UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

AYMAN LATIF, et al., 　　　　*Plaintiffs*, v. LORETTA E. LYNCH, et al., 　　　　*Defendants*.	Case 3:10-cv-00750-BR **DECLARATION OF JAMES AUSTIN IN OPPOSITION TO DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT**

I, James Austin, hereby declare and state as follows:

1.　　I am over the age of 18 years, have personal knowledge of the facts contained herein, and am otherwise competent to make this declaration.

2.　　I am an expert in the field of corrections, risk assessment, and program evaluations and have been qualified to serve as an expert, and have testified as such, on several occasions, mostly in federal courts. I began my career as a correctional sociologist in 1970 at the maximum security prisons of Statesville and Joliet, operated by the Illinois Department of Corrections. I received my B.S. in Sociology from Wheaton College in 1970, my M.A. in Sociology from DePaul University in 1975, and my Ph.D. from the University of California, at Davis in 1980.

3.　　I have been involved in correctional planning and research for more than 30 years. From 1970 to 1974, I worked as a correctional sociologist in the Illinois Department of Corrections. From 1974 to 1982, I was a Research Associate at the National Council on Crime and Delinquency in San Francisco. Beginning in 1982, I became the Executive Vice President of the National Council on Crime and Delinquency and continued in that post until 1998. Between 1999 and 2003, I was a research Professor in the Department of Sociology at the George Washington University in Washington, D.C., where I was also the Director of the Institute for

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Crime, Justice and Corrections. During that period I served as Chair of the National Policy Committee for the American Society of Criminology.

4.   In 1991, I was named by the American Correctional Association as the recipient of the Peter P. Lejin's Research Award for my research contributions to the field of corrections. In 1999, I received the Western Society of Criminology Paul Tappin award for outstanding contributions in the field of criminology.

5.   I founded the JFA Institute in 2003 and have served as its President since then. The JFA Institute is a non-profit corrections consulting firm that works in partnership with federal, state, and local government agencies to implement more effective criminal justice policies. My complete academic and professional experience is set forth more fully in my Curriculum Vitae, which is attached as **Exhibit A.**

6.   In my current position, I and my staff evaluate criminal justice practices and design research-based policy solutions in a variety of areas, including prison population simulation modeling and projections, offender risk assessment and classification systems, parole and probation guidelines, and special needs programs evaluation, including mental health programs.

7.   In making this assessment I reviewed the following documents that were provided to me:

Third Amended and Supplemental Complaint for Injunctive and Declaratory Relief, Case No. 10-cv-750 (BR), U.S. District Court for the District of Oregon;

Memorandum of Points and Authorities in Support of Plaintiffs' Renewed Motion for Partial Summary Judgment;

Defendants' Cross-Motion for Summary Judgment;

Declaration of Deborah O. Moore;

Declaration of G. Clayton Grigg; and

Declaration of Michael Steinbach.

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Risk Assessment in the Corrections and Criminal Justice Context

8.   I have developed and designed numerous risk assessment systems for adult and juvenile correctional systems.   These risk assessment systems have been used by state parole boards, pretrial service agencies, probation and parole systems, and state prison systems to predict individual prisoners' risk of recidivism, prison sexual assault, prison conduct and pretrial release behavior.

9.   In all of the contexts for which I have designed risk assessment systems, the individuals being assessed have either been convicted of a crime or have been charged with a crime and ordered detained pending trial through the judicial process. I am not aware of attempts to develop risk assessment tools on individuals who have not been charged with or convicted of crimes, and I am skeptical that any such tools could be developed, for reasons I explain below.

10.   In adult and juvenile correctional systems, risk assessments are completed on people who have been charged and/or convicted of specific criminal acts. Such assessments typically attempt to predict "general recidivism" as measured by re-arrest, re-conviction and/or re-incarceration. Risk assessments are most accurate when developed based on conduct that has been independently established, not just alleged, such as when an individual has been convicted by a judge or jury of a specific criminal act. In the case of people charged with crimes but not convicted, there has at least been an independent review by a court to establish probable cause to believe that a crime has been committed.

11.   To the best of my knowledge, there have been few attempts to develop risk assessment models to predict violent behavior (re-arrest for robbery, assault, murder and rape) in the absence of a prior similar act. For reasons that are listed below, such conduct is extremely difficult, if not impossible, to predict with an acceptable rate of error.

12.   The risk models that I develop employ actuarial research methods, professional judgment, and self-correcting algorithms and processes to adjust for errors made by the initial

risk assessment systems. By "actuarial," I mean the use of a statistical model to assess the likelihood of an event's occurrence based on predictive variables. Professional judgment is an empirically guided approach to gathering, weighing, and combining information according to the evaluator's judgment in order to improve the consistency of risk assessments. Used in conjunction with actuarial methods, professional judgment improves the accuracy of a risk assessment tool.

13.   All risk assessment systems must pass the dual tests of reliability and validity. Reliability has to do with consistency in assessments by those trained in completing them. Reliability is further separated into concepts of intra- and inter-reliability. The former means consistency by the assessor over time (hour by hour, day by day, week by week), while the latter means consistency between different assessors using the same system. Intra-reliability fails when one assessor changes his or her criteria or process for making risk assessments, for example due to fatigue, high workloads, or external events; inter-reliability fails when multiple assessors reach different conclusions regarding the same people. Risk assessment procedures that do not rely upon people to conduct the assessments (computer-generated assessments) may be less prone to reliability errors.   But since even computer-generated risk assessment systems use data that has been generated by people, even these systems need to be tested for reliability. Lack of reliability (intra- or inter-) will render a risk assessment system invalid.

14.   Validity has to do with the ability of the risk assessment system to accurately predict the behavior that is in question.   The so-called "risk factors" are the "predictors," or independent variables, while the dependent variable is the behavior or outcome that is being evaluated.   In criminal justice, one is often asked to develop a risk assessment model that predicts recidivism, often defined as re-arrest (the dependent variable).   The predictors, or independent variables, may include age at first arrests, current age, gender, and education levels. Using these variables, it is possible to assess the risk of recidivism with an estimated rate of error.

15.   Any risk assessment system is subject to a number of limitations in terms of its ability to predict behavior. One limitation that has already been mentioned is the reliability of the analysis of the independent variables used to make the assessments. At a minimum, each risk factor used must have a very high level of inter-reliability (95% agreement among assessors or higher). Unless inter-reliability has been tested, it may well be that some or several risk factors used to make an assessment are not accurate.

16.   An unreliable risk assessment system has too much "noise" being entered into the assessment for the results to be valid. For example, if two assessors routinely reach different conclusions for the same individuals, then the level of validity in the process is severely compromised. Similarly, if the risk factors used to make an assessment are not accurate, the resulting assessment will not be valid.

17.   Another challenge that can limit the validity of a risk assessment tool is a high number of "false positives," which means that the risk assessment process is "over-predicting" the number of high-risk people, and labeling some people high-risk who are actually not. This problem can be caused by a lack of reliability, as explained above, or by a lack of statistical association between the risk factors and the behavior being predicted. Where the risk factors used to predict a certain behavior are not actually associated with that behavior, individuals identified as high-risk based on that behavior will likely be false positives.

18.   The other major reason for a high level of false positives is a low "base rate." This refers to the level of variance in the dependent variable. For example, it is far more difficult to predict relatively rare events like murder, rape, or suicide than more commonly occurring behaviors like overall re-arrest or re-conviction among released prisoners. Where the base rate for the dependent variable—the event to be predicted—is low, the likelihood of generating false positives, and therefore the rate of error, is high.

Procedural Safeguards Against Erroneous Predictions in the Corrections and Criminal Justice Context

19.   In the risk assessment field, it is commonly accepted that administrative safeguards must be used to mitigate the predictive problems that arise for low base rate events. These safeguards are implemented as part of the initial assessment process and in subsequent reviews (re-assessment or reclassification). In the initial process, it is important to provide transparency to the person being assessed, in terms of the purpose of the assessment and how it is being conducted. There is also an independent review by supervisory staff to ensure the assessment process has been properly completed. This helps to test the initial assessment.

20.   Additionally, knowing that it is very difficult to predict a rare event, and given the much higher level of false positives associated with such an effort, there must be a structured effort to correct for false positives, with a follow-up period that entails further monitoring and re-assessment. Such a re-assessment process allows for discovery of any false prediction that has occurred and helps to minimize its negative effects on people.

21.   For these reasons, one needs to distinguish between prediction of risk and management of risk. The former assumes one has the ability to actually forecast future behavior or events based on past conduct. The latter assumes that accurate prediction is not feasible but that steps and actions can be taken to better manage that risk. In the corrections field, risk management measures based on past conduct are usually limited to continued monitoring, rather than imposition of restrictions.

22.   In the area of inmate classification, all of the numerous inmate classification systems have a re-classification period of 3-12 months, during which the inmate's behavior is monitored, and the initial risk assessment adjusted, based on actual behavior. For the state of Maryland I developed a risk assessment process for parolees and probationers who were assessed to be at high risk of killing someone or being killed themselves. The re-assessment process is conducted within 6 months of the initial assessment and can result in parolees and probationers

being removed from the list. A similar re-assessment process is being installed for the state of Georgia's Department of Corrections for its Prison Rape Elimination Act (PREA) risk assessment system. In that process, inmates who are initially classified as "potential" victims or predators are re-assessed within a year to determine if the label is still valid based on conduct and behavioral observations.

23.   An example of when accurate prediction is not feasible involves prisoners assessed as being "potential" sexual predators who have not been convicted of sexual violence. The self-reported incidence of sexual assault in prisons is extremely low (under 3%), posing a high likelihood that predictions of sexual assault will generate a significant number of false positives. Potential predators and potential victims are assessed for risk using factors known to be associated with prison rape (either as a victim or predator), but, in light of the significant risk of error, there is no attempt to make actual predictions and impose restrictions on individuals as a result. Rather, the risk assessment is used to "manage" the risk. For example, the identities of potential victims and predators are communicated to security staff and case managers, who may increase surveillance of those two populations. Housing assignments are made to facilitate observation of the inmates and separate placement in two-person cells. Still, being identified as a potential victim or predator does not result in denial of any privilege, participation in programs, eligibility for work assignments, or other aspects of prison movement and activities. To impose such restrictions or limitations based on a risk assessment with a high likelihood of error would inevitably punish inmates who are not, and will not become, sexual predators.

Risk Assessment in the No Fly List Context

24.   Based on my experience in risk assessment in the corrections and criminal justice contexts, it is readily apparent that any attempt to predict who will engage in violent acts of terrorism will be subject to severe limitations. Indeed, any such effort would not be feasible or productive. First, there is the obvious problem that violent acts of terrorism have an extremely low base rate. In the aviation context, only a handful of such events have occurred despite the

millions of flights that occur each year.   Statistically speaking, the chance that an act of aviation terrorism will occur is virtually non-existent. Even outside the aviation context, terrorist attacks are far rarer than homicides or suicides, which themselves are so rare as to pose significant predictive challenges. With so few terrorist events, there is simply little variance and, unavoidably, an extremely high rate of false positives—no methodological system can meaningfully predict such behavior.

25.   Further, a person's decision to attempt an act of terrorism is not solely predicated on individual attributes. Such a decision or behavior, like any other example of human behavior, is influenced by factors that are best described as situational or dynamic. Usually there are other interactions with other people as well as environmental factors (e.g., security environment) that factor into the ability to commit an extreme behavioral act like terrorism. Unless these other external factors can be captured and measured, the ability to predict behavior is further degraded.

26.   A more subtle and yet significant problem with the predictions that lead to placement on the No Fly List arises with regard to reliability. As explained above, any predictive tool that cannot be assured of a high degree of intra- and inter-reliability cannot be reliable, and therefore cannot be considered valid, because assessors interpret factors differently and adopt varied standards of assessment. The government's process for nominating individuals to the No Fly List appears to ensure a low degree of reliability in the assessments that lead to placement on the list. I reviewed the declaration of Michael Steinbach, who states that "[e]ach nominating agency is responsible for ensuring that its watchlist nominations satisfy the applicable criteria for inclusion, and that it has established internal procedures to confirm that the nominations process is properly performed." (Steinbach Declaration para. 12.)   Because the nominating process is diffuse in this way, with each nominating agency responsible for applying the criteria, inter-reliability in No Fly List assessments is bound to be low.

Conclusions
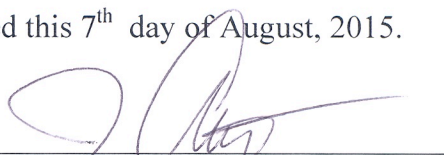
27.   In summary, I am not aware of any scientifically accepted methods available to

accurately predict or identify people who have not committed an act of terrorism, but are likely to commit one, much less an act of aviation terrorism specifically. I have no reason to believe that any effort to identify people who will commit such acts could do so accurately, and any effort to do so would inevitably produce a large number of false positives.

28.   I declare under penalty of perjury that the foregoing is a true and correct statement of my opinions and the supporting facts.

Executed this 7th day of August, 2015.

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JAMES AUSTIN

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James Austin

MAJOR POSITIONS HELD

2003 – Present	*President, The JFA Institute*, Washington, D.C.
1999 -2003	*Research Professor and Director, Institute for Crime, Justice, and Corrections*, Department of Sociology, The George Washington University, Washington, D.C.
1982 - 1998	*Executive Vice President* National Council on Crime and Delinquency San Francisco and Washington, D.C.
1974 - 1982	*Research Associate* National Council on Crime and Delinquency San Francisco
1970 - 1974	*Correctional Sociologist* Illinois Department of Corrections Joliet, Illinois

EDUCATION

B.A.	1970, Wheaton College, Wheaton, Illinois, Sociology
M.A.	1975, De Paul University, Chicago, Illinois, Sociology
Ph.D.	1980, University of California, Davis, California, Sociology

RELEVANT PROFESSIONAL EXPERIENCE

2014 - present	Master Jail Plan, Sonoma County.
2012 - present	Orleans Parish Prison Population Projections and Jail Reduction Strategic Pla.

2014 - present	Validation study of the San Francisco Adult Probation Risk and Needs Assessment System (COMPAS), San Francisco County.
2011 – present	Monitor, Consent Decree, Walnut Group Correctional Facility, Mississippi Department of Corrections (adult and juvenile populations)
2010 – 2014	Consultant. Technical Assistance on Solitary Confinement in Maryland, New Mexico, and Illinois. Vera Institute.
2011 – 2015	Director, Los Angeles County Sheriff Jail Population Projections and Impact of AB 109. Funded by Public Welfare Foundation.
2005 – 2014	Director, Design and Evaluation of the Maryland Department of Public Safety and Corrections (MDPSC) Risk and Case Management System (Parole, Probation and Prison). MDPSC and Open Society Foundation.
2013-2014	Evaluation of the Contra Costa Probation Department's Response to AB 109- Realignment.
2012-2013	Evaluation of Alternatives to Incarceration, San Diego County.
2012 – 2013	Evaluation of the Short-Term Technical Violation Pilot Study. U.S. Parole Commission.
2012	Co-Director. Evaluation of the Oklahoma Administrative Segregation System. Oklahoma Department of Corrections.
2011 - 2012	Consultant. Study of Colorado Administrative Segregation System. Colorado Department of Corrections and National Institute of Corrections, U.S. Department of Justice.
2010 – 2011	Co-Director, Revalidation of the Texas Pardon and Parole Board System. Texas Pardon and Parole Board.
2009 – 2012	Director, Prison Population-Justice Re-investment Initiative. Pew Charitable Trusts.

2010 – 2011	Special Consultant, Jail Population Projection Study, US Department of Justice and Orleans Paris.
2008 – 2009	Special Consultant, Administrative Segregation/Super Max Parchment Study. Mississippi Department of Corrections and ACLU
1998 – 2011	*Director,* Correctional Options Program (Bureau of Justice Assistance, U.S. Department of Justice)
2007 – 2008	Director, Harris County Pretrial Services Re-Validation Risk Assessment Study. (Harris County, Texas).
2005 – 2008	Director, Montgomery Pretrial Services Risk Assessment Validation Study. (Bureau of Justice Assistance, U.S. Department of Justice).
2003 – 2006	*Director*, Assessment of Sexual Assault in the Texas Prison System. (National Institute of Justice).
2002 – 2006	*Director,* Parole Guidelines System Project, Maryland Parole Commission. (Baltimore Open Society Institute).
2003 – 2006	*Director*, Validation Study of the Alameda County Juvenile Detention Risk Assessment System (Alameda County, California).
2002—2006	*Independent Expert,* Office of Youth Development, Louisiana Department of Public Safety and Corrections, Jointly Appointed by State of Louisiana and U.S. Department of Justice, Civil Rights Division
2003-2004	*Director,* Evaluation And Redesign Of Systems For Berks County Pretrial And Sentenced Populations. (Berks County, PA).
2002 – 2003	*Director*, Validation of the Pennsylvania Parole Guidelines. Pennsylvania Board of Probation and Parole. (Pennsylvania Commission on Crime and Delinquency).

2001 – 2003   *Director,* Development of the Kentucky Parole Risk
                     Assessment System. Kentucky Parole and Pardon
                     Board.

1998 – 2004   *Monitor*, Georgia Juvenile Justice Corrections
                     System, Jointly Appointed by State of Georgia and
                     U.S. Department of Justice, Civil Rights Division.

1997 - 2002   *Director*, National Technical Assistance Program for
                     External Prison Classification Systems (Oregon,
                     Wisconsin, Virginia, Tennessee, Texas, Oklahoma,
                     and Montana) (National Institute of Corrections)

1996 - 2002   *Director,* National Technical Assistance Program for
                     Internal Prison Classification Systems (Washington
                     State, Oregon, Missouri, South Dakota, Connecticut,
                     Colorado, and Florida)

1996 - 1999   *Director*, National Survey of Juveniles in Adult
                     Correctional Facilities (Bureau of Justice Assistance),
                     GWU.

1996 - 1999   *Director,* National Multi-Site Boot Camp Evaluation
                     (Adult and Juvenile) (National Institute of Justice),
                     GWU.

1995 - 1999   *Director*, Evaluation of "Three Strikes and You're Out"
                     Laws in California and Nationally, (National Institute of
                     Justice), NCCD

1996 - 1999   *Director*, National Survey of Privatization in
                     Corrections (adult and juvenile facilities) (Bureau of
                     Justice Assistance), NCCD.

1992 - 1997   *Director*, Correctional Options Evaluation (National
                     Institute of Justice and Bureau of Justice Assistance),
                     NCCD

1997   *Director*, Congressionally mandated evaluation of the
                     D.C. Department of Youth Services Agency (YSA)
                     operations, classification system, staffing levels,
                     physical plant, mental health, information services
                     and program services, (National Institute of
                     Corrections, Bureau of Prisons), NCCD

1992 - 1997   *Director*, National Structured Sentencing Evaluation (Bureau of Justice Assistance), NCCD

1995 - 1997   *Director*, Congressionally mandated evaluation of the D.C. Department of Corrections operations, classification system, staffing levels, and physical plant, including, comprehensive cost analysis of long-term options for the Lorton Complex, (National Institute of Corrections, Bureau of Prisons), NCCD

1991 - 1997   *Director*, Design and Implementation of the New York City Department of Corrections Objective Jail Classification System (Consent Decree, New York City Department of Corrections), NCCD

1991 - 1995   *Director*, Philadelphia Prison System Classification and Population Projections Project (Consent Decree, City of Philadelphia), NCCD

1991 - 1994   *Director*, Evaluation of Jail Drug Treatment Programs (National Institute of Justice), NCCD

1990 - 1993   *Director*, Evaluation of the Los Angeles Sheriff's Boot Camp Program (National Institute of Justice), NCCD

1991 - 1993   *Director*, Design and Implementation of the Cook County Objective Jail Classification System (Cook County Sheriff's Department), NCCD

1990 - 1991   *Director*, California Assessment of the Overrepresentation of Minority Youth in Juvenile Justice (Office of Criminal Justice Planning), NCCD

1988 - 1992   *Director*, Experimental Test of Electronic Monitoring Program, Oklahoma Department of Corrections (National Institute of Justice), NCCD

1987 - 1992   *Director*, Experimental Test of the Prison Management Classification System (National Institute of Corrections and Washington Department of Corrections), NCCD

1986 - 1990   *Director*, National Jail Classification Project (NIC), NCCD

1985 - 1987	*Co-Director*, California Youth Authority Parole Risk Study (Packard Foundation and CYA), NCCD
1984 - 1986	*Co-Director*, Study of Institutional Violence at San Quentin (Consent Decree, California Department of Corrections, NCCD
1982 - 1987	*Co-Director*, Experimental Study of Juvenile Court Probation Services, Salt Lake City, Utah (OJJDP), NCCD
1983 - 1985	*Co-Director*, Illinois Department of Corrections Early Release Evaluation (NIJ), NCCD
1980 - 1984	*Co-Director*, Supervised Pretrial Release Test Program (NIJ/LEAA), NCCD
1981 - 1983	*Co-Director*, Evaluation of California AB2 Bail Reform Act (OCJP), NCCD
1980	*Senior Research Associate*, California Alternatives to Incarceration Study (State Legislature), NCCD

SPECIAL APPOINTMENTS

2006 – 2007	Expert Panel on Adult Offender and Recidivism Reduction Programming, California Department of Corrections and Rehabilitation
2003	Advisory Committee, The Little Hoover Commission Report on California Prison System
1999- 2003	Chair, National Policy Committee, American Society of Criminology
1987 - 1994	Trustee, Robert Presley Institute of Corrections Research and Training
1991	Governor's Task Force on Prison Crowding, State of Nevada
1988	Governor's Task Force on Corrections, State of Oregon
1981, 1986	National Academy of Sciences, National Panels on Sentencing and Prison Overcrowding

EXPERT WITNESS/LITIGATION

1987 - 1989	Office of the Special Masters, <u>Ruiz v. Lynaugh</u>, Evaluation of the TDC Classification System and Inmate Violence Appointed by Court to produce evaluation report of classification system to determine if inmate violence had been reduced.
1989 - 1991	U.S. Department of Justice, Civil Rights Division, <u>U.S. v. State of Florida: Florida Department of Corrections, et al.</u>, Case No. TCA 86-7330 (N.D. Fla) Expert Witness Retained by Plaintiffs to determine whether women should be excluded from certain post positions in the DOC.
1990 - 1991	King County (Seattle, Washington) District Attorney's Office, <u>Hammer v. King County</u> Expert Witness Retained by Defendants to determine if minority staff was being discriminated against.
1990 - 1991	Office of the Attorney General, State of Texas, <u>Lamar v. Collins</u> Expert Witness Retained by Defendants to determine if use of local incarceration rates by selected counties was appropriate.
1991	Office of the Attorney General, State of Texas, <u>Alberti v. Sheriff of Harris County, et al.</u>, No. CA-H-72-1094 Expert Witness Retained by Defendants to determine if use of local incarceration rates by selected counties was appropriate.
1991 - 1992	U.S. Department of Justice, Civil Rights Division, <u>U.S. v. The Parish of Orleans Criminal Sheriff's Office</u> Expert Witness Retained by Plaintiffs to determine the appropriateness of excluding females from certain post positions within the jail.

1991 - 1994	<u>Calvin R. vs. Illinois Department of Corrections</u>. Consent Decree.
	Appointed by Court to produce evaluation of classification system and to implement internal classification system to reduce inmate violence.
1995	<u>International Fidelity Insurance Co. et al. v. Charles Nobel et al</u>: In the United States District Court of the Southern District of Texas, Houston Division.
	Expert Witness Retained by Defendants to determine the Failure to Appear rates for defendants released on surety bond versus O.R.
1995	<u>Sandra Herrera, et al., v Pierce County, et al.</u>
	Retained by Plaintiffs to evaluate whether inmates were being properly classified and housed in the local jail.
1995 - 1996	<u>Montoya v. Gunter, et al.</u>
	Retained by Defendants to determine whether inmate who was killed while incarcerated had been properly classified and housed.
1995 - 1997	<u>Inmates A,B,C and D v. Illinois Department of Corrections</u> Consent Decree
	Appointed by Court to produce evaluation of the level of control of housing and job assignments by gangs.
1995 - 2002	<u>USA v. Michigan</u> and <u>Cain v. Michigan</u> Consent Decrees
	Expert witness retained by Defendants to help Department of Corrections reach compliance with court order regarding classification system.
1996	<u>Rentschler v. Carnahan et al.</u>

	Retained by Defendants to evaluate the impact of crowding at the Colorado maximum security prison.
1997	Carlos Morales Feliciano v. Pedro Rossello Gonzales Consent Decree Retained by Special Master to conduct a comprehensive assessment of the inmate classification system that was designed and partially implemented by the Administration of Corrections.
1998 - 1999	Southern Ohio Correctional Facility (Civil Action No. C-1-93-436). Retained by the Ohio Department of Rehabilitation and Correction to serve as an expert witness on classification issues as they pertain to the Lucasville riot.
1998 - 1999	Busey et al. v. Corrections Corporation of America Retained by CCA to develop an objective classification system for the Youngstown facility and have all inmate's properly classified according to the classification criteria. No expert report, deposition or court testimony.
1998 - 2000	Holloway, et al., v. King County Retained by plaintiff's counsel to examine the validity of client's claims that sexual harassment of female correctional officers by male inmates was being encouraged by male correctional officers and departmental policy. Declaration and deposition.
2001	Gartrell et al., v. Ashcroft et al. Retained by plaintiffs to examine if BOP inmates placed in Virginia Department of Corrections are unnecessarily having their expression of religious freedoms unnecessarily restricted? Report submitted but no deposition or court testimony.
2001 - 2005	Austin, et al., v. Wilkinson, et al.

Retained by defendants to examine the classification process used to assign inmates to the Ohio State Penitentiary – a high maximum security prison. Expert report but no deposition or testimony.

2008- present   Plato and Coleman v. Schwarzenegger.

Retained by plaintiffs to develop plan to depopulate the California Prison Population. Reports submitted and deposed by defendants, two expert reports submitted and court testimony.

2013 - 2014   Coleman v. Brown

Expert declaration, deposition and court testimony in support of plaintiff's motion regarding mentally ill inmates in segregation.

MAJOR PUBLICATIONS

Books

2011   It's About Time: America's Imprisonment Binge (with John Irwin), 4th Edition, Cengage, Publishing.

1993   Reinventing Juvenile Justice (with Barry Krisberg), Beverly Hills, CA: Sage Publications.

1978   The Children of Ishmael: Critical Perspectives on Juvenile Justice (with Barry Krisberg),

Articles

2010   "Reducing America's Correctional Populations", 2001. Justice Research and Policy, Vol, 12, No. 1, pp,1-32.

2009   "Prisons and the Fear of Terrorism." August 2009. Criminology and Public Policy. Vol., Issue 3: 641-649.

2009   "Beyond Supermax Administrative Segregation: Mississippi's Experience Rethinking Prison Classification and Creating Alternative Mental Health Programs." 2009. Criminal Justice and Behavior. Vol. 36, No. 10: 1025-1037.

2006   "How Much Risk Can We Take? The Misuse of Risk
                Assessment in Corrections." 2006. Federal
                Probation. Vol. 70, No. 2: 58-63.

2004   Richards, Stephen C., James Austin, and Richard S.
                Jones. 2004. "Thinking About Prison Release and
                Budget Crisis in the Blue Grass State." Critical
                Criminology: An International Journal, Vol. 12, No.3:
                243-263.

2004   Richards, Stephen C., James Austin, and Richard S.
                Jones. 2004. "Kentucky's Perpetual Prisoner
                Machine: It's All about Money." Review of Policy
                Research, Vol. 24, No. 1 (at press).

2003   "Why Criminology Is Irrelevant", Criminology and
                Public Policy, Vol. 2, No.3: 557-564

2003   "Three Strikes Laws", in Current Controversies in
                Criminology, Ronald Weitzer, ed., Prentice Hall:
                Upper Saddle River, NJ.

2003   "The Use of Science to Justify The Imprisonment
                Binge", Convict Criminology, Jeffrey Ian Ross and
                Stephen C. Richards, eds., Wadsworth: Belmont, CA.

2003   "Its About Time: America's Imprisonment Binge",
                Punishment and Social Control, Aldine De Gruyter:
                New York, NY.

1999   "Are We Better Off?: Comparing Private and Public
                Prisons in the United States", Current Issues in
                Criminal Justice. Vol. 11 (2): 177-201.

1999   "The Impact of 'Three Strikes and You're Out'",
                Punishment and Society, Vol 1(2): 131-162.

1998   "The Limits of Prison Drug Treatment", Corrections
                Management Quarterly, Vol. 2, Issue 4, Fall 1998, pp.
                66-74.

1996   "The Effect of 'Three Strikes and You're Out' on
                Corrections" in Three Strikes and You're Out:
                Vengance as Public Policy, David Shichor and Dale

K. Sechrest, eds., Sage Publications: Thousand Oaks, CA.

1996   "Are Prisons A Bargain?: The Case of Voodoo Economics", Spectrum, Spring 1996, pp. 6-24.

1995   "The Overrepresentation of Minority Youths in the California Juvenile Justice System: Perceptions and Realities" in Minorities in Juvenile Justice, Kimberly Kempf Leonard, Carle E. Pope, and William H. Fyerherm, eds., Sage Publications: Thousand Oaks, CA.

1994   "Three Strikes and You're Out: The Likely Consequences". St. Louis University Public Law Review, 14, 1, pp. 239-258.

1993   "Classification for Internal Purposes: The Washington Experience" (with Chris Baird, and Deborah Nuenfeldt), Classification: A Tool for Managing Today's Offenders, Laurel, MD: American Correctional Association.

1993   "Objective Prison Classification Systems: A Review", Classification: A Tool for Managing Today's Offenders, Laurel, MD: American Correctional Association.

1986   "Using Early Release to Relieve Prison Crowding: A Dilemma in Public Policy," Crime and Delinquency (October):404-501

1986   "Evaluating How Well Your Classification System Is Operating," Crime and Delinquency (July):302-321

1985   "Incarceration in the United States: The Extent and Future of the Problem," The Annals (March):15-30

1983   "Assessing the New Generation of Prison Classification Models," Crime and Delinquency (October):561-576

1982   "Do We Really Want to Get 'Tough on Crime'?" Corrections Today, Vol. 44, No. 6:50-52

1982   "Bail Reform in California: The Passage of AB2" (with
               E. Lemert), <u>Pretrial Services Annual Journal, 1982</u>,
               Vol V:4-23

1982   "Review of Fatal Remedies: The Ironies of Social
               Intervention" (Sam D. Seiber) in <u>Crime and
               Delinquency</u>, Vol. 20, No. 4:639-641

1982   "The Unmet Promise of Alternatives to Incarceration"
               (with B. Krisberg), <u>Crime and Delinquency</u>, Vol. 28,
               No. 3:374-409

1982   "Promises and Realities of Jail Classification," <u>Federal
               Probation</u>, Vol. 46, No. 1:58-67

1981   "Wider, stronger, and different nets: the dialectics of
               criminal justice reform" (with B. A. Krisberg), <u>Journal
               of Research in Crime and Delinquency</u>, Vol. 18,
               No. 1:165-196

1980   <u>Instead of Justice: Diversion,</u>
               Ph.D. Dissertation, University of California, Davis

AWARDS

2009   Recipient of the Marguerite Q. Warren and Ted B.
               Palmer Differential Intervention Award, American
               Society of Criminology, Corrections and Sentencing
               Division

1999   Recipient of the Paul Tappin award for outstanding
               contributions in the field of criminology, Western
               Society of Criminology

1991   Recipient of the Peter P. Lejins Research Award,
               American Correctional Association

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing declaration of James Austin in opposition to Defendants' cross-motion for summary judgment was delivered to all counsel of record via the Court's ECF notification system.

_s/ Hina Shamsi_____
Hina Shamsi

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