the Espy dataset by clarifying ethnicities (descriptive)	1795–1987
Aguirre & Baker (1999) * [100]	1749 executions of slaves/use of Espy dataset to explain why slaves were executed (e.g., slave revolts) (descriptive)	1641–1865

Table 3. Cont.

Authors and Dates of Publication	Sample <i>n</i> and/or Study Description (Design in Parentheses)	Study Time Frames
Reid (2008) * [90]	810 executed persons/the relationship to the number of lynchings (quantitative)	1930–1935
Leigh (2008) [104]	61 years of panel data/governor impact on policies regarding (quantitative)	1941–2002
Adler (2015) [91]	2100 homicide cases in New Orleans (descriptive)	1920–1940s
Linders (2015) * [96]	1800 execution stories/audience and gender (historical)	1830–1920
Caldararo (2016) [101]	Prisons and death penalty impact on crime (historical)	1800s–
Christian (2017) * [92]	13,475 lynchings in 275 southern counties (quantitative)	1880–1930
Baumgartner et al. (2018) [103]	475 counties in 35 states/predicting homicides (quantitative)	1977–2014
Adler (2019) [105]	Relationship between Jim Crow and the death penalty (historical)	1920–1945
Beck & Tolnay (2019) [93]	3767 lynchings in 11 states involving torture and desecration (descriptive)	1877–1950
Eriksson (2020) * [102]	879 counties/Black incarceration rates (quantitative)	1920–1940
Musgrave (2020) * [106]	1157 state police agencies adopted by year (quantitative)	1905–1941
Adler (2021) [94]	2188 cases of homicide in New Orleans (historical)	1920–1925
Depew & Swensen (2022)* [107]	189 years of data from states with gun policies/effect of gun policies on gun-related deaths (quantitative)	1900–1920
Linders (2022) * [89]	632 news articles of executed men and women/emphasis on gendered choices in execution garb (historical)	1840–1940
Grosjean, Masera, & Yousaf (2023) * [95]	35 million traffic stops in 142 counties of Trump rallies/effect of historical racial violence (quantitative)	2015–2017
Ward (2023) * [108]	213 Northeastern counties/arrest rates (quantitative)	2010–2014

Notes. * research that relied heavily on the Espy file for data analysis or the central aim of the study. Authors' names in bold are those that accounted for gender as a major part of the study.

Notably different than the studies represented in Table 2 are the lack of abolitionist studies and many (13 out of the 20) relied on the Espy file for a large component of their work.

3.3. The Research Questions

3.3.1. To What Extent, and for What Purpose, Is the Espy File Data Used in Academic Research?

Of the 33 that employed the Espy file for nearly if not all aspects of their study, most included the impacts of race and racism. Eight used the file almost exclusively for documenting underrepresented groups whether it be women [7,28–31,59] or juveniles [79]. Two of the studies documented execution methods over time [50,52]. Most used execu-

tions gleaned from the Espy file as the primary variable accounting for executions by region [10,42,44,45,47,53,58,73,81,82,84,93,98,99]. At least seven appeared to rely solely on the Espy file as a framework by which to identify executions from other sources (e.g., newspaper coverage of specific executions) [32,43,71,77,80,93,97].

3.3.2. How Prevalent and What Approach Is Taken for Those Studies Identified as “Gendered, “Raced”, or Utilize Intersectional Frameworks?

Fourteen studies were characterized as involving gender beyond reporting mere facts or used as relatively inconsequential variables [19–21,28–32,55,74,76,78,80,97]. Most of the searches of the entire manuscripts yielded few mentions of search terms and “gender” was one of the least occurring. These fourteen studies, however, went beyond mere mentions. Five examined capital punishment through a gendered lens (i.e., focusing on intimate partner violence) [19,20,74,80,97]. Four studies treated gender as a characteristic belonging to and affecting both men and women [32,55,74,97] and four studies focused specifically on the experiences of executed women [21,28–31]. Though all 14 contained discussions of race, “intersectionality”, as per legal scholar Crenshaw [15,16], was mentioned only once in one study [34]. This is especially surprising, given not one of the legal studies [19–21,76,80] mentioned the theory or the term. Undeniably famous, Crenshaw, just between the years 1988 and 2000, has published dozens of articles and books and received countless honors for her work on intersectionality. All the aforementioned legal articles were published after 2005. To summarize, 78 of the 79 studies did not mention intersectionality theory in any capacity whether it be in reference to class, sexuality, disability status, or other social markers commonly found in intersectionality research and certainly impacting the experiences of the executed today.

3.3.3. Are There Differences among Men and Women Scholars in Research Focus and Methodology?

The third research question pertains to the gender identity of authors and research. Over one hundred authors are represented in the 79 studies selected for this study. To code author gender, author websites, and related media representations were searched for indicators of preferred pronouns. The procedure followed was the one of Crittenden and colleagues [32]. It appeared as if the authors, despite the binary’s heterosexist and patriarchal connotations, could nonetheless be categorized into groups of men and women. Thirty-three studies were solo-authored by 26 men [28–31,38,39,42,45,46,53,55–57,59–61,64,66,69,75,77,89,90,92,93,95,98,99,104,106,108–110] and 16 more studies were co-authored by multiple men. Fifteen studies [19,20,51,63,67,68,74,76,80,81,83,91,97,103,105] were solo-authored by 10 women and the remaining sixteen studies were authored by both men and women. None of the studies in the analysis here consisted of women-only scholarly teams.

Of the solo-authored male publications, only David V. Baker published studies that focused explicitly on executed women [28–31]. One other solo-male study reported the gender composition of the sample which contained both men and women [55]. Of the male co-authored publications, only one was coded as “gendered” though it should be noted it was the one that attempted to link children of unmarried parents to higher rates of murder and crime [78]. Of the woman solo-authorships, three authors published five studies whose focus was primarily on gender [19,20,74,80,97]. All five of these studies examined gender from a macro-level perspective and treated men as significant to the analysis. In other words, these studies did not presume gender to be a quality only women possess.

4. Discussion

The ensuing expands upon the findings and the research questions by anchoring the discussion on the very last research question:

How is the Espy file accessed and to whom is it attributed and/or supplemented with other data sources? Are weaknesses acknowledged and/or addressed?

To reiterate, the Espy file is revered by many academics [6] with minimal acknowledgment of its shortcomings or the decades of research Espy completed and is readily

available for researchers [26,27]. This systematic review was conducted with one primary purpose in mind; to understand how gender and capital punishment are talked about in academic literature. The Espy file served as an excellent focal point because of its prolific usage. In other words, knowing that the Espy file would continue to be used in court cases and appear on reputable websites like the Death Penalty Information Center (DPIC) means that this research, at the very least, offers a snapshot of capital punishment research in general, regardless of its usage. Indeed, a systematic review of death row inmates confirms many of the same findings here (e.g., quantitative samples are either gender neutral and presumed to be male and that women's role in capital punishment is inconsequential due to low numbers of executions) [111].

This study also suggests that a male-dominated research field can "masculinize" the space to such a degree that scholarship continues to study much of the same phenomena from similar vantage points and theoretical frameworks. New statistical methods, new sites of study, additional variables, and even new subject areas are not necessarily indicators of change. This review of death penalty research demonstrates the tendency of scholars to treat gender and women synonymously and as a separate area of study. For example, only one title mentioned that the study would consist only of men [47]. While other areas in criminal justice have experienced significant growth in incorporating the works of masculinities, feminist studies, and other critical studies [12–17], death penalty research, with few exceptions [18], has not—irrespective of its interdisciplinary contributors.

4.1. Questioning the Data

Two of the more unfortunate conclusions reached after a thorough analysis of 41 studies that relied extensively on the Espy file: (1) the results are suspected even when accompanied by additional data, and (2) scholars might have been aware of its shortcomings, but most did not report the extent to which their findings might have been skewed by problematic data. According to Eschels, when it comes to juveniles and capital punishment, courts look to data provided by the DPIC which, in turn, uses the Espy file data for executions before 1976 [5]. The two studies involving juveniles also cited the Espy file via the DPIC website [79,83]. Courts depend on organizations like the DPIC which, in turn, depend on academics. Professor Hearn, famous historian and entrusted confidant of Espy, has, for years, warned against over-reliance on the Espy file as the only source of data and has added hundreds of additional executions that are not reflected in the file [11] (p. 106). Other scholars have suggested that scholars utilize any number of sources including state supreme court opinions and newspaper articles [11]. Here, for those that did use newspaper samples, names were first identified via the Espy file [32,97].

Soon after Espy's file release, Baker and Aguirre published a number of studies that attempted to build on the Espy file by, for example, adding and improving how men and women, Native Americans [29,100], Hispanic Americans [101], and Black women [30,31] are counted. However, most improvements were then left to the original contributors of the Espy file whose modifications were rather minor. Thus, the Espy file today is more similar than different from its earlier versions.

However, three studies remarked specifically on the Espy file's inaccuracies as directly relevant to their own data collection. Adger and Weiss supplemented their data of predicting death sentences by prior executions from the NAACP Legal Defense Fund and the Alabama Department of Corrections [69]. Keil and Vito noted the many contradictions in the Espy file and therefore relied on a number of other sources including the Tennessee Department of Corrections and the Shelby County archives [43]. Two studies relied on the Espy file only for historical periods for which their primary source did not have data [41,44]. One study elected to employ the Espy file data even after admitting it was not "an ideal dataset".

Many of the executions recorded in the data file do not list an age at all. As a result, all that can be determined from the Espy file is the age (at the time of execution) and race of the offender for some cases. According to the file, 160 children were executed in the United States between 1642 and 1960 while they were under the age of 18. [. . .]. Yet,

leading scholars argue that many more juvenile offenders were executed by the United States during that time [74] (p. 139).

For summary statistics presented on the DPIC, particularly when DPIC data are also employed, the DPIC attribution is defensible. For studies that involve data analysis of the actual Espy file dataset, a reasonable expectation is that ICPSR data are downloaded and referenced appropriately. For verifying more nuanced facts and uncovering data that are not encompassed in the data file, researchers could access the official repository of Espy's papers [26] or contact the archivists themselves [27]. Not one study in this analysis appeared to access original source documents but most did reference ICPSR as opposed to the remaining 38 studies.

4.2. "A Minor Citation"—The Remaining 38 Studies

The remaining 38 studies (25 of which were legal publications) cited the Espy file once or twice but data were not incorporated in any consequential way. Most of the Espy attributions were found in footnotes and endnotes, and used to support more general statements such as, "at last count more than 15,000 executions had taken place on American soil" [61] (p. 781). Another example of a simple attribution was the following statement: during the first half of the twentieth century, the death penalty was frequently used for the crimes of murder and rape and less frequently for the crimes of robbery, kidnapping, attempted rape, espionage, and burglary [66] (p. 286).

Other minor citations were less innocuous and called into question the choice of resources. An example of this would be the study that pointed out the frequency of "public" executions [105] (p. 294), a variable the Espy file does not contain. The Espy file does contain information about the execution method (e.g., hangings) but not, technically, on how public the execution was. For that, there is scholarship available, one even in this systematic analysis, which is meticulously documented from original sources [97]. In that study, Linders suggests that discussions of executions tend to omit gender in favor of explanations involving class and the growing authority of the state [97].

An arguably obvious example of a missed opportunity to incorporate a meaningful discussion of gender can be found in the Charles Starkweather study whose case was posited as a challenge of the prevailing "liberal ethos" in the social sciences at that time [56] (p. 340). The removal of the "Bonnie" from the Clyde (Caril Ann Fugate) appeared to be a deliberate oversight that merits explanation. In other words, the question remains as to how the 1950s killings may have been treated had they not involved a young girl. A study about sexual assault committed by Black and white men without any mention of gender is similarly puzzling [110]. In the Starkweather study the author, citing the Espy file only once, wrote that, "from 1945 to 1964, 197 Black men were executed solely for the crime of rape in the South, a number stark in comparison to their white counterparts, who were executed in 27 instances for the crime" [56] (p. 353). Indeed, it is interesting that these minor citations often involved women. But not all "minor citations" were of minor consequence.

The more specific the statistics ascribed to the Espy file, the greater the likelihood of mistakes as evidenced in even the most seemingly innocuous of citations. One author, for example, claimed that 357 men but no women were executed in Illinois after 1818 [64] (p. 284). David V. Baker identified two other executions: Elizabeth Betsey Reed in 1845 [7] (p. 93) and Marie Porter in 1938 [7] (p. 133). Another example of a minor, but frequently occurring error which could be a direct consequence of reliance on the Espy file, was the misspelling of names. One study, ostensibly relying only on the Espy file, mistook June Champion's first name as "Jane" [21]. Given that June is the first woman executed in the U.S. [7], and these authors are known for their scholarship on executed women, the oversight is likely due to the use of the dataset and not at all a reflection of their knowledge of the subject.

Another "first", appearing in one study's footnote, referring to the (in)famous Hannah Ocuish (also spelled "Occuish"), stated, "Connecticut's only known execution of a juvenile

was in 1786 when it executed a twelve-year-old Native American girl" [79] (p. 553). The notation about Hannah appears immaterial in a study that did not mention the gender of juveniles. Moreover, the footnote seemed an unnecessary complement to the in-text statement, "because the Eighth Amendment bars the death penalty for persons under the age of eighteen, the juvenile would be sentenced to JLWOP" [79] (p. 553). Aside from the curious choice of footnotes, the idea that Hannah was the only juvenile executed in all of Connecticut history is unlikely. Finally, the fact that she is widely considered the youngest girl in American history to have been executed makes it especially peculiar that she would not be named. The confidence in the Espy file's veracity despite, for example, the lack of data on the ages of the executed might be deference or could, perhaps reflect a general disinterest in women and girls.

Again, there were missed opportunities for a more gendered analysis. One study focuses on the military's impact on executions [69] but excludes the insights of feminist approaches that have demonstrated how both men and women are victims of military violence and hegemonic masculinity [112]. The only mention of gender whatsoever in the study considered here was the following remark: "Davila is a female, but also a soldier and therefore should be treated no differently based upon gender; and, perhaps most prominent, the state of Washington has never executed a female" [69] (p. 19). This was also the only time the Espy file was cited in the entirety of that study and, once again, pertained to a statistic involving women. M. Watt Espy's decades-long research was focused on collecting data on all state-sanctioned executions, whereas David V. Baker's research built upon this and other research to document women's executions which would seem the more appropriate choice for those wishing to cite historical facts.

To conclude, only a few studies specifically noted discrepancies between their own extensively researched data and the Espy file. One author mentioned that the execution of Carcer in 1860 was "curiously" absent from the Espy file [89] and another made note of the Espy file's racial misclassifications [72] (p. 406). Even in identifying mistakes, the reluctance of some authors to do so was apparent in both the paucity of other resources accessed and the tone in which they spoke of the Espy file. In a footnote, one author wrote as follows:

The reliable death penalty data gathered by M. Watt Espy and John Ortiz Smykla confirm the execution in 1886, though Espy and Smykla recorded the name as "Albert Boynton", rather than Albert Baynton. Executions in the United States, 1609–2002: The Espy File, Death Penalty Information Center, available at <http://www.deathpenaltyinfo.org/executions-us-1608-2002-espy-file> (accessed on 26 September 2024) [20] (p. 223).

With the extensive research conducted in all three studies [20,72,89], it is puzzling as to why the Espy file would be cited at all. In the case of Albert Baynton (which was spelled correctly in the Espy Papers [26]), a more appropriate citation would have involved directly accessing the source itself to acknowledge the correction in the Espy file or to cite the original documentation [27]. Moreover, John Ortiz Smykla did not "gather" the data contained in the Espy file. Professor Smykla was, however, responsible for being the first to make data on executions accessible to all scholars. Had he not secured the funding for the project, it is highly likely that the scope of the U.S.'s use of the death penalty would remain a mystery for many more years.

5. Implications and Conclusions

As of the writing of this paper, many academics, particularly legal scholars, are clearly committed to change as evidenced by the plethora of research that clearly advocates for abolition. Legal scholars stress that education is key to eventual abolition and reason will prevail when judges are confronted with the voluminous research of people like M. Watt Espy who devoted their lives to the documentation of executions [11]. Legal professionals, in addition to relying on scholarship, are also significantly affected by the efforts of professional associations like the American Bar Association (ABA), the DPIC, and organizations like the NAACP [36]. Unquestionably, courts might cherry-pick or accept

data for no other reason except the esteem of the authors and their own beliefs [5], but a similar reverence to the past can and does occur in academic communities. The irony in all of this is that M. Watt Espy's research collection *is* impressive and available for use. The lack of women listed in the Espy file would likely concern the collectors and the scholars who worked with the file from its inception (e.g., David V. Baker, Michael Radelet, Elizabeth Rapaport, Victor Streib), given that they are acutely aware of the Espy Papers.

What this review has shown is a desire to carry the torch but also a reluctance to challenge dominant approaches utilizing traditional methodologies. Research that critiques the Espy file is treated with suspicion due, perhaps, to a misguided loyalty to M. Watt Espy. A more sobering consequence may be the silencing of those who wish to incorporate gender or study women. Given that most of the scholarship that did just that was authored by women, there may be a dampening effect on women's ability to publish in the field of capital punishment.

The simultaneous lack of research that examines how and what data are being cited is also concerning [5,6]. The reality of the death penalty's resilience, despite the efforts of academics devoting their careers to its abolition, is probably not entirely a function of judges and lawyers disinterested in the facts. A new approach is needed—one that pays serious attention to the gendered and raced social dynamics, which might just be what is needed to understand how intersectional dynamics target the most vulnerable in society. While most scholars are rarely active participants in major court decisions, their research can and does influence outcomes by informing the many professional organizations and non-profits devoted to capital punishment education and lobbying.

It is time to seriously incorporate the work of feminist criminologists who have transformed a discipline with a lengthy history of male dominance and masculine bias in subject matter and methodologies [113]. Exciting research incorporating a Foucauldian approach has laid bare the sterility of the death penalty when it is absorbed into institutions and hidden from public view [114]. A rediscovery of existing research, like how sexuality has played a role in the death penalty [115], is also advisable to those wishing to make meaningful changes in their own research. None of this suggests that traditional methods be abandoned but the introduction of these works into mainstream academia may better influence arenas, such as the court system, that were previously unreceptive. The work of Wilkins, along with demonstrating the masculinized dialectical strategies of prosecutors in death penalty cases, demonstrates how biased and value-laden tactics are used to win [18]. The repercussions of this can result in the sentencing of innocent men to death [18]. Put differently, if judges are undeterred by statistics demonstrating racial bias and the lives of the innocent, they may think differently when presented with evidence of how bias, in its many forms, affects every aspect of the system—an embarrassment and challenge to the integrity of the judicial system.

Capital punishment research is not simply a discipline; it is a subject area of enormous political and social consequences. And, as evidenced by Indiana's 26 June 2024 decision to resume executions, it is not a subject that will fade from the public's consciousness anytime soon [115]. The interdisciplinary and activist roots of capital punishment research should be celebrated by learning from intellectual giants, like Patricia Hill-Collins, for example, whose work is dedicated to exposing institutionalized inequalities, recognizing the contributions of marginalized communities, and extending their activism to the community [32]. The September 2025 execution of Marcellus Williams might be better understood if seen from a Black feminist perspective. For now, however, future researchers in the field might simply want to start with reexamining their assumptions, consider challenging their comfort zones through use of unknown methodologies, and remember to cite appropriately.

Funding: This research received no extra funding.

Conflicts of Interest: The author declares no conflicts of interest.

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