

APPENDIX

1. Affidavit of David J. Baldus

AFFIDAVIT OF DAVID C. BALDUS

David C. Baldus, being duly sworn, does hereby depose and say:

1. My name is David C. Baldus and I am the Joseph B. Tyle Professor at the University of Iowa College of Law in Iowa City, Iowa. A copy of my resume is attached to this Affidavit.

2. I have studied statistical methods of measuring discrimination for over thirty years. I am the author of STATISTICAL PROOF OF DISCRIMINATION (1980) (with James Cole) and EQUAL JUSTICE AND THE DEATH PENALTY: A LEGAL AND EMPIRICAL ANALYSIS (1990) (with George Woodworth and Charles A. Pulaski Jr.) I have authored numerous research papers on the topic of comparative analysis in death penalty sentencing, including *Quantitative Methods for Judging the Comparative Excessiveness of Death Sentences* in THE USE/NONUSE/MISUSES OF APPLIED SOCIAL SCIENCE RESEARCH IN THE COURT: CONFERENCE PROCEEDINGS, 83-94 (M. Saks & C. Baron eds. 1980), *Race Discrimination in America's Capital Punishment System Since Furman v. Georgia (1972): the evidence of race disparities and the record of our courts and legislature in addressing the issue*, REPORT TO A.B.A. SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES (7/25/97) (with G. Woodworth), EQUAL JUSTICE AND THE DEATH PENALTY, A LEGAL AND EMPIRICAL ANALYSIS (1990) (with George Woodworth and Charles A. Pulaski, Jr.), and *Arbitrariness and Discrimination in the Administration of the Death Penalty: A Legal and Empirical Analysis of the Nebraska Experience* (1973-1999), 81 NEB. L. REV. 486 (2002) (with George Woodworth, Catherine Grosso and Aaron Christ).

3. I was appointed a Special Master by the New Jersey Supreme Court in 1988 and pursuant to that appointment I developed over three years the Court's factually based system of

proportionality review report and prepared for the Court a proportionality report for one New Jersey death sentenced case. *See State v. Robert Marshall; Report to the New Jersey Supreme Court (September 24, 1991)* and *Proportionality Review of Death Sentences: The View of the Special Master*, 5 CHANCE 18-27 (Summer 1993) (with G. Woodworth).

4. I have reviewed the database associated with Professor Timothy Kaufman-Osborn's 2004 article, *Capital Punishment, Proportionality Review, and Claims of Fairness (with Lessons from Washington State)*, 79 WASH. L. REV. 775 (2004). This database is comprised of "all 259 trial judge reports filed with the Washington State Supreme Court, beginning with those first submitted in response to adoption of the 1981 capital punishment statute and running through March 2003." *Id.* at 815. Under the 1981 statute, Washington trial judges are required to submit reports "in all cases in which a person is convicted of aggravated first-degree murder." *Id.* at 812 (*citing* ch. 138 § 12, 1981 Wash. Law, 535, 541-43).

5. ***Race of Victim Analysis.*** For the purpose of this analysis, I have included every case in the database for which the race of the victim and sentencing outcome is available¹, a total of 251 cases. I divided these cases into two categories: cases in which at least one of the victims was white, and cases in which none of the victims was white. I found that there were a total of 199 cases with at least one white victim (191 cases with all white victims and 8 cases with multiple victims, at least one of whom was white) and that there were 52 cases with non-white victims (2 cases with Black and Hispanic victims, 14 cases with Black victims, 24 cases with Asian victims, 1 case with an American Indian victim, 9 cases with Hispanic victims, and 2 cases

¹ Missing information in the data is discussed in Professor Kaufman-Osborn's article. *Id.* at 815-834.

with Indian² victims). I present the results of the race-of-victim analysis in Tables 1 and 2 and paragraphs 6 and 7 below.

Table 1. Race-of-Victim Disparity in the Rates that Prosecutors Sought the Death Penalty in First-Degree Aggravated Murder Cases - Washington State (1981-2003)

		A	B
		First-Degree Aggravated Murder Cases (N)	Rates at Which the Prosecution Sought the Death Penalty
1.	All Cases	251	31% (79/251)
2.	Cases with ≥ 1 White Victims	199	36 % (72/199)
3.	Cases with no White Victims	52	13% (7/52)
4.	<u>Difference in Seek Rates</u> (Row 2- Row 3)		23-pts. (36% - 13%)
5.	<u>Ratio of Seek Rates</u> (Row 2/Row 3)		2.8 (36%/13%)

6. *White-Victim Disparity in the Rates at Which the Death Penalty Was Sought.*

Table 1 indicates that the prosecution sought the death penalty at a much higher rate in cases with at least one white victim (36%) (Column B, Row 2) than it did in cases with no white victims (13%) (Column B, Row 3). This white-victim disparity is expressed in two ways in Table 1. Column B, Row 4 documents a 23-percentage point disparity in the seek rates, while Column B, Row 5 indicates that the prosecution sought the death penalty in white victim cases 2.8 times more frequently than it did in non-white victim cases. Both of these disparities are

² It is not possible to determine from the database whether these two cases involved Asian or American Indian victims so have been classified independently of both of those categories.

statistically significant beyond the .01 level. In other words, it is very unlikely that these disparities are a product of chance.

Table 2. Race-of-Victim Disparity in the Rates that Death Sentences Were Imposed In First- Degree Aggravated Murder Cases in Washington State (1981-2003)

		A	B
		First-Degree Aggravated Murder Cases (N)	Rates at Which Death Sentences Were Imposed
1.	All Cases	251	13% (33/251)
2.	Cases with ≥ 1 White Victims	199	15% (29/199)
3.	Cases with no White Victims	52	8% (4/52)
4.	<u>Difference in Death Sentencing Rates</u> (Row 2 – Row 3)		7-pts. (15% - 8%)
5.	<u>Ratio of Death Sentencing Rates</u> (Row 2/Row 3)		1.9 (15%/8%)

7. *White-Victim Disparity in the Rates that Death Sentences Were Imposed.*

Table 2 (Column B, Rows 2 and 3) reports that the death penalty was imposed in 15% of cases with one or more white victim and in 8% of the cases with no white victim. Column B, Row 4 documents a 7-percentage point white-victim disparity in death sentencing rates, while Column B, Row 5 indicates that the death penalty was imposed 1.9 times more often in cases with at least one white victim than it was in all other cases. However, these disparities are not statistically significant beyond the .10 level. This lack of statistical significance is not surprising given the relatively small numbers of death sentences imposed. See, e.g., *Coates v. Johnson & Johnson*,

756 F.2d 524, 541 (7th Cir.1985) (“statistical significance becomes harder to attain as the sample size shrinks”). Despite its lack of statistical significance, this white-victim disparity raises concern about the fairness with which the death penalty has been imposed in Washington.

Table 3. Status of Defense Counsel Disparity in the Rates that Death Sentences Were Imposed In First-Degree Aggravated Murder Cases - Washington State (1981-2003)

		A	B
		First-Degree Aggravated Murder Cases (N)	Rates at Which Death Sentences Were Imposed
1.	All Cases	254	13% (33/254)
2.	Cases with ≥ 1 Appointed Counsel	239	14% (33/239)
3.	Cases with Retained Counsel	15	0% (0/15)
4.	<u>Difference in Death Sentencing Rates</u> (Row 2-Row 3)		14-pts. (14% - 0%)
5.	<u>Ratio of Death Sentencing Rates</u> (Row 2/Row 3)		Indefinite large - (14%/0%)

8. *Appointed Versus Retained Counsel Disparity in Death Sentencing Rates.*

Table 3 reports a disparity in death sentencing rates based on the status of defense counsel, i.e., whether counsel was retained or appointed. Of the 259 cases in the database, 254 had information about both the sentence and appointment of counsel.³ All but 15 of those cases had at least one appointed counsel. In *all* of the 15 cases with only retained counsel, the defendant

³ One case resulted in suicide before sentencing, one case had no sentencing information, and three cases did not have decipherable information about appointed or retained counsel.

was sentenced to life without possibility of parole. In other words, all of the death sentences were imposed in cases with appointed counsel. Column B, Rows 4 and 5 document 14- percentage points status of counsel disparity in death sentencing rates and an indefinitely large ratio of those rates. However, because of the small samples involved, these disparities are not statistically significant beyond the .10 level. Nevertheless the “inexorable zero” in the death sentencing rate in cases with retained counsel raises concerns about the competence of appointed counsel and/or the risk of discrimination in the system based on the socioeconomic status of the defendant.

9. Although this database of available cases provides useful information about disparities in death sentencing in Washington, additional time and funding would be required to support a thorough review of the type conducted by the New Jersey Supreme Court.

Further, Affiant says not.



DAVID C. BALDUS

Sworn to and subscribed before me
this 31st day of October, 2008.



NOTARY PUBLIC

My Commission Expires: 27 October 2011



DAVID C. BALDUS

Curriculum Vitae – 04/02/2008

Joseph B. Tye Professor, University of Iowa College of Law • Iowa City, Iowa 52242-1113
Ph: 319/335-9012 - Fax: 319/335-9098 - Internet: david-baldus@uiowa.edu

ACADEMIC/PROFESSIONAL EMPLOYMENT

UNIVERSITY OF IOWA COLLEGE OF LAW, IOWA CITY, IOWA

Joseph B. Tye Professor, 1983 - Present

Professor, 1972-83

Associate Professor, 1969-71

Subjects: Criminal Law, Anti-discrimination Law, and Capital Punishment\

SYRACUSE UNIVERSITY COLLEGE OF LAW

Center for Interdisciplinary Legal Studies

Professor and Director, 1981-82

NATIONAL SCIENCE FOUNDATION

Director, Law and Social Sciences Program, 1975-76

NEW JERSEY SUPREME COURT

Special Master for the Proportionality Review of Death Sentences, 1988-91

PRE-ACADEMIC EMPLOYMENT

PENNSYLVANIA CONSTITUTIONAL CONVENTION

Delegate, 1967-68

GENERAL PRACTICE OF LAW, Pittsburgh, Pennsylvania

1964-68

U.S. ARMY/ARMY SECURITY AGENCY (ASA)

Lieutenant, 1958-59

EDUCATION

YALE LAW SCHOOL

LL.M., 1969 - LL.B., 1964

UNIVERSITY OF PITTSBURGH

M.A., 1962 (Political Science)

DARTMOUTH COLLEGE

A.B., 1957 (Government Major)

BOOKS AND MONOGRAPHS

Statistical Proof of Discrimination, 386 pages, Shepards-McGraw Hill (1980) (with James W. Cole).

Annual Supplement, Statistical Proof of Discrimination (1981), (1982), (1983), (1984), (1985), (1986), and (1987) (with James W. Cole).

Equal Justice and the Death Penalty: A Legal and Empirical Analysis, 698 pages, Northeastern University Press (1990) (with G. Woodworth & C. Pulaski).

ARTICLES, BOOK CHAPTERS & REPORTS

"State Competence to Terminate Concession Agreements with Aliens," 53 Kentucky L.J. 56-97 (1964).

"Pennsylvania's Proposed Film Censorship Law - House Bill 1098," 4 Duquesne L. Rev. 429-40 (1966).

"Welfare As A Loan: An Empirical Study of the Recovery of Public Assistance Payments in the United States," 25 Stan. L. Rev. 123-250 (1973).

"A Model Statute for the Regulation of Abandoned Railroad Rights of Way" in Re-Use Planning for Abandoned Transportation Properties, Final Report to DOT. 109-25 (K. Deuker and R. Zimmerman eds. 1975) (with S. Grow).

"A Comparison of the Work of Thorsten Sellin and Isaac Ehrlich on the Deterrent Effect of Capital Punishment," 85 Yale. L. J. 170-86 (1976) (with J. Cole).

"Quantitative Proof of Intentional Discrimination," 1 Evaluation Quarterly 53-85 (1977) (with J. Cole).

"Statistical Modeling to Support a Claim of Intentional Discrimination," Am. Statistical Assn., Proceedings of the Soc. Stat. Sec. Part I pp. 465-70 (1977) (junior author with J. Cole).

"Quantitative Methods for Judging the Comparative Excessiveness of Death Sentences" in The Use/Nonuse/Misuses of Applied Social Research in the Court: Conference Proceedings, 83-94 (M. Saks & C. Baron eds. 1980).

"Identifying Comparatively Excessive Sentences of Death," 33 Stan. L. Rev. 601-77 (1980) (with C. Pulaski, G. Woodworth, and F. Kyle).

"Comparative Review of Death Sentences: An Empirical Study of the Georgia Experience," 74 J. Crim. L. & Criminology 661-753 (1983) (with C. Pulaski & G. Woodworth).

"Monitoring and Evaluating Contemporary Death Sentencing Systems: Lessons From Georgia," 18 U.C. Davis L. Rev. 1375-1407 (1985) (with C. Pulaski & G. Woodworth).

"Arbitrariness and Discrimination in the Administration of the Death Penalty: A Challenge to State Supreme Courts," 15 Stetson L. Rev. 133-261 (1986) (with C. Pulaski and G. Woodworth).

"Law and Statistics in Conflict: Reflections on McCleskey v. Kemp," in Handbook on Psychology and Law 251-73 (D. Kagehiro & W. Laufer eds. 1991) (with G. Woodworth & C. Pulaski).

"Race Discrimination and the Death Penalty," in Oxford Companion to the Supreme Court of the United States 705-07 (K. Hall ed. 1991) (with C. Pulaski and G. Woodworth).

Death Penalty Proportionality Review Project: Final Report to The New Jersey Supreme Court, 120 pages plus 200+ pages of tables and appendices, (September 24, 1991).

State v. Robert Marshall; Report to the New Jersey Supreme Court, 80 pages (September 24, 1991).

"Proportionality Review of Death Sentences: The View of the Special Master," 6 Chance 18-27 (Summer 1993) (with G. Woodworth).

"Reflections on the 'Inevitability' of Racial Discrimination in Capital Sentencing and the 'Impossibility' of its Prevention, Detection, and Correction," 51 Wash & Lee L. Rev. 419-79 (1994) (with G. Woodworth and C. Pulaski).

"Improving Judicial Oversight of Jury Damage Assessments: A Proposal for the Comparative Additur/Remittitur Review of Awards for Nonpecuniary Harms and Punitive Damages," 80 Iowa L. Rev. 1109-1267 (1995) (with J. MacQueen & G. Woodworth).

Keynote Address: "The Death Penalty Dialogue Between Law and Social Science." 70 Ind. U. L. Rev. 1033- 41 (1995).

"Additur/Remittitur Review: An Empirically Based Methodology for the Comparative Review of General Damages Awards for Pain, Suffering, and Loss of Enjoyment of Life," (with G. Woodworth and J. MacQueen) in Reforming the Civil Justice System, 386-415 (Likamer, ed. 1996).

"When Symbols Clash: Reflections on the Future of the Comparative Proportionality Review of Death Sentences," 26 Seton Hall L. Rev. 1582-1606 (1996).

"Race Discrimination in America's Capital Punishment System Since *Furman v. Georgia* (1972): the evidence of race disparities and the record of our courts and legislature in addressing the issue," Report to A.B.A. Section of Individual Rights and Responsibilities (7/25/97) (19 pages) (with G. Woodworth).

"Pediatric Traumatic Brain Injury and Burn Patients in the Civil Justice System: The Prevalence and Impact of Psychiatric Symptomatology," 26 J. Am. Acad. Psychiatry L. 247-58 (1998) (junior author with J. Max et al.).

"Race Discrimination and the Death Penalty: An Empirical and Legal Overview" (with G. Woodworth) in America's Experiment with Capital Punishment 385-416 (J. Acker et al, eds. 1st ed.1998); pp. 501-52 in (J. Acker et al. eds. 2nd ed. 2003).

"Race Discrimination and the Death Penalty in the Post *Furman* Era: An Empirical and Legal Overview, With Recent Findings From Philadelphia," 83 Cornell L. Rev. 1638-1770 (1998) (with G. Woodworth et al.).

"The Use of Peremptory Challenges in Capital Murder Trials: A Legal and Empirical Analysis," 3 U. Penn. J. of Constitutional Law 3-170 (2000) (with G. Woodworth et al.).

Disposition Of Nebraska Capital and Non-Capital Homicide Cases (1973-1999): A Legal and Empirical Analysis: Report to the Nebraska Commission on Criminal Justice and Law Enforcement, (October 10, 2001), 120 pages (with G. Woodworth et al.).

"Death Penalty Symposium: A Call to Action: A Moratorium on Executions Presented by the ABA," (October 12, 2000 at the Carter Center, Atlanta, Ga.), 4 New York City L. Rev. 113, 152-155 (2002) (DB remarks).

Evidence of Race and Gender Discrimination in the Prosecutorial Use of Peremptory Strikes in Philadelphia Capital Trials: The Case of *Commonwealth v. Harold Wilson* (1989) (March 16, 2001) (with G. Woodworth et al.), a 30 page report with approximately 40 pages of tables figures and an Appendix submitted in post conviction proceeding in Philadelphia state court.

Race-of-Victim and Race of Defendant Disparities in the Administration of Maryland's Capital Charging and Sentencing System (2001) (with G. Woodworth), a 25 page report.

Evidence of Race and Gender Discrimination in the Prosecutorial Use of Peremptory Strikes in Philadelphia Capital Trials: The Case of *Commonwealth v. Robert Cook* (1988) (March 16, 2001) (with G. Woodworth et al.), a 30 page report with approximately 40 pages of tables figures and an Appendix submitted in post conviction proceeding in Philadelphia state court.

Evidence of a Pattern and Practice of Purposeful Race Discrimination in the Administration of the Death Penalty in Philadelphia County, 1978-2000: The Case of *Commonwealth v. Lance Arrington* (May 29, 2002) (with G. Woodworth et al.), a two volume report of over 90 pages submitted in state post-trial proceedings in which Professor Woodworth and I testified December 13, 2005 in Philadelphia.

"Arbitrariness and Discrimination in the Administration of the Death Penalty: A Legal and Empirical Analysis of the Nebraska Experience (1973-1999)," 81 Neb. L. Rev. 486-754 (2002) (with G. Woodworth et al.).

Evidence of Race and Gender Discrimination in the Prosecutor Jack McMahon's Use of Peremptory Strikes (September 4, 2003) (with G. Woodworth), a 47 page report with approximately 40 pages of tables figures and an Appendix submitted in *Commonwealth v. Luis Montilla* in post conviction proceeding in Philadelphia state court.

"Race Discrimination in the Administration Of The Death Penalty: An Overview Of The Empirical Evidence With Special Emphasis On The Post-1990 Research," 39 Crim. L. Bulletin 194-226 (2003) (with G. Woodworth).

"Race Discrimination and the Legitimacy of Capital Punishment: Reflections on the Interaction of Fact and Perception," 53 De Paul L. Rev. 1411-95 (2004) (with G. Woodworth).

Evidence of Race and Gender Discrimination in the Commonwealth's Use of Peremptory Strikes in Capital Cases: *Commonwealth v. Jesse Bond* (1993) (November 15, 2005), (with G. Woodworth), a 13 page report with approximately 40 pages of tables figures and an Appendix submitted in habeas corpus proceeding in federal court.

Evidence of Race and Gender Discrimination in the Commonwealth's Use of Peremptory Strikes in Capital Cases: *Commonwealth v. Lee Baker* (1984) (February 2, 2006) (with G. Woodworth), a 23 page report with approximately 40 pages of tables figures and an Appendix submitted in habeas corpus proceeding in federal court.

Evidence of Race and Gender Discrimination in the Commonwealth's Use of Peremptory Strikes in Capital Cases: *Commonwealth v. Robert Lark* (1985) (September 9, 2006), (with G. Woodworth), a 23 page report with 40 pages of tables figures and an Appendix submitted in habeas corpus proceeding in federal court.

"Race and Proportionality Since *McCleskey v. Kemp* (1987): Different Actors with Mixed Strategies of Denial and Avoidance," 39 Col. Human Rights L.Rev. 143-77 (2007) (with G. Woodworth and Catherine M. Grosso).

Evidence of Racial Discrimination in the Administration of the Death Penalty: Arkansas Judicial Circuits 8 & 8S, 1990-2005 (July 3, 2008) (a 13 page report with tables and figures filed in *Arkansas v. Frank William Jr.* a clemency proceeding (2008)) (with N Weiner, G. Woodworth and J. Brain)

Evidence of the Inevitability and Ineradicability of Arbitrariness and Discrimination in the Administration of Capital Punishment in Maryland – Past, Present and Future (September 5, 2008) (a 32 page report with tables, figures and an Appendix submitted to the Maryland Capital Punishment Commission that is based on my testimony before the Commission July 30, 2008 (with G. Woodworth).

Work in Progress

“Perspectives, Approaches, and Future Directions in Death Penalty Proportionality Studies” (with G. Woodworth et al.) in Capital Punishment: The Defining Issues for the Next Generation (C. Lanier et al. eds. 2008) (approximately 15 pages) (in press with Carolina Academic Press).

“Empirical Studies of Race and Geographic Discrimination in the Administration of the Death Penalty: A Primer on the Key Methodological Issues” (with G. Woodworth et al.) in Capital Punishment: The Defining Issues for the Next Generation (C. Lanier et al. eds. 2008) (approximately 40 pages) (in press with Carolina Academic Press).

“Racial Discrimination in the Administration of the Death Penalty: the experience of the United States Armed Forces (1984-2005)” (with G. Woodworth et al.) (approximately 50 law review pages).

“The Story of *McCleskey v. Kemp* (1987): Capital Punishment and the Legitimization of Racial Discrimination,” (with G. Woodworth, John C. Boger, and Charles A. Pulaski, Jr.), in Capital Punishment Stories Foundation Press (J. Steiker and J. Blume eds. 2009) (approximately 35 pages) (in press).

BOOK REVIEWS

"D. Chambers, Making Fathers Pay," 78 Mich. L. Rev. 750 (1980).

M. O. Finkelstein, Quantitative Methods in Law & W. Fairley & F. Mosteller, Statistics and Public Policy, 1980 Am. Bar. Found. R. J. 409.

"W. White, The Death Penalty in the Eighties" & "H. Bedau, Death is Different," 1 Crim. L. Forum 185 (1989) (with G. Woodworth & C. Pulaski).

PAPERS PRESENTED SINCE 1985

"Arbitrariness and Discrimination in Capital Sentencing: A Challenge For Presented State Supreme Courts," Stetson Law School, March 1985.

"Arbitrariness and Discrimination in Capital Sentencing: The Georgia Experience," Fortunoff Criminal Justice Colloquium, N.Y.U. Law School, May 1985.

"Statistical Proof in Employment Discrimination Litigation: An Overview", State of Washington Judicial Conference, Tacoma, Washington, August, 1985.

"Arbitrariness and Discrimination in Capital Sentencing" Symposium on Capital Punishment, Columbia Law School, December 1985.

"Capital Punishment -- A Tragic Choice?" Mount Mercy College, Cedar Rapids, Iowa, April 1986.

"Consistency and Evenhandedness in Federal Death Sentencing Under Proposed Legislation," testimony before House Criminal Justice Subcommittee, Washington, D.C., May 1986.

"The Impact of Prosecutorial Discretion on Arbitrariness and Discrimination," American Criminology Society, Atlanta, GA, November 1986.

"Death Penalty Cases: The Role of Empirical Data," National Judicial College of San Diego, February 10, 1987.

"Individual Rights and the Constitution: Issues and Trends in the Death Penalty," Controversy & The Constitution Conference, Ames, Iowa, February 12, 1987.

"Equal Justice in Proposed Federal Death-Sentencing Legislation: lessons from the states," Testimony before the United States Sentencing Commission, Hearing on the Commission's responsibility regarding promulgation of sentencing guidelines for federal capital offenses, Washington, D.C., February 17, 1987.

"Usable Knowledge from the Social Sciences: A Lawyer's Perspective," University of Nebraska College of Law, April 10, 1987.

"Equal Justice and the Death Penalty: Some Empirical Evidence," University of Nebraska College of Law, April 10, 1987.

"McCleskey v. Kemp: A methodological critique," Law and Society Association, Washington, D.C., June 12, 1987.

"Law and Statistics in Conflict: Reflections on McCleskey v. Kemp," University of Bristol (March 4, 1988), University of Durham (March 16, 1988), Hebrew University (April 17, 1988), University of Reading (May 6, 1988), University of Oxford (May 27, 1988).

"Arbitrariness and Discrimination in the Imposition of the Death Penalty," Testimony before Senate Judiciary Committee, Washington, D.C., October 2, 1989.

"Arbitrariness and Racial Discrimination in Post-Furman Death Sentencing: Implications for the Racial Justice Act and Proposed Federal Death-Penalty Legislation," Testimony before the Constitutional and Civil Rights Subcommittee, House Judiciary Committee, Washington, D.C., May 3, 1990.

"The Proportionality Review of Death Sentence: New Jersey's Options," New Jersey Bar Assembly, Headquarters, New Brunswick, New Jersey, April 23, 1992.

"Proportionality Review of Death Sentences: New Jersey's Options," Law and Society Association, Philadelphia, May 24, 1992.

"Regulating the Quantum of Damages for Personal Injuries through Enhanced Additur-Remittitur Review," Law and Society Association, Philadelphia, May 28, 1992.

"Proportionality Review of Death Sentences" & "Race Discrimination in the Use of the Death Penalty," University of Michigan Law School, January 1993.

"Reflections on the Reinstatement of the Death Penalty in Iowa," Public Lecture, Coe College, April 1993.

"Discretion and Disparity in the Administration of the Death Penalty" & "Racial and Ethnic Bias in the Criminal Law: Some Trends and Prospects," AALS Workshop on Criminal Law, Washington, D.C., October 29 & 30, 1993.

"Improving Judicial Oversight of Jury Damages Assessments: A Proposal for the Comparative Additur/Remittitur Review of Awards for non-pecuniary harms and punitive damages," Conference of Chief Justices, Williamsburg, Virginia, January 1993; Department of Pediatrics, University of Iowa Medical School, February, 1993; Conference on Civil Justice Reform, NYU Law School, October 1993.

"Racial Discrimination in Capital Sentencing: Reflections on its Inevitability and the Impossibility of its Prevention and Cure," Symposium on Racism in the Criminal Law, Washington and Lee Law School, March 11, 1994.

"Racial Discrimination in Mortgage Lending," Department of Housing and Urban Development, January 19, 1994.

"The Death Penalty Dialogue Between Law and Social Science," Keynote Address, Symposium, Capital Jury Project, Indiana Law School, February 24, 1995.

"Reflections on the Failure to Reinstate the Death Penalty in Iowa" & "Claims of Arbitrariness and Discrimination Under State Law; recent trends." Legal Defense Fund Annual Conference on the Death Penalty, Airlie House, Virginia, July 28 & 29, 1995.

"Statistical Approaches to Title VII Discrimination Claims" Defense Lawyers Association, Des Moines, September 1995.

"The Marshall Hypothesis Revisited," University of Pittsburgh Law School, October 1995.

"When Symbols Clash, Reflections of Proportionality Review, Death Sentences," Luncheon speaker, Death Penalty Conference, Seton Hall Law School, Nov. 2, 1995.

"Law As Symbol: explaining the uses of the death penalty in America," DePaul Law School, Chicago, January 1996; Northwestern Law School, March 1996.

"Post-McCleskey Discrimination Claims: Law, Proof and Possibilities," Plenary Session, Legal Defense Fund Annual Conference on the Death Penalty, Georgetown University, July 26, 1996.

"Preliminary Finding from the Pennsylvania Capital Charging and Sentencing Study" and "Law As Symbol," American Criminology Society, November 1996.

"The Death Penalty and How It Might Affect the Iowa Practitioner," Iowa Bar Association Criminal Law Seminar, Des Moines, March 21, 1997.

"Race Discrimination and the Death Penalty: Recent Findings from Philadelphia" Plenary Session, Legal Defense Fund Annual Conference on the Death Penalty, Airlie House, Virginia, July 1997; Death Penalty Symposium; Cornell Law School March 1998; American Society of Criminology, Washington D.C. November 1998.

“The Death Penalty for Iowa: What Would It Bring,” testimony before the Iowa House Judiciary Committee, March 1998.

“Race Discrimination and the Proportionality Review of Death Sentences,” Yale Law School, March 1998; St. John’s Law School, March 1999.

“The Use of Peremptory Challenges in Capital Murder Trials: A Legal and Empirical Analysis,” Research Club, University of Iowa, December 17, 1999; Center for Socio-Legal Studies, University of Iowa, January 21, 2000; “Race, Crime, and the Constitution Symposium,” University of Pennsylvania Law School, January 29, 2000; Law Dept., Erlangen University, Erlangen, Germany, July 18, 2000.

“Race Discrimination in the Administration of the Death Penalty,” Senate Judiciary Committee, Pennsylvania Legislature, Harrisburg, Pa., January 22, 2000; The Governor’s Race and the Death Penalty Task Force, Tallahassee, Florida, March 30, 2000.

“Reflections on the Use of Capital Punishment in Europe and the United States,” Political Science Dept., Erlangen University, Erlangen, Germany, July 17, 2000.

“Race Discrimination in the Administration of the Death Penalty: Current Concerns and Possible Strategies for Addressing the Issue During a Moratorium on Executions,” ABA’s Call to Action: A Moratorium on Executions, ABA Conference, Carter Center, Atlanta, Georgia, October 12, 2001.

“Race and Gender Disparities in the Administration of the Death Penalty: Recent Finding From Philadelphia and Legislative and Judicial Strategies to Reduce Race and Gender Effects,” Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, Philadelphia, Pa. December 6, 2000.

“Race Discrimination in the Administration of the Death Penalty,” Death Penalty Symposium, NYU Law School, March 29, 2001.

“Reflections on the Use of the Death Penalty in Europe and the United States,” Capital Punishment Symposium, Ohio State Law School, March 31, 2001.

“Arbitrariness and Discrimination in the Administration of the Death Penalty: the Nebraska Experience,” Judiciary Committee, Nebraska Legislature, October 18, 2001; University of Nebraska Law School, February 22, 2002.

“Reflections on Comparative Proportionality Review” and “Race Discrimination and the Death Penalty: the post-1990 research,” John Jay School of Criminal Justice, New York City, November 11, 2002.

“Proving Systemic Systemic Disparate Treatment in Capital Charging and Sentencing and in the Use of Peremptory Challenge” and “Understanding Equal Justice and the Death Penalty: the Role of Social Science,” Yale Law School, New Haven, Conn., April 24, 2003.

“Race Discrimination and the Legitimacy of Capital Punishment: Reflections on the Interaction of Fact and Perception,” DePaul Law Review Capital Punishment Symposium, Chicago Ill, Oct. 23, 2003.

“Excessiveness and Race Discrimination in the Military Death Penalty: Lessons from Civilian Courts Since *Furman v. Georgia* (1972),” Judicial Conference of the Court of Appeals For The Armed Forces, Columbus School of Law, Washington, D.C. May 19, 2004.

“Questions and Answers Concerning Evidence of Racial Disparities in the Administration of the Death Penalty,” CLE Panel, NAACP Convention, Milwaukee, WI, July 11, 2005.

“Race Discrimination and the Administration of the Death Penalty: the experience of the United States Armed Forces: preliminary findings” University of Illinois Law School Seminar, April 15, 2006 and Harvard Law School conference on Race and the Death Penalty, May 5, 2006.

“Racial Discrimination in the Administration of the Death Penalty: the Maryland experience (1978-2000),” Maryland Summit on the Abolition of Capital Punishment, Baltimore Md., January 2007.

“Race and Proportionality since *McCleskey v. Kemp* (1987): different actors with mixed strategies of denial and avoidance,” Columbia Law School and NAACP Symposium “Pursing Racial Fairness in the Administration of Justice: Twenty Years After *McCleskey v. Kemp*,” March 3, 2007; University of Miami Law School, Seminar, March 19, 2007; Georgia State University Law School, Atlanta, Conference on Race Discrimination and the Administration of the Criminal Justice System, October 4, 2007.

“The Story of *McCleskey v. Kemp*: Capital Punishment and the Legitimization of Racial Discrimination,” University of Texas Law School, Symposium on Capital Punishment Stories, Foundation Press (200), November 4, 2007)

“Evidence of the Inevitability and Ineradicability of Arbitrariness and Discrimination in the Administration of Capital Punishment in Maryland – Past, Present and Future,” Testimony before the Maryland Capital Punishment Commission, Annapolis, Maryland, July 30, 2008.

Miscellaneous

Member: American Bar Association; American Law Institute; American Society of Criminology; Law and Society Association.

Board of Editors: Evaluation Quarterly (1976-79); Law & Policy Quarterly (1978-79); Law and Human Behavior (1984-); Psychology, Public Policy and Law (1994-).

Board of Trustees, Law and Society Association (1992-94).

Grant Recipient, N.S.F. Law and Social Science Program
1974-75--"Quantitative Proof of Discrimination."

Invited Participant, N.S.F. Sponsored Conference on the Use of Scientific Evidence in Judicial Proceedings, November 1977.

Invited Participant, ABA--AAAS Conference on Cross Education of Lawyers and Scientists, Airlie House, Virginia, May 1978.

Reporter, Roscoe Pound Am. Tr. Lawyers Foundation Conf. On Capital Punishment, Harvard University, June 1980.

Grant Recipient, National Institute of Justice, 1980-81, "The Impact of Procedural Reform on Capital Sentencing: the Georgia Experience."

Consultant, Delaware Supreme Court, April 1981 and South Dakota Supreme Court, November 1981, on the proportionality review of death sentences.

Member, Special Committee of the Association of the Bar of New York on Empirical Data in Legal Decision Making and the Judicial Management of Large Data Sets (1980-82).

Grant Recipient, NSF Law & Social Science Program. "A Longitudinal Study of Homicide Case Processing" (1983).

Consultant, National Center for State Courts project on the proportionality review of death sentences (1982-84).

Expert witness in *McCleskey v. Kemp*, 105 S.Ct. 1756 (1987), a capital case challenging the constitutionality of Georgia's capital sentence process.

Recipient, Law and Society Association's Harry Kalven Prize for Distinguished Scholarship in Law and Society (with G. Woodworth & C. Pulaski) for our capital punishment research (June 11, 1987).

Grant recipient, State Justice Institute, 1988-1992, "Judicial Management of Judicial Awards for Noneconomic and Punitive Damages" (with Dr. J. MacQueen & J. Gittler).

Special Master for Proportionality Review of Death Sentences for the New Jersey Supreme Court: 1988-91.

Member, AALS Committee on Curriculum and Research (1994-97).

Recipient, "Michael J. Brody Award for Faculty Excellence in Service to the University of Iowa", October 1996.

Recipient, "Award For Faculty Excellence," Board of Regents, State of Iowa, October 18, 2000.

Grant recipient, Nebraska Crime Commission, "The Disposition of Nebraska Homicide Cases (1973-1999)" (2000).

Grant recipient, JEHT Foundation, support for study of racial discrimination in the death penalty: the experience of the United States Armed Forces: 1984-2005 (October 2005).

Recipient, Harold Hughes Award, Iowans Against the Death Penalty (October 27, 2007) for advocacy and research used in opposition to the reintroduction of the death penalty in Iowa.

Member, AAUP, Iowa Chapter (1969-___), Member, Executive Board (1992- ___), Member Committee A (1985-__)