

BARBARA O'BRIEN

Associate Professor 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

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 – present, *Associate Professor*

Michigan State University Department of Psychology, East Lansing, Michigan
January 2008 – present, *Adjunct Professor*

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

Catherine M. Grosso & Barbara O'Brien, *A Stubborn Legacy: The Overwhelming Importance of Race in Jury Selection in 173 Post-Batson North Carolina Capital Trials* (forthcoming in the University of Iowa Law Review).

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* (forthcoming in the Michigan State Law Review).

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).

MANUSCRIPTS IN PREPARATION

The Rate of False Convictions among Criminal Defendants who are Sentenced to Death.
WORKING PAPER (with Samuel R. Gross, University of Michigan Law School, Chen Hu, University of Michigan Department of Biostatistics, and Edward H. Kennedy, VA Ann Arbor Health Care System and University of Michigan Health System).

The North Carolina Racial Justice Act Studies: Examining the Role of Race in Capital Punishment. WORKING PAPER (with Catherine Grosso).

PRESENTATIONS

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.

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 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.

SERVICE

Member of the State Bar of Michigan Task Force on Recorded Interrogations

PROFESSIONAL AFFILIATIONS

Law & Society Association
Licensed to Practice Law in Illinois (inactive status)