

## DEATH QUALIFICATION IN SEGWICK COUNTY, KANSAS

### REPORT OF MONA P. LYNCH\*

1. I am a Professor of Criminology, Law and Society at the University of California, Irvine, with a courtesy appointment in the School of Law.<sup>1</sup> In addition, I serve as Chair of the Criminology, Law and Society Department and Co-director of the Center in Law, Society and Culture at the University of California, Irvine. A copy of my vitae is attached as Appendix A.

2. I have extensive training in social science research methodology and have taught undergraduate- and graduate-level research design courses. I have served as a consultant/expert witness on several governmental committees focusing on crime related issues, and on multiple criminal cases. Since 2014, I have served as a consultant/expert witness on nine capital cases on the issue of death penalty attitudes, death qualification, and race. Prior to conducting the survey in Sedgwick County discussed in this report, I conducted five distinct surveys of jury-eligible adults in four California counties assessing jury-eligible citizens' views on the death penalty, potential for disqualification, and views of aggravating and mitigating evidence. I have also conducted experimental research on how death-qualified adults consider evidence and make decisions in simulated capital penalty trials.

3. In 2021, I was contacted by counsel for Cornell McNeal to conduct a survey of a sample of the Sedgwick County, Kansas jury-eligible population (the "Sedgwick County Study"). Specifically, in conjunction with Lois Heaney of the National Jury Project, I was asked to focus on the risk of exclusion from serving on a capital jury as a function of death penalty

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<sup>1</sup> UC Irvine's Criminology, Law and Society Department is ranked 2<sup>nd</sup> in the nation among criminology programs (<http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-humanities-schools/criminology-rankings>).

attitude, race, and gender. In light of my professional experiences, I am qualified to design and implement such a study.

4. I relied upon the existing published research on the death penalty, including my own previous research, and Kansas’s statutory framework when developing the Sedgwick County Study’s survey instrument and analytic protocol. The sampling design and data analysis strategy discussed herein are based upon current scientific standards for conducting survey research.

### **Prior Empirical Research on Race, Death Qualification, & Jury Decision-Making**

5. A large body of social science research documents that Black and White Americans diverge in their views of the fairness and equitability of the criminal justice system. For instance, recent national surveys by Pew Research Center found that “around nine-in-ten black adults (87%) said blacks are generally treated less fairly by the criminal justice system than whites, a view shared by a much smaller majority of white adults (61%)”<sup>2</sup> and that “79% of blacks – compared with 32% of whites – said the way racial and ethnic minorities are treated by the criminal justice system is a very big problem in the United States today.”<sup>3</sup> The racial gap in concerns about fairness in the system is longstanding. Political scientists Jon Hurwitz and Mark Peffley analyzed data collected between October 2000 and March 2001 from the National Race and Crime Survey, finding that “while 74.0% of blacks do not agree that the justice system treats people fairly and equally, only 44.3% of whites express similar sentiments. . . [,] with 61% and

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<sup>2</sup> Jon Gramlich, *From Police to Parole, Black and White Americans Differ Widely in their Views of Criminal Justice System*. Pew Res. Ctr. (May 21, 2019), <https://www.pewresearch.org/fact-tank/2019/05/21/from-police-to-parole-black-and-white-americans-differ-widely-in-their-views-of-criminal-justice-system/>

<sup>3</sup> *Id.* See also James D. Unnever & Francis Cullen, *Reassessing the Racial Divide in Support for Capital Punishment: The Continuing Significance of Race*, 44 J. of Res. in Crime and Delinq. 124, 146 (2007) (“African Americans and Whites do not conceptualize ‘American justice’ in the same terms. Where White citizens tend to see the scales of justice as reasonably balanced, their African American counterparts believe that unfairness, based on race, is integral to the operation of the criminal justice system.”).

26% of blacks and whites, respectively, who do not trust the courts to give a fair trial.”<sup>4</sup> A substantial body of research also indicates that White people are much more trusting of police across a range of dimensions than are persons of color, especially Black people, including in regard to their equitable racial treatment of citizens.<sup>5</sup> A 2015 literature review of 92 studies found that “individuals who identified themselves as black, non-white, or minority were more likely to hold negative perceptions and attitudes toward police as compared to whites.”<sup>6</sup>

6. Black Americans are historically more likely to oppose capital punishment,<sup>7</sup> a long-term trend that continues to the present. In 2006, criminologists John Cochran and Mitchell Chamlin noted that White Americans’ greater support for capital punishment as compared to Black Americans was “so robust that it was observed in nearly every public opinion poll and social scientific survey undertaken within this country over the past fifty years.”<sup>8</sup> Other criminological research has found that, over a thirty-year period, “African Americans are substantively less likely than whites to support the death penalty.”<sup>9</sup> Specifically, the researchers found that 39.9% of Black respondents, compared to 69.8% of White respondents in 1974, and 41.7% of Black respondents compared to 72.5% of White respondents in 2004 supported capital

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<sup>4</sup> Jon Hurwitz & Mark Peffley, *Explaining the Great Racial Divide: Perceptions of Fairness in the U.S. Criminal Justice System*, 67 J. Polit. 762, 768, 769 (2005).

<sup>5</sup> Gramlich, *supra* note 2; Ronald Weitzer, R. & Steven A. Tuch, *Racially Biased Policing: Determinants of Citizen Perceptions*. 83 Soc. Forces 1009 (2005).

<sup>6</sup> Jennifer H. Peck, *Minority Perceptions of the Police: A State-of-the-Art Review*, 38 Policing: An Int. J. of Police Strategies & Mgmt. 173, 173 (2015). See also Rich Morin & Renee Stepler, *The Racial Confidence Gap in Police Performance* Pew Res. Ctr. (Sept. 29, 2016), <http://www.pewsocialtrends.org/2016/09/29/the-racial-confidence-gap-in-police-performance/> (finding that “[o]nly about a third of blacks but roughly three-quarters of whites say police in their communities do an excellent or good job in . . . treating all racial and ethnic minorities equally . . .”).

<sup>7</sup> See generally, Lawrence D. Bobo & Devon Johnson, *A Taste for Punishment: Black and White Americans’ Views on the Death Penalty and the War on Drugs*, 1 Du Bois Rev. Soc. Sci. Res. on Race 151 (2004); Unnever & Cullen, *supra* note 3; Gramlich, *supra* note 2.

<sup>8</sup> John K. Cochran & Mitchell B. Chamlin, *The Enduring Racial Divide in Death Penalty Support*, 34 J. Crim. Just. 85, 85 (2006). See also, Phoebe C. Ellsworth & Samuel R. Gross, *Hardening of the Attitudes: Americans’ Views on the Death Penalty*, 50 J. Soc. Issues, 19, 21 (1994) (confirming that “[t]hroughout the entire period for which poll data are available, . . . Whites have favored it more than Blacks”).

<sup>9</sup> James Unnever, Francis Cullen & Cheryl Lero Johnson, *Race, Racism, and Support for Capital Punishment*, 37 Crime & Just. 45, 54 (2008).

punishment.<sup>10</sup> Overall support for the death penalty has since declined, particularly when respondents are presented with the alternative sentencing option of life without parole.<sup>11</sup> Nonetheless, the Black-White gap remains.<sup>12</sup> A 2018 Pew Research Center survey found that 59% of White survey respondents favor the death penalty for those convicted of murder compared to only 36% of Black respondents.<sup>13</sup> Two surveys conducted in a California county found that, among respondents to a 2014 survey of jury-eligible individuals, 70% of White respondents favored the death penalty, compared to only 45% of Black respondents; in the 2016 survey, 66% of White respondents expressed support compared to 27% of Black respondents.<sup>14</sup>

7. Studies indicate that White and Black capital jurors differ in their assessments of penalty-phase evidence and in sentencing verdicts, and White men in particular are more likely to support a death sentence. Studies from the Capital Jury Project<sup>15</sup> found that White capital jurors gave less weight to mitigating evidence presented in capital cases than Black jurors did, especially in cases involving Black defendants; consequently, they were more likely to support a death sentence than their Black counterparts.<sup>16</sup> An examination of the first votes on sentencing

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<sup>10</sup> *Id.*

<sup>11</sup> See Gallup, *In Depth: Topics A to Z: Death Penalty*, Gallup News, <https://news.gallup.com/poll/1606/death-penalty.aspx> (54% of respondents in 2021 supported the death penalty as compared to 80% in 1994); Jeffrey M. Jones, *Americans Now Support Life In Prison Over Death Penalty*, Gallup News (Nov. 25, 2019) (just 36% of respondents supported the death penalty in 2019 when given the option of choosing between the death penalty and life imprisonment); Editorial Board, *Well-spent? State Has Little to Show for Death Penalty*, Wichita Eagle, 6A (Feb. 16, 2007) (describing a 2007 poll that found that 65% of Kansas residents prefer life without parole over the death penalty when presented with that option).

<sup>12</sup> J. Baxter Oliphant, *Support for Death Penalty Lowest in More than Four Decades*, Pew Res. Ctr. (Sept. 29, 2016), <http://www.pewresearch.org/fact-tank/2016/09/29/support-for-death-penalty-lowest-in-more-than-four-decades/> (Finding that a 57% majority of white survey respondents favor the death penalty for those convicted of murder compared to only 29% of black respondents).

<sup>13</sup> J. Baxter Oliphant, *Public Support for the Death Penalty Ticks Up*, Pew Res. Ctr. (June 11, 2018), <https://www.pewresearch.org/fact-tank/2018/06/11/us-support-for-death-penalty-ticks-up-2018/>

<sup>14</sup> Mona Lynch & Craig Haney, *Death Qualification in Black and White: Racialized Decision-Making and Death-Qualified Juries*, 40 L. & Pol’y 148, 153, 157 (2018).

<sup>15</sup> William J. Bowers, *The Capital Jury Project: Rationale, Design, and Preview of Early Findings*. 70 Ind. L. J. 1043, 1076-1083 (1994) (Describing the study, which involved interviewing former capital jurors from hundreds of systematically selected capital trials in fourteen states).

<sup>16</sup> William J. Bowers, Thomas W. Brewer & Marla Sandys, *Crossing Racial Boundaries: A Closer Look at the Roots of Racial Bias in Capital Sentencing When the Defendant is Black and the Victim is White*, 53 DePaul L. Rev. 1497,

among jurors who served on South Carolina capital juries found that White jurors were more than twice as likely to vote for death at that stage than Black jurors, and the “difference between the two groups is statistically significant ( $p < .001$ ).”<sup>17</sup> Death-qualified White men, in particular, were disproportionately likely to disregard mitigating evidence and to advocate for death sentences in cases with Black defendants.<sup>18</sup> Conversely, racially diverse capital juries, especially those that included Black jurors, were less likely to engage in racially discriminatory sentencing.<sup>19</sup> In a mock capital jury study examining 100 small groups who decided on a capital case, Lynch and Haney found that “the higher the proportion of Whites on the jury, the more likely the jury was to favor death.”<sup>20</sup> When they examined the groups separately, “depending upon whether they viewed the Black defendant or the White defendant, [they] found that the proportion of Whites on the jury was a significant predictor of death verdicts in the Black defendant condition only.”<sup>21</sup> White men in that study also diverged significantly from others in how they weighed aggravating and mitigating evidence,<sup>22</sup> and in their sentencing verdict choices, resulting in disproportionate support for a death sentence in the Black defendant condition.<sup>23</sup>

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1513 (2004) (finding that “black and white males differ substantially, not only with respect to strong aggravating and mitigating considerations, such as dangerousness, remorse, and lingering doubt, but also in the ways they see the crime (i.e., vicious versus not cold-blooded) and in the degree to which they personalize the defendant and identify with him and his family”); William J. Bowers, Benjamin Steiner & Marla Sandys, *Death Sentencing in Black and White: An Empirical Analysis of the Role of Jurors’ Race and Jury Racial Composition*, 3 U. Pa. J. Const. L. 171, 207 (2001) (finding that black jurors were “far and away the most likely to have lingering doubts and to regard such doubts as important in making the punishment decision”); Stephen P. Garvey, *The Emotional Economy of Capital Sentencing*, 75 N.Y.U. L. Rev. 26, 47 (2000) (finding that black jurors are more likely than white jurors to differentiate between the crime and the defendant when deciding penalty).

<sup>17</sup> Theodore Eisenberg, Stephen P. Garvey, & Martin T. Wells, *Forecasting Life and Death: Juror Race, Religion, and Attitude toward the Death Penalty*, 30 J. of Legal Studies 277, 286 (2001).

<sup>18</sup> Bowers, Steiner, & Sandys, *supra* note 15.

<sup>19</sup> *Id.*

<sup>20</sup> Mona Lynch & Craig Haney, *Capital Jury Deliberation: Effects on Death Sentencing, Comprehension, and Discrimination*, 33 L. & Hum. Behav. 481, 485 (2009).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 488.

<sup>23</sup> Mona Lynch & Craig Haney, *Mapping the Racial Bias of the White Male Capital Juror: Jury Composition and the “Empathic Divide,”* 45 L. & Soc’y Rev. 69, 87 (2011). They also significantly differed in how they “constructed the defendant’s blameworthiness and motivation.” *Id.* at 91.

8. Social science research also shows that Black Americans are significantly more likely than White Americans to be excluded from capital juries as a consequence of the death qualification process, especially based upon their death penalty opposition. Aliza Cover examined the record of exclusions from Louisiana capital trials that took place between 2009 and 2013, and found that Black potential jurors were excluded an average of 36.0% percent whereas White potential jurors were excluded an average of 20.0%; “[c]onsequently, black jurors were 1.8 times more likely to be struck under *Witherspoon* than white jurors.”<sup>24</sup> A similarly designed study conducted in South Carolina, using capital cases from 1997-2012 that ended in a death sentence, found that Black potential jurors were significantly more likely to be excluded via death qualification than were White potential jurors, as were women compared to men.<sup>25</sup> Both women and Black potential jurors were significantly more likely to be removed due to their opposition to the death penalty.<sup>26</sup> Survey data from multiple jurisdictions also indicate that death qualification has the potential to disproportionately remove Black citizens from capital juries. A 1983 Maryland public opinion survey found that 34.1% of Black respondents would be disqualified through death qualification, compared to 9.5% of White respondents.<sup>27</sup> A 1989 survey of California adults found that racial minority respondents were overrepresented among those deemed excludable.<sup>28</sup> Two more recent state-wide surveys, one conducted in California in

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<sup>24</sup> Aliza Plenar Cover, *The Eighth Amendment’s Lost Jurors*, 92 Ind. L.J. 113, 137 (2016).

<sup>25</sup> Ann Eisenberg, *Removal of Women and African-Americans in Jury Selection in South Carolina Capital Cases, 1997-2012*, 9 Ne. L.J. 299, 333–36 (2017).

<sup>26</sup> *Id.* See also Justin D. Levinson, Robert J. Smith & Danielle M. Young, *Devaluing Death: An Empirical Study of Implicit Racial Bias on Jury-Eligible Citizens in Six Death Penalty States*, 89 N.Y.U. L. Rev. 513, 553, 558 (2014) (a study of 445 jury-eligible citizens from six leading death penalty states, finding that “death qualification leads to more male and White juries”); (also finding that “[W]hite participants were significantly more likely to be death-qualified (83.2%) than non-White participants (64.3%)”).

<sup>27</sup> Rick Seltzer, Grace M. Lopes, Marshall, Dayan & Russell F. Canan, *The Effect of Death Qualification on the Propensity of Jurors to Convict: The Maryland Example*, 29 How. L.J. 571, 573, 604 (1986).

<sup>28</sup> Craig Haney, Aida Hurtado & Luis Vega, “Modern” Death Qualification: New Data on Its Biasing Effects, 18 L. & Hum. Behav. 619, 630 (1994).

2009 and one conducted in Florida in 2016, found that Black respondents were significantly more likely to be excluded, relative to all other respondents, due to their death penalty views.<sup>29</sup> Likewise, county surveys of jury-eligible adults in Alameda County, California,<sup>30</sup> and more recently in Solano County, California<sup>31</sup> indicate that jury-eligible Black respondents were significantly more likely to be excluded than were other respondents. In both studies, women were also at higher risk of being excluded than were men.

9. Social science studies demonstrate that racially diverse juries reduce racially discriminatory decision making against Black defendants, including the likelihood of a death verdict. In the non-capital context, psychologist Sam Sommers experimentally examined the decision-making processes of twenty-nine six-person mock juries who considered a criminal case involving a Black defendant. Half of the six-person groups were diverse (each made up of two Black jurors and four White jurors), and the other half were composed of White jurors only. The diverse groups deliberated longer, discussed more case facts, and members of these groups were less likely to assert inaccurate facts or information compared to the all-White groups. Additionally, White participants assigned to diverse juries were less likely to view the defendant as guilty prior to deliberations compared to those assigned to the homogeneous juries.<sup>32</sup> A study replicating and extending this work (adding a White defendant condition) generally confirmed those findings, in that participants on the all-White juries engaged in lower-quality deliberations (e.g., discussed fewer case facts) when considering a Black defendant, relative to their

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<sup>29</sup> Craig Haney, Eileen L. Zurbriggen, & Joanna M. Weill (2022). *The Continuing Unfairness of Death Qualification: Changing Death Penalty Attitudes and Capital Jury Selection*. Psych., Pub. Pol., & L. Advance online publication. <https://doi.org/10.1037/law0000335> 22, 30.

<sup>30</sup> Robert Fitzgerald & Phoebe C. Ellsworth, *Due Process vs. Crime Control: Death Qualification and Jury Attitudes*, 8 L. & Hum. Behav. 31, 46 (1984) (finding that “[b]lacks are more likely than other racial groups to be excluded under *Witherspoon* (25.5% vs. 16.5%)”).

<sup>31</sup> Lynch & Haney, *Death Qualification in Black and White*, *supra* note 13 at 158-159.

<sup>32</sup> Samuel R. Sommers, *On Racial Diversity and Group Decision Making: Identifying Multiple Effects of Racial Composition on Jury Deliberations*, 90 J. Pers. & Soc. Psychol. 597 (2006).

performance in the White defendant condition. Performance disparities by defendant race were not observed among participants in the diverse jury groups.<sup>33</sup> Analyses of case data from actual jury trials also indicate that White-dominated juries tend to be more conviction-prone and punitive against non-White defendants compared to more diverse juries.<sup>34</sup> In the capital case context, data from the Capital Jury Project indicate that the demographic make-up of juries plays a role in racial disparities in outcomes. Specifically, a “white male dominance” effect was demonstrated, wherein capital juries with five or more White men were dramatically more likely to impose a death sentence on Black defendants who kill White victims, in comparison to similar cases without such a concentration of White men as jurors.<sup>35</sup> The researchers also identified a “black male presence” effect, whereby having at least one Black man on the jury significantly reduced the likelihood of a death sentence in Black defendant-White victim cases.<sup>36</sup> Support for the White-male dominance effect was also obtained in an experimental examination of race and capital sentencing, such that jury groups composed of 33% or more White men were significantly more likely to select a death verdict in the Black defendant case, compared to the otherwise identical White defendant case. In contrast, the groups that were not dominated by White men did not differentiate their sentence determination by race of defendant.<sup>37</sup>

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<sup>33</sup> Liana Peter-Hagene, *Jurors’ Cognitive Depletion and Performance During Jury Deliberation as a Function of Jury Diversity and Defendant Race*, 43 L. & Hum. Behav. 232 (2019).

<sup>34</sup> Marian R. Williams, & Melissa W. Burek, *Justice, Juries, and Convictions: The Relevance of Race in Jury Verdicts*, 31 J. Crime & Just. 149, 164 (2008) (finding in an analysis of felony trial outcomes that “juries with a higher percentage of Whites serving on them were more likely to convict black defendants,” after controlling for legally relevant case factors); see also Shamena Anwar, Patrick Bayer, & Randi Hjalmarsson, *The Impact of Jury Race in Criminal Trials*. 127 The Q. J. of Econ. 1017 (2012), (examining 731 non-capital criminal trial outcomes in two Florida counties, and finding that conviction rates for Black and White defendants did not differ from each other among juries when there were Black potential jurors in the jury pool, but Black defendants were convicted at a higher rate when no Black citizens were in the pool).

<sup>35</sup> Bowers, Steiner, & Sandys, *supra* note 15 at 193, finding that “[t]he presence of five or more white male jurors dramatically increased the likelihood of a death sentence”).

<sup>36</sup> *Id.* (finding that “[i]n the absence of black male jurors, death sentences were imposed in 71.9% of the cases, as compared to 42.9% when one black male was on the jury”).

<sup>37</sup> Lynch & Haney, *Mapping the Racial Bias of the White Male Capital Juror*, *supra* note 22 at 84-85, (finding that “the juries with a high concentration of white men were much more death-prone toward black defendants than were



### **The Present Study of Sedgwick County, Kansas.**

10. The Sedgwick County Study, which is directly informed by the methodology of my prior studies, aimed to evaluate the death penalty attitudes, likelihood of exclusion from serving on a capital jury, and views on aggravating and mitigating evidence, for a sample of jury-eligible adults who reside in Sedgwick County, Kansas. In light of these goals and the relevant literature cited above, the following research design was formulated and implemented:

11. A screening instrument and main survey were drafted. The screening interview instrument introduced the study's purpose, then asked a series of questions to ensure potential respondents were eligible to serve on a jury in Sedgwick County, Kansas (see attached document, labeled Appendix B). The main survey questions were administered to those respondents who were qualified as eligible based on the screening. The main survey opened with 2 attitude questions about the criminal justice system, followed by a death penalty attitude measure that assessed the respondents' overall level of support for, or opposition to, capital punishment (see attached document, labeled Appendix C). A series of questions designed to assess respondents' potential for disqualification based on capital punishment views was asked next. Respondents were first informed about the legal requirements for seating capital juries in Kansas, as well as the basic procedures, then depending upon the valence of their death penalty attitude (i.e., whether they had said they were opposed to or supported capital punishment), respondents were asked three items. The death qualification screening questions used in this survey instrument were designed to conform to the *Witherspoon*, *Witt*, and *Morgan* standards

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juries with a low concentration of white men, or ones that [involved] the white defendant [;] . . . fully 86 percent of those heavily white male juries in the black defendant condition favored death verdicts." Only 63% of the heavily white male juries supported death for the white defendant).

and are virtually identical to those used and validated in survey and interview-based research over several decades.<sup>38</sup> Respondents then answered a series of questions designed to address the way that they understood and evaluated 16 potentially aggravating and mitigating factors. The survey concluded with a series of demographic items, including items asking respondents about their educational attainment, age, racial identity, gender identity, and religion.

12. A public opinion research firm, Communications for Research (CFR), was hired to obtain the sample of 600 jury-eligible adults in Sedgwick County and conduct the telephone survey. CFR uses state-of-the-art telephone survey technology to collect data, including the use of webCATI (Computer Assisted Telephone Interviewing) to conduct the survey. Given the proliferation of cell phones as the primary or sole household telephone,<sup>39</sup> we requested that approximately 500 surveys be completed on cell phones and 100 on household landlines to ensure we reached the full representation of residents in Sedgwick County. Data collection took place from December 6, 2021 to January 16, 2022.

13. The completed data were supplied to me by CFR in an SPSS file. I then computed research variables necessary to conduct the analyses. First, I created a combined variable (**q2combined**) that combined the two versions of the death penalty attitude question (**q2a** & **q2b**). I then created a dichotomous death penalty attitude variable (**DPattdichot**) that collapsed

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<sup>38</sup> Claudia L. Cowan, William C. Thompson, & Phoebe C. Ellsworth, *The Effects of Death Qualification on Jurors' Predisposition to Convict and on the Quality of Deliberation*, 8 L. & Hum. Behav. 53 (1984); Ron C. Dillehay & Marla R. Sandys, *Life under Wainwright v. Witt: Juror Dispositions and Death Qualification*, 20 L. & Hum. Behav. 147 (1996); Michael L. Neises, & Ronald C. Dillehay, *Death Qualification and Conviction Proneness: Witt and Witherspoon Compared*, 5 Behav. Sci. & L. 479 (1987); Haney, Hurtado, & Vega, *supra* note 28; Haney, Zurbriggen, & Weill, *supra* note 29; Lynch & Haney, *Death Qualification in Black and White*, *supra* note 13.

<sup>39</sup> By the last half of 2016, 50.8% of Americans lived in cell-phone only households, 39.4% lived in households with both cell phone and landlines, 6.5% lived in households with only a landline, and 3.2% had no access to a phone. Racial minorities, younger adults, and the poor were all disproportionately likely to live in cell-phone only households. Stephen J. Blumberg, Ph.D., & Julian V. Luke, *Wireless Substitution: Early release of Estimates from the National Health Interview Study, July-December 2016*, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics (May, 2017). <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201705.pdf>.

support and opposition from four categories to two; those who refused to respond, or did not know, are treated as missing. I created a new race/ethnicity variable to recode “Other” responses in the race/ethnicity variable (**q7a**), if and when the specified response to a choice of “Other” fit into one of the enumerated categories in the survey. For the new race/ethnicity variable (**q7aRECODE**), I used the definitions used by the U.S. Census Bureau to categorize race/ethnicity in my recoding.<sup>40</sup> This resulted in an increase of 7 respondents in the “White” category and an increase of 1 respondent to the “Asian” category, with a corresponding drop in size of the “Other” category to 12 respondents. I also created a variable (**DQ**) that captured whether a respondent was potentially excludable, based upon the responses to the death qualification questions. A “yes” answer to any one or more of these three questions identified respondents as potentially excludable from consideration for capital jury service and they were categorized as such. I then created a variable (**DQreason**) that indicated the attitudinal valence of the excludable respondent (support or opposition to the death penalty). I also created three dichotomous variables, one that coded whether the respondent identified as Black (**Black**), another if the respondent identified as a White man (**Whiteman**), and a third that coded whether the respondent identified as a Black woman (**Blackwoman**).

14. I analyzed the data in the SPSS statistical program, using the Chi-square test to examine whether observed associations between the variables of interest were statistically significant. I then summarized and interpreted the results in light of the extant scientific literature and claims raised by Mr. McNeal. Those results are presented in the next section. In regard to some of the analyses presented in this declaration, it is important to note that because the number of respondents in some sub-groups are small, there is not sufficient statistical power to assess

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<sup>40</sup> United States Census Bureau, *About the Topic of Race* (December, 2021), <https://www.census.gov/topics/population/race/about.html>

whether observed differences are statistically significant. Specifically, when statistical power is low due to a small number of a given group in the population (and therefore a small number in a given sample), there is no expectation of detecting significance because the test would not be able to uncover that relationship even if it exists.<sup>41</sup> Statistical power refers to the ability to which a given statistical analysis will be able to detect an existing effect, *i.e.*, to allow for the rejection of the null hypothesis at a standard level of significance such as  $p < .05$ .<sup>42</sup> Thus, statistical power is a function of the “effect size”—the estimated size of a given meaningful relationship between two or more variables within the population under study, the “N”—the sample size of each group of respondents or participants in the study—and the significance level set for testing the hypothesis.<sup>43</sup> Effect sizes are typically classified as small, medium or large.<sup>44</sup> The larger the expected effect size, the smaller the N needed in the study groups. Similarly, the larger the p-value used (*i.e.*, .1 vs. .05 or .01), the smaller the N needed.<sup>45</sup> To have an 80% chance of uncovering an effect at the  $p < .05$  level using the Chi-square test on the 2 x 2 tables (for example, two racial groups x death penalty support or opposed), the survey would need a minimum of 785 respondents in each racial group for a small expected effect size; 87 in each racial group for a medium effect size; and 26 in each racial group for a large effect size.<sup>46</sup> In short, when sub-groups are small, the p-value cannot distinguish whether or not the null hypothesis can be rejected since there is not sufficient power with the N in the study.

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<sup>41</sup> See Jacob Cohen, *A Power Primer*, 112 *Psychol. Bull.* 155 (1992).

<sup>42</sup> *Id.* at 156.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 158, Table 2 (line 6).

## Results of Sedgwick County Study

15. The sample for the Sedgwick County Study was composed of more men (57%) than women (41.8%), with 3 respondents identifying as nonbinary, and 4 declining to provide their gender identity. The mean age of the respondents was 53.2 years old. Approximately 77% respondents identified as non-Hispanic white, 10.5% identified as Black/African-American, 4.3% as Hispanic or Latino, 1.7% as Asian or Asian-American, and 1.8% as American Indian/Native Alaskan/Hawaiian/Pacific Islander. The remaining 4.7% identified as another race or ethnicity, or declined to state. Both Hispanic/Latinos and Asian Americans were somewhat under-represented relative to their share of the county population.<sup>47</sup> This was likely the result of the citizenship and English language screening criteria for jury eligibility: 8.6% of the county residents are foreign-born and 14.7% of the county's residents speak a language other than English at home.<sup>48</sup>

16. Among all the respondents, 58.9% expressed strong (27.7%) or moderate (31.2%) support for the death penalty, while 37.2% expressed strong (20.2%) or moderate (17%) opposition; 4% were undecided (3%) or declined to give an opinion (1%). A total of 573 respondents expressed an opinion on the death penalty **and** responded to the death qualification questions so that they could be screened for the potential of exclusion. Of those, 157 (27.4%) were potentially excludable. As is illustrated in Table 1, those who opposed the death penalty were much more likely to be excludable than were those expressing support for the death penalty. This difference in rates of potential exclusion by death penalty attitude is very highly statistically significant, as indicated by the Chi-square test.

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<sup>47</sup> United States Census Bureau, *Quick Facts, Sedgwick County, Kansas*.  
<https://www.census.gov/quickfacts/sedgwickcountykansas>.

<sup>48</sup> *Id.*

**Table 1: Death Qualification and Death Penalty Support**

	Qualified % (N)	Disqualified % (N)
Support	<b>83.8%</b> (294)	<b>16.2%</b> (57)
Oppose	<b>55%</b> (122)	<b>45%</b> (100)

N= 573. Chi-square = 56.73,  $p < .001$  (very highly significant).

17. Table 2 illustrates death penalty opinion by respondents' racial identity, excluding those who were undecided on the death penalty or declined to respond to one or both items. An examination of whether Black respondents were significantly less supportive than White respondents is presented in Table 2a. As indicated by that Table, and consistent with prior research described in Paragraph 6 of this report, Black and White respondents significantly and substantially differed in their opinions of the death penalty.<sup>49</sup>

**Table 2: Race/Ethnicity and Death Penalty Opinion**

	White % (N)	Black % (N)	Hispanic % (N)	Other % <sup>50</sup> (N)
Support	63.4% (281)	44.3% (27)	60.0% (15)	67.7% (21)
Oppose	36.6% (162)	55.7% (34)	40.0% (10)	32.3% (10)

Total N = 560. Limited to those who expressed support for or opposition to the death penalty and who identified their racial identity.

<sup>49</sup> Black respondents also were significantly more likely to oppose capital punishment when compared to all other respondents. N = 560, Chi-Square = 8.51,  $p = .004$  (highly significant).

<sup>50</sup> Includes those who identified as Asian (N=8); those who identified as American Indian / Native Alaskan or Hawaiian / Pacific Islander (N=11); and those in the Other category (N=12).

**Table 2a: Death Penalty Support, White v. Black Respondents**

	White (N)	Black (N)
Support	<b>63.4%</b> (281)	<b>44.3%</b> (66)
Oppose	<b>36.6%</b> (162)	<b>55.7%</b> (83)

N = 504. Chi-Square = 8.29, p = .004 (highly significant).

18. Black respondents were also at a significantly greater risk of being excluded, relative to White respondents, as illustrated in Table 3. Black respondents' rate of exclusion was approximately 50% higher than White respondents' rate.<sup>51</sup> As illustrated in Table 3a, Black respondents were also more likely (by 10.1%) to be excludable due to their opposition to the death penalty. This finding is not statistically significant, but given the small number of Black respondents in the overall excludable group (23), obtaining a significant Chi-square was not expected even if the effect size was large, as explained in Paragraph 14 of this report.

**Table 3: Death Qualification, White v. Black Respondents**

	Qualified % (N)	Disqualified % (N)
White	<b>74.9%</b> (331)	<b>25.1%</b> (111)
Black	<b>62.3%</b> (38)	<b>37.7%</b> (23)

N = 503. Overall Chi-square = 4.349; p = .037 (statistically significant)

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<sup>51</sup> This is calculated by dividing the difference between the White and Black rate of exclusion (12.6%) by the White risk of exclusion (25.1%), which equals 50.2%.

**Table 3a: Reason for Disqualification, White v. Black Respondents**

	Excludable Support % (N)	Excludable Opposition % (N)
White	<b>40.5%</b> (45)	<b>59.5%</b> (66)
Black	<b>30.4%</b> (7)	<b>69.6%</b> (16)

N = 134. Overall Chi-square for exclusion reason = .819, p = .365 (nonsignificant)

19. As Table 4 shows, women were significantly less supportive of the death penalty than men. And women were marginally more likely to be excluded than were men, as illustrated in Table 4a. Of those potentially excludable, 68% of the women and 59.3% of the men were excluded on the basis of their death penalty opposition, as illustrated in Table 4b. That difference was not statistically significant.

**Table 4: Death Penalty Support, Men v. Women**

	Support % (N)	Oppose % (N)
Men	<b>65.2%</b> (215)	<b>34.8%</b> (115)
Women	<b>56.5%</b> (135)	<b>43.5%</b> (104)

N = 569. Chi-square = 4.397, p = .036 (statistically significant)



**Table 4a: Death Qualification, Men v. Women**

	Qualified % (N)	Disqualified % (N)
Men	<b>75.2%</b> (246)	<b>24.8%</b> (81)
Women	<b>68.6%</b> (164)	<b>31.4%</b> (75)

N = 566. Chi-square = 3.022, p = .082 (marginally significant)

**Table 4b: Reason for Disqualification, Men v. Women**

	Excludable Support % (N)	Excludable Oppose % (N)
Men	<b>40.7%</b> (33)	<b>59.3%</b> (48)
Women	<b>32.0%</b> (24)	<b>68.0%</b> (51)

N = 156. Chi-square = 1.283, p = .257 (nonsignificant)

20. The difference in attitudes about the death penalty, and the risk of exclusion is substantively larger when just comparing White men to Black women. There was essentially a mirror image among those who expressed support of, or opposition to the death penalty, and those who either identified themselves as White men or Black women, as illustrated in Table 5. This difference was very highly significant, which is especially notable given the small number of Black women (28) in the analysis. The risk of exclusion was approximately 74% larger for Black women, relative to White men. As illustrated in Table 5a, the Chi-square test indicates this very nearly reached statistical significance at the .05 level ( $p = .051$ ), despite the very small number for Black women. Black women were also overwhelmingly likely to be excluded for

opposition to the death penalty, especially relative to White men, as illustrated in Table 5b. With this analysis, there was no expectation that the Chi-square test would uncover a significant difference, given only 11 Black women were included in the analysis (see Paragraph 14).

**Table 5: Death Penalty Support, Black Women v. White Men**

	Black Women (N)	White Men (N)
Support	<b>35.7%</b> (10)	<b>67.3%</b> (170)
Oppose	<b>64.3%</b> (18)	<b>32.7%</b> (83)

N = 281. Chi-Square = 10.85,  $p < .001$  (very highly significant).

**Table 5a: Death Qualification, Black Women v. White Men**

	Qualified % (N)	Disqualified % (N)
Black Women	<b>60.7%</b> (17)	<b>39.3%</b> (11)
White Men	<b>77.4%</b> (195)	<b>22.6%</b> (57)

N=280. Chi-Square = 3.81,  $p = .051$  (marginally significant).

**Table 5b: Reason for Disqualification, Black Women v White Men**

	Excludable Support % (N)	Excludable Opposition % (N)
Black Women	<b>18.2%</b> (2)	<b>81.8%</b> (9)
White Men	<b>43.9%</b> (25)	<b>56.1%</b> (32)

N = 68. Chi-square = 2.54,  $p = .11$  (nonsignificant)

21. Death qualification significantly changed the percent of persons in the jury pool who said they were in favor of the death penalty, increasing the number from 61.3% of the overall jury pool to fully 70.7%. This is illustrated in Table 6, which includes all respondents who expressed support or opposition, and those who responded to the death qualification questions. Those who were opposed to the death penalty were overwhelmingly excluded, relative to those who support the death penalty—45% of those opposed to the death penalty were excluded versus only 16.2% of those who support the death penalty. As noted in Table 1 (Paragraph 16), the test of independence between direction of attitude and death qualification status was very highly significant. The pattern of exclusion also ensured that the Black respondents who were deemed Death-Qualified were much fewer in number than in the original jury-eligible sample, as illustrated in Table 6a. The net potential drop in share of Black jurors due to death qualification is 13.8%, considering that they represented 10.9% of the jury-eligible sample but only 9.4% of the death qualified sample. Conversely, the share of White respondents increased from 79.2% of the jury-eligible pool who responded to the race and death qualification items (442 of 558) to 81.5% of the potentially death qualified group (331 of 406).

**Table 6: Death Qualification and Shift in Death Penalty Support**

	Total N	Total %	Excludable N	Excludable %	Remaining Pool N	Remaining Pool %
Support	351	61.3%	57	16.2%	294	70.7%
Oppose	222	38.7%	100	45.0%	122	29.3%
Total	573	100%	157	27.4%	416	100%

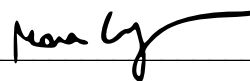
N = 573

**Table 6a: Death Qualification and Shift in Death Penalty Support: Black v. Others**

	Total N	Total %	Excludable N	Excludable %	Remaining Pool N	Remaining Pool %
<b>Support</b>	<b>343</b>	<b>61.5%</b>	<b>56</b>	<b>16.3%</b>	<b>287</b>	<b>70.7%</b>
<i>Black</i>	27		7	25.9%	20	
<i>Others</i>	316		49	15.5%	267	
<b>Oppose</b>	<b>215</b>	<b>38.5%</b>	<b>96</b>	<b>44.7%</b>	<b>119</b>	<b>29.3%</b>
<i>Black</i>	34		16	47.1%	18	
<i>Others</i>	181		80	44.2%	101	
<b>Total</b>	<b>558</b>	<b>100%</b>	<b>152</b>	<b>27.2%</b>	<b>406</b>	<b>100%</b>
<i>Black</i>	61	10.9%	23	37.7%	38	9.4%
<i>Others</i>	497	89.1%	129	26.0%	368	90.6%

N = 558

22. Based on the results of the Sedgwick County Study, as reported herein (Paragraphs 15-21), it appears that in Sedgwick County, Kansas, Black and White jury-eligible citizens hold significantly different views of the death penalty, and that death qualification has the potential to disproportionately exclude Black jury-eligible citizens, especially impacting Black women. The results also indicate that the death qualification process will result in a jury pool that is significantly and substantially more supportive of the death penalty than is the broader jury-eligible population in the county. The pattern of results is consistent with previous research on death penalty attitudes and death qualification. Moreover, as a substantial body of research has demonstrated, some of which is highlighted in Paragraphs 7 and 9 of this report, this poses a significant risk to a fair trial, including at the penalty phase, especially for Black capital defendants.



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# Appendix A

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## **ACADEMIC POSITIONS**

1/2022-present; 7/2018-7/2021	<b>Chair</b> Criminology, Law and Society, University of California, Irvine.
7/2021-1/2022	<b>Interim Dean</b> School of Social Ecology, University of California, Irvine.
2/2020-present	<b>Chancellor's Professor</b> Criminology, Law and Society, University of California, Irvine.
2015-2018	<b>Chancellor's Fellow</b> University of California, Irvine.
9/2014-6/2015	<b>Visiting Scholar</b> Russell Sage Foundation, New York, NY.
7/2010-2/2020	<b>Professor</b> Criminology, Law and Society, University of California, Irvine. School of Law, University of California, Irvine (2013-present).
7/2010-6/2018	<b>Vice-chair</b> Criminology, Law and Society, University of California, Irvine.
1/2009-present	<b>Co-director</b> Center in Law, Society and Culture, University of California, Irvine.
7/2008-6/2010	<b>Associate Professor</b> Criminology, Law and Society, University of California, Irvine.
8/2006-7/2008	<b>Professor</b> Justice Studies Department, San Jose State University.
2007-present	<b>Fellow</b> Institute for Legal Research, Criminal Justice Studies Program University of California, Berkeley School of Law.
8/2005-7/2008	<b>Department Chair</b> Justice Studies Department, San Jose State University.
9/2004-1/2005	<b>Visiting Scholar</b> Center for the Study of Law and Society, University of California, Berkeley.
8/2002-7/2006	<b>Associate Professor</b> Justice Studies Department, San Jose State University.

- 8/1998-7/2002      **Assistant Professor**  
Justice Studies Department, San Jose State University.
- 8/1997-8/1998      **Assistant Professor**  
School of Justice Studies, Arizona State University.

## **EDUCATION**

- University of California, Santa Cruz  
Ph.D., Social Psychology, June 1997.
- Stanford University, Stanford, California  
M.A., Communication (specializing in documentary film production), June 1991.
- University of California, Santa Cruz  
B.A., Psychology, emphasis in Psychology and Law, June 1981. Highest honors in major, college honors, thesis honors.

## **PUBLICATIONS**

### **Books:**

- Lynch, M. (2016). *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*. Russell Sage Foundation.

### **2017 Michael J. Hindelang Award, American Society of Criminology**

- Lynch, M. (2009). *Sunbelt Justice: Arizona and the Transformation of American Punishment*. Stanford University Press.

### **2010 National Council on Crime & Delinquency PASS Award in Literature**

### **Special Journal Issues:**

- Lynch, M. and Hannah-Moffat, K., eds. (2018). 20<sup>th</sup> anniversary special issue. *Punishment & Society* 20(1).
- Lynch, M. and Hannah-Moffat, K., eds. (2012). Theorizing punishment's boundaries. Special issue of *Theoretical Criminology* 16(2).

### **Journal Articles & Book Chapters:**

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- Lynch, M. and Omori, M. (2012). *Technical Report: Legal Change and Sentencing Norms in Federal Court: An examination of the Impact of the Booker, Gall, and Kimbrough Decisions*. Washington DC: National Institute of Justice.
- Lynch, M. (2009, March). Books behind bars: The war on prison law libraries. Guest blog essay on the *Changing Lives, Changing Minds* blog. Available at: <http://cltlblog.wordpress.com/2009/03/18/books-behind-bars-the-war-on-prison-law-libraries/>
- Lynch, M. (2008). Selective enforcement of drug laws in Cuyahoga County, Ohio: A report on the racial effects of geographic disparities in arrest patterns. Commissioned by the ACLU National Drug Law Reform Project. Available at: <http://www.SafeFairCleveland.org/wpcontent/files/LynchCuyahogaReport.pdf>
- Lynch, M. (2002). Capital punishment. In Bert Kritzer (ed.) *Legal Systems of the World*. Santa Barbara: ABC-CLIO publishers.

## **SELECTED GRANTS RECEIVED**

- 2019 National Science Foundation, Law & Social Science program.  
“Case adjudication as local practice: A follow-up study using multiple methods”  
(\$153,287, PI).
- 2017 National Institute of Justice, W.E.B. Du Bois Program of Research on Race and Crime.  
“Can jury instructions have an impact on trial outcomes?” (\$489,085, PI).
- 2017 Russell Sage Foundation, Race, Ethnicity, and Immigration Program.  
“Drugs, immigration, and a renewed war on crime: A mixed methods follow-up study”  
(\$34,979, PI).

- 2017 National Science Foundation, Law & Social Science program.  
“EAGER: Piloting a multi-campus training program in algorithmic processes, data analytics and mobile computing for sociolegal scholars.” (\$299,927, co-PI with William Maurer).
- 2016 National Science Foundation, Law & Social Science, Sociology, and Social Psychology programs. “Testing the impact of race on jury evaluations of informants.” (\$353,747, PI).
- 2015 National Science Foundation, Law & Social Science Program.  
DDRIG in support of doctoral student Anjuli Verma’s dissertation project,  
“Understanding local legal compliance in an era of prison downsizing.” (\$19,994, PI).
- 2014 National Science Foundation, Anthropology & Law & Social Science Programs.  
DDRIG in support of doctoral student Alyse Bertenthal’s dissertation project, “Law, the environment, and the social construction of public interest.” (\$28,839, PI).
- 2014 Graduate Growth Incentive Award, Graduate Division, UC Irvine.  
In support of the development of the Center in Law, Society & Culture’s campus-wide graduate concentration in Law, Society & Culture. (\$20,000, co-PI with Catherine Fisk).
- 2013 CORCL Single Investigator Award, UC Irvine.  
Project title: “‘Snitch’ testimony, credibility, and empathy: A test of racism in the evaluation of evidence.” (\$7000, PI).
- 2012 National Science Foundation, Law & Social Science Program.  
Project title: “Legal change and local norms in federal courts: A qualitative field study of federal case processing and negotiations, post-*Booker*.” (\$106,551, PI).
- 2012 National Science Foundation, Law & Social Science Program.  
DDRIG in support of doctoral student James Binnall’s dissertation project,  
“(De)Legitimizing the jury? An empirical analysis of felon jury exclusion.” (\$28,597, PI).
- 2012 Criminology, Law and Society, UC Irvine: Seed Grant.  
Project title: “Legal change and sentencing norms in federal court: A pilot study of the impact of the *Booker*, *Gall*, and *Kimbrough* decisions in a single district.” (\$10,000, PI).
- 2011 Graduate Growth Incentive Award, Graduate Division, UC Irvine.  
In support of the development of the Center in Law, Society & Culture’s Peterson/Microsemi Graduate Student Fellowship program (\$10,000, PI).
- 2010 National Institute of Justice, Data Resources Program.  
Project title: “Legal change and sentencing norms in federal court: An examination of the impact of the *Booker*, *Gall*, and *Kimbrough* decisions.” (\$35,000, PI)
- 2010 UC Humanities Research Institute, California Studies Program.  
Project title: “Visualizing ‘Governing through Crime’ in California II” (\$7500, co-PI with J. Simon).
- 2010 Proteus Action League.  
Project title: “Death Sentencing, Discretion & Disparity in Los Angeles.” (\$5522, PI).

- 2009 UC Humanities Research Institute, California Studies Program.  
Project title: "Visualizing 'Governing through Crime' in California." (\$5000, co-PI with J. Simon).
- 2003 National Science Foundation, Law and Social Sciences Program.  
Supplemental grant. Project title: "RUI: The birth of the post-rehabilitative prison: A case study of Arizona's penal system." (\$8102, PI).
- 2001 National Science Foundation, Law and Social Sciences Program.  
Project title: "RUI: The birth of the post-rehabilitative prison: A case study of Arizona's penal system." (\$43,651, PI).
- 2001 Faculty Development Grant. San Jose State University.  
Project title: "The birth of the post-rehabilitative prison: A case study of Arizona's penal system." (\$6100, PI).
- 2000 CSU Award for Research, Scholarship, or Creative Activity.  
Project title: "The Prison, the Gated Community, and the Contemporary Social Landscape." (\$6841, PI).
- 1999 National Science Foundation, Law and Social Sciences Program.  
Project title: "The mechanisms of aversive racism in the context of death penalty decision making." (supplemental grant, \$27,500, PI).
- 1999 Faculty Development Grant. San Jose State University.  
Project title: "The mechanisms of aversive racism in the context of death penalty decision making." (\$12,000, PI).
- 1999 CSU Award for Research, Scholarship, or Creative Activity.  
Project title: "The mechanisms of aversive racism in the context of death penalty decision making" (\$7500, PI).
- 1998 National Science Foundation, Law and Social Sciences Program.  
Project title: "The mechanisms of aversive racism in the context of death penalty decision making" (\$40,021, PI).
- 1997 Arizona State University. Faculty Grant in Aid.  
Project title: "Symbols of pain and shame: The populist drive toward retrogressive criminal punishments." (\$6956, PI).
- 1996 National Science Foundation, Law and Social Sciences Program.  
Dissertation Improvement Grant. Project title: "Race, Juror Comprehension, and Capital Sentencing" (\$19,180, co-PI with C. Haney, advisor).
- 1996 Paul Robeson Fund, New York, N.Y.  
Project title: "Life v. Death: A history of capital punishment in America." Towards scripting and pre-production of a one hour video documentary which explores the role of the death penalty in American society and culture. (\$3000, PI).

## HONORS AND AWARDS

- 2020 Chancellor's Professor, University of California, Irvine.
- 2017 W.E.B. Du Bois Scholar, National Institute of Justice.
- 2017 Michael J. Hindelang Award (for *Hard Bargains*), American Society of Criminology.
- 2016 Stanton Wheeler Mentorship Award, Law and Society Association.
- 2015-2018 Chancellor's Fellow, University of California, Irvine.
- 2014-2015 Russell Sage Foundation Visiting Scholar.
- 2010 PASS Award for Literature (for *Sunbelt Justice*), National Council on Crime and Delinquency.
- 2002 Outstanding Scholar Award, College of Applied Sciences and Arts, San Jose State University.
- 2000 Institute for Social Responsibility, Ethics, and Education Annual Lecture, San Jose State University, Inaugural Lecture honoree (\$500 prize).
- 1998 New Investigator Award, National Science Foundation.
- 1997 Dissertation Fellowship; University of California, Santa Cruz.
- 1995 Outstanding Teaching Assistant Award; University of California, Santa Cruz.
- 1994 Qualifying examination; passed with Distinction.
- 1993-1994 National Science Foundation Graduate Fellowship Program; Honorable Mention.
- 1992-1993 Regent's Fellow; University of California, Santa Cruz.
- 1982-1983 University Fellow; Stanford University.

## SELECTED CONFERENCE PAPERS & INVITED SCHOLARLY PRESENTATIONS

- 2021 Symposium/webinar presentation: *Booker* and beyond: Analyzing sentencing reform and exploring new research directions. National Institute of Justice.
- 2021 Symposium talk: The conspiracy of drug weight (in federal sentencing). Moritz School of Law, Ohio State University.
- 2021 Commentator: Matthew Clair's *Privilege & Punishment*. Ethnographic Café.
- 2021 Commentator: Matthew Clair's *Privilege & Punishment*. Department of Justice Studies, San Jose State University.
- 2020 Invited talk: Turning back the clock: Punitive prosecutorial practices in the Trump era. Centre for Criminological Research, University of Alberta.
- 2020 Symposium talk: Federal prosecutors as regressive opposition? UC Hastings Law School.
- 2019 Symposium talk: Double duty: The competing roles of special circumstances in California's capital punishment system. Columbia Law School.
- 2019 Reckless-Dinitz Lecture: Place, race, and variations in federal criminal justice Practices, Criminal Justice Research Center, Ohio State University.



- 2019 Hoffinger Lecture: Localizing legal policy: The case of federal criminal justice, NYU School of Law.
- 2019 Participant, Prison & Policy Law Roundtable (2-day workshop for prison law scholars), UCLA School of Law.
- 2018 Book panel commentator: *Building the Prison State* by Heather Schoenfeld, American Society of Criminology meeting, Atlanta, GA.
- 2018 Invited presentation: The production of inequality in the federal system. Workshop on “The Criminal Justice System and Social Exclusion: Race, Ethnicity, and Gender,” National Academies of Science, Washington D.C.
- 2018 Symposium talk: 94 different countries? Time, place, and variations in federal criminal justice. UC Berkeley School of Law, Symposium in honor of Franklin Zimring.
- 2017 Invited talk: Boundary crossings in criminalizing immigration, Prosecuting Immigration/Justice Strategies convening and meeting, Tucson, AZ.
- 2017 Book panel commentator: *Big House on the Prairie* by John Eason, American Society of Criminology meeting, Philadelphia, PA.
- 2017 Book panel commentator: *Addicted to Rehab: Race, Gender and Drugs in the Era of mass Incarceration* by Allison McKim, American Society of Criminology meeting, Philadelphia, PA.
- 2017 Author on book panel for *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*, American Society of Criminology meeting, Philadelphia, PA.
- 2017 Book talk: *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*. Northeastern University, School of Criminology and Criminal Justice.
- 2017 Book talk: *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*. Harvard Law School.
- 2017 Book talk: *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*. Center for the Study of Law and Society, UC Berkeley School of Law.
- 2017 Book panel commentator: *Courting Death: The Supreme Court and Capital Punishment* by Carol Steiker & Jordan Steiker, Law & Society Association meeting, Mexico City.
- 2017 Book panel commentator: *Executing Freedom* by Daniel LaChance, Law & Society Association meeting, Mexico City.
- 2017 Author on book panel for *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*, Law & Society Association meeting, Mexico City.
- 2017 Book talk: *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*. Federal Appellate panel, 9<sup>th</sup> Circuit Court of Appeals, Pasadena, CA.
- 2017 Exoneration data and its relevance for drug cases. National Registry of Exonerations conference, University of California, Irvine.
- 2017 Participant, Prison Law Roundtable (2-day workshop for prison law scholars), University of Michigan School of Law.
- 2017 Book talk: *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*. UC Irvine, School of Law.

- 2017 Book talk: *Hard Bargains: The Coercive Power of Drug Laws in Federal Court*. Federal Defenders, Los Angeles, CA.
- 2016 Discount or tax? A real-world conceptualization of plea bargaining. American Society of Criminology meeting, New Orleans.
- 2016 Critical race theory and empirical legal scholarship. Law and Society Association annual meeting, New Orleans.
- 2016 The negative halo effect of criminal history: Commensuration and its limits in an adversarial setting. Penal Boundaries Workshop, University of Toronto, Centre for Criminology.
- 2016 The negative halo effect of criminal history: Commensuration and its limits in an adversarial setting. New York University, Sociology.
- 2015 Drug deals in court: Law's power to punish in federal court. Invited colloquium talk, Vera Institute, New York.
- 2015 Backpacking the border: The intersection of drug and immigration prosecutions in a high-volume district court. Law & Society Association, Seattle WA.
- 2015 Drug deals in court: Law's power to punish in federal court. Invited workshop paper. Criminal Law workshop, Yale Law School.
- 2015 Drug deals in court: Law's power to punish in federal court. Invited seminar talk. Russell Sage Foundation, New York.
- 2015 Mass incarceration and immigration: Challenges for civil rights. Invited panelist. Paul Robeson Conference, Columbia Law School.
- 2015 Conducting research on criminal courts: Challenges and approaches. Invited seminar session. Rockefeller College of Public Affairs & Policy, University at Albany, SUNY.
- 2015 Drug deals in federal court: Plea negotiations as local practice. Invited talk. School of Criminal Justice, Rutgers University.
- 2014 Drug deals in federal court: Plea negotiations as local practice. Invited talk. Goldstock Criminal Law seminar, NYU School of Law.
- 2014 Drug deals in federal court: Plea negotiations as local practice. NSF-CRN panel on Guilty Pleas, ASC Annual Meeting, San Francisco, CA.
- 2014 The prison and dehumanization: Consequences for health care. Presidential Plenary panelist, ASC Annual Meeting, San Francisco, CA.
- 2014 Punishment as process: A mid-range empirical approach. Department of Criminology, University of Melbourne.
- 2014 (Im)migrating penal excess: The case of Maricopa County, Arizona. Law & Society Annual Meeting, Minneapolis, MN.
- 2014 Race, the record, & the culpable offender: Lessons from federal drug cases. CLEaR symposium: The Interplay of Race, Gender, Class, Crime and Justice, UC Irvine School of Law.
- 2014 Risk and penal subjectivity: Comments and suggestions. Penal Boundaries Workshop, Centre for Criminology and Sociolegal Studies, University of Toronto.

- 2014 Finding data: The politics and magic of accessing capital punishment data (with Catherine Grosso, Barbara O'Brien and Valerie West). Featured session on big data, American Association for the Advancement of Science, Chicago.
- 2013 Promises and potential pitfalls of Realignment: A call for research-practice partnership. Loyola Law School, Los Angeles.
- 2013 Realigning research: A proposed agenda. West Coast Law & Society Retreat, University of Washington School of Law.
- 2013 Emotion, authority, and death: (Raced) negotiations in mock capital jury deliberations, Law and Society Annual Meeting, Boston, MA.
- 2013 Institutionalizing bias: The death penalty, federal drug prosecutions, and mechanisms of racialized punishment. Critical Race Workshop, UCLA School of Law.
- 2013 The situated actor and the production of punishment: Toward an empirical social psychology of criminal procedure. Theorizing the Modern Criminal System: Law and Sociology in Conversation, NYU School of Law.
- 2013 Institutionalizing bias: The death penalty, federal drug prosecutions, and mechanisms of racialized punishment. Mass Incarceration and the Death Penalty symposium, University of Texas Law School.
- 2013 Participant, Prison Law Roundtable (2-day workshop for prison law scholars), University of Michigan School of Law.
- 2012 Legal change and sentencing norms in the wake of *Booker*: The impact of time and place on drug trafficking cases in federal court. Empirical Legal Studies Conference, Stanford Law School.
- 2012 The social psychology of mass incarceration. American Society of Criminology meeting, Chicago, IL.
- 2012 Theorizing the "war on drugs" in contemporary American punishment. University of California, Irvine School of Law, Socio-legal Studies Workshop.
- 2012 Discussant: David Garland's *Peculiar Institution*. Ann Lucas Lecture Series, Department of Justice Studies, San Jose State University.
- 2012 Cognition, emotion, and race: The case of the death penalty jury. University of Miami School of Law, Death Penalty Symposium.
- 2011 Legal change and sentencing norms in federal court: An examination of the impact of the *Booker*, *Gall*, and *Kimbrough* decisions. American Society of Criminology meeting, Washington, DC.
- 2011 The changing landscape of "crack" in American federal criminal law. (with M. Omori). Monash University/*Contemporary Drug Problems* conference, Beyond the Buzzword: Problematising 'Drugs.' Prato, Italy.
- 2011 Workshop discussant: University of California, Irvine School of Law Criminal Law/Criminal Procedure Workshop.
- 2011 Roundtable organizer/participant: Theorizing punishment's boundaries. Law and Society annual meeting, San Francisco, CA.

- 2011 The white male capital juror and racial bias: Findings from a jury experiment & implications for the administration of capital punishment. Michigan State University School of Law symposium, Moving Beyond Racial Blindsight? The Influence of Social Science Evidence After the North Carolina Racial Justice Act.
- 2011 Crack pipes and policing: A case study of institutional racism and remedial action in Cleveland. Center on Culture, Immigration and Youth Violence Prevention & Center for the Study of Law and Society, University of California, Berkeley.
- 2010 Mass incarceration, legal change and locale: Understanding and remediating American penal overindulgence. American Society of Criminology meeting, San Francisco.
- 2010 Arizona's political culture and SB 1070. SB 1070 Immigration Law Symposium. underRepresented Student Alliance (uRSA) series, University of California, Irvine School of Law.
- 2010 Governing through crime behind the gates. Visualizing Governing through Crime in California symposium, Center in Law, Society & Culture, University of California, Irvine.
- 2010 Discussion and critique of Loic Wacquant's "Punishing the Poor." Pacific Sociological Association, Oakland, CA.
- 2010 Law, power, and the problems with local delegation under the Immigration and Nationality Act's 287(g) program: A case study from Arizona. Asian-American Law Journal Symposium, Berkeley Law School, University of California, Berkeley.
- 2010 Sunbelt Justice: Arizona and the Transformation of American Punishment, Justice Studies, San Jose State University.
- 2010 Book Panel: *Sunbelt Justice: Arizona and the Transformation of American Punishment* UC Irvine, Criminology, Law & Society, University of California, Irvine.
- 2009 Transitioning to the mass penal state: Lessons from Arizona. School of Justice and Social Inquiry, Arizona State University.
- 2009 The exceptionalism of the white male capital juror: Race and sentencing in a mock jury experiment. Conference on Empirical Legal Studies, University of Southern California Law School.
- 2009 Punishment and place: The political narratives about prison siting over time. Irish Criminology Conference, University College, Dublin, Ireland.
- 2009 "Just feel it": Mock capital jurors' emotional expressions in life and death deliberations. Law and Society Annual Meeting, Denver.
- 2008 Paper discussant: Conference on Empirical Legal Studies, Cornell University.
- 2008 Reader/commentator: Dead Certainty: The Death Penalty and the Problem of Judgment by Jennifer Culbert. Law and Society Annual Meeting, Montreal.
- 2008 Panel discussant: Paradoxes of Race conference, UC Irvine.
- 2008 Transitioning to the mass penal state: Lessons from a case study of Arizona, USA. Centre of Criminology, University of Toronto.

- 2008 Panel participant/provocateur: Punishment and Society: New Frontiers. West Coast Law and Society Retreat, University of Hawaii, Manoa.
- 2007 Roundtable participant: Punishment and Society: The New Punitiveness. Law and Society Annual Meeting, Berlin, Germany.
- 2007 Punishment and place: The politics of prison siting in Arizona. Liberalism, Governance and the Geographies of Law Conference, University of Washington, Seattle.
- 2006 Roundtable participant: Editor/Translator-Meets-Critics: Criminal Man by Cesare Lombroso. American Society of Criminology meeting, Los Angeles.
- 2006 Reader/commentator: Mercy on Trial by Austin Sarat. Law and Society annual meeting, Baltimore.
- 2006 Acting tough: The politics and policy of mass incarceration in Arizona, 1970-1985. Probing the Penal State Conference, Sociology Department and Boalt Law School, University of California, Berkeley.
- 2006 Subtle racism and capital jury decision-making: Findings from an experimental study. From Lynch Mobs to the Killing State: Race and the Death Penalty in America Conference; Harvard Law School, Cambridge.
- 2005 Miscalculating risk: Emotions, sensibilities and the management of dangerous offenders. Law, Risk, and Probability in Penal Justice Workshop, School of Law, University of Edinburgh, Scotland.
- 2005 Post-rehabilitative parole in the age of workfare. Invited 100<sup>th</sup> Anniversary thematic session presentation; American Sociological Association annual meeting, Philadelphia.
- 2005 Punishment and (ir)rationality: Judicial interpretation of the supermax deathrow. Law and Society Association annual meeting, Las Vegas.
- 2005 The making of a post-rehabilitative penal regime: A case study of Arizona, 1960-present. Law, Societies & Justice Program colloquium, University of Washington, Seattle.
- 2005 Understanding the cultural aspects of punishment: A content analytic approach. Social Psychology colloquium, University of California, Santa Cruz.
- 2005 Panel participant/provocateur: From Deviance and Social Control to Penalty and Governmentality: What's New in the Study of Bad Stuff? West Coast Law and Society Retreat, Berkeley.
- 2004 The making of a post-rehabilitative penal regime: A case study of Arizona, 1960-present. Center for the Study of Law and Society, Boalt Law School, University of California, Berkeley.
- 2004 The role of local culture, politics, and social structure on penal change: An examination of the Arizona experience. Social Psychology colloquium, University of California, Santa Cruz.
- 2004 Roundtable participant: The Passions of Punishment: Rethinking Punitive Sensibilities. Law and Society Association annual meeting, Chicago.
- 2003 Roundtable participant: Punishment and Society: Legitimacy, Probity, and 'Standards' in Prison. American Society of Criminology meeting, Denver.

- 2003 Panel discussant: Punishment and Society: Punitive Mentalities. American Society of Criminology annual meeting, Denver.
- 2003 Roundtable participant: The Killing State and the Penal Apparatus. Law and Society Association annual meeting, Pittsburgh.
- 2002 Roundtable participant: Punishment and Mass Incarceration: A Roundtable Discussion on Crime, Policy and Politics. American Society of Criminology meeting, Chicago.
- 2002 Reader/commentator: A Theory of the Trial by Robert P. Burns. Law and Society annual meeting, Vancouver, B.C.
- 2002 Risk management or pain delivery? A case study of post-rehabilitative penal practices. Law and Society annual meeting, Vancouver, B.C.
- 2001 The birth of the post-rehabilitative prison: A case study of Arizona's penal system. American Society of Criminology meeting, Atlanta.
- 2001 The development of security as a sales pitch in the American penal market. Law and Society annual meeting, Budapest, Hungary.
- 2001 Capital punishment as moral imperative: Pro-death penalty discourse on the internet. Law and Society annual meeting, Budapest, Hungary.
- 2000 Prisons, social justice, and the changing experience of community. Institute for Social Responsibility, Ethics, and Education Annual Lecture, San Jose State University.
- 2000 Capital punishment as a cultural phenomenon. The U.S. pro-death penalty movement. Towards the Global Abolition of Capital Punishment International Workshop. Max-Planck Institute for Foreign and International Penal Law, Freiburg, Germany.
- 2000 The prison, the gated community, and the commodification of security. American Society of Criminology annual meeting, San Francisco.
- 2000 Death: Live on the Internet. Law and Society annual meeting, Miami.
- 2000 The parole agent in a shifting penal world. Invited colloquium, Department of Criminology, Law and Society, University of California, Irvine.
- 1999 Fenced in / fenced out: The prison, the gated community, and the decline of city life. American Society of Criminology annual meeting, Toronto.
- 1999 Roundtable participant: Getting funding through NSF's Law and Social Science Program. American Society of Criminology annual meeting, Toronto.
- 1999 Invited participant, 35th Anniversary roundtable: Policy-Where Have All the Gaps Gone. Law and Society Association annual meeting, Chicago.
- 1999 The disposal of inmate #85271: Ethnographic notes on a routine execution. Law and Society Association annual meeting, Chicago.
- 1999 Modernist rhetoric in corrections: The precarious place of rehabilitation in parole ideals and practices. Western Society of Criminology annual meeting, Oakland.
- 1998 Differential outcomes in capital juror decision-making: The role of racial cues, empathy, and comprehension in sentencing. Social Psychology colloquium, University of California, Santa Cruz.

- 1998 The social meaning of capital punishment. Critical Resistance Conference, University of California, Berkeley.
- 1998 Controlling the super-deviant: The legal and social consequences of being a sex offender. Law and Society Association annual meeting, Aspen, CO.
- 1998 Evaluating evidence in capital trials: Differences between mock jurors who vote life or death. Law and Society Association annual meeting, Aspen, CO.
- 1998 Mechanisms of “aversive” racism in the context of life and death decision-making: Lessons from laypersons in an experimental setting. The American Psychology-Law Society Biennial meeting, Redondo Beach, CA.
- 1997 The elusive nature of mitigation and the clarity of aggravation: Experimental data from California mock jurors. Law and Society Association annual meeting, St. Louis.
- 1996 Waste managers? The identity struggle of the parole agent in the 1990s. American Society of Criminology annual meeting, Chicago.
- 1996 Representing life and death: An analysis of attorneys' final arguments in capital penalty phase trials. Law and Society Association annual meeting, Glasgow, Scotland.
- 1996 California's “improved” capital penalty instructions and laypersons' continuing comprehension problems. Western Psychological Association annual Meeting, San Jose.
- 1996 Media myths and social scientific realities about public opinion on crime. Interdisciplinary educational forum on crime and punishment issues; Kresge College, University of California, Santa Cruz.
- 1995 Comprehending life and death: Do California's improved capital penalty instructions help? Social Psychology colloquium; University of California, Santa Cruz.

## **PROFESSIONAL AFFILIATIONS**

American Society of Criminology

Law and Society Association

## **SELECTED PROFESSIONAL SERVICE & OTHER ACTIVITIES**

### **Professional and editorial board service:**

2020-present Co-editor: *Punishment & Society*.

2018-present Editorial board member: *Law & Policy*.

2017-present Editorial board member: *Criminology*.

2016-present Member, Benchmarking Council, Measures for Justice.

2016-present Editorial board member: *Criminology & Criminal Justice*.

2013-present Editorial board member: *Criminology, Criminal Justice, Law & Society*.

2015-2020 Editor-in-chief (with K. Hannah-Moffat): *Punishment & Society*.

2015-2019 Senior editor, Oxford Research Encyclopedia of Criminology (Punishment and Corrections area).

- 2017-2019 Treasurer, Law & Society Association.
- 2016-2018 Steering Committee Chair, Research Affinity Group (funding and consulting on death penalty research).
- 2015-2018 Editorial board member: *Law & Social Inquiry*.
- 2013-2017 NSF-RCN member: Understanding Guilty Pleas (Shawn Bushway, Brian Johnson, Alison Redlich, and Anne Piehl co-PIs).
- 2012-2016 Steering Committee Member, Research Affinity Group (funding and consulting on death penalty research).
- 2010-2013 Editorial board member: *Law & Society Review*.
- 2002-2015 Co-editor: *Punishment & Society*.
- 2003-2006 Editorial board member: *Law & Society Review*.
- 2003-2006 Board of Trustees, Class of 2006: Law and Society Association.
- 2003-2005 Board of Trustees: Consortium of Undergraduate Law and Justice Programs.
- 2002-2009 Americas/Pacific Rim Book Review Editor: *Punishment & Society*.
- 2002-2004 Editorial board member: *Law & Social Inquiry*.
- 2000-2002 Board of Directors, Center for Juvenile and Criminal Justice and the Justice Policy Institute, San Francisco and Washington, DC.
- 2000-2006 Editorial Board member: *Justice Policy Journal*.

**Committee service:**

- 2020-2021 Committee member: Sutherland Award Committee, American Society of Criminology.
- 2019-2020 Sub-committee chair: Author Meets Critics, American Society of Criminology Program Committee for the 2020 annual meeting in Washington, DC (cancelled).
- 2019-2020 Committee member: Budget and Finance committee, Law and Society Association.
- 2018-2019 Committee member: Hindelang Book Prize committee, American Society of Criminology.
- 2017-2019 Committee chair: Budget and Finance committee, Law and Society Association.
- 2016-2017 Committee chair: Wheeler Prize committee, Law and Society Association.
- 2015-2016 Chair and organizer: West Coast Law and Society Retreat Planning Committee for 2016 retreat at University of California, Irvine.
- 2015-2016 Sub-committee chair: Lawmaking and Legal Change, American Society of Criminology Program Committee for the 2016 annual meeting in New Orleans.
- 2015-2016 Committee member: Article Prize committee, American Society of Criminology.
- 2015-2016 Committee chair: Kalven Prize committee, Law and Society Association.
- 2013-2014 Committee member: American Society of Criminology Program Committee for the 2014 annual meeting in San Francisco.



- 2013 Committee member: West Coast Law and Society Retreat Planning Committee for 2013 retreat at University of Washington, School of Law.
- 2011-2012 Committee member: Wheeler Mentor Prize committee, Law and Society Association.
- 2010-2011 Co-chair: Law and Society Program Committee for the 2011 San Francisco meeting.
- 2010-2011 Committee member: West Coast Law and Society Retreat Planning Committee for 2011 retreat at Southwestern Law School.
- 2009-2011 Committee member: Law and Society Association's Collaborative Research Networks Committee.
- 2008-2009 Chair: West Coast Law and Society Retreat Planning Committee, Stanford Law School, October 16-17, 2009.
- 2006-2007 Committee member: American Society of Criminology Program Committee for the 2007 Atlanta meeting.
- 2006-2007 Associate chair: Law and Society Program Committee for the 2007 Berlin meeting.
- 2005-2006 Committee member: Law and Society Association's International Planning Committee for the 2007 Berlin meeting.
- 2003-2005 Committee chair: Law and Society Association's Summer Institute Committee.
- 2002-2003 Committee member: Law and Society Association's Summer Institute Committee.
- 2001-2002 Meeting organizer: Consortium of Undergraduate Law and Liberal Arts Programs planning/organizational meeting, Amherst College (held in April 2002).
- 2000-2002 Committee chair: Committee for Development and External Relations, Law and Society Association (2 terms).
- 2000-2007 American Society of Criminology representative to Law and Society Association.
- 1999-2000 Committee member: Program Committee: 2000 meeting in Miami, Law and Society Association.
- 1998-2000 Committee member: Committee for Development and External Relations, Law and Society Association (2 terms).

**Selected other professional service & activities:**

- 2021 Co-presenter, Racial Justice Act training for potential social science experts, Office of the State Public Defender.
- 2021 Co-presenter, Showing Racial Bias under PC 745 (the California Racial Justice Act) with Data and Context, California Public Defender's Association.
- 2020 Panel speaker, Race and Sentencing, Northern District of California Practice Program Symposium.
- 2019-present Consultant for appellate attorneys on racial inequality and the death penalty.
- 2014-present Consultant for defense: California death penalty cases regarding the racial impact of death qualification on jury composition.

- 2017 Workshop co-leader, Graduate Student Activity, Law & Society Association meeting, Mexico City.
- 2017 Methods Café co-leader, empirical critical race studies, Law & Society Association meeting, Mexico City.
- 2016 Workshop faculty member: Writing successful grant proposals in social sciences. Presidential Postdoctoral Fellowship Program Fall Meeting, University of California, Oakland, CA.
- 2013-2016 Consultant for plaintiff: *Rudisill v. Ryan*. Class action lawsuit alleging racial discrimination in housing and job assignments in Arizona Department of Corrections' facilities. Defendants and plaintiffs finalized a settlement agreement to remedy segregative practices.
- 2013-2014 Organizer and co-convener (with C. Grosso): National meeting of empirical death penalty researchers, Newport Beach, CA
- 2012-2014 Advisory Board Member: Soros Justice Fellow Lynda Garcia, who is examining selective drug law enforcement practices in New York and New Jersey.
- 2010 Hearing on Sentence Reform in Arizona, Arizona State House of Representatives, Phoenix, AZ. Invited testimony regarding sentencing reform in Arizona at sentencing reform hearing.
- 2009-2010 Consultant/advisor: ACLU of Northern California. Consulted on several selective enforcement projects.
- 2009-2010 External reviewer, Law, Societies and Justice program & Comparative Law and Society graduate program, University of Washington.
- 2009 Participant, ICPSR Summer Program Workshop on Sentencing and Other Federal Case Data Analysis, University of Michigan.
- 2007-2009 Consultant/advisor: ACLU National Drug Law Reform Project.
- 2008-present Manuscript/book proposal reviewer:  
Cambridge University Press  
NYU Press  
Oxford University Press  
Princeton University Press  
Sage Publications  
UC Press  
University of Chicago Press
- 2007 Panel chair/organizer: Featured Session: Transformation in Crime and Punishment: From Local to Global. Law and Society Annual Meeting, Berlin Germany.
- 2007 Panel chair and organizer: Author meets Reader--*Governing through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*, by Jonathan Simon, Law and Society Annual Meeting, Berlin Germany.
- 2005-2007 Member, Public Safety Advisory Committee for California Senate Public Safety Committee, appointed by California State Senator and Chair Elaine Alquist.

- 2005 Panel chair and organizer: Making Sense of Capital Punishment. Law and Society Association Annual Meeting, Las Vegas.
- 2003 Faculty member: Law and Society's Summer Institute, Boalt Hall, UC Berkeley.
- 2001 Invited speaker: The capital jury deliberation process: The use of aggravating and mitigating evidence in sentencing decisions. Alameda County Public Defenders' Office, Oakland.
- 2000 Workshop faculty member: "Creating your Closing Argument" and "Countering Prosecution Themes," California Attorneys for Criminal Justice/ California Public Defenders Association, 2000 Capital Case Seminar, Monterey, CA.
- 1999-2000 Project advisor: "Walking Don," one hour video documentary.
- 1998-present External Reviewer:  
Canadian Council for the Arts  
Israel Science Foundation  
MacArthur Foundation  
National Institute of Justice  
National Science Foundation  
Social Sciences and Humanities Research Council of Canada (SSHRC)  
Russell Sage Foundation
- 1997-present Ad hoc reviewer:  
*American Sociological Review*  
*Analyses of Social Issues & Public Policy*  
*Annals of the American Academy of Political & Social Sciences*  
*British Journal of Criminology*  
*Crime, Law, & Social Change*  
*Criminal Justice Review*  
*Criminal Justice Studies*  
*Criminology*  
*Criminology & Criminal Justice*  
*Criminology, Criminal Justice, Law & Society*  
*Emotion*  
*International Journal for Crime, Justice & Social Democracy*  
*Journal of Criminal Law & Criminology*  
*Journal of Empirical Legal Studies*  
*Journal of Race, Gender & Class*  
*Journal of Research in Crime & Delinquency*  
*Justice Quarterly*  
*Law & Human Behavior*  
*Law & Policy*  
*Law & Social Inquiry*  
*Law & Society Review*  
*Law, Culture, and Humanities*  
*New Criminal Law Review*  
*Professional Geographer*  
*Psychology, Crime and Law*

*Psychology, Public Policy & Law*  
*Punishment & Society*  
*Race & Justice*  
*Social Forces*  
*Social Justice Research*  
*Social Problems*  
*Sociological Inquiry*  
*Space & Culture*  
*Studies in Law, Politics, & Society*  
*Theoretical Criminology*  
*Western Criminology Review*

**SELECTED DEPARTMENTAL & UNIVERSITY SERVICE**

- 2020-2021 Committee member, Social Ecology Dean search committee, University of California, Irvine.
- 2019-2021 Committee member, Equity Advisor Convening Committee, University of California, Office of the President.
- 2020 Review committee member, UC-Hispanic Serving Institutions Doctoral Diversity Initiative, University of California, Office of the President.
- 2019-2020 Chair, University Committee on Affirmative Action, Diversity, and Equity (UCAADE). University of California, Academic Senate.
- 2019-2020 Member, UC Academic Council, Student Evaluations Task Force.
- 2019-2020 Advisory group member and reviewer, Advancing Faculty Diversity Initiative, University of California, Office of the President.
- 2019-2020 Member, UC Academic Council, Standardized Testing Task Force.
- 2019 Presenter, UCAADE recommendations for studying and achieving equity in the UC, Faculty Salary Equity Studies seminar, UCOP, Oakland, CA
- 2018-2019 Vice-chair, University Committee on Affirmative Action, Diversity, and Equity (UCAADE). University of California, Academic Senate.
- 2017-2018 Member, University Committee on Affirmative Action, Diversity, and Equity (UCAADE). University of California, Academic Senate.
- 2017-2020 External reviewer: Presidential Postdoctoral Fellowship Program, University of California, Office of the President.
- 2016-2018 Member: Faculty Welfare Committee, University of California, Irvine.
- 2016-17 Chair: Merit review personnel committee, Criminology, Law & Society.
- 2015-2016 Chair: Faculty search committee in Criminology, Law & Society.
- 2015-2017 Faculty mentor: Chancellor's postdoctoral scholar Lee Cabatingan.
- 2014 Member, Eugene Cota-Robles selection committee, UC Irvine.
- 2013-2014 Member, Diversity Committee, Criminology, Law and Society, UC Irvine.

- 2012-2014 Member, Graduate Admissions and Evaluation Committee, Criminology, Law and Society, UC Irvine.
- 2012-2018 Board member, International Studies, UC Irvine.
- 2010-2013 Member, Council on Student Experience, UC Irvine.
- 2010-2012 Chair/co-chair: Faculty search committees in Psychology and Law & Criminology, Law and Society.
- 2009-present Co-director, Center in Law, Society, and Culture, UC Irvine.
- 2008-2014 Member, Undergraduate Curriculum Committee, Criminology, Law and Society, UC Irvine.
- 2008-2013 Member, MAS Committee, Criminology, Law and Society, UC Irvine.
- 2005-2008 Department chair: Justice Studies, San Jose State University.
- 2004-2008 Faculty coordinator/faculty advisor: Legal Studies minor, San Jose State University.
- 2003-2008 Committee member: General Education Advisory Panel. San Jose State University.
- 2001-2003 Committee member: Curriculum Committee, College of Applied Sciences and Arts, San Jose State University.
- 2001-2003 Member: Working group to develop interdisciplinary Legal Studies minor at SJSU.
- 2000-2001 Committee chair: Committee to Enhance Ethnic Diversity (CEED), College of Applied Sciences and Arts, SJSU.
- 1998-2000 Committee member: Committee to Enhance Ethnic Diversity (CEED), College of Applied Arts and Sciences, SJSU.

**SELECTED PRIOR WORK EXPERIENCE**

- 1985-1991 Film and Television Production  
Documentary & feature film editor, Santa Cruz, CA & Los Angeles, CA; DGA Assistant Director Trainee, Lorimar Studios; Universal Studios, Los Angeles, CA.
- 1981-1986 Criminal & Civil Investigator  
State Bar of California, San Francisco, CA; Page and Coben, Attorneys, Santa Cruz, CA; Office of the Public Defender, Santa Cruz, CA.

# Appendix B

Sedgwick County, Kansas OPINION SURVEY  
-- Screening Interview --

NOTE: Cell or Land line (FROM SAMPLE)

Hello this is \_\_\_\_\_ calling from Communications for Research. We're doing a public opinion survey to find out people's attitudes about the criminal justice system. (Your cooperation is very important because your household was selected at random as being representative of Sedgwick County.)

(IF RESPONDENT HESITATES TO COOPERATE, SAY: If you like, you can verify the authenticity of this survey by calling Lois Heaney at the National Jury Project during regular office hours. Call collect to 510-832-2583.)

A. Are you speaking on a land line or cell phone?

- 1 Landline
- 2 Cell phone

B. (ASK IF CELL PHONE IN QA) Are you involved in an activity such as driving or riding a bike?

If so, we will call back at a later time.

- 1 No
- 2 Yes

1. For this survey, we need to speak with people who are eligible to serve on juries in Sedgwick County, Kansas. That means someone who is a U.S. citizen, who at least 18 years old and who either is registered to vote in Sedgwick County or who has a Kansas driver's license or a state-issued I.D. card with an address in Sedgwick County, and is able to speak and understand English.

[If Landline:] Is there someone in your household who meets these qualifications?

YES ..... ASK Q.2

NO ..... HOUSEHOLD INELIGIBLE. TERMINATE.

REFUSED ..... TERMINATE.

[If Cell:] Based on that, do you meet the qualifications to serve on a jury in Sedgwick County?

YES ..... ASK Q.6

NO ..... HOUSEHOLD INELIGIBLE. TERMINATE.

REFUSED ..... TERMINATE.

2. [If Landline]  
We are interviewing both men and women in this survey, and for this particular interview, I need to speak with a man, if at all possible. May I speak to the youngest man who meets these qualifications and is at home now?

YES ..... If same person CONTINUE Go to Q.6\_  
..... **[If this is a different person, ask Q 4]**

NOT AVAILABLE ..... } ASK Q.3  
NO MALE IN HOUSEHOLD ..... }

REFUSED ..... TERMINATE.

3. May I speak to the oldest female who meets these qualifications and is at home now?

YES ..... If same person CONTINUE Go to Q.6  
..... **[If this is a different person, ask Q.4]**

NOT AVAILABLE ..... } ASK CALLBACK BELOW  
NO ELIGIBLE FEMALE ..... }  
IN HOUSEHOLD ..... }

REFUSED ..... TERMINATE.

CALLBACK: When would be a good time to call back to find someone who's eligible? (who is at least 18 years old, who is registered to vote in Sedgwick County or who has a Kansas driver's license or a state-issued I.D. card with an address in Sedgwick County, and is able to speak and understand English.)

RECORD AND CALLBACK INFORMATION ON CALL RECORD SHEET.



4. Are you a U.S. citizen, who at least 18 years old?

IF YES – GO TO

IF NO - THANK AND TERMINATE.

IF REFUSED - THANK AND TERMINATE

5. Are you either is registered to vote in Sedgwick County or do you have a Kansas driver's license or a state-issued I.D. card with an address in Sedgwick County, and are you able to speak and understand English?

IF YES – Continue

IF NO - THANK AND TERMINATE

IF REFUSED - THANK AND TERMINATE.

ASK ALL:

6. For statistical purposes only, we need to know if you have ever been convicted of a felony.

YES ..... Ask Q. 7

NO ..... CONTINUE TO MAIN QUESTIONNAIRE

REFUSED ..... [If cell] Thank and Terminate

..... [If Landline] Ask Q.9

7. [If yes] In what year were you convicted of a felony? \_\_\_\_\_

Continue if 2011 or earlier ask Q. 8.

If 2012 or after: ..... [If cell] Thank and Terminate

[If landline] ask Q. 9

If refused: ..... [If Cell] Thank and Terminate

[If landline] ask Q. 9

8. [If 2011 or earlier] Has the state prisoner review board issued you a “certificate of discharge”?

Yes ..... Continue to MAIN questionnaire

No..... [If cell] Thank and terminate

[If landline] ask Q. 9

Refused..... [If cell] Thank and terminate

[If Landline] ask Q.9

9. Is there someone else at this residence who is a U.S. citizen, who is at least 18 years old and who either is registered to vote in Sedgwick County or who has a Kansas driver's license or a state-issued I.D. card with an address in Sedgwick County, is able to speak and understand English, and who has not been convicted of a felony in the last 10 years?

YES ..... Go to Q.4 and subsequent rescreening questions

NO ..... HOUSEHOLD INELIGIBLE. TERMINATE.

REFUSED ..... TERMINATE.

# Appendix C

**Sedgwick County, Kansas Jury Pool**

**MAIN QUESTIONNAIRE**

Before I begin asking you questions, I'd like you to know that there are no right or wrong answers and that you are free to respond with a "don't know" answer to any question. All of your answers will remain confidential.

1. I'd like to read you a few statements about the criminal justice system. For each statement I read, please tell me whether you agree strongly with it, agree somewhat, disagree somewhat, or disagree strongly. Here's the first one...

ASK IN ROTATED ORDER. (START WITH X'd QUESTION)

(DO NOT READ)

AGREE	AGREE	DISAGREE	DISAGREE	DON'T	REFUSED
<u>STRONGLY</u>	<u>SOMEWHAT</u>	<u>SOMEWHAT</u>	<u>STRONGLY</u>	<u>KNOW</u>	<u>/NA</u>

- [ ] a) Regardless of what the law says, a defendant in a criminal trial should be required to prove his or her innocence..... 1 ..... 2 ..... 3 ..... 4 ..... 8 ..... 9

- [ ] b) Even the worst criminal should be considered for mercy ..... 1 ..... 2 ..... 3 ..... 4 ..... 8 ..... 9

(Split Sample 2a/2b)

2a. Now, I want to ask you some questions about the death penalty. In general, would you say that you are strongly in favor, somewhat in favor, somewhat opposed, or strongly opposed to the death penalty?

- 4 STRONGLY IN FAVOR
- 3 SOMEWHAT IN FAVOR
- 2 SOMEWHAT OPPOSED
- 1 STRONGLY OPPOSED
- 8 DON'T KNOW/NOT SURE (Do not read)
- 9 NA/REFUSED (Do not read)

Rotate with:

2b. Now, I want to ask you some questions about the death penalty. In general, would you say that you are strongly opposed, somewhat opposed, somewhat in favor, or strongly in favor of the death penalty?

- 1 STRONGLY OPPOSED
- 2 SOMEWHAT OPPOSED
- 3 SOMEWHAT IN FAVOR
- 4 STRONGLY IN FAVOR
- 8 DON'T KNOW/NOT SURE (Do not read)
- 9 NA/REFUSED (Do not read)

3. Now I'd like you to assume that you've been called as a possible juror in a premeditated first-degree murder trial. The prosecutor will be seeking the death penalty if the defendant is convicted. Since this is a case where the death penalty may be imposed, the judge will ask you certain questions about your attitudes toward the death penalty before deciding whether you should be chosen to serve on the jury.

The judge will explain that there may be two parts to any trial where the death penalty is a possible sentence. The first part, the guilt trial, is just like any other criminal trial where the jury decides whether the defendant is guilty or not guilty. If the defendant is found guilty of premeditated first-degree murder, in certain cases there is a second, separate part to the trial – called the penalty trial. In the penalty trial the jury decides whether the defendant should get the death penalty or life in prison without possibility of parole.

**If Q 2 Penalty = 8 or 9 Skip to Q. 4**

But, as I said, before EITHER PART of the trial begins, the judge will ask you some specific questions about your attitude towards the death penalty. Imagine that you are a juror in that situation. How would you answer these questions from the judge?

Programming:

If Q 2 Penalty = 1 or 2 Go to Q. 3A-C oppose

If Q 2 Penalty = 3 or 4 Go to Q. 3D-F favor

**Track those opposed at 2a or 2b (answer = 1 or 2) ask:**

**Q. 3 OPPOSE DP (Q. 2 Penalty = 1 or 2)**

- A. Do you OPPOSE the death penalty so much that you could not be fair in deciding whether a defendant is guilty or not guilty? That is, you would NEVER vote to CONVICT any defendant in the guilt trial no matter what the evidence showed, in a case where the death penalty was a possible sentence?

- 1 YES (NEVER VOTE TO CONVICT)
- 2 NO
- 8 DON'T KNOW/NOT SURE (Do not read)
- 9 NA/REFUSED (Do not read)

- B. In a case where a defendant was convicted of premeditated first-degree murder for which the death penalty was a possible punishment, do you OPPOSE the death penalty so much that you feel your attitude might interfere with or impair your ability to act fairly in the PENALTY trial – that is, actually deciding that the defendant should get the death penalty instead of life in prison without parole?

- 1 YES (IMPAIR ABILITY TO ACT FAIRLY AT PENALTY TRIAL)
- 2 NO
- 8 DON'T KNOW/NOT SURE (Do not read)
- 9 NA/REFUSED (Do not read)

- C. Do you OPPOSE the death penalty so much that you would NEVER actually vote to impose THE DEATH PENALTY in ANY case in which the defendant has been convicted of premeditated first-degree murder and is eligible to receive the death penalty, no matter what the evidence showed?

- 1 YES (**NEVER VOTE FOR THE DEATH PENALTY IN AN ELIGIBLE MURDER CASE**)
- 2 NO
- 8 DON'T KNOW/NOT SURE (Do not read)
- 9 NA/REFUSED (Do not read)

**Track those who favor at 2a or 2b (answer = 3 or 4) ask:**

**Q. 3 FAVOR DP (Q. 2 Penalty = 3 or 4)**

- D. Do you FAVOR the death penalty so much that you could not be fair in deciding whether a defendant is guilty or not guilty? That is, you would ALWAYS vote to CONVICT any defendant in the guilt trial no matter what the evidence showed, in a case where the death penalty was a possible sentence?

- 1 YES (**ALWAYS CONVICT**)
- 2 NO
- 8 DON'T KNOW/NOT SURE (Do not read)
- 9 NA/REFUSED (Do not read)

- E. In a case where a defendant was convicted of premeditated first-degree murder for which the death penalty was a possible punishment, do you FAVOR the death penalty so much that you feel your attitude might interfere with or impair your ability to act fairly in the PENALTY trial – that is, actually deciding that the defendant should get life in prison without parole instead of the death penalty?

- 1 YES (**IMPAIR ABILITY TO ACT FAIRLY AT PENALTY TRIAL**)

- 2 NO
- 8 DON'T KNOW/NOT SURE (Do not read)
- 9 NA/REFUSED (Do not read)

F. Do you FAVOR the death penalty so much that you would ALWAYS actually vote to impose it in EVERY case in which the defendant has been convicted of premeditated first-degree murder and is eligible to receive the death penalty, no matter what the evidence showed?

- 1 YES (**ALWAYS VOTE FOR THE DEATH PENALTY IN AN ELIGIBLE MURDER CASE**)
- 2 NO
- 8 DON'T KNOW/NOT SURE (Do not read)
- 9 NA/REFUSED (Do not read)

4. Just for a moment, I would like you to imagine that you are a member of a jury that has found a person accused of premeditated first-degree murder guilty beyond a reasonable doubt. In other words, the jury had convicted the person and found him or her guilty.

As I mentioned earlier, in premeditated first-degree murder cases in Kansas, where the prosecutor is asking for the death penalty, there is a second part to the trial in which the jury would determine whether or not the person would actually receive the death penalty or life in prison without parole.

If you were on the jury, tell me for each one of the following factors whether it would make you (ROTATE) [more likely to vote for the death penalty], [more likely to vote for life in prison], or would not affect your decision at all.

PROGRAM: **RANDOMIZE** items A-P

**ROTATE DP/LWOP OPTION - SPLIT SAMPLE**

A. If the victim of the murder was a police officer.

IF NEEDED: Would you be:

- 1 MORE LIKELY TO VOTE FOR DEATH PENALTY
- 2 MORE LIKELY TO VOTE FOR LIFE IN PRISON WITHOUT POSSIBILITY OF PAROLE
- 3 WOULD NOT AFFECT MY DECISION
- 8 DON'T KNOW/NOT SURE (do not read)
- 9 NA/REFUSED (do not read)

- B. The convicted person has no significant history of prior criminal activity.
- C. The murder was especially heinous, atrocious or cruel.
- D. Two or more victims were murdered in the crime.
- E. The convicted person came from a background of hardship and poverty.
- F. The victim was sexually assaulted and killed.
- G. Although you were a member of the jury that convicted the defendant, you still had some lingering doubt about whether he was actually guilty of the crime.
- H. The convicted person has a record of prior crimes that involved great bodily harm to another person.
- I. The convicted person committed the murder in order to avoid arrest.
- J. The convicted person was raised by family members with a history of drug abuse.

- K. The convicted person committed the murder for the purpose of receiving money. ■
- L. The convicted person committed the murder while experiencing extreme mental disturbance.
- M. The convicted person suffered serious abuse from family members during his childhood.
- N. The convicted person was under the age of 21 when the crime was committed.
- O. The convicted person committed the murder while in prison for another felony.
- P. A term of imprisonment is sufficient to defend and protect the people's safety from the convicted person.

**SOCIO-DEMOGRAPHIC SERIES**

Finally, I'd like to ask you some background questions that will help us analyze the results of this survey. All of your answers will remain confidential.

5. Could you please tell me how old you are? \_\_\_\_\_

REFUSED ..... 999

6. Are you registered to vote?

YES..... 1  
 NO ..... 2  
 REFUSED/NA..... 9

7. What is your racial or ethnic background? Are you White, Black, Latino/Latina, Asian, American Indian or Alaskan Native, Native Hawaiian or Pacific Islander, or some other race or ethnicity? Please tell me all that apply.

WHITE ..... 1  
 BLACK..... 2  
 HISPANIC/LATINX..... 3  
 ASIAN..... 4  
 AMERICAN INDIAN/NATIVE ALASKAN..... 5  
 NATIVE HAWAIIAN/PACIFIC ISLANDER ..... 6  
  
 OTHER \_\_\_\_\_ ..... 8  
 (specify)  
 REFUSED/NA ..... 9

7A. (ASK only if Respondent identifies two or more in Q. 7) Which ONE of these groups would you say BEST represents your race or ethnicity...(ONLY SHOW RESPONSES Mentioned by Respondent at Q.7)

WHITE ..... 1  
 BLACK..... 2  
 HISPANIC/LATINX..... 3  
 ASIAN..... 4  
 AMERICAN INDIAN/NATIVE ALASKAN..... 5  
 NATIVE HAWAIIAN/PACIFIC ISLANDER ..... 6  
  
 OTHER \_\_\_\_\_ ..... 8  
 (specify)  
 REFUSED/NA ..... 9



8. What is your religious preference - for example are you Protestant, Catholic, Jewish, another religion, or no religion?

- Protestant\_\_\_\_\_ (if specific denomination, record)
- Christian (nonspecific)
- Catholic
- Jewish
- Mormon
- Muslim
- Other\_\_\_\_\_ (specify)
- None
- No Answer

9. What is your gender?

- MALE ..... 1
- FEMALE ..... 2
- NON-BINARY.....3
- REFUSED.....9

So that my supervisor can verify this interview, may I please have your first name and reconfirm your telephone number? This information will be discarded after the interviews have been validated. This insures that my work was done honestly and correctly. (RECORD BELOW)

\_\_\_\_\_

RESPONDENT NAME: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_

TIME ENDED: \_\_\_\_\_ OVERALL LENGTH OF INTERVIEW: \_\_\_\_\_

REP NO: \_\_\_\_\_

PAGE NO: \_\_\_\_\_

LINE NO: \_\_\_\_\_

INTERVIEWER NAME: \_\_\_\_\_

INTERVIEWER NUMBER: \_\_\_\_\_

DATE: \_\_\_\_\_

- STANDARD INTERVIEW ..... 1
- REFUSAL CONVERSION..... 2