

BARBARA O'BRIEN

Professor of Law
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Michigan State University College of Law
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EDUCATION

- Ph.D. Psychology, University of Michigan**
Major: Social Psychology April 2007
- J.D. University of Colorado School of Law** May 1996
- A.B. Economics, Bowdoin College** May 1993
Cum Laude
Major: Economics

HONORS AND AWARDS

2021 MSU Distinguished Partnership Award for Community-Engaged Service
National Institute of Mental Health Prevention Training Grant Fellow, 2002-2005.
Walter M. Pillsbury Research Award, 2005.
Member and Associate Editor, *University of Colorado Law Review*, 1994-1996.
Order of the Coif, inducted May 1996.

PROFESSIONAL EXPERIENCE

Michigan State University College of Law, East Lansing, Michigan
January 2007 – June 2010, *Assistant Professor*
July 2010 – June 2018, *Associate Professor*
July 2018-present, *Professor*
July 2014 – July 2016, *Associate Dean for Research*
September 2016 – present, *Editor*, National Registry of Exonerations

University of Michigan, Ann Arbor, Michigan
Fall 2004 & Winter 2005, *Graduate Student Instructor*

Thomas M. Cooley School of Law, Lansing, Michigan
September, 2001- June, 2003, *Adjunct Clinical Professor of Law, Innocence Project*
Adjunct Professor of Law, Advanced Legal Research and Writing

United States District Court, Central District of Illinois, Urbana, Illinois
August 2000 - August 2001, *Judicial Clerk to the Honorable Harold A. Baker*
August 1998 - August 2000, *Judicial Clerk to the Honorable Michael P. McCuskey*

Office of the State Appellate Defender, Ottawa, Illinois
January 1997 - August 1998, *Assistant Defender*
August 2001 – July 2002, *Panel Attorney*

PUBLICATIONS & MANUSCRIPTS IN PRESS

- Barbara O'Brien & Catherine M. Grosso, *Criminal Trials Reforms Intended to Reduce the Impact of Race: A Review*, 16 ANN. REV. L. SOC. SCI. 117 (2020).
- Catherine M. Grosso, Barbara O'Brien & Julie C. Roberts, *Local History, Practice, and Statistics: A Study on the Influence of Race on the Administration of Capital Punishment in Hamilton County, Ohio (January 1992-August 2017)*, 51 COLUM. HUM. RTS. L. REV. 902 (2020).
- Barbara O'Brien & Catherine M. Grosso, *Expanding the Record*, 55 HARV. C.R.-C.L. L. REV. 667 (2020).
- Barbara O'Brien, Klara Stephens, Maurice Possley, & Catherine M. Grosso, *Latinx Defendants, False Convictions, and the Difficult Road to Exoneration*, 66 UCLA L. REV. 1682 (2019).
- Catherine M. Grosso & Barbara O'Brien, *Lawyers and Jurors: Interrogating Voir Dire Strategies by Analyzing Conversations*, 16 J. EMPIRICAL LEGAL STUD. 515 (2019).
- Catherine M. Grosso & Barbara O'Brien, *Jury Selection in the Post-Batson Era*. In *CRIMINAL JURIES IN THE 21ST CENTURY: PSYCHOLOGICAL SCIENCE AND THE LAW*, Oxford University Press (2018).
- Barbara O'Brien, Catherine M. Grosso, & Abijah P. Taylor, *Examining Jurors: Applying Conversation Analysis to Voir Dire in Capital Cases, A First Look*, 107 J. CRIM. L. & CRIMINOLOGY 101 (2017).
- Catherine M. Grosso & Barbara O'Brien, *Record Rules for Batson*, 105 KY. L. J. 651 (2016-2017).
- Catherine M. Grosso & Barbara O'Brien, *Grounding Criminal Procedure*, 20 J. GENDER RACE & JUST. 53 (2017).
- Barbara O'Brien, Catherine M. Grosso, George Woodworth, & Abijah Taylor, *Untangling the Role of Race in Capital Charging and Sentencing in North Carolina, 1990-2009*, 94 N.C. L. REV. 1997 (2016).
- Samuel R. Gross, Barbara O'Brien, Chen Hu, & Edward H. Kennedy, *The Rate of False Convictions among Criminal Defendants Who Are Sentenced to Death*, 111 PROC. NAT'L. ACAD. SCI. 7230 (2014).
- Barbara O'Brien & Keith Findley, *Psychological Perspectives: Cognition and Decision Making*. in EXAMINING WRONGFUL CONVICTIONS: STEPPING BACK, MOVING FORWARD 35 (Allison D. Redlich, James R. Acker, Robert J. Norris, & Catherine L. Bonventre, eds., 2014).
- Catherine M. Grosso, Barbara O'Brien, Abijah Taylor, & George Woodworth, *Race Discrimination and the Death Penalty: An Empirical and Legal Overview*, in AMERICA'S EXPERIMENT WITH CAPITAL PUNISHMENT 525 (James R. Acker, Robert M. Bohm, & Charles S. Lanier, eds., 3d ed. 2014).
- Barbara O'Brien & Catherine M. Grosso, *Beyond Batson's Scrutiny: A Preliminary Look at Racial Disparities in Prosecutorial Preemptory Strikes Following the Passage of the North Carolina Racial Justice Act*, 46 U.C. DAVIS L. REV. 1623 (2013).
- Catherine M. Grosso & Barbara O'Brien, *A Stubborn Legacy: The Overwhelming Importance of*

O'Brien, B.

- Race in Jury Selection in 173 Post-Batson North Carolina Capital Trials*, 97 IOWA L. REV. 1531 (2012).
- Barbara O'Brien & Catherine M. Grosso, *Confronting Race: How a Confluence of Social Movements Convinced North Carolina to Go where the McCleskey Court Wouldn't*, 2011 MICH. ST. L. REV. 463.
- Barbara O'Brien, Samuel Sommers, & Phoebe C. Ellsworth, *Ask and What Shall Ye Receive? A Guide for Using and Interpreting What Jurors Tell Us*, 14 U. PA. J. L. & SOC. CHANGE 201 (2011).
- Barbara O'Brien & Daphna Oyserman, *The Shield of Defense or the Sword of Prosecution: How Self-Regulatory Focus Relates to Responses to Crime*, 40 J. OF APPLIED SOC. PSYCHOL. 1849 (2010).
- Barbara O'Brien, *A Recipe for Bias: An Empirical Look at the Interplay Between Institutional Incentives and Bounded Rationality in Prosecutorial Decision Making*, 74 MO. L. REV. 999 (2009).
- Barbara O'Brien, *Prime Suspect: An Examination of Factors that Aggravate and Counteract Confirmation Bias in Criminal Investigations*, 15 PSYCHOL. PUB. POL'Y & L. 315 (2009).
- Barbara O'Brien & Daphna Oyserman, *It's Not Just What You Think, But How You Think about It: The Effect of Situationally-Primed Mindsets on Legal Judgments and Decision-making*, 92 MARQ. L. REV. 149 (2008).
- Samuel R. Gross & Barbara O'Brien, *Frequency and Predictors of False Conviction: Why We Know So Little, and New Data on Capital Cases*, 5 J. EMPIRICAL LEGAL STUD. 927 (2008).
- Norbert L. Kerr, Franklin J. Boster, Craig R. Callen, Mary E. Braz, Barbara O'Brien, & Irwin Horowitz, *Jury Nullification Instructions as Amplifiers of Bias*, 6 INT'L COMMENT. ON EVIDENCE, Issue 1, article 2 (2008).
- Comment, *Animal Welfare Reform and the Magic Bullet: The Use and Abuse of Subtherapeutic Doses of Antibiotics in Livestock*, 67 U. COLO. L. REV. 407 (1996).

GRANTS

- 2013-2015: National Science Foundation (NSF); *Information Seeking in Jury Selection: How Stereotype Maintenance Processes Explain Stark Racial Disparities in North Carolina Death Penalty Proceedings*. Principal Investigator (with Catherine M. Grosso); \$299,956.
2013. Z. Smith Reynolds Foundation. *Capital Jury Selection Research*. Principal Investigator (with Catherine M. Grosso); \$20,000.
2012. Center for Death Penalty Litigation. *Capital Jury Selection Research*. Principal Investigator (with Catherine M. Grosso); \$25,000.
2011. Proteus Action League. *Capital Jury Selection Research*. Principal Investigator (with Catherine M. Grosso); \$7,500.
2011. Butler Family Foundation. *North Carolina Racial Justice Act Research*. Principal Investigator (with Catherine M. Grosso); \$25,000.
2010. Winston-Salem Community Foundation. *North Carolina Racial Justice Act Research*.

Principal Investigator (with Catherine M. Grosso); \$30,000.

2010. Butler Family Foundation. *North Carolina Racial Justice Act Research*. Principal Investigator (with Catherine M. Grosso); \$20,000.

2010. Proteus Action League. *North Carolina Racial Justice Act Research*. Principal Investigator (with Catherine M. Grosso); \$7,000.

2010. Anonymous funder. *North Carolina Racial Justice Act Research*. Principal Investigator (with Catherine M. Grosso); \$50,000.

2009. AJ Fletcher Foundation. *North Carolina Racial Justice Act Research*. Principal Investigator (with Catherine M. Grosso); \$10,000.

2009. Maverick Lloyd Foundation. *North Carolina Racial Justice Act Research*. Principal Investigator (with Catherine M. Grosso); \$25,000.

2009. Open Society Institute. *North Carolina Racial Justice Act Research*. Principal Investigator (with Catherine M. Grosso); \$200,000.

2009. Z. Smith Reynolds Foundation. *North Carolina Racial Justice Act Research*. Principal Investigator (with Catherine M. Grosso); \$109,000.

2009. Vital Projects Fund. *North Carolina Racial Justice Act Research*. Principal Investigator (with Catherine M. Grosso); \$50,000.

SELECTED PRESENTATIONS

Grosso, C.M., O'Brien, B., Taylor, A.P. & Lucas, R.E. (2016 November). *Examining Jurors: Using Conversation Analysis to Explore the Influence of Race on Prosecutor Speech in North Carolina Capital Jury Selection*, 2016 Conference on Empirical Legal Studies, Duke Law School.

Grosso, C.M., O'Brien, B., Taylor, A.P. & Lucas, R.E. (2016 November). *Examining Jurors: Using Conversation Analysis to Explore the Influence of Race on Prosecutor Speech in North Carolina Capital Jury Selection*, JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY Symposium: The Death Penalty's Numbered Days?, Northwestern Law School.

O'Brien, B. & Grosso, C.M. (2016 November). *Batson and the Court Record*, JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY Symposium: The Death Penalty's Numbered Days?, Northwestern Law School.

Grosso, C.M. & O'Brien, B. (2016 November). *Batson and the Court Record*, Symposium: 25th Anniversary of *Batson v. Kentucky*, KENTUCKY LAW JOURNAL, Kentucky Law School.

O'Brien, B. & Grosso, C.M. (2015 May). *Talking to Jurors: Using Conversation Analysis to Understand Bias in Jury Selection*. Presentation at Law and Society Annual Conference, Seattle, WA.

Grosso, C.M. & O'Brien, B. (2015 May). *Transforming a Skewed Sample: A Critique of Lawyers' Shared View of Police Investigation*. Presentation at Law and Society Annual Conference, Seattle, WA.

Lynch M., Grosso, C.M., O'Brien, B., & West, V (2014 February). *Finding Data: The Politics and Magic of Accessing Capital Punishment Data*. American Association for the

Advancement of Science Annual Meeting.

- O'Brien, B. & Grosso, C.M. (2013 May). *Information Seeking in Jury Selection: How Stereotype Maintenance Processes Explain Stark Racial Disparities in North Carolina Death Penalty Proceedings*. Presentation at Law and Society Annual Conference, Boston, MA.
- O'Brien, B. & Grosso, C.M. (2013 January). *Deconstruct and Reconstruct: Reexamining Bias in the Legal System; Searching for New Approaches*. AALS Crosscutting Program. AALS Annual Meeting, New Orleans, LA.
- Grosso, C.M. & O'Brien, B. (2012 November). *Unconvincing Protestations: The Persistent Role of Race in Capital Charging and Sentencing in North Carolina, 1990-2009*. Selected under peer-review for presentation at the 2012 Conference on Empirical Legal Studies. Stanford University, Palo Alto, CA.
- O'Brien, B. & Grosso, C.M. (2012 September). *Information Seeking in Jury Selection: How Stereotype Maintenance Processes Explain Stark Racial Disparities in North Carolina Death Penalty Proceedings*. Law & Society Association Midwest Retreat. Madison, WI.
- Grosso, C. & O'Brien, B. (2011 October). *A Stubborn Legacy: The Overwhelming Importance of Race in Jury Selection in 173 Post-Batson North Carolina Capital Trials*. Batson at Twenty-Five: Perspectives on the Landmark, Reflections on its Legacy, University of Iowa Law Review Symposium. Iowa City, IA.
- O'Brien, B. & Grosso, C. (2011 April). *Confronting Race: How a Confluence of Social Movements Convinced North Carolina to Go where the McCleskey Court Wouldn't. Moving Beyond "Racial Blindsight"? The Influence of Social Science Evidence after the North Carolina Racial Justice Act*, Michigan State Law Review Symposium. East Lansing, MI.
- Grosso, C. & O'Brien, B. (2010, November). *The North Carolina Racial Justice Act Studies: Examining the Role of Race in Capital Punishment*. American Society of Criminologists Annual Meeting. San Francisco, CA.
- O'Brien, B. & Grosso, C. (2010, October). *The North Carolina Racial Justice Act: Why Isn't This a Dead Bang Winner? Persuasion and Ideology: Politically Divisive Cases in Appellate Courts*, Seventh Annual MSU Indigenous Law Conference. East Lansing, MI.
- O'Brien, B. & Grosso, C. (2010, September). *The North Carolina Racial Justice Act Studies: Examining the Role of Race in Capital Punishment*. Michigan State University Department of Psychology Brown Bag Presentation, East Lansing, MI.
- Grosso, C. & O'Brien, B. (2010, June). *The North Carolina Racial Justice Act Studies: Examining the Role of Race in Capital Punishment*. Law & Society Annual Meeting. Chicago, IL.
- Mostellor, R. & O'Brien, B. (2010, April). *Failures of the American Adversarial System to Protect the Innocent and Conceptual Advantages in the Inquisitorial Design for Investigative Fairness*, Conference on the Future of the Adversarial System, Chapel Hill, NC.

- O'Brien, B & Ellsworth, P.C. (2009, October). *Prosecutorial Blind Spots: Features of the Adversarial Criminal Justice System that Promote Confirmation Bias*. Society of Experimental Social Psychology, Annual Conference, Portland, ME.
- O'Brien, B. (2009, August). *Creeping Determinism and What Could Have Been: What the Psychology of Hindsight Bias and Counterfactual Reasoning Can Teach Us about Post-Conviction Brady Claims*. Big Ten Aspiring Scholars Conference, Urbana, IL.
- O'Brien, B (2009, May). *A Recipe for Bias: An Empirical Look at the Interplay between Institutional Incentives and Bounded Rationality in Prosecutorial Decision Making*. Law & Society Annual Meeting, Denver, CO.
- O'Brien, B. & Gross, S.R. (2007, November). *Frequency and Predictors of False Conviction: Why We Know So Little, and New Data on Capital Cases*. Conference on Empirical Legal Studies, New York, NY.
- O'Brien, B. (2007, January). *Confirmation Bias in Criminal Investigations*. University of Michigan Decision Consortium, Ann Arbor, MI.
- O'Brien, B & Ellsworth, P.C. (2006, October). *Confirmation Bias in Criminal Investigations*. Conference on Empirical Legal Studies, Austin, TX.
- O'Brien, B & Ellsworth, P.C. (2005, June). *Psychological Underpinnings of False Convictions: Confirmation Bias in Criminal Investigations*. Law & Society Annual Meeting, Las Vegas, NV.
- O'Brien, B., & Oyserman, D. (May, 2004). *Promoting Law and Order and Preventing Injustice: How Self Regulatory Focus Influences Attitudes toward the Criminal Justice System*. Society for Prevention Research, Quebec City, Montreal, Canada.
- O'Brien, B., & Oyserman, D. (May, 2004). *The Art of the Soft Sell: Understanding how Obvious and Subtle Framing of Self-Regulatory Goals Shifts Attitudes about the Criminal Justice System*. Midwestern Psychological Association, Chicago, IL.

MEDIA APPEARANCES & MENTIONS

- Research about PNAS article discussed in numerous newspapers and websites, including the New York Times, Christian Science Monitor, Huffington Post, Vox, and Forbes.
- Research about North Carolina Racial Justice Act Studies discussed in numerous newspapers and websites, including The Wall Street Journal, Huffington Post, and CQ Researcher.
- Newspaper Interview, *Fair Trial for Macon isn't Likely*, Kevin Grasha, Lansing State Journal, April 27, 2008.
- Research discussed in *Exoneration Using DNA Brings Change in Legal System*, Solomon Moore, New York Times, October 1, 2007.
- Research discussed in *Study of Wrongful Convictions Raises Questions Beyond DNA*, Adam Liptak, New York Times, July 23, 2007.
- Research discussed in *Innocents in Prison*, Stuart Taylor Jr., National Journal, August 6, 2007.