

EXHIBIT B

AFFIDAVIT OF WANDA FOGLIA

I, Wanda D. Foglia, of Bala Cynwyd, Pennsylvania, do hereby swear and affirm the following:

I am an Emerita Professor of Law and Justice Studies and was Founding Coordinator of the Masters in Criminal Justice Program at Rowan University, Glassboro, New Jersey. I am a former prosecutor and police academy instructor, and for over thirty years conducted social science research in the area of criminology and taught students who planned to work in the criminal justice system. I earned a Ph.D. in Criminology from The Wharton School of the University of Pennsylvania, a J.D. from the University of Pennsylvania Law School, and a B.A. in Psychology from Rutgers College. Since 1996, I have been involved in the Capital Jury Project (CJP) as an investigator and researcher. My C.V. is attached.

At an evidentiary hearing in *Kansas v. Fielder*, I would explain how the CJP conforms to social science standards and how the results apply to the case before the Court. The CJP research was funded by the National Science Foundation, an independent federal agency and one of the most prestigious and selective funding sources for basic social science research conducted at America's colleges and universities. Social scientists with expertise in this type of research approved the CJP methodology when the research was initially funded, and then again when additional funds were awarded to expand the project. The CJP uses accepted scientific methods, procedures, and analyses that test legal and behavioral models of decision making to determine the bases upon which capital jurors make their decisions about the imposition of the death penalty, and whether the decision-making process conforms to statutory and constitutionally defined criteria.

I will testify that the CJP is organized as a consortium of independent university-based investigators from 14 states: Alabama, California, Florida, Georgia, Indiana, Kentucky, Louisiana, Missouri, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia. At an evidentiary hearing I would explain how the consistency of the findings in the states studied, regardless of the statutory scheme or geographic location, along with the consistency with results of research done by social scientists not affiliated with the CJP, indicates that the problems revealed are inherent in the capital process and would be present in death penalty cases in any state or federal court. All death penalty systems are similar in the way they utilize separate guilt and punishment phases and require that jurors be death qualified. Thus, the CJP evidence showing that about half the jurors decide the sentence during the guilt phase, and evidence showing that death qualification fails to eliminate automatic death penalty jurors and creates bias, would be relevant in any death penalty case. Most states with the death penalty have statutes modeled on 210.6 of the Model Penal Code and require that jurors weigh aggravating and mitigating factors, as is the case in Kansas. Eight of the CJP states have such statutes (Alabama, California, Florida, Indiana, Louisiana, North Carolina, Pennsylvania, and Tennessee), and whether the statute is balancing, threshold or directed does not seem to matter as the same types of misunderstanding of instructions were found under all these sentencing schemes.

I will testify that many aspects of the death penalty process are the same in every state and in the federal system because the United States Supreme Court has held that they are constitutionally mandated. For example, it is unconstitutional for any state or federal capital jury to include a juror who would automatically vote for the death penalty and “fail in good faith to

consider the evidence of aggravating and mitigating circumstances as the instructions require.”¹ In any capital case, jurors must be convinced of the existence of at least one aggravator beyond a reasonable doubt,² jurors must be able to consider and give effect to any evidence they consider mitigating,³ and jurors do not have to be unanimous on findings of mitigation.⁴ No statute requires that jurors find mitigation beyond a reasonable doubt. Whether the case is on the state or federal level, the constitution requires that the death penalty can never be mandatory,⁵ the jurors always have to realize they are primarily responsible for the sentence,⁶ the sentencing process should never be influenced by race,⁷ and the jurors should never be forced to make a “false choice” between death and an incorrect assumption that defendants sentenced to life without parole will be paroled.⁸

I will testify that the original CJP research began in November of 1990, and the data collection is now complete and includes interviews with 1198 capital jurors from 353 different trials. I also will refer to a follow up study involving interviews with capital jurors on cases from 1999 to 2009 in seven states that found similar percentages of jurors making the mistakes found in the original study. The jurors in the original study were chosen using a three-stage sampling design. First, states were chosen to represent the principal variations in capital statutes utilized throughout the United States and to represent different geographic regions. Within each state, a purposive sample of recent capital trials that had proceeded to a penalty phase was obtained so

¹ *Morgan v. Illinois*, 504 U.S. 719, 720 (1992)

² *Ring v. Arizona*, 536 U.S. 584 (2002).

³ *Tennard V. Dretke*, 542 U.S. 274 (2004).

⁴ *McKoy v. North Carolina*, 494 U.S. 433 (1990); *Mills v. Maryland*, 486 U.S. 367 (1988).

⁵ *Woodson v. North Carolina*, 428 U.S. 280 (1976); *Roberts v. Louisiana*, 428 U.S. 325 (1976).

⁶ *Caldwell v. Mississippi*, 472 U.S. 320 (1985).

⁷ *Turner v. Murray*, 476 U.S. 28 (1986).

⁸ *Simmons v. South Carolina*, 512 U.S. 154 (1994).

that approximately half the cases resulted in death and the other half resulted in the alternative provided by state law. The purpose of using such a sample was to ensure that there were adequate numbers of death and life cases in each state to allow comparisons between the states and between decision-making in death versus life cases. The third stage involved randomly selecting jurors from each case. Each of the 1198 jurors in our sample were questioned about their attitudes towards the death penalty during the jury selection process and sat through both a guilt and penalty phase, as mandated by U.S. Supreme Court case law. Nearly every state has approved, pattern sentencing instructions that would have been given to the jurors to attempt to ensure that their sentencing decisions complied with state law and constitutional standards.

I will testify that typically, 20-30 capital trials providing a rough balance of life and death outcomes were selected in each state. A target sample of four randomly selected jurors from each trial was interviewed. Strict procedures were followed to ensure randomness of juror selection and avoid introducing bias into the sample selection. A coding and storage system preserves confidentiality and accommodates both quantitative and qualitative information. I would explain more details and answer questions about the methodology at an evidentiary hearing.

The juror interview questionnaire contains numerous questions on both legal and social science issues and there are thousands of pages of articles and books that describe the results of various analyses of the CJP data. At an evidentiary hearing in *Kansas v. Fielder*, I would highlight the questions and results that relate to the legal issues, and explain how the results demonstrate various indices of validity and generalizability. The questionnaire is the product of six revisions, two pilot tests and two meetings of participating investigators to ensure the questions are understandable and not leading. The investigators directing the Project in the respective states include psychologists, criminologists, sociologists, and law professors.

I will testify that the findings of this research have been presented by numerous different social scientists at annual meetings of the American Society of Criminology, Academy of Criminal Justice Sciences, and the Law and Society Association, and published in peer reviewed and law review journals such as Law and Society Review, Law and Human Behavior, Cornell Law Review, Indiana Law Journal (symposium issue devote to the Capital Jury Project), Texas Law Review, DePaul Law Review, Brooklyn Law Review, University of Pennsylvania Journal of Constitutional Law, Justice Quarterly, Criminal Law Bulletin, and Judicature, among other outlets. Over a dozen different master's theses and doctoral dissertations were based on analyses of CJP data. When CJP research is published or utilized in theses or doctoral dissertations, the methodology is reviewed by experts in the field with no affiliation with the project to ensure that the research meets scientific standards. The findings also have been cited by the U.S. Supreme Court in *Schiro v. Summerlin*, 542 U.S., 348, 356 (2004) and *Simmons v. South Carolina*, 512 U.S. 154, 169-170, n. 9 (1994) on the limited issues being decided in those cases.

I will testify that trained interviewers used the carefully designed interview questionnaire to ask people who had served as actual capital jurors about a number of issues related to their punishment decision, their understanding of the instructions, as well as their ability to follow the law in arriving at their punishment decision. Some of the major findings on these issues are presented in *Still Singularly Agonizing: Law's Failure to Purge Arbitrariness from Capital Sentencing* which I co-authored with William J. Bowers.⁹

⁹Bowers and Foglia, *Still Singularly Agonizing: Law's Failure to Purge Arbitrariness from Capital Sentencing* 39 Crim. L. Bull. 51 (2003).

I will testify that Dr. William J. Bowers earned a Ph.D. in Sociology from Columbia University and is the Principal Investigator who coordinated the 14-state study from his research institute housed at Northeastern University. He subsequently moved to the School of Criminal Justice, University at Albany, before passing away in 2017. Dr. Bowers authored two books and numerous articles on capital punishment, and received the August Vollmer Award in 2000 from the American Society of Criminology for his research on the death penalty.

I supervised the data collection for the Capital Jury Project in Pennsylvania. In addition, I personally trained interviewers for Pennsylvania, conducted some of the interviews, and have been analyzing the national data and giving presentations, testifying, and publishing articles on the CJP findings since 1996. Before 1996, I had nine publications based on my social science research in other areas and have recently been involved in research on the needs of family and friends of homicide victims, but most of my research has related to capital punishment. Since being asked to join the CJP I have 23 publications relating to death penalty research, including a report detailing CJP results in Pennsylvania that I was asked to write for the Pennsylvania Supreme Court Committee on Gender and Racial Bias. I have been asked to be a Reviewer for the National Institute of Justice on jury research, have been asked to testify before the New Jersey Death Penalty Study Commission, have made 41 presentations at professional meetings, and have been interviewed by PBS news based on my expertise on capital juror decision-making. I have testified as an expert witness on capital jury decision-making in over 50 cases in 18 states and in the United States District Courts for the Districts of Colorado and Vermont, and have been qualified as an expert in every case in which I have been called to the stand. The states in which I testified include states that were part of the CJP sample [California, Georgia (six times), Indiana (nine times), Kentucky, Louisiana (four times), Missouri (five

times), North Carolina (two times), Pennsylvania (four times), South Carolina (two times), Tennessee, Texas, and Virginia], as well as states that were not part of the sample [Colorado (three times), Kansas, New Hampshire, New Mexico (twice), Oregon (seven times), and Washington]. Because the internal and external consistency of the results demonstrates that the constitutional problems are inherent in the capital process rather than the result of any particular state's statute, I have been asked to testify in states that were not part of the sample and in the federal cases in Vermont and Colorado.

I will testify that the Tables included in this Affidavit are from Bowers and Foglia (2003) and most of them show the percentages for 13¹⁰ of the 14 states. The remarkable consistency in the problems found in every state, regardless of geographic location or statutory scheme, makes the results from all fourteen states relevant to state and federal death penalty cases throughout the country. For any given item, statistics are presented for valid responses, meaning all answers except those with missing data.

At an evidentiary hearing I will explain in more detail and answer questions about how the CJP research was subjected to numerous tests to buttress the validity of the results. Social science standards require that research utilize an unbiased sample of at least 30 subjects in order to be able to generalize to the wider population. Care was taken to make sure no bias was introduced into the CJP sample selection, the state percentages presented were all based on samples that exceed 30, and the national sample size of 1198 was far above the minimum required. The interview questions met the test of face validity as "on their face" they were

¹⁰ Louisiana is not listed separately because sampling goals were not met in that state. Only 30 jurors were interviewed and nearly all were from death cases, thus the numbers from Louisiana would not be directly comparable to the numbers from other states that included a more even mix of death and life cases.

straightforward inquiries that did not encourage any particular response. Results demonstrated internal consistency as responses were related in the way one would expect. (For example, the jurors who said they knew the sentence should be death by the end of the guilt phase were more likely to believe death was the only acceptable punishment for murder, were more likely to say they discussed the appropriate punishment during guilt deliberations, and were less receptive to mitigation.) CJP results meet the test of convergent validity or replication as the results found are very similar to what other researchers found in studies using mock jurors, surveys of the general population, and capital jurors who were not part of the CJP. I am not aware of any published studies that refute the findings of the CJP on the legal issues discussed below.

At the evidentiary hearing I will explain in more detail and answer questions about how extensive analyses have been conducted to see whether factors such as the type of case, the demographic characteristics of the jurors, or the final verdict had an impact on the percentages of jurors exhibiting problems. Most of this analysis demonstrated that there were no significant differences based on these factors. (For example, the percentages making the mistakes discussed did not differ significantly for male versus female or young versus older jurors, etc.) Not surprisingly, the percentages making these mistakes was higher in the death cases compared to the life cases, but even if one looks at the life cases exclusively, there were still substantial numbers making these errors. Although this obviously indicates that a life verdict is still possible when jurors make these mistakes, the nature of their misunderstandings and the bias created, makes it more difficult to reach a life verdict than it would be if the process was working according to the constitutional standards the United States Supreme Court has established.

I will testify that Bowers and Foglia (2003) identify “seven different problems with the capital jury decision making process.”¹¹ At an evidentiary hearing in *Kansas v. Fielder*, I would provide the court with more details and answer questions regarding the following data. I also would address questions as to what the research can tell us regarding the likely success of procedures proposed by the parties or the court to ameliorate the problems identified here.

I also will testify that based on the logic of probability sampling, with the CJP sample size of 1198, the 95% confidence interval for the percentage of jurors making each of the errors described below is plus or minus 3 percentage points or less,¹² and the 99.9% confidence interval is plus or minus 4.5 percentage points or less. This means that when we find, for example, 49.2% of the jurors decide the sentence during the guilt phase, there is only a 1 in 20 chance that the percentage would be less than 46.2% or more than 52.2%, and a 1 in 1000 chance that it would be less than 44.7% or more than 53.7%, respectively. I present the percentage of jurors exhibiting these seven different problems below.

i) Premature Decision-Making: The United States Supreme Court has approved a bifurcated capital process consisting of separate guilt and sentencing phases such that juries are supposed to determine whether the defendant is guilty of a capital offense during the first phase and then, if so, determine the sentence during the second phase. The CJP results show that many jurors do not follow the constitutionally prescribed process as about half the jurors decide the sentence during the guilt phase, before they have heard the standards that are supposed to guide

¹¹ Bowers and Foglia, *supra* note 9 at 54.

¹² The highest sampling error would be for percentages close to 50% as in the example that follows in the text. The further the percentage gets from 50%, either higher or lower, the lower the sampling error and thus the smaller the confidence interval. Thus the examples in the text involve the maximum confidence intervals and we can be 95% or 99.9% sure that the lower or higher percentages are accurate within a narrower range.

their sentencing discretion or the sentencing phase evidence they are supposed to consider when deciding the sentence.

I will testify that in the CJP interview, all jurors were asked the following question: “After the jury found [defendant’s name] guilty of capital murder but before you heard any evidence or testimony about what the punishment should be, did you then think [defendant’s name] should be given a death sentence, a sentence of life without the possibility of parole (or the alternative in that state), [or were you] undecided? The responses of the jurors are included below in Table 1 from Bowers and Foglia (2003).

Table 1: Percentage of Capital Jurors Taking Each Stand on Punishment Before Sentencing Stage Trial in 13 States

States	Death	Life	Undecided	No. of jurors
Alabama	21.2	32.7	46.2	52
California	26.1	16.2	57.7	142
Florida	24.8	23.1	52.1	117
Georgia	31.8	28.8	39.4	66
Indiana	31.3	17.7	51.0	96
Kentucky	34.3	23.1	42.6	108
Missouri	28.8	16.9	54.2	59
North Carolina	29.2	13.9	56.9	72
Pennsylvania	33.8	18.9	47.3	74
South Carolina	33.3	14.4	52.3	111
Tennessee	34.8	13.0	52.2	46
Texas	37.5	10.8	51.7	120
Virginia	17.8	31.1	51.1	45
All States	30.3%	18.9%	50.8%	1135

Nearly half of the jurors nationwide had already decided what the punishment should be at the end of the guilt phase, before the sentencing phase had even begun. Regardless of jurisdiction, at the end of the guilt phase only approximately half of these jurors maintain that they were undecided, or still had an open mind as required by law, on what sentence to impose. Nationwide, nearly one-third have decided on death and 18.9% have decided on life prior to

hearing evidence and instructions that are supposed to guide their sentencing decision. Most of the jurors who chose death said they were absolutely convinced (70.4%) about the punishment and nearly all the rest said pretty sure (another 27%).

We asked our jurors if they thought they knew what the punishment should be at four different points in the process:

- 1) after the guilt phase but before the sentencing phase
- 2) after the sentencing instructions but before deliberations
- 3) at first vote
- 4) at final vote

Bowers, Sandys, and Steiner¹³ present evidence showing that most of the early pro-death jurors never wavered from this position and maintained that the punishment should be death at all four points about which we inquired. Jurors who prematurely decided the sentence should be death were more likely to say they made their guilt and punishment decisions “together, on the basis of similar considerations.” They also were most likely to say they first knew what the punishment should be during the guilt evidence. Those taking a premature death stance were more likely to see death as the only acceptable punishment for more types of murder, expressed stronger support for the death penalty, and were more likely to ultimately find the defendant guilty of capital murder. These jurors reported that during guilt deliberations, they were less likely to discuss issues such as burden of proof and degree of guilt and more likely to report that they discussed the impermissible topic of the appropriate sentence.

I will testify that these patterns confirm what social psychology research and common experience tells us: that once people form an opinion they tend to interpret subsequent

¹³ Bowers, Sandys and Steiner, *Foreclosed Impartiality In Capital Sentencing: Jurors' Predispositions, Guilt-Trial Experience, And Premature Decision Making* 83 Cornell L. Rev. 1476 (1998).

information to support their position. This tendency is commonly called confirmation bias. Nearly half the jurors are deciding the sentence, and nearly one out of three jurors are deciding the sentence should be death, before the sentencing phase even begins so the statutes are not guiding their discretion and they cannot be giving meaningful consideration to the mitigating evidence presented during the sentencing phase.

ii) Bias in Jury Selection: Capital jurors are generally “death qualified” to ensure they are willing to vote for a sentence of death, but the United States Supreme Court made it clear in *Morgan v. Illinois* (1992)¹⁴ that they also must be “life qualified” to ensure that they are open to a sentence less than death. According to Bowers and Foglia (2003), many of the CJP jurors were in fact Automatic Death Penalty (ADP) jurors -- jurors who would vote for a sentence of death in every case in which they found the defendant guilty of a capital offense -- and thus should have been excused for cause.

All jurors were asked: “Do you feel that the death penalty is the only acceptable punishment, an unacceptable punishment, or sometimes acceptable as punishment for the following crimes? Murder by someone previously convicted of murder; A planned premeditated murder; Murders in which more than one victim is killed; Killing of a police officer or prison guard; Murder by a drug dealer, and; A killing that occurs during another crime.” As can be seen in Table 2 from Bowers and Foglia (2003), nearly three-quarters of the jurors, regardless of jurisdiction, felt that the death penalty is the *only acceptable* punishment for murder by someone previously convicted of murder. Similarly, over half of the jurors felt that death is the *only acceptable* punishment for persons convicted of a planned premeditated murder or a murder with multiple victims. Close to half thought death was the *only acceptable*

¹⁴ *Morgan v. Illinois*, *supra* note 1.

punishment for killing a police officer or prison guard or a killing by a drug dealer. And nearly one-quarter of these jurors viewed death as the *only acceptable* punishment for a killing that occurs during another crime. Nationwide, the percentage saying death was unacceptable for any of these murders was under 4%, demonstrating that we are much better at death qualifying than life qualifying. Jurors cannot give meaningful consideration to mitigating evidence if they believe death is the only acceptable punishment.

Table 2: Percentages of Jurors Considering Death the Only Acceptable Punishment for Six Types of Murder by State

<u>States</u>	<u>By defend- ant with prior murder conviction</u>	<u>Planned premed- itated murder</u>	<u>Murder with multiple victims</u>	<u>Killing police/ prison guard</u>	<u>Murder by drug dealer</u>	<u>Murder during another crime</u>	<u>N</u>
Alabama	66.7%	54.4%	57.9%	37.5%	46.4%	36.8%	56
California	58.6%	41.4%	41.1%	41.4%	33.6%	17.8%	151
Florida	77.6%	64.1%	62.1%	51.3%	52.6%	19.7%	115
Georgia	70.8%	54.8%	46.6%	51.4%	47.2%	23.6%	72
Indiana	74.7%	54.5%	55.6%	44.4%	52.5%	23.2%	99
Kentucky	71.2%	56.7%	50.5%	46.6%	48.5%	18.1%	103
Missouri	75.4%	54.1%	52.5%	45.9%	38.3%	19.7%	61
North Carolina	73.8%	68.8%	55.0%	58.8%	45.0%	21.5%	79
Pennsylvania	71.8%	65.4%	62.8%	55.1%	47.4%	28.2%	78
South Carolina	76.3%	61.4%	54.4%	43.0%	49.1%	26.5%	113
Tennessee	78.3%	67.4%	58.7%	54.3%	43.5%	30.4%	46
Texas	76.9%	57.3%	59.5%	58.6%	48.7%	35.3%	116
Virginia	55.6%	46.7%	40.0%	48.9%	42.2%	15.6%	45
All States	71.6%	57.1%	53.7%	48.9%	46.2%	24.2%	1164

* The number of subjects answering each question varied slightly, and the number (N) for each state is the lowest number of subjects answering any of the questions.

At an evidentiary hearing, I would describe additional results showing that many jurors were deciding the very type of case for which they said death was the only acceptable punishment, and results that demonstrate that these ADP jurors were in fact less receptive to mitigation.

I will testify that although the above demonstrates that voir dire is not very effective at disqualifying the ADP jurors, numerous studies show that it is so efficient at eliminating those

with reservations about the death penalty that it results in a jury that is more conviction and punishment prone than a representative group of citizens. Prior studies comparing people who would make it through death qualification (includables) with those who would be struck from the jury (excludables) find that includables are significantly more conviction and punishment prone than those who would be excluded.¹⁵ For example, compared to those who would be excluded by the death qualification process, jurors who would be death qualified are less likely to believe in criminal justice attitudes supporting due process such as “it is better to risk the guilty going free rather than to convict the innocent,” are less likely to find evidence mitigating, and are more likely to find evidence aggravating. The percentages for CJP jurors, who obviously all made it through death qualification, are more similar to those for the includables as opposed to the excludables on the three questions we asked that are analogous to those asked in the earlier study by Haney, Hurtado, and Vega (1994). Most of these differences found by Haney et al., between includable and excludable jurors remained significant, even after additional questions were asked to eliminate ADP jurors based on the standard established in the *Morgan*¹⁶ case.

I will testify that a review conducted by Allen, Mabry, and McKelton (1998) of 14 different studies of how attitudes towards the death penalty relate to favoring conviction found

¹⁵ See Haney, Hurtado, and Vega, “Modern” Death Qualification: New Data On Its Biasing Effects 18 *Law & Human Behavior* 619 (1994); Cowan, Thompson, and Ellsworth, *The Effects Of Death Qualification On Jurors’ Predisposition To Convict And On The Quality Of Deliberation* 8 *Law & Human Behavior* 53 (1984); Fitzgerald and Ellsworth, *Due Process vs. Crime Control: Death Qualification And Jury Attitudes* 8 *Law & Human Behavior* 31 (1984); Sandys and McClelland, *Stacking The Deck For Guilt And Death: The Failure Of Death Qualification To Ensure Impartiality* (Chapter 13 in Acker, et al’s *America’s Experiment With Capital Punishment* 2d ed., 2003)); Blume and Johnson, Threlkeld, *Probing Life Qualification Through Expanded Voir Dire* 29 *Hofstra L. Rev.* 1209 (2001); and articles cited therein.

¹⁶ *Morgan v. Illinois*, *supra* note 1.

an average correlation of .174 or a 44% increase in the probability of convicting among those who favored the death penalty.¹⁷

In addition, the death qualification process itself, as I will testify, creates a bias against the defendant because all those questions about the death penalty at the outset of the process makes jurors think that the authority figures in the courtroom, the judge, prosecutor and defense attorney, must think the defendant is guilty and deserves death.¹⁸ Haney (1984a) shows that when two groups of people watch the same videotape of a jury selection, except that one group also views a segment on death qualification, the people who viewed the death qualification are significantly more likely to vote for death. The Allen et al. (1998) review found that the studies that included some form of death qualifying voir dire found larger effects on the propensity to convict than studies that simply surveyed attitudes. The stronger impact observed when voir dire was included is further evidence of the process effect. The CJP interviews confirm results from prior studies that show that all the questions about the death penalty at the beginning of the jurors' experience have a biasing effect. We asked jurors whether these questions made them think the defendant was guilty and should be sentenced to death. In response to both questions, approximately 1 in 10 jurors were conscious of and willing to admit that all those questions about the death penalty had an influence on them. When asked about the impact of these questions, 11.3% of the jurors said the questions made them think the defendant "must be" or

¹⁷ Allen, Mabry, and McKelton, *Impact of Juror Attitudes about the Death Penalty on Juror Evaluations of Guilt and Punishment: A Meta-Analysis* 22 *Law & Human Behavior* 715 (1998).

¹⁸ Haney, *On the Selection Of Capital Juries: The Biasing Effects Of The Death-Qualification Process* 8 *Law & Human Behavior* 121 (1984a; Haney, *Examining Death Qualification: Further Analysis Of The Process Effect* (1984b) 8 *Law & Human Behavior* 133; and articles cited therein.

“probably was” guilty, and almost as many, 9.2%, said the questions made them think the appropriate sentence “must be” or “probably was” the death penalty.

I will testify that the combined influence of each of the above findings creates a profoundly pro-death bias which would permeate the defendant’s trial and sentencing.

iii) Failure to Understand Instructions: I will testify that one of the major tenets of guided discretion statutes is that instructions would serve to channel discretion so as to remedy arbitrariness in capital sentencing. Results from the Capital Jury Project suggest that many jurors do not understand the sentencing instructions; this is especially true of instructions that are designed to guide jurors in their consideration of mitigating circumstances. The CJP interviews confirm results from prior studies that show that many jurors do not understand the guidance they are supposed to be following.¹⁹ As can be seen from Table 3 from Bowers and

¹⁹ Bowers and Foglia, *Still Singularly Agonizing: Law’s Failure To Purge Arbitrariness From Capital Sentencing* 39 *Crim. Law Bulletin* 51 (2003); Garvey and Marcus, *Virginia’s Capital Jurors* 44 *Wm. and Mary L. Rev.* 2063 (2003); Bentele and Bowers, *How Jurors Decide On Death: Guilt Is Overwhelming; Aggravation Requires Death; And Mitigation Is No Excuse* 66 *Brooklyn L. Rev.* 1011 (2001); Bowers, Fleury-Steiner, and Antonio, *The Capital Sentencing Decision: Guided Discretion, Reasoned Moral Judgment, Or Legal Fiction* (chapter 14 from Acker, Bohm, and Lanier, *America’s Experiment With Capital Punishment*, (2d ed., 2003)); Bowers and Steiner, *Choosing Life Or Death: Sentencing Dynamics In Capital Cases* (chapter 12 from Acker, Bohm, and Lanier, *America’s Experiment With Capital Punishment*, (1st ed., 1998)); Geimer and Amsterdam, *Why Jurors Vote Life Or Death: Operative Factors In Ten Florida Death Penalty Cases* 15 *Am. J. Crim. Law* 1 (1988); Haney, Sontag, and Costanzo, *Deciding To Take A Life: Capital Juries, Sentencing Instructions, And The Jurisprudence Of Death* 50 *J. of Social Science Issues* 149 (1994); Bowers, *The Capital Jury Project: Rationale, Design, And Preview Of Early Findings* 70 *Ind. L. J.* 1043 (1995); Haney and Lynch, *Comprehending Life And Death Matters* 18 *L. & Human Behavior* 411 (1994); Haney and Lynch, *Clarifying Life And Death Matters: An Analysis Of Instructional Comprehension And Penalty Phase Closing Arguments* 21 *Law & Human Behavior* 575 (1997); Lynch and Haney, *Discrimination And Instructional Comprehension: Guided Discretion, Racial Bias, And The Death Penalty* 24 *Law & Human Behavior* 337 (2000); Tiersma, *Dictionaries And Death: Do Capital Jurors Understand Mitigation?* 1995 *Utah L. Rev.* 1 (1995); Eisenberg and Wells, *Deadly Confusion: Juror Instructions in Capital Cases* 79 *Cornell L. Rev.* 1 (1993); and articles cited therein.

Foglia (2003), this is a significant problem in every state, regardless of statutory scheme. The Kansas statutory scheme is sufficiently similar in all significant respects to the eight CJP states with balancing statutes such that the conclusion can be drawn that jurors' comprehension of Kansas court instructions is also deficient. Some of the guidelines will differ under various state statutes, but in every state, jurors have to be able to consider any relevant mitigating evidence because of the United States Supreme Court case law. Nearly half of the CJP jurors nationwide (44.6%) failed to understand this. There also is United State Supreme Court case law that says jurors need not be unanimous on findings of mitigation, but approximately 2 out of 3 jurors nationwide (66.5%) failed to understand they did not need to agree on whether evidence was mitigating. No state requires that mitigation be found beyond a reasonable doubt, but nearly half the jurors nationwide (49.2%) thought they had to apply that standard of proof to mitigating evidence. On the other hand, aggravating evidence does have to be proven beyond a reasonable doubt, and close to a third (29.9%) of the jurors failed to understand that part of the instructions. The statutes cannot be effectively guiding juror discretion when substantial portions of the jurors do not understand the jury instructions.

Table 3: Percentages of Jurors Failing to Understand Guidelines for Considering Aggravating and Mitigating Evidence

JURORS WHO <u>FAILED TO UNDERSTAND</u> THAT THEY ...					
<u>States</u>	<u>Could consider any mitigating evidence</u>	<u>Need not be unanimous on mitigating evidence</u>	<u>Need not find mitigation beyond reas. doubt</u>	<u>Must find aggravation beyond reas. doubt</u>	<u>N*</u>
Alabama	54.7%	55.8%	53.8%	40.0%	52
California	24.2%	56.4%	37.6%	41.7%	149
Florida	49.6%	36.8%	48.7%	27.4%	117
Georgia	40.5%	89.0%	62.2%	21.6%	73
Indiana	52.6%	71.4%	58.2%	26.8%	97
Kentucky	45.9%	83.5%	61.8%	15.6%	109
Missouri	36.8%	65.5%	34.5%	48.3%	57
North Carolina	38.7%	51.2%	43.0%	30.0%	79
Pennsylvania	58.7%	68.0%	32.0%	41.9%	74
South Carolina	51.8%	78.9%	48.7%	21.9%	113
Tennessee	41.3%	71.7%	46.7%	20.5%	44
Texas	39.6%	72.9%	66.0%	18.7%	47
Virginia	53.3%	77.3%	51.2%	40.0%	43
All States	44.6%	66.5%	49.2%	29.9%	1185

* The number of subjects answering each question varied slightly, and the number (N) for each state is the lowest number of subjects answering any of the questions.

iv) Erroneous Beliefs that Death is Required: Although it is unconstitutional for the death penalty to be mandatory, evidence from the Capital Jury Project reveals that sizeable percentages of jurors erroneously believe that death is required if certain aggravators are proved beyond a reasonable doubt. Nationwide, 43.9% of the jurors falsely believed that the law required them to impose death if the defendant’s conduct was “heinous, vile, or depraved.” In addition, 36.9% of CJP jurors believed that the law required them to vote for death if the evidence proved that the defendant would be dangerous in the future. As Table 4 from Bowers and Foglia (2003) indicates, these misunderstandings were seen in every state, including states that did not even list these factors as aggravating circumstances.

Table 4: Percentages of Jurors Thinking Law Required Death if Defendant's Conduct was Heinous, Vile or Depraved," or Defendant "Would be Dangerous" in Future by State

	<u>DEATH REQUIRED IF DEFENDANT'S CONDUCT IS HEINOUS, VILE OR DEPRAVED</u>	<u>DEATH REQUIRED IF DEFENDANT WOULD BE DANGEROUS IN FUTURE</u>	<u>N*</u>
Alabama	56.3%	52.1%	48
California	29.5%	20.4%	146
Florida	36.3%	25.2%	111
Georgia	51.4%	30.1%	72
Indiana	34.4%	36.6%	93
Kentucky	42.7%	42.2%	109
Missouri	48.3%	29.3%	58
North Carolina	67.1%	47.4%	76
Pennsylvania	56.9%	37.0%	73
South Carolina	31.8%	28.2%	110
Tennessee	58.3%	39.6%	48
Texas	44.9%	68.4%	117
Virginia	53.5%	40.9%	43
All States	43.9%	36.9%	1136

* The number of subjects answering each question varied slightly, and the number (N) for each state is the lowest number of subjects answering any of the questions.

v) Evading Responsibility for the Punishment Decision: I will testify that the jury has primary responsibility for determining the sentence in capital cases. Yet another indication that many jurors did not understand the sentencing process is their failure to understand their responsibility for the defendant's punishment. The United States Supreme Court warned in *Caldwell v. Mississippi* (1985)²⁰ that jurors would be reluctant to accept responsibility and that the sentence would be unreliable if jurors believed the ultimate responsibility rested with others. The CJP interview instrument asked the jurors to rank the defendant, the law, the juror, the jury and the judge in terms of how responsible they were for the defendant's sentence. Table 5 from Bowers and Foglia (2003) shows the responses to this question.

²⁰ *Caldwell v. Mississippi*, *supra* note 6.

TABLE 5: Percent Ranking Five Sources or Agents of Responsibility for the Defendant's Punishment from Most "1" to Least "5" Responsible

	MOST RESPONSIBLE>			LEAST <RESPONSIBLE	
	1	2	3	4	5
the defendant because his/her conduct is what actually determined the punishment	49.2	10.7	6.0	7.7	26.3
the law that states what punishment applies	32.8	40.0	8.6	12.5	6.2
the jury that votes for the sentence	8.9	23.6	38.3	25.4	3.8
the individual juror since the jury's decision depends on the vote of each juror	5.6	14.2	27.1	28.4	24.7
the judge who imposes the sentence	3.5	11.3	20.4	25.8	38.9

* Percentages are based on the 1,095 jurors who ranked all five options (i.e., ranks sum to 15).

Over 80% of the jurors interviewed said the defendant (49.2%) or the law (32.8%) was primarily responsible for the defendant’s punishment. In contrast, only 5.6% said the individual juror and only 8.9% said the jury as a whole were most responsible. Another question in the national sample asked about how responsibility was allocated among the jury, trial judge, and appellate judges and in the 10 states where the jury decision was binding on the judges, only 29.8% believed the jury was strictly responsible.

In response to a question that more directly addressed the *Caldwell* issue by asking how responsibility was allocated among the jury, trial judge, and appellate judges, only 29.8% thought that the jury was “strictly responsible” in the 10 states where the jury was binding on the judge. Nearly one in five (17%) thought the responsibility was mostly in the hands of the judges, which was precisely what the *Caldwell* Court was worried about.

vi) Racial Influence in Juror Decision Making: I will testify that although it is unconstitutional for race to affect who gets the death penalty, evidence from a variety of sources demonstrates that race influences the capital process. The responses of the CJP jurors adds to the existing evidence of how race still influences who gets the death penalty in this country. Studies reveal that a death penalty is more likely when the defendant is black or when the victim is white, and the odds are greatest when the defendant is black and the victim is white. Regardless of the race of the defendant and victim, the evidence shows that the instructions meant to guide juror discretion have not succeeded in preventing race from affecting the sentencing decision.

The most consistent finding in the research on race and the death penalty is what is called the race of victim effect: the evidence showing that defendants are more likely to get the death penalty when the victim is white, as they are in this case. The United States General Accounting Office (GAO) review of prior research showed that 82% of the studies indicated that defendants were more likely to get the death penalty if the victim was white.²¹ Numerous more recent studies done in jurisdictions as diverse as Connecticut, Colorado, North Carolina, and the Armed Forces also find that the defendant is more likely to get the death penalty when the victim is white.²²

²¹ U.S. General Accounting Office, *Death Penalty Sentencing: Research Indicates Patterns of Racial Disparities* (1990).

²² Donohue III, *Capital Punishment in Connecticut, 1973-2007: A Comprehensive Evaluation From 4686 Murders to One Execution* (2011); Hindson, Potter and Radelet, *Race, Gender, Region and Death Sentencing in Colorado, 1980-1999* 77 U. Colo. L. Rev. 549, 581 (2006); Unah, *Choosing Those Who Will Die: The Effect of Race, Gender, and Law in Prosecutorial Decision to Seek the Death Penalty in Durham County, North Carolina* 15 Mich. J. Race & L. 135, 174 (2009); and Baldus et al., *Racial Discrimination in the Administration of the Death Penalty: The Experience of the United States Armed Forces (1984-2005)*, 101 J. Crim. L. & Criminology 1227 (2012).

I also will testify about studies that provide evidence that Antoine Fielder is more likely to get the death penalty because he is black, regardless of the race of the victim.²³ These studies find that black defendants are more likely to be sentenced to death even after controlling for factors such as the race of victim and heinousness of the crime.

I will discuss two other research findings that will work against Antoine Fielder: (1) evidence that blacks are less likely to support the death penalty is likely to lead them to be underrepresented on capital juries, and (2) evidence that racist attitudes are associated with supporting the death penalty suggests that jurors who make it onto a capital jury are more likely than the general population to have such attitudes. A 2021 poll by Pew Research Center found that 63% of whites supported the death penalty compared to only 49% of blacks,²⁴ and a review of Gallup Poll results from 1936 to 2006 found that whites were consistently more likely to support the death penalty compared to nonwhites.²⁵ Because of the death qualification process, lower levels of support for the death penalty among nonwhites will lead to them being underrepresented on a capital jury. In addition, surveys repeatedly reveal that prejudice against

²³ See Baldus et al., *Racial Discrimination and the Death Penalty in the Post-Furman Era: An Empirical and Legal Overview with Recent Findings from Philadelphia*, 83 Cornell L. Rev. 1638 (1998); Baldus et al., *Racial Discrimination in the Administration of the Death Penalty: The Experience of the United States Armed Forces (1984-2005)* 101 J. of Crim. L. and Crim 1227 (2012); Beardsley et al., *Disquieting Discretion: Race, Geography & The Colorado Death Penalty In The First Decade Of The Twenty-First Century* 92 Denver U. L. Rev. 431 (2015); Grosso et al., *Race Discrimination and the Death Penalty: An Empirical and Legal Overview* (Chapter 19 Acker, et al.'s *America's Experiment with Capital Punishment: Reflection on the Past, Present, and Future of the Ultimate Penal Sanction* (3d ed., 2014));

²⁴ Pew Research Center, *Most Americans Support the Death Penalty Despite Concerns About its Administration* (2021) <https://www.pewresearch.org/politics/2021/06/02/most-americans-favor-the-death-penalty-despite-concerns-about-its-administration/> .

²⁵ Bohm, *Deathquest: An Introduction to the Theory and Practice of Capital Punishment in the United States* (4th ed., 2012).

blacks is associated with greater support for the death penalty.²⁶ These results increase the likelihood of getting jurors on a capital jury with racist attitudes that would bias them against Antoine Fielder.

The underrepresentation of nonwhite jurors actually makes a death sentence more likely for all defendants. Foglia and Connell's (2019)²⁷ analysis of CJP jurors found that nonwhite jurors who believed in the death penalty and served as jurors were less likely than white jurors to vote for death, regardless of the race of the defendant and victim, because they had less trust in the capital process and more empathy for defendants. I will testify that nonwhite CJP jurors were significantly less likely to vote for death than white jurors (38% vs. 58%) and that racial differences in distrust of the capital process and empathy were able to completely explain this difference.

Other analyses of the CJP, as well as research by Baldus, has also found that the racial composition of the jury and the race of individual jurors influence capital sentencing decisions.²⁸ The CJP research has found that regardless of the race of the defendant and the victim, black jurors are more likely than white jurors to have lingering doubt and to think the

²⁶ Bobo and Johnson, *A Taste for Punishment: Black and White Americans' views on the Death Penalty and the War on Drugs* 1 Du Bois R. 151 (2004); Bratina et al., *Racism and White Death Penalty Support: A Test of the Racist Punitive Bias Hypothesis* 18 Internat. J. of Police Sci. and Management 140 (2016); Unnever and Cullen, *White Perceptions of Whether African Americans and Hispanics are Prone to Violence and Support for the Death Penalty* 49 J. of Research in Crime and Delinquency 519 (2012); Young, *Guilty Until Proven Innocent: Conviction Orientation, Racial Attitudes, and Support for Capital Punishment* 25 Deviant Behavior 151 (2004).

²⁷ Foglia and Connell, *Distrust and Empathy: Explaining the Lack of Support for Capital Punishment Among Minorities* 44 Crim. Just. Rev. 204 (2019).

²⁸ Baldus et al., *The Use of Peremptory Challenges in Capital Murder Trials: A Legal and Empirical Analysis*, 3 U. Pa. J. Constit. L. 3, 101, Table 10 (2001); Bowers et al. *Death Sentencing in Black and White: An Empirical Analysis of the Role of Jurors' Race and Jury Composition*, 3 U. Pa. J. Constit. L. 171 (2001); Bowers and Foglia, *supra* note 9.

defendant was sorry.

I will testify that some of the CJP's most troubling results were found in cases, such as this one, involving black defendants and white victims. The CJP results revealed that when the defendant was black and the victim was white, the presence of five or more white males dramatically increased and the presence of at least one black male dramatically decreased the chance of a death sentence. Again in black defendant/white victim cases, black and white jurors sitting on the same cases interpreted the same evidence in very different ways. As shown by comparing the results for white male jurors with black male jurors in Table 6, the black male jurors were seven times more likely to have lingering doubt, six times more likely to think the defendant was not most responsible, five times more likely to think the defendant was sorry, two times as likely to identify with defendant or the defendant's family, half as likely to say "dangerous" described the defendant very well, and one-third as likely to give extremely low estimates of early release.

Table 6: Elements of (a) Lingering Doubts (b) the Defendant's Remorse and Identification, and (c) Dangerousness and Early Release by Jurors' Race and Gender in Black Defendant-White Victim Cases

JURORS' RACE AND GENDER				
	White Males	White Females	Black Males	Black Females
(A) LINGERING DOUBTS				
1. Importance of lingering doubts about the defendant's guilt for you in deciding on punishment				
VERY	0%	12.5%	26.7%	21.1%
FAIRLY	6.9%	0%	26.7%	15.8%
NOT VERY	6.9%	8.3%	0%	15.8%
NOT AT ALL	86.2%	79.2%	46.7%	7.4%
(No. of jurors)	(29)	(24)	(15)	(19)
2. When considering punishment, did you think the defendant might not be the one most responsible of the killing?				
YES	10.3%	4.0%	60.0%	36.8%
NO	86.2%	96.0%	40.0%	52.6%
NOT SURE	3.4%	0%	0%	10.5%
(No. of jurors)	(29)	(25)	(15)	(19)
(B) REMORSE AND IDENTIFICATION				
1. How well does "Sorry for what s/he did" describe the defendant?				
VERY WELL	7.4%	20.0%	46.7%	31.6%
FAIRLY WELL	7.4%	0%	33.3%	21.1%
NOT SO WELL	33.3%	40.0%	6.7%	15.8%
NOT AT ALL	51.9%	40.0%	13.3%	31.6%
(No. of jurors)	(27)	(25)	(15)	(19)
2. Did you imagine yourself in the defendant's situation?				
YES	26.7%	28.0%	53.3%	31.6%
NO	73.3%	72.0%	46.7%	68.4%
(No. of jurors)	(30)	(25)	(15)	(19)
3. Did you imagine yourself in the defendant's family's situation?				
YES	30.0%	48.0%	80.0%	47.4%
NO	60.0%	48.0%	13.3%	47.4%
NOT SURE	10.0%	4.0%	6.7%	5.3%
(No. of jurors)	(30)	(25)	(15)	(19)
C. DANGEROUSNESS AND EARLY RELEASE				
1. "Dangerous to other people" describes the defendant				
VERY WELL	63.3%	52.0%	26.7%	42.1%
FAIRLY WELL	30.0%	32.0%	53.3%	36.8%
NOT SO WELL	3.3%	8.0%	0%	10.5%
NOT AT ALL	3.3%	8.0%	20.0%	10.5%
(No. of jurors)	(30)	(25)	(15)	(19)
2. How long do you think someone not given the death penalty for a capital murder in this state usually spends in prison?				
0-9 YEARS	30.0%	17.6%	7.7%	7.1%
10-19 YEARS	30.0%	52.9%	30.8%	57.1%
20+ YEARS	40.0%	29.4%	61.5%	35.7%
(No. of jurors)	(20)	(17)	(13)	(14)

vii) Underestimating the Death Penalty Alternative: I will testify that when the

CJP data was collected, four of the CJP states required that defendants who were found guilty of

a capital crime be sentenced to death or life without the possibility of parole (LWOP), just as is required by Kansas law. There is an abundance of research, including CJP data, showing that most capital jurors grossly underestimate how long someone not sentenced to death usually spends in prison, and the lower their wrong estimates, the more likely they are to vote for death.²⁹

Table 7 from Bowers and Foglia (2003), *I will testify*, shows that in every state, most of the CJP jurors believed *most* defendants would be released before they were even eligible for parole, even in the states that had Life Without Parole (LWOP) at the time of the interviews. The median estimate for when most defendants get released for the national sample was 15 years. In every state, the median estimate was well below the mandatory minimums all defendants had to serve before even being eligible for parole in each of these states.

²⁹ Bowers and Foglia, *supra* note 9; Bowers and Steiner, *Death By Default: An Empirical Demonstration Of False And Forced Choices In Capital Sentencing* 77 Texas L. Rev. 605 (1999); Bowers, *The Capital Jury Project: Rationale, Design, And Preview Of Early Findings* 70 Ind. L. J. 1043 (1995); Bowers and Steiner, *Death By Default: An Empirical Demonstration Of False And Forced Choices In Capital Sentencing* 77 Texas L. Rev. 605 (1999); Steiner, Bowers, and Sarat, *Folk Knowledge As Legal Action: Death Penalty Judgments And The Tenet Of Early Release In A Culture Of Mistrust And Punitiveness* 33 Law & Society Rev. 461 (1999); Foglia, *They Know Not What They Do: Unguided And Misguided Discretion In Pennsylvania Capital Cases* 20 Justice Quarterly 187 (2003); Haney, *Violence And The Capital Jury: Mechanisms Of Moral Disengagement And The Impulse To Condemn To Death* 49 Stan. L. Rev. 1447 (1997); Blume, Garvey, and Johnson, *Future Dangerousness in Capital Cases: Always 'At Issue'* 86 Cornell L. Rev. 397 (2001); and Bowers and Steiner, *Choosing Life Or Death: Sentencing Dynamics In Capital Cases* (chapter 12 from Acker, Bohm, Lanier, America's Experiment With Capital Punishment, (1st ed., 1998))

TABLE 7: Capital Jurors' Estimates and Mandatory Minimums of Time Served Before Release from Prison by Capital Murderers Not Sentenced to Death by State

YEARS IN PRISON IF NOT GIVEN DEATH

State	Median estimate*	(N)	Mandatory minimum**
Alabama	15.0	(35)	LWOP
California	17.0	(98)	LWOP
Florida	20.0	(104)	25
Georgia	7.0	(67)	15
Indiana	20.0	(75)	30
Kentucky	10.0	(74)	12, 25***
Missouri	20.0	(47)	LWOP
North Carolina	17.0	(77)	20
Pennsylvania.	15.0	(63)	LWOP
South Carolina	17.0	(99)	30
Tennessee	22.0	(42)	25
Texas	15.0	(106)	20
Virginia	15.0	(36)	21.75
All states	15.0	(943)	----

*Median estimates exclude "no answers" and unqualified "life" responses but include responses indicating "life without parole" or "rest of life in prison."

**These are the minimum periods of imprisonment before parole eligibility for capital murderers not given the death penalty at the time of the sampled trials in each state.

***Kentucky gives capital jurors different sentencing options with 12 years and 25 years before parole eligibility as the principal alternatives (See Bowers and Steiner 1999, supra at 646 n.198).

I will testify that Bowers and Steiner (1999) show that jurors who espouse extremely low estimates are more likely than those giving the more realistic estimate of 20+ years to choose death at all four points about which we inquired. The difference in the percentage choosing death between those with low and high estimates actually gets more pronounced as the trial progresses, which is consistent with jurors' narrative reports that the dangerousness of the defendant if released is a dominant topic in sentencing deliberations. The more jurors underestimate when defendants usually get released, the more likely they are to consistently take a stand for death and ultimately vote for death.

Additional evidence of how assuming early release makes someone more likely to support a death sentence can be seen from Gallup Poll results. A review of Gallup Polls done by

Gross (1998)³⁰ shows that between 1991 and 1998, when support for the death penalty was between 70 and 80%, support dropped 15-20% when LWOP was offered as an alternative. In an “In Depth” summary of trends found in Gallup polling from 1937 to 2021, the results for 2019, the last time Gallup offered the LWOP alternative, showed that this pattern persists. While support for the death penalty was 56% in the 2019 poll, support fell to 36%% when LWOP was offered as an option.³¹ Like the general public, jurors are less likely to support the death penalty when they think defendants not sentenced to death will spend the rest of their lives in prison. Unfortunately, many jurors unrealistically assume that defendants sentenced to life will be released.

At the hearing I will testify that the United States Supreme Court cited some of the earlier CJP research in *Simmons v. South Carolina* where it held that if the alternative to death was LWOP and the prosecution argued the defendant would be dangerous in the future, then the jury must be informed that the defendant could not be paroled. Now nearly all states provide LWOP as an option for at least some capital offenses and require that the jury be told parole is not an option. However, the CJP data show that it is difficult to convince jurors that the defendant really will not be released on parole.

I will testify that in interviews with California jurors who were told that a life sentence meant the defendant would not be paroled, some jurors said they simply did not believe what the judge told them. One typical juror in a death case said he believed defendants usually get released in fifteen years even though he observed that officially they say the sentence is:

Life imprisonment, but even though now it says without possibility of parole, we were still concerned that someday he'd get out on

³⁰ Gross, *Update on American Public Opinion on the Death Penalty – It's Getting Personal* 83 Cornell L. Rev. 1448 (1998).

³¹ Gallup Poll, Death Penalty (2021) <https://news.gallup.com/poll/1606/death-penalty.aspx>.

parole. We didn't want him out again at all.

Another juror who ultimately voted for death said:

I was undecided. I had a personal problem with the life sentence, but then the judge explained to me that if he gets a life sentence there was absolutely no chance that he would get out. I thought he might get out. I still don't trust anybody about it.

In California, 32.9% of the jurors who actually voted for death said they would have preferred life without parole if it had been an alternative, as indeed it was in the cases they decided. Jurors are influenced by memories of media accounts of murderers who have been released from prison, and do not realize that these may have been people sentenced under prior laws or people who had not been convicted of capital murder. It is very difficult to convince jurors that life really means life because of the widespread distrust of the criminal justice system. As Bowers and Foglia note “[b]oth statistical analyses and jurors’ narrative accounts of the decision process demonstrate that these unrealistically low estimates made jurors more likely to vote for death,” (2003 at 82).

I will testify that while one might argue that the process has improved since the original CJP data was collected, in fact a follow up study involving interviews with former capital jurors who sat on trials from 1999 to 2009 shows that the problems persist. This sample consists of 152 interviews with jurors from seven states.³² Many of the same questions that were asked in the original CJP were asked in these more recent interviews and the percentages of jurors making the same mistakes are remarkably similar.

(i) The percentage deciding the sentence before the sentencing phase had begun,

³² The interviews are from jurors in California, Delaware, Indiana, Louisiana, Oklahoma, Pennsylvania, and Texas. Although this is a smaller sample size than the 1198 in the Capital Jury Project, it is far more than the sample size of 30 that is required to do valid statistical analysis.

what we call premature decision-making, was 51%, as opposed to 49% in the original sample. The percentage who had already decided the sentence should be death in the new sample was 35%, compared to 30% in the original sample, and the percentage who had decided the sentence should be life was 16%, compared to 19% in the original sample.

(ii) The percentage of jurors who made it through jury selection even though they thought death was the only acceptable punishment for different types of murder that would encompass nearly all capital cases in the original and new samples were as follows:

Percentage of Jurors Considering Death the Only Acceptable Punishment

Type of murder:	Original CJP	New Sample
Def. w/prior murder conviction	72%	72%
Planned, premeditated murder	57%	51%
Murder w/multiple victims	54%	46%
Killing police/prison guard	49%	49% ³³
Murder by a drug dealer	46%	30%
Murder during another crime	24%	18%

(iii) On the four questions about how to handle mitigation and aggravation, the more recent jurors did better on two and worse on two, with 64% failing to understand that they could consider any relevant mitigating evidence (compared to 45%), 63% failing to understand that unanimity is not required for mitigation (compared to 67%), 57% thinking that mitigation has to be proven beyond a reasonable doubt (compared to 49%), and 23% failing to realize that aggravation has to be proven beyond a reasonable doubt (compared to 30%).

(iv) The percentage thinking the law required death if the defendant’s conduct was heinous, vile, or depraved was similar in the new and original samples, 42% and 44%, respectively, and the percentage thinking the law required death if defendant would be

³³ In the new sample this question was broken down into two questions and the percentages saying death was the only acceptable punishment was 49.7% for police officers and 49% for prison guards. For ease of comparison, I used the average of the two in this table

dangerous in the future was actually higher in the new sample at 45%, compared to 37% of the original sample.³⁴

(v) The question regarding relative responsibility was changed somewhat to offer three options as opposed to four so the numbers are not directly comparable, but in the new sample 33% said “whether the defendant lived or died... “was mostly the responsibility of the judge and the appeals court.” In the original sample, 17% said that the sentence was “mostly the responsibility of the judge and the appeals court.” The percentage saying the jury or the individual juror were most responsible in the new sample were 5% and 1%, respectively, which is lower than the 9% and 6% found in the original sample.

(vi) There was a substantial increase in the new sample in the median estimate of how long someone not given the death penalty “usually spends in prison,” which is understandable now that Life Without Parole has become so much more common. Of those who gave numerical estimates in the new sample, the median was 25 years as opposed to 15 years in the original sample.

I also will testify that I do not believe that the problems with the way jurors make their decisions in capital cases can be solved. There are ways of ameliorating these problems to a limited extent, but the evidence suggests that it would be impossible to get 12 jurors who would actually decide the sentence in accordance with the legal standards established by the United States Supreme Court. At an evidentiary hearing, I would be able to explain what the research

³⁴ The higher percentage thinking the law required death in the new sample is due to the fact that 30% of the new sample is from Texas which makes future dangerous one of the “special issues,” while only 10% of the original sample is from Texas. In the original sample, jurors from Texas (n=117) were most likely (68%) to think the law required death if future dangerousness was established, and 33% of the rest of the sample thought death was required under those circumstances. In the new sample, the percentages thinking death was required were 70% of the 46 jurors from Texas, and, again, 33% of the jurors from other states (n=99).

evidence tells us about the potential for improving the process of remedies suggested by the parties or the court.

The failure to follow the law is so widespread that it is my opinion that it is impossible to choose a jury of twelve citizens who will be able to completely avoid the mistakes discussed herein. Focusing on the six areas where jurors are clearly at odds with the law, our interviews demonstrated that nearly half or more are making mistakes in these six areas. More specifically:

- 49.2% are making premature punishment decisions
- 50.2% believe the death penalty is mandatory under commonly found facts
- 58.5% underestimate the death penalty alternative
- 80.8 % express a predisposition for the death penalty
- 82.0% don't feel responsible for the sentence
- 83.1% misunderstood death penalty instructions (not counting Don't Know or no answer)

As the chart published in Bowers, Foglia, Ehrhard-Dietzel & Kelly (2010) and excerpted above and below shows, not one of the jurors who was able to answer all the questions in the six areas we asked about got everything correct.

Percentage distribution of jurors by the number of areas in which they fail to understand or comport with constitutional requirements

Number of areas with errors	Percentage of jurors making errors in that many areas
0	0%
1	1.9%
2	7.1%
3	20.1%
4	34.4%
5	28.6%
6	7.9%

The mean, median and modal number of areas in which jurors made mistakes is four of the six.

We could not calculate the probability of getting 12 jurors who do not make mistakes in any of

these areas because our results find that the probability of a juror getting everything correct is zero. Although it would not be constitutionally permissible, in this article we calculate the probability of getting 12 jurors who make mistakes in only one area to demonstrate how impossible it is to get a jury that follows the law. The probability of getting one juror who only makes one mistake is reflected in the 1.9% above. The chance that a defendant would have twelve jurors who only made errors in one area is .019 raised to the 12th power or an infinitesimal 2.213 out of 1,000,000,000,000,000,000,000.³⁵

I will testify that having been involved in the Capital Jury Project since 1996, having supervised the data collection in Pennsylvania, having co-authored several articles based on the entire data set, having done extensive reviews of research done by others in the preparation of these articles, it is my opinion that the jurors in *Kansas v. Fielder* will be similar to capital jurors in the 14 states that comprise the Project: substantial percentages of the jurors are likely to decide the sentence prematurely, to see death as the “only acceptable” punishment, to be biased by the death qualification process, to misunderstand the instructions, to erroneously believe that death is required when certain aggravators exist, to see others as more responsible for the punishment decision than themselves, to be influenced by racial stereotypes, and to underestimate the length of time served for persons not sentenced to death. All of these errors will make jurors more likely to vote for death than they would be if they were following constitutional standards.

I declare under penalty of perjury that the forgoing is true and correct.

May 1, 2024
Bala Cynwyd, Pennsylvania,



³⁵ Bowers et al., *Jurors’ Failure to Understand or Comport with Constitutional Standards in Capital Sentencing: Strength of the Evidence*, 46 Crim. Law Bull. 1147 (2007).

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M.S. Criminology, The Wharton School of the University of Pennsylvania, Phila., PA 1990

B.A. Psychology/Certificate in Criminal Justice, Rutgers College, New Brunswick, NJ 1979
Honors: Graduated with Highest Honors, Henry Rutgers Scholar, Awarded High Distinction in Psychology for Honors Thesis, Member of Psi Chi (Psychology Honor Society), Dean's List Each Semester, Ranked 11th out of 1500

EMPLOYMENT

Emerita Professor of Law & Justice Studies, Rowan University 2023

Professor of Law & Justice Studies, Rowan University
Inducted into Department of Law & Justice Studies Hall of Fame 2023
Founding Coordinator for the Master of Arts in Criminal Justice Programs 2003 to 2023
Research Interests: Capital Juror Decision-Making and Cognition and Crime
Former Department Chair and Advisement Coordinator; Member of Advisory Board for Women's Studies; Founding Member of Advisory Board for *Faculty Center for Excellence in Teaching and Learning*, Elected to *Who's Who Among America's Teachers*; and various other department and college committees listed below; Teaching Graduate courses (Contemporary Developments in Theory, Law and Society, Race, Ethnicity, Class and Crime) and Undergraduate courses (Theories of Crime & Criminality, Treatment of the Offender, Corrections, Research Methods, Survey of Criminal Justice and Policing), including writing intensive and Rowan Seminar courses, 1994 to 2023

Teaching Fellow, Department of Legal Studies, The Wharton School
Taught Criminology, 1988 to 1994; Coordinated filming of instructional videotapes on business ethics, 1993

Research Assistant to Professor Thomas W. Dunfee, The Wharton School
Researched and edited articles and books on social contracts, societal norms, and legal and business ethics, 1991 to 1994

Administered Project to Integrate Ethics into the Undergraduate Curriculum, The Wharton School - Coordinated faculty and teaching materials, and edited and wrote portions of report on project, 1991 to 1993

Instructor, Municipal Police Training Program, Montgomery County Community College
Municipal Police Training Program, Blue Bell, PA - Taught Antisocial Behavior and Law courses, 1987 to 1991

Adjunct Faculty

Saint Joseph's University, Philadelphia, PA, 1994

West Chester University, West Chester, PA, 1988

Montgomery County Community College, Blue Bell, PA, 1987

Paralegal Program, Career Institute, Philadelphia, PA, 1987

Taught Criminology, Criminal Justice, Criminal Procedure, Law Enforcement, and Law courses

Assistant District Attorney

Philadelphia District Attorney's Office, Philadelphia, PA

Prepared and tried misdemeanor and felony cases, 1984 to 1986

Associate, Litigation Department

Saul, Ewing, Remick & Saul, Philadelphia, PA

Handled civil and criminal caseload from inception to settlement or adjudication, 1982 to 1984

PUBLICATIONS

Foglia, W. D. (2024) Submitted Affidavit in *Missouri v. Drew D. Atchison*, Case No. 18AC-CR01536, Division One, death penalty case in Cole County, MO.

Foglia, W. D. (2023) Submitted Affidavit in *Arizona v. Alan Champagne*, CR 2013-000177, death penalty case in Maricopa County, AZ.

Foglia, W. D. (2023) Submitted Affidavit in *Arizona v. Eric Boyston*, CR 2004-007442, death penalty case in Maricopa County, AZ.

Mastrocinque, J.M., Boylan, R.S., Foglia, W. D. Navratil, P., Metzger, J. Cerceo, E.A. (2023) Families and friends of homicide victims' experience with the healthcare system: A trauma-informed perspective, *Journal of Primary Care and Community Health* (14), 1-9.

Foglia, W. D. (2022) Submitted Affidavit in *Kansas v. Cornell McNeal*, death penalty case in Wichita, KS.

Foglia, W. D. (2022) Submitted Affidavit in *Arizona v. Gustavo Lamar*, CR 17-130352, death penalty case in Maricopa County, AZ.

Foglia, W. D. (2021). Invited Book Review of *Capital Defense: Inside the Lives of America's Death Penalty Lawyers*, by Jon B. Gould & Maya Pagni Barak, *Criminal Law Bulletin*, 57(1), 1-8.

Foglia, W. D. & Connell, N. (2019). Distrust and empathy: Explaining the lack of support for capital punishment among minorities, *Criminal Justice Review* 44 (2), 204-230
<https://doi.org/10.1177/0734016818796902>.

Foglia, W. D. (2018). Invited Book Review of *Executing Freedom: The Cultural Life of Capital Punishment*, by Daniel LaChance, *Criminal Law and Criminal Justice Books*,
<http://clcjbooks.rutgers.edu/books/executing-freedom-the-cultural-life-of-capital-punishment-in-the-united-states/>.

Foglia, W. D. & Sandys, M. (2018). The capital jury and sentencing: Neither guided nor individualized. In R. M. Bohm & G. M. Lee (Eds.), *Routledge Handbook on Capital Punishment* (pp. 364-384). NY: Taylor & Francis.

Foglia, W.D. & Schenker, N. M. (2017). Capital cases: Arbitrary and capricious after all these years. In Pennsylvania Bar Institute (Eds.), *34th Annual Criminal Law Symposium, Vol. 2* (pp. JJ-5-JJ-9). Mechanicsburg, PA: Pennsylvania Bar Institute (Original work published in 2001).

Foglia, W. D. (2014). Invited Book review of *Capital Punishment's Collateral Damage*, by Robert M. Bohm," *Criminal Law and Criminal Justice Books*,
<http://clcjbooks.rutgers.edu/books/capital-punishment-collateral-damage.html>.

Marceau, J. Kamin, S. & **Foglia, W. D.** (2013). Death eligibility in Colorado: Many are called, few are chosen." *University of Colorado Law Review* 84 (4): 1069-1115.

Foglia, W. D. (2013). Invited "Book review of *The Death of the American Death Penalty: States Still Leading the Way*, by Larry W. Koch, Colin Wark, and John G. Galliher," *International Criminal Justice Review* 23(2): 198-200 and *Criminal Justice Review* 38 (4): 539-541.

Marceau, J. Kamin, S. & **Foglia, W. D.** (2012). "Final Declaration and Report of Justin Marceau, Sam Kamin, and Wanda Foglia on Colorado Death Eligibility Study." Filed in *State of Colorado v. Edward Montour, Jr.*, Case Number: 02CR782, a death penalty case in Douglas County, CO.

Foglia, W. D. (2012, January 8). The Subjective Face of the Death Penalty." Letter to the Editor in *The New York Times*.

Bower, W. J., **Foglia, W. D.**, Ehrhard-Dietzel, S. & Kelly, C.E. (2010). Jurors' failure to understand or comport with constitutional standards in capital sentencing: Strength of the evidence." *Criminal Law Bulletin* 46 (6): 1147-1229.

Foglia, W. D. (2010). Invited Book review of *The Death Penalty: A Worldwide Perspective*, By Roger Hood and Carolyn Hoyle, *International Criminal Justice Review* 20 (2): 214-5.

Foglia, W. D. (2010). They know not what they do: Unguided and misguided decision-making in Pennsylvania capital cases," *Justice Quarterly* 20(1):187-211 In Pennsylvania Bar Institute (Eds.), *27th Annual Criminal Law Symposium*. Mechanicsburg, PA: Pennsylvania Bar Institute (Original work published in 2003).

Foglia, W. D. (2008, Winter). Failure to follow the law: Problems with capital juror decision-making, Invited article for *Section Connection: Civil Rights*, Publication of the American Association for Justice, 15 (1): 1-5.

Foglia, W. D. (2008). Invited "Book Review of *Death by Design: Capital Punishment as a Social Psychological System*, by Craig Haney" *The Justice System Journal*, 29(3):443-446.

Bowers, W. J., **Foglia, W. D.**, Giles, J., & Antonio, M.E. (2006). The decision-maker matters: An empirical examination of the way the role of the judge and the jury influence death penalty decision-making," *Washington and Lee Law Review* 63(3):931-1010.

Foglia, W. D. & Bowers, W. J. (2006). Shared sentencing responsibility: How hybrid statutes exacerbate the shortcomings of capital jury decision-making," *Criminal Law Bulletin* 42(6):663-686.

Foglia, W. D. (2005). Constitutional problems with capital jurors' decision-making. *Pennsylvania Bar Institute's 22nd Annual Criminal Law Symposium 2*: DD1-DD13.

Foglia, W. D. (2003). They know not what they do: Unguided and misguided decision-making in Pennsylvania capital cases," *Justice Quarterly* 20(1):187-211.

Bowers, W. J. & **Foglia, W. D.** (2003). Still singularly agonizing: Failure of the law to guide punishment decisions of capital jurors," *Criminal Law Bulletin*, Invited Article for Symposium Issue 39(1):51-86.

Foglia, W. D. (2001). Report on Bias in Capital Juror Decision-Making in Pennsylvania," Submitted in response to request by the *Supreme Court of Pennsylvania's Committee on Racial and Gender Bias in the Justice System*.

Foglia, W. D. & Schenker, N. M. (2001). Arbitrary and capricious after all these years: Constitutional problems with capital jurors' decision making," *The Champion* Vol. XXV(6):26-31.

Foglia, W. D. (2000). Sigmund Freud: Writings and theories on sexual behavior, in *Encyclopedia of Criminology and Deviant Behavior*, Blacksburg, VA: Taylor & Francis (2000).

Foglia, W. D. (2000). Adding an explicit focus on cognition to criminological theory," in *The Science, Treatment and Prevention of Antisocial Behaviors: Applications to the Criminal Justice System*, Boston, MA: Allyn & Bacon (2000).

Foglia, W. D. (1997). Perceptual deterrence and the mediating effect of internalized norms among inner-city teenagers,” *Journal of Research in Crime and Delinquency*, 34(4): 414-42.

Foglia, W. D. (1996). Two-way communication enhances teaching & learning, *The Communique*, Vol. 1(2): 2-3 (1996).

Taka, I. & **Foglia, W. D.** (1994). Ethical aspects of Japanese leadership style, *Journal of Business Ethics*, 13: 135-48.

Foglia, W. D. (1992). *Integrating Ethics into Wharton Undergraduate Curriculum*, Edited Report on Project and wrote Overview, Student Perspectives, Guidelines, and Conclusion sections. Philadelphia, PA: Wharton Reographics.

Carter, L. H. & **Foglia, W. D.** (1992, June 15). Law Enforcement That Wins Respect for Law,” *The Christian Science Monitor*, p. 18.

Foglia, W. D. (1990). Book review of *Four Theories of Rape in American Society: A State-Level Analysis* by Larry Brown & Murray A. Straus,” *Qualitative Sociology*, 13-3: 281-4.

Foglia, W. D., Mann, R., & Bottari, J. (1990). *Juvenile Justice in Philadelphia: Court Watch Report 1989-1990*, Published by Philadelphia Citizens for Children and Youth.

PRESENTATIONS AND PROFESSIONAL EXPERIENCE

Expert Witness on Capital Jury Decision-Making in *State of Defareya Hunter*, a death penalty case in Cobb County, GA, 2024.

Expert Witness on Capital Jury Decision-Making in *State of Georgia v. Robert Aaron Long*, a death penalty case in Fulton County, GA, 2024.

Expert Consultation on Capital Jury Decision-Making in *State of Arkansas v. Christopher Gamble*, 73CR-20-604, a death penalty case in District 17, AR, 2024.

Expert Witness on Capital Jury Decision-Making in *State of Louisiana v. Jerman Neveaux*, No. 49D32-2004-MR-013622, a death penalty case in Jefferson Parish, LA, 2024.

Invited Presentation at Capital Defense Seminar for Indiana Public Defender Counsel in Indianapolis, IN, 2023.

Expert Witness on Capital Jury Decision-Making in *State of Indiana v. Elliahs Lamar Dorsey*, Cause Number 49D32-2004-MR-013622, a death penalty case in Indianapolis, IN, 2023.

Expert Witness on Capital Jury Decision-Making in *State of Georgia v. Royheem Deeds*, a death penalty case in Dodge County, GA, 2022.

Expert Witness on Capital Jury Decision-Making in *State of Indiana v. Jason Brown*, Cause Number: 49G03-1708-MR-028177, a death penalty case in Marion County, IN, 2021.

Expert Witness on Capital Jury Decision-Making in *State of Louisiana v. Matthew Sonnier*, Number 335, 440 Sec. 1 Div. B, a death penalty case in Alexandria, LA, 2020.

“Revealing Evidence of Systemic Racism in the Criminal Justice System through Research,” Presentation at DEI Research Mixer 2020 at Rowan University, Glassboro, NJ, 2020.

Expert Witness on Capital Jury Decision-Making in *State of Arizona v. Wayne Prince*, CR 1998-004885 A, a death penalty case in Phoenix, AZ, 2020.

Expert Witness on Capital Jury Decision-Making in *State of North Carolina v. Wisezah Buckman*, File NOs. 17 CRS 972-81, a death penalty case in Pasquotank County, NC, 2020.

Expert Witness on Capital Jury Decision-Making in *State of Georgia v. Dafareya Jamal Hunter*, Indictment Number 19-9-1685, a death penalty case in Marietta, GA, 2020.

Invited Presentation at Critic on Author Meets Critic Panel for *Capital Defense: Inside the Lives of America’s Death Penalty Lawyers* at the Annual Meeting of the American Society of Criminology in San Francisco, CA, 2019.

“Understanding the Needs and Experiences of Families and Friends of Homicide Victims,” with Jeanna Mastrocinque, Jed Metzger, Peter K. Navratil, and Elizabeth A. Cerceo, Presentation at the Annual Meeting of the American Society of Criminology in San Francisco, CA, 2019.

Chair of External Review Panel for Criminal Justice Administration Department at Delaware Valley University, Doylestown, PA, 2019.

“The Medical System’s Response to Families and Friends of Homicide Victims: A Trauma-Informed Perspective,” with Jeanna Mastrocinque, Jed Metzger, Peter K. Navratil, and Elizabeth A. Cerceo, Presentation at Rowan University Faculty Research Day in Glassboro, NJ, 2019.

Expert Witness on Capital Jury Decision-Making in *State of Indiana v. Joseph Albert Oberhansley*, Case No. 10C04-1409-MR-001, a death penalty case in Jeffersonville, IN, 2019.

Expert Witness on Capital Jury Decision-Making in *State of Missouri v. Stephen R. Thompson*, Case No. 15AO-CR00785-01, a death penalty case in Jasper County, MO, 2019.

Expert Witness on Capital Jury Decision-Making in *State Arizona v. Bryan Miller*, CR2015-102066, a death penalty case in Phoenix, AZ, 2019.

Expert Witness on Capital Jury Decision-Making in *State of South Carolina v. Timothy Ray Jones, Jr.* 2105-GS-3200-188 to 192, a death penalty case in Lexington, SC, 2019.

Reviewed Book Proposal for Taylor & Francis for *The Role of the Supreme Court in Mass Incarceration* by William T. Pizzi, 2019.

“Families and Friends of Homicide Victims’ Experiences with the Medical System,” with Jeanna Mastrocinque, Jed Metzger, Peter K. Navratil, and Elizabeth A. Cerceo, Presentation at Cooper Medical School Research Day, in Camden, NJ, 2018.

“Race and the Death Penalty: Implications of Research on Prejudice, Biased Application and Wrongful Convictions,” Presentation at the Annual Meeting of the American Society of Criminology in Atlanta, GA, 2018.

“Exploring the Medical System’s Response to Homicide: A Study with Families and Friends of Homicide Victims,” with Jeanna Mastrocinque, Jed Metzger, Peter K. Navratil, and Elizabeth A. Cerceo, Presentation at the Annual Meeting of the American Society of Criminology in Atlanta, GA, 2018.

Expert Witness on Capital Jury Decision-Making in *The People of the State of Colorado v. Miguel Contreras-Perez*, Case Number 18CR1538, a death penalty case in Pueblo, CO, 2018.

Invited Lecture: “Insights on Jury Decision-Making from Capital Jurors,” for the 19th Annual E. John Wherry, Jr. Distinguished Lecture in Trial Advocacy and Professionalism, Widener University Law School, Wilmington, DE, 2018.

Expert Witness on Capital Jury Decision-Making in *State of Indiana v. Desi Thomas*, Cause Number 49G05-1407-MR-035471, a death penalty case in Marion County, IN, 2018.

Expert Witness on Capital Jury Decision-Making in *State of Oregon v. James Samuel Defrank*, Case No. 11094090C, a death penalty case in Malheur County, OR, 2017.

Expert Witness on Capital Jury Decision-Making in *State of Missouri v. Craig M. Wood*, Cause No. 1431-CR00658-01, a death penalty case in Greene County, MO, 2017.

Expert Witness on Capital Jury Decision-Making in *State of Arizona v. Darnell Jackson*, CR 10-007912, a death penalty case in Maricopa County, AZ, 2017.

“Capital Jury Decision Making,” invited Continuing Legal Education course for Pennsylvania Bar Association’s 34th Annual Criminal Law Symposium, with Nathan Schenker, Harrisburg, PA, 2017.

“Deciding Who Dies,” invited presentation on Death Penalty Panel for Criminal Justice Lecture Series at Rowan University, 2017.

Expert Witness on Capital Jury Decision-Making in *State of Oregon v. Jeremy James Bonsignore*, CR1501355, a death penalty case in Clackamas County, OR, 2016.

Invited Presentation on “The Future of Capital Punishment in the United States,”
Presentation at the Annual Meeting of the American Society of Criminology in New Orleans, LA, 2016.

Expert Witness on Capital Jury Decision-Making in *State of Oregon v. Erik John Meiser*, CR1201547, a death penalty case in Clackamas County, OR, 2016.

Expert Witness on Capital Jury Decision-Making in *State of Louisiana v. Thao T. Lam*, No.97-1240, a death penalty case in Parrish of Jefferson, LA, 2016.

Expert Witness on Capital Jury Decision-Making in *United States of America v. Donald Fell, D. Vt.*, 01-12, a federal death penalty case in the U.S. District Court for the District of Vermont, 2016.

Expert Witness on Capital Jury Decision-Making in *State of Indiana v. Kevin Andrew Schuler*, Cause No. 31 D01-1308-MR-508, a death penalty case in Harrison County, IN, 2016.

Expert Witness on Arbitrariness of the Death Penalty in *State of Arizona v. Jason Noonkester*, CR2011-138281, submitted an affidavit in a death penalty case in Maricopa County, AZ, 2016.

Expert Witness on Capital Jury Decision-Making in *State of Missouri v. Bobby Don Bourne, Jr.*, Case No. 13 BR-CR00140-01, a death penalty case in Henry County, MO, 2016.

“Gender Differences in Support for the Death Penalty Among Capital Jurors,” Presentation at the Annual Meeting of the American Society of Criminology in Washington, D.C., 2015.

Expert Witness on Arbitrariness of the Death Penalty in *Commonwealth of Pennsylvania v. Kindler*, a death penalty case in Philadelphia County, Pennsylvania, 2015.

Expert Witness on Capital Jury Decision-Making in *Commonwealth of Virginia v. James Lloyd Terry*, Case Nos. CR12-303-02 to -06 & CR13-31-00 and -01, a death penalty case in Halifax County, VI, 2015.

Invited Presentation on “The Future of Capital Punishment in the United States,”
Presentation at the Annual Meeting of the American Society of Criminology, San Francisco, CA, 2014.

Invited Presentation on Featured Roundtable: “Perceptions of Crime and Justice: The Future of Capital Punishment in the United States,” Presentation at the Annual Meeting of the Academy of Criminal Justice Sciences, Philadelphia, PA, 2014.

Expert Witness on Capital Jury Decision-Making in *State of Louisiana v. Brian Smith*, Docket Number 12-303, a death penalty case in the St. John’s Parish, LA, 2014.

Expert Witness on Capital Jury Decision-Making in *State of Oregon v. James Samuel Defrank*, Case Number 11094090C, a death penalty case in Malheur County, OR, 2014.

Expert Witness on Capital Jury Decision-Making in *State of Oregon v. Dayton Leroy Rogers*, Case Number CR8800355, a death penalty case in Clackamas County, OR, 2014.

Outside Reviewer for Criminal Justice Administration Department at Delaware Valley College, Doylestown, PA, 2013.

Wrote Requested Endorsement for *Hegemonic Individualism and Subversive Stories in Capital Mitigation*, by Ross Kleinstuber (2013).

Invited Presentation on Panel: “The Future of Capital Punishment in the United States,” Presentation at the Annual Meeting of the American Society of Criminology, Atlanta, GA 2013.

Expert Witness on Capital Jury Decision-Making in *State of Indiana v. Richard Carley Hooten, Jr.*, Cause No. 10C04-1303-MR-2, a death penalty case in Clark County, IN, 2013.

Expert Witness on Capital Jury Decision-Making in *State of Missouri v. Mark Anthony Gill*, Cause No. 12BA-CR03801, a death penalty case in Boone County, MO, 2013.

Expert Witness on Capital Jury Decision-Making in *State of South Carolina v. Earnest Stewart Daise*, Indictment No.s: 2009-GS-07-2636, 2637, 2638, & 2639, a death penalty case in Beauford County, SC, 2013.

Expert Witness on Capital Jury Decision-Making in *United States of America v. Gary Douglas Watland*, Criminal Action No. 11-cr-38-JLK-CBS, a death penalty case in the United States District Court for the District of Colorado, 2013.

“Racial Differences Among Capital Jurors: Empathy, Trust in Government, and Retributive Attitudes,” Presentation at the Annual Meeting of the American Society of Criminology in Chicago, IL, 2012.

Expert Witness on Capital Jury Decision-Making in *State of Washington v. Christopher Monfort.*, Case Number: 09-1-07187-6 SEA, a death penalty case in King County, WA, 2012.

“How Juries Decide Capital Cases.” Invited Presentation at *Capital Defender Training*, Baton Rouge, LA, 2012.

Expert Witness on Capital Jury Decision-Making in *State of Colorado v. Edward Montour, Jr.*, Case Number: 02CR782, a death penalty case in Douglas County, CO, 2012.

Expert Witness on Capital Jury Decision-Making in *State of Louisiana v. Dominic Robinson*, Case Number 27217”B,” a death penalty case in Orleans Parish, LA, 2012.

“Explaining Demographic Differences in Jurors’ Death Penalty Decision-Making,” Presentation at the Annual Meeting of the American Society of Criminology in Washington, DC, 2011.

“What We Need to Know About Jurors.” Invited Presentation at *Capital Case Litigation Initiative: Spring Training*. South Carolina commission on Indigent Defense, Litchfield, SC, 2011.

“The Receptivity of Courts to Empirical Evidence of how Jurors Decide Death Penalty Cases: The Capital Jury Project (CJP) as a Case Study.” Presentation at *Moving Beyond “Racial Blindsight”? The Influence of Social Science Evidence after the North Carolina Racial Justice Act: A Michigan State Law Review Symposium*, with William J. Bowers, Marla Sandys, Elizabeth Vartkessian, and Christopher E. Kelly. Michigan State University College of Law, East Lansing, MI, 2011.

“What We Need to Know About Jurors.” Presentation at *Capital Case Litigation Initiative: Spring Training*. South Carolina Commission on Indigent Defense, Litchfield, SC, 2011.

Expert Witness on Capital Jury Decision-Making in *State of Indiana v. Ronald Davis*, Case Number 49G 060801 MR018561, a death penalty case in Marion County, IN, 2010.

Expert Witness on Capital Jury Decision-Making in *State of Oregon v. Randy Lee Guzek*, Case Number 87CR0373TM, a death penalty case in Deschutes County, OR, 2010.

Expert Witness on Capital Jury Decision-Making in *State of Texas v. John Thuesen*, a death penalty case in Brazos County, TX, 2010.

Training on Problems with Capital Jury Decision-Making for Louisiana Capital Assistance Center, New Orleans, LA, 2010.

Expert Witness on Capital Jury Decision-Making in *State of Oregon v. Joshua Abraham Turnidge*, No. 08C51758, a death penalty case in Marion County, OR, 2010.

“Prevalence and Implications of Constitutional Problems with Capital Jury Decision-Making,” Presentation at 2009 Annual Meeting of the American Society of Criminology in Philadelphia, PA.

Expert Witness on Capital Jury Decision-Making in *State of Oregon v. Imani Charles Williams*, No. 07-04-31995, death penalty case in Multnomah County, OR, 2009.

Expert Witness on Capital Jury Decision-Making in *State of Georgia v. Joshua Drucker*, Case Number 08-9-2013-40, death penalty case in Cobb County, GA, 2009.

Expert Witness on Capital Jury Decision-Making in *State of Georgia v. Harper*, death penalty case in Floyd County, GA, 2008.

Expert Witness on Capital Jury Decision-Making in *State of Indiana v. Desmond Turner*, Cause No. 49G02-0606-MR-101336, death penalty case in Marion County, IN, 2008.

Expert Witness on Capital Jury Decision-Making in *State of New Hampshire v. Michael Addison*, Docket No. 07-S-0254, death penalty case in Hillsborough County, NH, 2008.

Expert Witness on Capital Jury Decision-Making in *State of New Mexico v. Michael Paul Astorga*, CR No. 2006-1670, death penalty case in Albuquerque, NM, 2008.

Expert Witness on Capital Jury Decision-Making in *State of Missouri v. James L. McFarland*, No. 05AR-CR0024, death penalty cases in Kirksville, MO, 2008.

Expert Witness on Capital Jury Decision-Making in *State of Tennessee v. Shawn Anthony Mullins*, Case No. S50,556 death penalty cases in Sullivan County, TN, 2008.

Member of Gloucester County Youth Services Commission (2008).

“Does Hindsight Bias Explain Evidence of Flaws in Capital Jurors’ Decision-Making,” Presentation at 2007 Annual Meeting of the American Society of Criminology in Atlanta, GA.

Interviewed about New Jersey’s Repeal of the Death Penalty on *Delaware Tonight*, WHYY TV Channel 12, December 18, 2007.

Expert Witness on Capital Jury Decision-Making in *State of Colorado v. Robert Ray* and *State of Colorado v. Sir Mario Owens* 06 CR 697 and 705, death penalty cases in Arapahoe County, CO, 2007.

Expert Witness on Capital Jury Decision-Making in *State of California v. Jack Henry Lewis, Jr.* Case No. SCD 193558, a death penalty case in San Diego, CA 2007.

Expert Witness on Capital Jury Decision-Making in *State of Georgia v. Lanny Perry Barnes* CR No. 2006-CR0910-1, a death penalty case in Newton County, GA, 2007.

Expert Witness on Capital Jury Decision-Making in *State of New Mexico v. Daniel Good* CR No. 2004-00522, a death penalty case in Santa Fe, NM, 2007.

Member of Gloucester County Youth Services Commission (2007).

“Effects of Memory on Evidence of Problems with Capital Juror Decision-Making,” Presentation at 2006 Annual Meeting of the American Society of Criminology in Los Angeles, CA.

Invited Testimony on Capital Jury Decision-Making before New Jersey Death Penalty Study Commission appointed pursuant to NJ S-709, Trenton, NJ, 2006.

Expert Witness on Capital Jury Decision-Making in *State of North Carolina v. Timothy Lanier Allen* No. 85CRS 5243, a death penalty case in Halifax County, NC, 2006.

Expert Witness on Capital Jury Decision-Making in *Commonwealth of Pennsylvania v. George Bates* No. 4129-04, a death penalty case in Chester County, PA, 2006.

Expert Witness on Capital Jury Decision-Making in *State of Indiana v. Darryl Jeter* No. 45G04-031MR-00010, a death penalty case in Lake County, IN, 2006.

Member of Gloucester County Youth Services Commission (2006).

Monitored Juvenile Justice Programs for Gloucester County Youth Services Commission in Gloucester County, NJ, 2006.

"The Use of Cognitive Interventions in Juvenile Corrections," Presentation at 2005 Annual Meeting of the American Society of Criminology in Toronto, CA.

Served on Allocations Committee for 2006 Services for Gloucester County Youth Services Commission in Sewell, NJ, 2005.

Monitored Juvenile Justice Programs for Gloucester County Youth Services Commission in Gloucester County, NJ, 2005.

Expert Witness on Capital Jury Decision-Making in *State of Louisiana v. Leo Mitchell* No. 002982, a death penalty case in Jefferson, LA, 2004-5.

Expert Witness on Capital Jury Decision-Making in *Commonwealth of Pennsylvania v. John Hofler, Jr.* No. 2306-04, a death penalty case in York, PA, 2004-5.

Presentation on Constitutional Problems with Capital Jurors' Decision-Making for Criminal Law Practice Group of York County Bar Association, York, PA, 2005.

Presentation on Constitutional Problems with Capital Jurors' Decision-Making for Pennsylvania Bar Institute's 22nd Annual Criminal Law Symposium in Harrisburg, PA, 2005.

Presentation on Capital Case Litigation for Pennsylvania Continuing Legal Education Course, 2005, Philadelphia, PA.

"The Role of Race, Gender, and Social Class in Deciding Who Dies," Presentation at 2004 Annual Meeting of the American Society of Criminology in Nashville, TN.

Invited Presentation for Panel on "Criminal Justice System in Black and White" for *Inaugural Human and Civil Rights Conference*, Rutgers Law School, Camden, NJ, 2004.

Invited Facilitation of Workshops on "Exploring the Impact of Crime and Justice Policies on Perceptions of Race" for Fall Conference of New Jersey Project on Inclusive Scholarship, Curriculum, and Teaching in Newark, NJ, 2004.

Interviewed for "Moorestown ministry helps ex-cons adjust" *Courier-Post*, October 16, 2004.

Letter to Congressional Subcommittee on Crime, Terrorism, and Homeland Security on Death Penalty's Lack of Deterrence, which was requested by ACJS Liaison to Congress, made part of the Congressional Record, and reportedly resulted in bill to expand use of death penalty being allowed to die in committee, April 28, 2004.

"Responsibility for Deciding Who Dies," Presentation at 2003 Annual Meeting of the American Society of Criminology in Denver, CO with William J. Bowers.

"Capital Sentencing in Judge-Override States," Presentation at 2003 Annual Meeting of the Academy of Criminal Justice Sciences in Boston, MA with William J. Bowers.

"An Empirical Analysis of Capital Sentencing in Judge-Override States: Denying Responsibility, Rushing to Judgment, and Failing to Understand the Law," Invited Presentation at 2003 Annual Meeting of Eastern Sociological Society in Philadelphia, PA with William J. Bowers.

Expert Witness on Capital Jury Decision-Making in *California v. Scott Thomas Erskine*, No. SCD 161640, San Diego, CA, 2003.

Expert Witness on Capital Jury Decision-Making in *Commonwealth of Pennsylvania v. Mark Macomber*, No. 2414-02, West Chester, PA, 2003.

"Compelled by Law to Choose Death," Invited and funded presentation at a Conference sponsored by the Wayne Morse Center for Law and Politics entitled *The Law and Politics of the Death Penalty: Abolition, Moratorium or Reform* at University of Oregon, Eugene, OR (2002).

"Influence of Race on Capital Juror Decision-Making in Pennsylvania," Presentation at 2002 Annual Meeting of the Academy of Criminal Justice Sciences in Anaheim, CA.

"The Myth of Mitigation: Jurors' Failure to Understand and Apply the Law in Capital Cases," Presentation at 2002 Annual Meeting of the American Society of Criminology in Chicago, IL.

Expert Witness on Capital Jury Decision-Making in *State of Kansas v. Reginald Dexter Carr, Jr.* No.00CR2978, a death penalty case in Sedgwick County, KA, 2002.

Expert Witness on Death Qualified Jurors in *U.S. v. Cacerez*, 98CR000362013, U.S. District Court, Philadelphia, PA, 2002.

Expert Witness on Statistics on Age of Sex Offenders in *Commonwealth of Pennsylvania v. Arthur Hagen*, No. 2010-93, West Chester, PA, 2002.

Consultant for National Institute of Justice asked to peer review final report on NIJ funded research on jury decision-making, 2002.

"Mandatory Language in Pennsylvania Capital Statute Exacerbates Problems with Juror Decision-Making Process," Paper presented at 2001 Annual Meeting of American Society of Criminology in Atlanta, GA.

Invited Presentation at New Lisbon Boot Camp's Career and Transitional Fair, New Lisbon, NJ, 2001.

Invited Presentation at University of Pennsylvania's Faculty Conversation on the Academic Job Search and Academic Life, Philadelphia, PA, 2001.

"Constitutional Problems with Jury Decision-Making in Capital Cases," Paper presented at 2000 Annual Meeting of the Academy of Criminal Justice Sciences in New Orleans, LA and 2000 Rowan University Professional Conference.

Expert Witness on Juror Decision Making in *Commonwealth of Pennsylvania v. Charles Linton*, 1328-99, a death penalty case in West Chester, PA 1999.

Facilitator, Diversity Workshops, for staff of Philadelphia office of federal Department of Health and Human Services, 1999.

Interviewed about challenges facing NJ State Police Superintendent Carson Dunbar, for *Point of View*, cable news broadcast by Tri State Media, New Castle, DE, about, November 1, 1999.

Roundtable: Capital Jury Project Investigator's Review of State Variations in Decision Making, Invited participation in Roundtable at 1999 Annual Meeting of the American Society of Criminology in Toronto, CA.

"Capital Juror's Views on Relevance of Defendant's Background," Paper presented at 1999 Annual Meeting of the Academy of Criminal Justice Sciences in Orlando, FL.

Moderated Panel on Reconciling Rehabilitation and Retribution, Rowan University, Glassboro, NJ 1999.

"Adding an Explicit Focus on Cognition to Criminological Theory," Invited presentation on a Featured Panel at the 1998 Annual Meeting of the Academy of Criminal Justice Sciences in Albuquerque, NM.

"What is Excellence in Teaching?" Invited presentation for New Faculty Orientation sponsored by the Faculty Center for Excellence in Teaching and Learning at Rowan University, 1998.

Interviewed for "Youth Violence," by K. Lombardi, *Worcester News*, Worcester, MA 1998.

"Evaluating and Enhancing Law-Related Education's Impact on Prosocial Cognitions," invited presentation at 1997 Conference of the New Jersey Council for the Social Studies in Flemington, NJ.

The Extent Capital Jurors Consider the "Abuse Excuse," Paper presented at 1997 Annual Meeting of the American Society of Criminology in San Diego, CA.

Evaluation of Law-Related Education in Inner City High Schools Invited presentation at 1997 Annual Meeting of Northeastern Association of Criminal Justice Sciences in Bristol, RI, and presented at 1997 Rowan University Professional Conference.

Participated in Summer Institute, sponsored by the *New Jersey Project on Inclusive Scholarship, Curriculum, and Teaching*, and making presentation at Rowan University on strategies that include diverse student body, 1997.

How to Get Students Actively Engaged Invited presentation on panel on Active Teaching and Learning sponsored by the Faculty Center for Excellence in Teaching and Learning at Rowan College, 1997.

Roundtable: Capital Punishment-The Dynamics of Capital Sentencing Decisions: Influences and Arguments Invited participation in Roundtable at 1996 Annual Meeting of the American Society of Criminology in Chicago, IL.

Roundtable: Capital Punishment-The Dynamics of Capital Sentencing Decisions: Cases in Point Invited participation in Roundtable at 1996 Annual Meeting of the American Society of Criminology in Chicago, IL.

Life at Rowan College Invited presentation on what it is like to teach at a state school on a Panel on Life in Academia at the 1996 Annual Meeting of the American Society of Criminology in Chicago, IL.

Principal Investigator coordinating Pennsylvania portion of Capital Jury Project, funded by the Law and Social Sciences Program of the National Science Foundation, grant NSF SES-9013252.

The Case for Law-Related Education Paper presented at 1996 Annual Meeting of Northeastern Association of Criminal Justice Sciences in Bristol, RI.

Scorekeeping Judge for the Philadelphia Moot Court Competition 1995 and 1996.

"Guest Scholar" on *American Alternatives: The National Conversation* broadcast on 3/22/95 entitled ***Violence: Other Options***, sponsored by the New Jersey Council for the Humanities.

Moderator of Panel on Community Policing and Problem-Solving Strategies at the 1996 Symposium sponsored by the New Jersey Criminal Justice Educators.

The Relation of Perceived Deterrents to Delinquent Behavior Among Inner-City Youth Paper presented at 1996 Annual Meeting of Academy of Criminal Justice Sciences in Las Vegas, NV.

Thinking & Experiencing: Adding Cognition to a Social Learning Model to Enhance Understanding of Self-Reported Delinquency Among Urban Youth, Paper presented at 1995 Annual Meeting of the American Society of Criminology, Boston, MA.

Interviewed about community reaction to violent events on *Good Day New York*, , April 4, 1995.

Exploring the Role of Internalized Norms in Deterring Crime, Paper presented at 1993 Annual Meeting of The American Society of Criminology, Phoenix, AZ.

Police Workshops on Managing Diversity, Co-facilitated two-day workshops for Lower Merion Police Department with Professor Louis H. Carter , 1993.

Advanced Ethnic Sensitivity Training, Co-facilitated two-day workshop for Philadelphia's Juvenile Probation Officers with Professor Louis H. Carter, 1993.

Relative Importance of Perceived Deterrents Among Incarcerated Juveniles, Paper presented at 1992 Annual Meeting of The American Society of Criminology, New Orleans, LA.

Police Workshops on Managing Diversity, Co-facilitated two-day workshops for University of Pennsylvania Police Department with Professor Louis H. Carter, 1992.

Law Related Education and Delinquency: Going Beyond Moral Reasoning, Paper presented at 1991 Annual Meeting of The American Society of Criminology, San Francisco, CA, with Jane Siegel.

Interviewed for “Unstable backgrounds often lurk behind violent events.” By M. Friedman, *Jewish Exponent*, April 25, 1991, p. 8.

UNIVERSITY SERVICE

Member of Law Enforcement & Community Collaborative, 2020 to 2023

Member of Community Engagement Subcommittee, 2020 to 2023

College of Humanities and Social Sciences’ Representative to Graduate Advisory Committee, 2018 to 2023

Member of College of Humanities and Social Sciences Graduate Council, 2021 to 2023

Coordinator, Master of Arts in Criminal Justice Program, 2007 to 2023

Chair, Masters Program Committee, 1998 to 2023

Promotion Committee, 1995-6, 2001 to 2022; **Chair**, 1995-1996

Tenure and Recontracting Committee, 2001 to 2022

Curriculum Committee, 2004 to 2023
Strategic Planning Committee, 2009 to 2012
Member of Advisory Panel for Women’s Studies, 1998 to 2010
Department Textbook Adoption Committee, 2011 to 2023
College of Humanities and Social Sciences Promotion Committee, 2013
Career Development Committee, 2011
In-Person Registration, Open Houses, and/or Graduate Program Information Sessions, 1994 to 2023
Coordinator, Economics Department, 2008-2009
College of Liberal Arts and Sciences Representative to Graduate Executive Council, 2007-2008
College of Liberal Arts and Sciences Promotion Committee, 2000, 2004
College of Liberal Arts and Sciences Academic Dismissal Committee, 1998, 1999, 2002
Mentoring Program, 2000-2002, 2011
Imagine, 2002
Assessment Committee, 1998-2002, 2010
Founding Member of Faculty Center for Excellence in Teaching and Learning, 1995-2001
Search Committee for Dean, College of Liberal Arts and Sciences, 1999
Sabbatical Leave Committee, 1999
Graduation Application Task Force, 1998
Participated in NJ Project Summer Institute, 1997
College Recruitment, Admissions, and Retention Committee, 1996-1998
Professional Ethics/Welfare Standing Committee, 1998
Chair, Law and Justice Studies Department, 1998-2001
Advisement Coordinator, Law and Justice Studies Department, 1997-1999
Re-establishing and Advising the Law and Justice Club and Honor Society, 1995-1998
Co-Chair, Search Committee 1997-1999
Senate Representative, 1998
Department Webpage Committee, 1998-2009
Organized Panel on “Reconciling Rehabilitation and Retribution, 1998-1999
Departmental Representative to the College Curriculum Committee, 1996-1997
Chair of Library Committee, 1995-1996
Write to Learn Committee, 1994-1995

PROFESSIONAL AFFILIATIONS, SERVICE AND CERTIFICATIONS

Review of Chapter 17 on the Death Penalty for the textbook *Forensic and Legal Psychology* by Mark Costanzo and Daniel Krauss, 2024
Inducted into the Department of Law and Justice Studies Hall of Fame, 2023
Reviewer for *Deviant Behavior*, 2020
Reviewer for *Criminal Justice Review*, 2013, 2019
Reviewed Book Manuscript: *The Shrinking American Middle Class: The Social and Cultural Implications of Growing Inequality* for Macmillan Publishers, 2012
Reviewer for *Criminology: Theories, Patterns, and Typologies* at request of Thomson/Wadsworth, 2005

Editorial Advisory Board for Journal of Criminal Justice Education Academy of Criminal Justice Sciences 2001-2003.

Member of 2000-2001 Student Affairs Committee for the Academy of Criminal Justice Sciences

Chair for 1999-2000 Publications Committee for the Academy of Criminal Justice Sciences

Section Chair for 1998 Annual Meeting of the American Society of Criminology for section on Capital Punishment.

Deputy Chair for 1998-99 Publications Committee for the Academy of Criminal Justice Sciences

Reviewer for *Criminal Justice Review*, 2010, 2011

Reviewer for *Criminology and Public Policy*, 2002

Reviewer for *Journal of Criminal Justice Education*, 2001, 2002

Reviewer for *Justice Quarterly*, 2002, 2003, 2004, 2005

Reviewer for *Journal of Research in Crime and Delinquency*, 1999, 2002, 2004

Reviewer for *Invitation to Corrections* at request of Allyn and Bacon Publishers 2000

Chair of Committee on Constitution and By-Laws for the Northeastern Association of Criminal Justice Sciences 1996 to 1998.

American Society of Criminology (1988 to present)

Academy of Criminal Justice Sciences (1996 to present)

Northeastern Association of Criminal Justice Sciences (1995 to present)

New Jersey Association of Criminal Justice Educators (1996 to present)

Member of Institutional Review Board for Joseph J. Peters Institute (1994 to present)

Admitted to Pennsylvania and Federal Bars in 1982

Certified by Municipal Police Officers' Education and Training Commission in 1987

Member of Juvenile Justice Committee, Phila. Citizens for Children and Youth (1987 to 1992)

Member of Board of Directors, Philadelphia Citizens for Children and Youth (1989 to 1992)

Chief Associate and Coordinating Editor, *Journal of Criminal Law and Criminology* (1989 to 1990)

Consulting Editor, *Advances in Criminological Theory* (1990 to 1994)