

DECLARATION OF BRYAN EDELMAN, Ph.D.

I, Bryan Edelman, solemnly, sincerely and truly declare and affirm as follows:

I. INTRODUCTION

I am the co-founder of Trial Innovations, Inc., a national full-service jury research firm. I have worked as a trial consultant for 20 years and have conducted pretrial and post-trial research on both criminal and civil cases across the country. In addition, I have been retained as an expert in over 40 high-profile cases to assess the impact of pretrial publicity on the fairness of the trial proceedings. Counsel for the defendant in *State of Minnesota v. Alex Kueng* retained me to evaluate the extent and nature of the pretrial publicity covering the death of George Floyd and its potential impact on Mr. Kueng's due process rights. As part of my analysis, I reviewed relevant newspaper coverage, television publicity, and social media content.

It is my opinion that the jury pool in Hennepin County has been saturated with extensive prejudicial news coverage. The pretrial publicity incorporates powerful and emotional language surrounding the death of George Floyd, minute-by-minute accounts of how the tragic incident unfolded, shocking video footage of the encounter, and details from pretrial filings (e.g., autopsy reports). The coverage references prejudicial statements from prominent public figures. For example, the Chief of Police described the incident as "murder." These types of statements have the capacity to undermine the burden of proof by creating a presumption of guilt within members of the jury pool.

The media also chronicles the community's outrage following George Floyd's death, which triggered widespread protests for justice and police reform. While most protesters remained peaceful, others clashed with law enforcement and caused more than \$50 million in property damage. A movement began to disband the MPD and a number of changes were made to policies in the wake of George Floyd's death.

Social media can serve as an informal communication network for spreading information, rumors, and organizing public events. There have been thousands of posts, pages, groups, and comments on Facebook alone. Much of this content has been shared and reshared, further

increasing its distribution and reach.

The bystander and body-cam videos—evidence likely to play a key role in deliberations—have received over 40 million views online. These videos are often embedded in television newscasts which include commentary, conclusions, and interpretations of the officers' conduct. This reporting can lead to strong attitudes and opinions among prospective jurors about key issues in the case, and further undermine the fair trial rights enshrined in the Fifth and Sixth Amendments of the Constitution.

In conclusion, the Hennepin County jury pool has been saturated with prejudicial pretrial publicity, which threatens the presumption of innocence. This trend is likely to continue as the case moves closer to trial. Given these circumstances, there is a reasonable likelihood that remedial measures will be necessary to protect the Mr. Kueng's due process rights.

II. QUALIFICATIONS

Education and Experience: A copy of my curriculum vitae can be found in **Appendix A** to this declaration. Upon completion of my undergraduate education, I received an MA and Ph.D. in Social Psychology from the University of Nevada, Reno, and an LL.M. from the University of Kent in the United Kingdom. My graduate studies have provided me with a broad foundation in both qualitative and quantitative research methodologies as well as statistics

The Social Psychology Program at the University of Nevada is unique in that it is one of the few in the country that has an emphasis on the application of social psychological theory to the legal arena. During my studies I specialized in jury related issues and examined how attitudes, race, stereotypes, pretrial publicity, and other factors influence juror and jury decision-making. In this regard, I took coursework addressing topics associated with change of venue motions, the impact of pretrial publicity on jurors' ability to be fair and impartial, and the steps necessary to conduct a change of venue analysis. The University's association with the National Judicial College and other government agencies also afforded me the opportunity to conduct research with the Public Defender, District Attorney, Court Services, the judiciary, and others institutions in Washoe County, Nevada.

Research Experience: While at the University of Nevada, Reno I worked as a Research Assistant and Project Manager at the Grant Sawyer Center for Justice Studies where I assisted with several national surveys, including one that examined the judiciary's understanding and application of the Daubert standard. I also explored how jurors "minimize" what they have read, seen, or heard about high profile cases during voir dire. In addition, I oversaw a study of the Washoe County's pretrial release program and assisted with the development of training programs for foreign justices, court administrators, prosecutors, and defense attorneys who were brought to the United States by the Department of State.

Further, I have conducted and published research on the impact of illegitimate factors on juror decision-making. This research included developing and testing a model that attempted to explain how factors such as race and empathy influence pre- and post-deliberation sentencing decisions in capital cases. My research on juror decision-making in capital cases was later published as a book. Since completing my studies I have also published on the impact of graphic images on jurors, and on methodological issues associated with online survey research.

Jury Research Experience: I began working as a trial consultant in 1998 and cofounded Trial Innovations in 2010. Over the years I have worked on hundreds of criminal and civil cases across the country. As a trial consultant I have conducted mock trials, focus groups, surveys, post-trial interviews, and other research exercises. I have consulted in the courtroom and assisted with jury selection on more than 100 cases. I have also served as a presenter at local bar associations, law firms, national meetings, and conferences. In addition, I have been invited to conduct MCLE courses related to jury selection by the Public Defender, Alternate Defender, and District Attorney in California, Nevada, and New Mexico. I have also served as a guest lecturer at the University of Santa Cruz, Saint Mary's College, and Stanford Law School.

Venue Experience: As a graduate student, I was trained by Dr. Ronald Dillehay and Dr. Edward Bronson, two of the leading experts in the country on venue and pretrial publicity. Over the years I have had the opportunity to work with Dr. Bronson on a number of change of venue studies.

I have worked on change of venue issues in several different capacities. As a researcher I have coded trial transcripts in high profile cases to evaluate how jurors “minimize” their bias and exposure to pretrial publicity during voir dire, and the challenges this phenomenon poses for judges and attorneys. In addition, I examined the impact of television pretrial publicity on prejudgment of guilt. I have also presented as a panelist on change of venue issues at the American Society of Trial Consultants’ annual conference, and been a co-author on the chapter in the “California Criminal Law Procedure and Practice” on change of venue since 2011.

I have conducted content analyses of media coverage on a host of topics, and have designed more than 50 community attitude surveys over the years. I have been retained as an expert to conduct and evaluate change of venue studies, and also to recommend remedial measures for addressing exposure to pretrial publicity outside of a change of venue.

Expert Witness Experience: I have been retained as an expert witness on matters including freedom of religion in China (political asylum hearing), eyewitness identification, and change of venue. I have testified as an expert witness in person or by declaration in California, Idaho, Colorado, Texas, Michigan, Massachusetts, Nevada, and Tennessee and have been hired by the prosecution and defense. In the majority of cases I have been retained to conduct a change of venue study,¹ I have recommended against a change of venue.

III. THE INFLUENCE OF ATTITUDES ON COGNITION²

There is a substantial body of literature that has accumulated over the years documenting the impact of schemas³ and attitudes on information processing. These cognitive structures have been shown to have an impact on selective attention, the evaluation of new information, and memory recall. This research provides insight into how media coverage may lead to bias in the courtroom.

¹ These exclude instances where I have been hired to review a change of venue survey, assist with addressing media coverage during voir dire, or review trial transcripts and pretrial publicity as part of a post-conviction appeal.

² Cognition is a term referring to the mental processes involved in gaining knowledge and comprehension, including thinking, knowing, remembering, judging and problem solving.

³ Schemas are cognitive structures which represent knowledge about a concept or type of stimulus, including its attributes and the relations among those attributes.

When media coverage surrounding a case is broad, extensive, and redundant, strong links between relevant attitudes and beliefs about the victim, the defendant, and evidence as presented through the media will form. If the pretrial publicity repeatedly links certain attitudes and beliefs, over the course of a trial these attitudes are likely to be automatically activated at a subconscious level. If the pretrial publicity repeatedly links certain attitudes and beliefs, over the course of a trial these attitudes are likely to be automatically activated and serve as a prism through which trial testimony is cognitively processed.

This network of linked attitudes can have an impact on a juror's attention to and evaluation of the evidence and arguments presented in court. As the network of linked attitudes grows, attitudes become more resistant to change. Resistance to revising well-established attitudes has been shown to lead to biased information processing. When attitudes are strong, there is a tendency to favor arguments and information in support of an attitude over arguments which may disprove it. The acceptance of a counterargument can create what has been termed "cognitive dissonance."⁴ In an effort to avoid cognitive dissonance, information that supports attitudes may be selectively attended to and counterarguments may be distorted or dismissed.⁵

Attitudes can also have an impact on attention and recall. Research has shown that information that supports a preexisting attitude is easier to learn, more accurately retained, and easier to recall. The links formed between attitudinally supporting information and preexisting attitudes are stronger than those formed between counterarguments and preexisting attitudes. As a result, the latter is more difficult to retrieve from memory. Further, there is a tendency to produce new beliefs which support attitudes and suppress those that run counter to preexisting attitudes.

When a venue is inundated with media coverage surrounding a crime, prospective jurors will develop case-specific attitudes, which can have an impact on their evaluations of the

⁴ Cognitive dissonance is an uncomfortable feeling caused by holding two contradictory ideas simultaneously. People have a motivational drive to reduce dissonance by changing their attitudes, beliefs, and behaviors, or by justifying or rationalizing them.

⁵ For example, people list more counterarguments for information that refutes preexisting attitudes than information that supports them.

evidence and arguments presented at trial. When this occurs, attitudinally supporting arguments will be more closely attended to, evaluated as persuasive, integrated into the existing network of attitudes and beliefs, and made easily accessible during deliberations. In contrast, counterarguments and evidence conflicting with well-established attitudes may create cognitive dissonance. As a result, jurors will either ignore this evidence or make cognitive efforts to refute it. This evidence will not establish strong links to preexisting attitudes and will not be easily accessible during deliberations. These psychological processes put the defendant at a significant disadvantage, tend to undermine the presumption of innocence, and diminish the prosecution's burden of proof.

The prejudicial impact of preexisting attitudes is accentuated by the fact that the media coverage underlying them is often biased in favor of the prosecution. Furthermore, news content is encoded under very different circumstances from those found in the courtroom. The rules of evidence that are strictly enforced at trial do not apply. As such, the persuasive impact of information presented through the press, including admissible evidence, may be more significant than it would otherwise be following cross-examination.

IV. THE PREJUDICIAL IMPACT OF PRETRIAL PUBLICITY

There is a body of research within the social sciences that attempts to address the impact of pretrial publicity on decision-making in the courtroom. This literature suggests that pretrial publicity influences evaluations of the defendant, perceptions of criminality, sympathy toward the defendant, pretrial judgments regarding guilt, and final verdicts.⁶

⁶ See Constantini, E., & King, J. (1980-1981). The partial juror: Correlates and causes of prejudgment. *Law and Society review*, 15, 9-40; DeLuca, A.J. (1979). *Tipping the scales of justice. The effects of pretrial publicity*. Unpublished master's thesis, Iowa State University, Ames; Hvistendahl, J.K. (1979). The effect of placement of biasing information. *Journalism Quarterly*, 56, 863-865; Kline, F.G., & Jess, P.H. (1966). Prejudicial publicity: Its effects on law school mock juries. *Journalism Quarterly*, 43, 113-116; Moran, G. & Cutler, B.L. (1991). The prejudicial impact of pretrial publicity. *Journalism of Applied Social Psychology*, 21, 345-367; Otto, A.L., Penrod, S., & Dexter, H. (1994). The biasing impact of pretrial publicity on juror judgments. *Law and Human Behavior*, 18, 453-470; Padawer-Singer, A. & Barton A.H. (1975). The impact of pretrial publicity on jurors' verdicts. In R.J. Simon (Ed.) *The jury system in America: A critical overview* (pp. 123-139). Beverly Hills, CA: Sage; Simon, R.J., Eimermann, T. (1971). The jury finds not guilty: Another look at media influence on the jury. *Journalism Quarterly*, 48, 343-344; Sue, S., Smith, R.E., & Gilbert, R. (1974). Biasing effect of pretrial publicity on judicial decisions. *Journal of Criminal Justice*, 2, 163-171; Tans, M., & Chaffee, S. (1966). Pretrial publicity and juror prejudice. *Journalism Quarterly*, 43, 647-654.

Daftary-Kapur, Penrod, O'Connor, and Wallace (2014) conducted a field study that incorporated real time evidence into the methodology.⁷ Participants included jury-eligible community members who were naturally exposed to pretrial publicity over a 14-month period leading up to the trial. Trial summaries were presented online during six sessions over the course of ten weeks.

The researchers reported a pretrial publicity effect that persisted throughout the actual trial. Despite the admonitions to set-aside prejudicial pretrial publicity, participants were biased by the content of the pretrial publicity. Specifically, those exposed to pro-prosecution oriented articles were more punitive in their guilty ratings across all six sessions compared to those exposed to pro-defense pretrial publicity. The amount of the pretrial publicity participants were exposed to also had a significant effect. In addition, the biasing effect of pretrial publicity did not disappear over time. Thus, neither delay nor trial evidence eliminated the pretrial publicity effect on judgments of guilt.

Stebly, et al. (1999) conducted a meta-analysis⁸ encompassing 44 research studies on pretrial publicity. The authors reported a statistically significant relationship between pretrial publicity and verdicts.⁹ Media coverage addressing the defendant's prior record, the existence of confessions, the heinousness of the crime, and negative character of the defendant have all been shown to have an effect on perceptions of guilt and final verdicts. Furthermore, deliberations may not reduce the biasing impact of pretrial publicity.¹⁰ In fact, Kramer, Kerr, and Carroll (1990), found that deliberations actually accentuated the effects of pretrial publicity on final

⁷ Daftary-Kapur, T., Penrod, S.D., O'Connor, M. & Wallace, B. (2014). Examining pretrial publicity in a shadow jury paradigm: Issues of slant, quantity, persistence and generalizability. *Law and Human Behavior*, 38(5), 462-477.

⁸ A meta-analysis is a statistical analysis of several separate but similar experiments or studies in order to test the pooled data for statistical significance.

⁹ Stebly, Jasmina Besirevic, Solomon M. Fulero, Belia Jimenez-Lorente. "The Effects of Pretrial Publicity on Juror Verdicts: A Meta-Analytic Review", *Law and Human Behavior*, vol.23, no.2, pp. 219-235, 1999.

¹⁰ Otto, A.L., Penrod, S. & Dexter, H.R. (1994). The biasing impact of pretrial publicity on juror judgments. *Law and Human Behavior*, 18(4), 452-469.

verdicts.¹¹

Dexter, Cutler, and Moran (1992) also reported a significant relationship between pretrial publicity and views toward guilt. Participants were given pretrial publicity a week before the study began. Negative pretrial publicity increased conviction rates, even for subjects who underwent extensive voir dire addressing pretrial publicity.¹²

As demonstrated by Ruva and McEvoy (2007) exposure to pretrial publicity can influence verdicts by affecting perceptions of defendant credibility, ratings of the prosecuting and defense attorneys, and source attribution errors (i.e., misattributing information learned from the media as evidence presented as trial evidence).¹³

Consistent with the experimental literature on attitudes described above, Hope, Memon, and McGeorge (2004) found that jurors exposed to negative pretrial publicity evaluate prosecution evidence more favorably than its actual probative value, a phenomenon coined “pre-decisional distortion.”¹⁴ Thus, attitudes developed from exposure to pretrial publicity serve as a filter through which later trial evidence is evaluated.

V. EXTENT AND NATURE OF THE COVERAGE

An effort was made to collect the articles published in newspapers with circulation in the Twin Cities area to assess the extent of coverage between May 25 and August 10, 2020. Despite the court’s efforts to stem the tide of prejudicial publicity, the jury pool has been saturated with massive amounts of media during the three-months following George Floyd’s death. A search of news databases returned approximately 1505 articles published in the *St. Paul Pioneer Press*, *Star Tribune*, and the *Minneapolis /St. Paul Business Journal* during this three-month period.

A detailed review of the pretrial publicity found emotional, sensational, and prejudicial

¹¹ Kramer, G.P., Kerr, N.L., & Carroll, J.S. (1990). Pretrial publicity, judicial remedies, and jury bias. *Law and Human Behavior*, 14(5), 409-438.

¹² Dexter, H., Cutler, B.L., & Moran, G. (1992). A test of voir dire as a remedy for the prejudicial effects of pretrial publicity. *Journal of Applied Social Psychology*, 22, 819-832.

¹³ Ruva, C.L., & McEvoy, C. (2008). Negative and positive pretrial publicity affect juror memory and decision-making. *Journal of Experimental Psychology: Applied*, 14(3), 226-235.

¹⁴ Hope, L., Memon, A. & McGeorge, P. (2004). Understanding pretrial publicity: Predecisional distortion of evidence by mock jurors. *Journal of Experimental Psychology: Applied*, 10, 111-119.

elements, which have the potential to undermine the presumption of innocence and create undue excitement against Alex Kueng. For example, local and state officials, including the mayor and the chief of police, made a number of statements to the media publicly calling George Floyd's death "murder." These types of comments from respected, credible sources can shift the burden of proof and create a presumption of guilt.

Shocking bystander video of George Floyd's tragic death outraged the community and triggered widespread upheaval throughout the Twin Cities. Thousands of residents took to the streets in peaceful protest while others burnt down the Third Precinct headquarters, clashed with police officers, and caused an estimated \$50 million in damage. Minneapolis remained under curfew for several days and the National Guard had to be activated to help restore calm.

Public officials acknowledged the need for transformational reform and the majority of City Council members came out in favor of disbanding the MPD. Within months of George Floyd's death, a series of reform measures were implemented including banning neck restraints and strengthening the requirements for officers to intervene if a colleague is using excessive force.

This case continues to remain under the public's microscope as it moves through the pretrial process. The intense scrutiny it has received can unintentionally generate undue pressure on decision-makers, including jurors, to mitigate community outrage by returning a guilty verdict. The court imposed a gag order to slow the steady flow of prejudicial publicity out of concern for its potential impact on the jury pool. However, the gag order has proven ineffective. The media petitioned for greater courtroom access, continued to report details from pretrial hearings, leaked video footage to the public, and published prejudicial statements from key players in the case:

- Several local media outlets, including the Star Tribune, and national outlets such as the New York Times and Court TV have **filed requests with the court to record the pretrial proceedings.**
- "Given that this is a case that has already received substantial pretrial media coverage, the **court finds that audio or video coverage of the pretrial hearings** in this case would

not only violate [Minnesota court rules] but would **risk tainting a potential Hennepin County jury pool**," Cahill wrote.

- "The Defendants argue that this **relief is necessary to provide the Defendants with a fair trial in light of the State's and other governmental actors multiple inappropriate comments** and to assure an open hearing in light of the ongoing pandemic," wrote Kueng's attorney, Thomas Plunkett, who filed the motion on behalf of the other defendants.
- He also said "**unethical 'leaks' of information about the cases have compromised objectivity about the cases.**"
- He asserted that prosecutors and other officials forfeited their right to object to cameras in the courtroom by making **public comments that went as far as "saying the defendants are guilty of murder."**
- After the hearings, Selwyn Jones, **Floyd's uncle**, said he found it "**totally hideous**" that Lane and Kueng **made bail**, while "**my nephew will never have a chance to be free ever again.**"
- Attorneys for two former Minneapolis police officers charged in George Floyd's death are **asking a judge to hold Attorney General Keith Ellison in contempt for violating a gag order.**
- The judge has also warned that the **trial might be moved** out of the county if **public officials, attorneys and family members didn't stop speaking out about the case.**
- A **coalition of local and national media companies is challenging a judge's gag order** that prohibits attorneys and several others from discussing the cases against four former police officers charged in the killing of George Floyd.
- The former defense attorney and prosecutor is **working hard to exert some pretrial control over an event and case that have already drawn national and global attention unlike any other in recent Minnesota history.**
- In announcing his ruling, District Court Judge Peter Cahill said he agreed with defense attorneys' arguments **that a gag order would be unfair to their clients and limit their ability to defend against negative publicity.**
- "Finally, and most importantly, the **gag order didn't work**," Cahill said, adding that "if anything it may have **exacerbated the issue**" by causing parties to "tiptoe" around in their public statements while **leading the news media to rely on anonymous sourcing.**

- The attorney for former Officer J. Kueng filed a motion Thursday arguing that Hennepin County Attorney Mike Freeman, the county's top prosecutor, has "**compromised his ethics**" and ability "to impartially prosecute" the case.
- Plunkett also accused **Freeman's office of leaking information about potential plea negotiations**.

The impact of emotional publicity has been shown in the social science literature to be particularly persistent over the passage of time. A review of the newspaper publicity in this case found that the coverage often employs emotional, powerful, sensational, and inflammatory language when describing George Floyd's death, reactions to the police encounter, and the aftermaths. Examples of this type of reporting include:

- The image of Chauvin kneeling on Floyd's neck brought to mind a **sickening comparison** for Castile: It looked like a **hunter sitting** on top of a **deer** that he'd just slain.
- "That's what went through my mind," she said. "He's sitting on that man **like he done killed his prize trophy**. Arrogant - just **arrogant. Boastful. Inhumane**. All of that."
- "The **horrific nature** of watching George Floyd's **life being extinguished**" shed light on the deeper, systemic problems, Choi said.
- A bystander's video captured what happened to Floyd. Crump said Thursday what it showed was **torture, inhumane and evil**.
- "We all watched the **horrific death** of George Floyd on video as witnesses **begged** the police officer to take him into the police car and get off his neck," Crump said in a statement.
- "I just watched him," Damond said. "What's going on in his face? Is it fear? No. There's no fear. **It's like a sociopathic killer**. There's **no remorse, no guilt, no anger**. There's nothing."
- This **abusive, excessive** and **inhumane** use of force cost the life of a man who was being detained by the police for questioning about a non-violent charge.
- The way he died was senseless," Harris said. "**He begged for his life**. He pleaded for his life. When you try so hard to put faith in this system, a system that you know isn't

designed for you, when you constantly seek justice by lawful means and you can't get it, you **begin to take the law into your own hands.**"

- Lest there be any doubt, we view George Floyd's death as the **most hideous example of police brutality we've ever seen.** Former officer Derek Chauvin and the other three former **officers involved must be held to strict account.**
- "What happened to Floyd happened every day. **We were like George, we couldn't breathe.**"
- "We have to stand up in George's name and say, '**Get your knee off our necks,**' " Sharpton said. "This is the time for dealing with accountability in the criminal justice system."
- "It's like he could be sitting there drinking a beer with his buddies. The look on his face was, '**I'm just going to snuff this guy and not even bat an eye.**'"
- "This complaint shows what we have said all along, that Mr. Floyd died because the **weight of the entire Minneapolis Police Department was on his neck,**" Crump said in a statement.

In the aftermaths of George Floyd's death, a number of public figures held press conferences and made statements to the media. The reporting often quotes officials decrying the killing and calling for justice. These statements came from a range of sources including the governor, mayor, police chiefs, and rank-and-file officers:

- "Like so many Minnesotans, and so many people now across the country and the world, **I was shocked and horrified by the video** of George Floyd's death," Gov. Tim Walz said during an afternoon news conference. "It's very clear to anyone that what happened to George Floyd is wrong. **The lack of humanity in the video, as I said, made me physically ill, and even more difficult to understand.**"
- The video drew swift protest from political and business leaders. "This man should not have died," said Minneapolis Mayor Jacob Frey on Facebook. "What we saw is **horrible. Completely and utterly messed up.**"
- "That George Floyd's plea - that his **struggle to survive - went unrecognized and unaided by not just one but four officers will live forever as the most chilling moments in our city's history,**" Frey said. "**Failing to act amounted to a failure to recognize George's humanity.**"

- **"Being Black in America should not be a death sentence.** For five minutes, we watched a white officer press his knee into a Black man's neck. Five minutes. When you hear someone calling for help, you're supposed to help. **This officer failed in the most basic, human sense,**" Frey posted.
- Ramsey County Sheriff Bob Fletcher said he's **never seen anything "more disturbing" in his 43 years in law enforcement.**
- Minnesota's top elected and law enforcement officials Wednesday **pledged justice** for George Floyd.
- "Once a person is in cuffs and laying in a prone position, any additional force such as the kind that occurred in this case is **more closely identified as torture,**" Fletcher said.
- McCarthy **urged law enforcement leaders across the state to take a stand on Floyd's death,** insisting that they need to "demonstrate the courage that we ask officers to show."
- "Mr. Floyd is dead. I just, **I have no words. It didn't need to happen,**" McCarthy said. "We are trained professionals and I want to know why, and I know that all over the state chiefs and supervisors are having these conversations with their cops and saying why? What is the reason? What could be the reason?"
- "I've wrestled with, more than anything else over the last 36 hours, one fundamental question: **Why is the man who killed George Floyd not in jail?"** said Frey, who is white.
He later added: **"I saw no threat. I saw nothing that would signal that this kind of force was necessary."**
- "We are not talking about a split-second decision that was made incorrectly," Frey said. **"There's somewhere around 300 seconds in those five minutes - every one of which that officer could have turned back, every second of which he could have removed his knee from George Floyd's neck."**
- Jonathan Weinhagen, CEO of the Minneapolis Regional Chamber of Commerce, said, "George Floyd was a beloved employee at a small business in our city. **Residents, business leaders and community leaders are speaking with one voice to demand justice.**"
- "I am absolutely, devastatingly sorry for their loss. **If I could do anything to bring Mr. Floyd back, I would do that.** *I would move heaven and Earth to do that.*" Minneapolis Police Chief Medaria Arradondo addresses the family of George Floyd live on CNN

- Walz issued a statement after Ellison announced the new charges. "I laid flowers at George Floyd's memorial this morning. As a former high school history teacher, I looked up at the mural of George's face painted above and I reflected on what his death will mean for future generations. **What will our young people learn about this moment? Will his death be just another blip in a textbook? Or will it go down in history as when our country turned toward justice and change?**"
- "I think this is probably **our last shot, as a state and as a nation, to fix this systemic issue**," he [Governor Walz] said at a news conference.
- Rep. Ilhan Omar, D-Minn., said the time for departmental reform has passed. "The Minneapolis Police Department is **rotten to the root** and so when we **dismantle it, we get rid of that cancer and we allow for something beautiful to rise.**"
- While often reluctant to weigh in on the actions of fellow brothers and sisters in blue, law enforcement leaders from both the Ramsey and Dakota county sheriff's offices, as well as the Mendota Heights, Woodbury and St. Paul police departments **expressed anger, and in many cases condemnation, over the officers' actions.**
- The **Minnesota Board of Peace Officer Standards and Training** also called out the Minneapolis officer's actions caught on video, saying in a statement Wednesday it **did "not appear to reflect the training that students receive** when attending any of the institutions that make up our Minnesota Professional Peace Officer Education System."
- A **group of Minneapolis police officers** on Thursday **condemned the former officer charged with murder in George Floyd's death**, and said they're ready to back the police chief's promised overhaul of the department.
- **Fourteen officers signed an open letter** Thursday addressed to "Dear Everyone - but especially Minneapolis citizens." The letter says officer Derek Chauvin "**failed as a human**" and "**stripped George Floyd of his dignity and life.**"
- "**You watch this scene and ask yourself, why do they stand by?**" said Chuck Wexler, **executive director of the Police Executive Research Forum** in Washington, D.C., and national authority on police practices. "When is it going to change so that intervening is considered doing the right thing?"
- "**When you intervene, you have the ability to potentially save a life or a career,**" Shaun Ferguson, **superintendent of the New Orleans Police Department**, wrote in a staff memo.

The media coverage also includes prejudicial statements about the officers' guilt from prominent figures and others involved in the case. Some of these statements were made when the gag order was still in effect and after the court warned that future public comments could necessitate the need for a change of venue. These types of statements can undermine Mr. Kueng's fair trial rights by shifting the burden of proof and creating a presumption of guilt:

- Minneapolis' **police chief** says the **death of George Floyd was "murder"** and that the officer who pressed his knee into Floyd's neck knew what he was doing because he had taken specific training on the dangers of positional asphyxiation.
- Arradondo went on to say: "**The officers knew what was happening** - one intentionally caused it and the **others failed to prevent it. This was murder** - it wasn't a lack of training."
- He also said trainees continue to discuss the risks of in-custody deaths, and there's "**simply no way that any competent officer**" would be **unaware of the need to move an arrestee so he or she can breathe freely.**
- It appears to be the first time Chief Medaria Arradondo has **used the word "murder"** to **describe the death.**
- While a number of public officials in Minnesota, **including Gov. Tim Walz**, have started **calling Floyd's killing a murder**, it appears to be the first such public statement by the police chief.
- "Mr. George Floyd's tragic death was not due to a lack of training - the training was there," he said. "**This was murder - it wasn't a lack of training.** This is why I took swift action regarding the involved officers' employment with MPD," Arradondo said.
- **Department of Public Safety Commissioner John Harrington** called Floyd's death "**murder**" on May 29.
- **Lane and Kueng allegedly held Floyd's legs** as Chauvin pushed on his neck. That could **convince jurors they actively contributed to Floyd's death.**
- Thao's attorney, Robert Paule, cited remarks from a **variety of public officials saying they thought the officers were guilty**, including President Donald Trump, Attorney General Keith Ellison and Mayor Jacob Frey.
- "**All of this could have been avoided** if one or two of his **fellow officers intervened,**" Ferguson wrote in his staff memo.

- Don Lewis, special prosecutor in the case against Jeronimo Yanez, the former St. Anthony police officer who killed Philando Castile in 2016, said the nearly nine-minute recording of the moments before Floyd died showed **ample evidence of intent to kill on Chauvin's part.**
- In one of his **most forceful comments yet** on Floyd's killing, Minneapolis Police Chief Medaria Arradondo issued a statement Monday night, saying, "**Chauvin knew what he was doing.**"
- While Nelson did not name anyone, **Minneapolis Police Chief** Medaria Arradondo, **Department of Public Safety Commissioner** John Harrington and **Gov.** Tim Walz have **all called Floyd's death a "murder,"** among other remarks about the case.
- He went on to say that the MPD continues to emphasize training on the tactics: "**There is simply no way that any competent officer in MPD would be unaware of the need to get an arrestee into a recovery position** so that he or she can breathe freely."
- "**From what we've seen there, it's very tough to refute that,**" Kroll said in the interview. "But that's for the criminal justice system to decide."
- Marshall Tanick, a defense attorney who has represented law enforcement personnel, said he was "**flabbergasted**" by **Arradondo's statement.**
- "**It could significantly prejudice his right to a fair trial,**" Tanick said of Chauvin. "I'm fairly sure that the defense team will raise this comment in conjunction with other comments made by public officials to seek dismissal of the charges **or at least a change of venue.**"
- "Specifically, this relief is necessary to **blunt the effects of the increasing and repeated media attacks from the various officials who have breached their duty to the community,**" said Plunkett's motion. "These State comments have crescendoed to an extraordinary volume this week with the **Chief pronouncing that '[w]hat happened to Mr. Floyd was murder.'**
- "**The most unethical statements were made by Ellison saying they're guilty of murder and the police chief going on national TV and saying that,**" Gray said. "They know better. It seems like everybody wants these guys convicted before trial."
- Arradondo spoke about the case on the TV show "60 Minutes" and issued a written statement Monday saying, "**I agree with Attorney General Ellison: what happened to Mr. Floyd was murder.**"

- **"There are cases you can never win; this very well may be one of them,"** said defense attorney Joe Friedberg, who has handled about 100 murder cases.
- **Police Chief Medaria Arradondo has called Floyd's death "murder"** and said Chauvin knew what he was doing because of his training. **Gov. Tim Walz and Frey have also called it murder.**
- "I think the more media we have on this case the more resolve we'll get, because I don't know literally what we're missing here, **since 2 to 3 billion people have seen the video of him literally murdered,**" Jones said.
- "For more than a month, the press, **popular figures, high ranking politicians, and the attorney leading this prosecution** [Ellison] - as well as his **councilman** son - have all **rendered their verdicts in this case** and on the most public stages possible," Nelson wrote. "And they have **all deemed the Defendant guilty.**"
- Plunkett also **accused Freeman's office of leaking information about potential plea negotiations.**
- **"I saw murder," Adams said of the video of Floyd's arrest,** adding that it seemed to be a **widespread sentiment within the department,** even among officers who usually urge a wait-and-see approach when colleagues are accused of wrongdoing.
- ...press conference with Governor Tim Walz, **Harrington described Floyd's death as a murder,** though that was a personal judgement and not a criminal one, Harrington said.

Hennepin County residents were galvanized into action following these events. In response to George Floyd's death, community members and artists created memorials, a documentary ("A Breath for George"), the George Floyd Memorial scholarship, and a collection of essays titled "A Moment of Silence." Despite concerns around the COVID-19 pandemic, residents took to the streets in massive numbers demanding justice and substantive police reform. While the majority of protests were peaceful some were not.

The media closely chronicled and at times exaggerated the scale of violence and destruction that ensued in the days after George Floyd's death. Property destruction, curfews, the activation of the National Guard, and the use of force against protesters appears frequently in the coverage. This type of reporting can accentuate and fear and anxiety within the community as this case moves closer to trial. Reporting with the capacity to generate these types of concerns include:

- **Police struggled to maintain - or completely lost - control.**

- **Tens of thousands of people** took to the streets in the Twin Cities to demonstrate after George Floyd's death after former Minneapolis police officer Derek Chauvin knelt on his neck on May 25.
- In Minneapolis alone, **more than 220 buildings were** damaged or burned, with damage topping **\$55 million**, city officials said.
- More than **1,050 properties were damaged** - ranging from minor to destroyed, according to the city.
- **Insurance claims** from Twin Cities businesses damaged in rioting **could easily exceed \$100 million**, according to an estimate Monday from a Minnesota insurance association.
- Early estimates for Minneapolis indicate nearly **1,000 commercial properties were damaged, 52 businesses completely destroyed and another 30 sustained severe damage**, according to a Star Tribune report.
- As the night dragged on, **fires erupted across the city's south side**, including at a **Japanese restaurant, a Wells Fargo bank and an Office Depot. Many burned for hours, with firefighters again delayed in reaching them because areas weren't secure.**
- On Thursday, **protesters had torched a police station** soon after it was abandoned by police and **went on to burn or vandalize dozens of businesses.**
- Minneapolis police essentially **surrendered their 3rd Precinct headquarters to a mob, who overran the building and set it ablaze.**
- The U.S. Department of Homeland Security on Friday warned in a **memo that "suspected anarchist extremists and militia extremists allegedly planned to storm and burn the Minnesota State Capitol,"** Politico reported Monday.
- Parts of the memo quoted by Politico suggest the **suspected threats come from both extremes of the political spectrum:** anarchists are generally associated with ideologies of the left, while militia groups with the right.
- They eventually marched about 2 1/2 miles to a city police precinct, **with some protesters damaging windows, a squad car and spraying graffiti on the building.** A line of police in **riot gear eventually confronted the protesters, firing tear gas.**
- On Tuesday afternoon, **thousands** of people later marched through the streets of Minneapolis to the Police Department's Third Precinct for an hours-long protest where

tensions mounted. **Precinct windows were smashed, and police launched tear gas and rubber bullets at the crowds.**

- **Conflict erupted again** Wednesday at the same precinct, with **some protesters throwing rocks and bottles at police.** News helicopter video appeared to **show looting of nearby stores, including a Target, a Cub Foods and an auto parts store, with no evident police intervention.**
- St. Paul, Minneapolis and Dakota County residents will be under **mandatory curfew** starting at 8 p.m. Friday and Saturday.
- ...the **deployment of about 500 soldiers from the National Guard** and an 8 p.m. curfew in both Minneapolis and St. Paul.
- As a result, **many of the troops did not move into action** until late that night when **fires raged, and looters ransacked businesses across the cities** in disturbances sparked by the death of George Floyd.
- **Thousands of protesters ignored a curfew and vows of a forceful police response to take to the Minneapolis streets for a fourth straight night,** as the anger stoked by the death of George Floyd in police custody spread to more cities across the U.S.
- Walz said he was moving quickly to **mobilize more than 1,000 more Guard members,** for a total of **1,700,** and was **considering the potential offer of federal military police.**
- **Officials warn of another night of protests that could turn dangerous** in the Twin Cities Saturday night. **A curfew is in effect** in Minneapolis and St. Paul starting at 8 p.m.
- Next door, Tim Wilson, proprietor of Urban Lights music store, acknowledged he **hadn't slept in over 24 hours after catching a would-be fire starter behind his store,** one of several in St. Paul's hard-hit Midway neighborhood marked "Black-Owned Business."
- **Neighborhoods hit badly in Thursday and Friday night violence** saw scores of people turn out Saturday to clean up debris and help repair buildings
- In Minneapolis, **thousands gathered at the street** where George Floyd died a week ago during an arrest by Minneapolis Police.
- On the streets of St. Paul and Minneapolis, there is block after block of **charred buildings** and windows that were **boarded up for protection during rioting.**
- Nearly a week after George Floyd was killed by Minneapolis officers, the **state's largest police force struggled to restore order** amid unrest in its **smoldering city.**

- But interviews with activists, elected officials and use-of-force experts suggest that **police at times used extreme measures against the protesters**, in **violation of department policy**, and missed several opportunities over the first few days to defuse tensions.
- Widely **shared videos caught law enforcement officers indiscriminately spraying chemical irritants** outside squad cars, **at nonviolent groups** and in **the face of a journalist held at gunpoint**, whose credential was visible.
- In other instances, **officers shot marking rounds at civilians** on their own property.
- Since Floyd's death, **allegations of misconduct and excessive force have poured into the city's Office** of Police Conduct Review. The civilian review board is now investigating more than **400 such complaints** against the MPD.
- One complaint, filed internally, involves Facebook posts purportedly made by **Officer David Peña, who used a fake name to mock protesters and encourage looting** in a neighborhood that is **home to much of the city's East African population**.
- Another is related to the **actions of an unidentified Minneapolis police sergeant caught on camera pepper spraying a VICE news correspondent in the eyes** even after he repeatedly identified himself as a member of the press.
- **Without warning or provocation**, bystanders say, **officers fired a series of flash bang grenades and tear gas to disperse the crowd**. A nonlethal police projectile struck Stevenson in the face, **exploding his left eye and leaving him partly blinded**.

In addition to closely following the widespread social unrest that ensued after George Floyd's death, the media also reported on historical racism within the MPD and systemic racism across the country. This focus can accentuate the salience of in-group and out-group identification among readers. In-group identification can occur at a conscious or subconscious level and makes it more difficult to empathize with members of the out-group. In-group identification is accentuated when there is perceived intergroup conflict. When this cognitive process occurs within the trial context it can create pressure to conform and return a verdict believed to be most desirable to other members of the in-group. Examples of reporting which may increase the salience of race, intergroup conflict, and in-group identification include:

- "It's **racism, pure and simple**. You don't change that in four years," she said.
- "I am scared for my sons, for my employees, my siblings and my parents. **I am scared for young black men and women**," he said in the email.

- **"The City of Minneapolis has a history of policies, procedures and deliberate indifference that violates the rights of arrestees, particularly Black men, and highlights the need for officer training and discipline."**
- **The problems with policing are deeply rooted in the structural racism** that permeates our society and its institutions.
- **In the street I'm just a black man with locked hair and a beard.** My title will not change the outcome for me **if I find myself in a position like Mr. Floyd,"** Aderinkomi said
- **"Being Black in America should not be a death sentence."**
- "It was not the coronavirus pandemic that killed George Floyd," family attorney Benjamin Crump said during the service. "... It was that other pandemic that we're far too familiar with in America, **that pandemic of racism and discrimination that killed George Floyd.**"
- Community activists have **criticized the Minneapolis department for years for what they say is a racist and brutal culture** that resists change.
- The death of George Floyd was a chapter in a **story that is as old as our nation** and is, sadly, **still being written in communities across the country.**
- **We need to address societal racism and rebuild our infrastructure** so that we can reduce our reliance on policing.
- **"I understood that the decision to segregate us** had been made because we could not be trusted to carry out our work responsibilities professionally around the high-profile inmate - **solely because of the color of our skin,"** wrote one acting sergeant, who is black.
- Later that afternoon, officers of color gathered on the third floor to console one another about what they **deemed a "segregation order."**
- But it seems as if the country has finally come to the realization that the public safety system itself is **built around systemic racism and oppressive practices.**
- Kröll said that "issues certainly need to be addressed. And we are willing to work through that as we have done in year after year. ... **There are racial issues. Is it systemic racism? Not in my opinion."**

- Walker, who is also vice president of the National Black Police Association's Minnesota chapter, said Tuesday that **it's his opinion that there's not systemic racism in law enforcement.**
- A **white Minnesota state senator and former sheriff downplayed racism** and police violence in a news conference Tuesday on the topic of police reform - and promptly drew criticism from an African American senator.
- The suit singles out police union **President Bob Kroll**, who it **alleges had a "white power" logo on a jacket**, encouraged officers to "behave aggressively" and has high influence in the department yet has not been disciplined or fired.
- Many activists see an overdue reckoning for an institution that they say has long gotten away with **brutalizing people of color with impunity.**
- **"Systemic racism is among the greatest long-term threats our city and nation are facing**, and the last two months have made that reality painfully clear," Mayor Jacob Frey said in a statement.
- The officers who participated in Floyd's killing, they say, are a reflection of broader issues that have shadowed the Minneapolis Police Department for decades. **Its strained relations with minority communities, reflected in part by the troubling disparities in its use of force and the deaths of other unarmed black men**, are now drawing unprecedented national scrutiny.

During the months following George Floyd's death the MPD and its officers experienced intense public pressure and scrutiny. Momentum for transformative police reform continued to build with many calling for the MPD to be disbanded. Within this new political climate, hundreds of officers left the department, retired, or filed for mental disability. The sudden shift in policy and public opinion was closely followed in the coverage:

- Gov. Tim Walz on Tuesday thrust its full weight of civil rights authority against the Minneapolis Police Department as it **opened a wide-ranging investigation into the agency's previous 10 years of racial practices.**
- The Minnesota **Department of Human Rights opening an inquiry** into the department following the death of George Floyd.
- There is sufficient information to investigate whether the Minneapolis Police Department **"utilizes systemic discriminatory patterns or practices towards people of color,**

specifically black community members, on the basis of race and in the area of public services."

- Justin Terrell, executive director of the Council for Minnesotans of African Heritage, said the probe is **"exactly what this community needs" following what he described as "years of gross violations."**
- **Bob Kroll has a long history of bigoted remarks and complaints of violence made against him. As union President, he antagonizes and disparages members of the Black community.**
- **"For years in Minneapolis, police chiefs and elected officials committed to change have been thwarted by police union protections and laws that severely limit accountability among police departments,"** Frey said.
- **"Breaking through those persistent barriers, shifting the culture of policing, and addressing systemic racism will require all of us working hand in hand."**
- **Reforms were the topic at a closed roundtable on police brutality.** Gov. Tim Walz, U.S. Rep. Ilhan Omar, Mayor Jacob Frey and others listened to citizen concerns.
- Frey said a **road map for reform is taking shape** but that the **Minneapolis police union's contract is likely to be the stumbling block.**
- a **"Defund MPD" rally is planned for Saturday**, and **some council members are vowing to "dismantle" the department.**
- The Minneapolis Police Department **will ban officers from using chokeholds and neck restraints and strengthen the requirements for officers to intervene** if a colleague is using excessive force.
- In addition, the negotiated agreement **also seeks to strengthen the requirement for officers to intervene if their colleagues are using too much force.**
- It **requires them to "immediately report the incident while still on scene by phone or radio** to their Commander or their Commander's superiors."
- It also notes that **"regardless of tenure or rank,"** officers must **"attempt to safely intervene by verbal and physical means,"** and notes that if they don't, they **"shall be subject to discipline** to the same severity as if they themselves engaged in the prohibited use of force."

- Under an agreement approved unanimously by the City Council on Friday, officers would be **forbidden from using both neck restraints and chokeholds**.
- They also would be **required to intervene when inappropriate force is used**.
- The Minneapolis Police Department **will withdraw from police union contract negotiations**, Chief Medaria Arradondo said Wednesday, as he announced initial steps in what he said would be **transformational reforms** to the agency in the wake of George Floyd's death.
- Arradondo's predecessor, Janee Harteau, and Mayor Jacob Frey are among those who have **complained that the police union is a roadblock to change**.
- **Nearly every Fortune 500 company CEO** based in the Twin Cities signed a letter to **legislators asking for the reforms**, as well as leaders from private companies and public organizations.
- Declaring that "**race is inextricably a part of the American policing system**," Minneapolis police chief Medaria Arradondo on Wednesday **announced the first in a series of smart, major changes** in the way his department operates.
- Arradondo wisely **targeted provisions in the city's contract with its police union** and expressed **well-placed frustration** with an arbitration system that **makes it so difficult to weed out problem cops**.
- The **city of Minneapolis is withdrawing from labor negotiations** with the **powerful police union**.
- **One barrier** that has prevented Minneapolis **from achieving these goals** has been pushback from the **police union and its president**, Lt. Bob Kroll, **against policy and culture change**.
- Minneapolis Mayor Jacob Frey and Police Chief Medaria Arradondo on Sunday **announced tighter rules for reviewing officers' body cameras** that they say will provide more **transparency and accountability**.
- On Sunday, Frey and Arradondo called the changes the "**first of what will be a series of new public safety policy reforms**."
- **The Minneapolis Police Department is changing its policy on reporting use of force incidents...**

- Frey and Chief Medaria Arradondo have said they're **committed to deep structural change** in the police department, but they **oppose abolishing it entirely**.
- Minneapolis Mayor Jacob Frey said the city is **working to pair new police officers with "the right individuals" for field training** following George Floyd's death, in which a senior officer rejected a younger colleague's question about how Floyd was being restrained.
- A **majority of the members of the Minneapolis City Council** said Sunday they **support disbanding the city's police department**.
- Council Member Jeremiah Ellison **promised** that the **council** would "**dismantle**" the **department**.
- **Protesters are pushing to "defund the police"** over the death of George Floyd and other black Americans killed by law enforcement.
- The **group MPD150, which says it is "working towards a police-free Minneapolis,"** argues that such action would be more about "strategically reallocating resources, funding, and responsibility away from police and toward community-based models of safety, support, and prevention."
- "**We are going to dismantle the Minneapolis Police Department,**" Jeremiah Ellison wrote. "And when we're done, we're not simply gonna glue it back together."
- **Nine of the council's 12 members appeared** with activists at a rally in a city park Sunday afternoon and **vowed to end policing as the city currently knows it**.
- The next day, in front of a massive crowd at Powderhorn Park, **a majority of City Council members stood on a stage** and said they would "**begin the process of ending the Minneapolis Police Department.**"
- **Defunding or dismantling the Minneapolis Police Department has become a cohesive cry from protesters** since the death of George Floyd under the knee of a city officer two weeks ago.
- The Minneapolis City Council on Friday **unanimously advanced a proposal to change the city charter to allow the police department to be dismantled**, following widespread criticism of law enforcement over the killing of George Floyd.
- **Morale has sunk to new lows in recent weeks**, say department insiders, as **officers reported feeling misunderstood and squeezed by all sides: by the state probe; by**

protesters, who **hurled bricks and epithets** their way; by **city leaders**, who **surrendered a police station** that later burned on national television, and by the media.

- **Veteran officers say that morale within the department is lower than they have ever experienced.** Some officers are **scaling back their policing efforts**, concerned that any contentious interactions on the street could land them in trouble.
- **Officers have received death threats.** Their home **addresses have been disclosed.** They've been **followed home from work.**
- Minneapolis police officers **rattled by the unprecedented public unrest** after the killing of George Floyd have **filed for mental and physical disability claims at worrying levels**, according to an attorney handling their cases.
- The **Minneapolis Police Department is reeling**, with police officers **leaving the job in large numbers**, crime surging and politicians planning a top-to-bottom overhaul of the force.

In addition to chronicling efforts to revamp policing in Minneapolis, the media has also closely followed pretrial hearings and court filings as this case moves toward trial. This type of reporting can lead to strong, case-specific attitudes which serve as a filter through which jurors interpret trial evidence and testimony. The media covered a controversy around conflicting autopsy reports, eyewitness accounts, and detailed the final tragic moments of Mr. Floyd's life:

- **Two autopsy results** - one requested by George Floyd's family and the other from Hennepin County - **agree that his death is a homicide** but **disagree over exactly what killed him.**
- Floyd's family released the results of a **private autopsy** investigation by two third-party doctors that found he **died of asphyxia.**
- But **both** autopsies **ruled the death a homicide.**
- During a news conference Monday afternoon, two doctors hired by the Floyd family to do a private autopsy said they **believe he died of asphyxia...**
- The preliminary findings hung over the case for five days before Baker released the full autopsy report. He **ruled Floyd's death a homicide.**

- A collective statement written on behalf of nearly 20,000 black physicians from around the country **called the preliminary findings "misleading,"** saying they **inappropriately raised doubts about Floyd's character** and **undermined Chauvin's role** in his death.
- The complaint also noted three times that after **Floyd was pinned to the pavement by three officers, none of them moved from their positions** despite pleas from Floyd.
- Floyd had told the **first two officers at the scene - Lane and Kueng** - that he was not resisting arrest but **did not want to get into the back of their squad car because he is claustrophobic.**
- **George Floyd was calm during his encounter** with Minneapolis police last week, authorities said, but things **turned deadly after three officers pinned him to the pavement.**
- **Officers Lane and Kueng responded to a call** about a man using a **counterfeit \$20 bill** at the Cup Foods store.
- **Lane pointed his gun at Floyd** and re-holstered it when Floyd placed his hands on the steering wheel.
- Lane ordered Floyd out of the car, then pulled him out and handcuffed him. The complaint said he was "calm," **adding that after he was seated on the ground, he thanked Lane.**
- Mr. Floyd **told the officers that he was not resisting but he did not want to get in the back seat and was claustrophobic.**
- At some point, officers Chauvin and Thao arrived at the scene in a separate squad. The officers **tried several times to get Floyd into the back seat** of a squad by "pushing him from the driver's side," the charges said, adding that Floyd **"repeatedly said that he could not breathe."**
- **Kueng held onto Floyd's back** while Lane restrained his legs and Chauvin placed his **left knee on Floyd's neck.**
- **That's when Floyd repeatedly said, "I can't breathe, "Mama" and "please."** At one point, Floyd said, **"I'm about to die."** Nevertheless, **Chauvin, Lane and Kueng didn't move.** And a fourth officer, Tou Thao, continued standing nearby keeping onlookers back.

- According to charges, **Lane, who initially took Floyd into custody, held down the 46-year-old man's legs while Kueng held his back and Chauvin knelt on Floyd's neck as he pleaded to breathe before he died.**
- **J. Alexander Kueng and Thomas Lane, who also had their weight on the unarmed and handcuffed Floyd until he become unresponsive and died.**
- Chauvin kept his knee there as Floyd repeated **"I can't breathe"** and **"mama"** and **"please."** Through the passing minutes, **Alex Kueng did nothing to intervene,** prosecutors say.
- **Lane and Kueng knelt on Floyd's back and legs and twisted his arms to the side of his body while "Chauvin drove his left knee in the back of Mr. Floyd's neck."**
- **Thao** stood watch nearby and was **seen in a video dismissing the concerns of witnesses** who pleaded with the officers to stop.
- "At one point, Mr. Floyd said, **'I'm about to die.'** "
- **Lane asked if they should roll Floyd on his side.** Chauvin responded that Floyd was "staying put where we got him."
- Floyd appeared to stop breathing. **"Want to roll him on his side?" Lane asked again.**
- **Kueng checked Floyd's pulse. "I couldn't find one,"** Kueng said.
- At one point, **Kueng took Floyd's pulse and told his former colleagues he couldn't detect one.**
- When an **onlooker approached officer Thao and urged him to check Floyd's pulse,** Thao responded, **"Don't do drugs, guys."**
- The suit said that when another onlooker identified as a **health care professional with the city's health department asked officers to check Floyd's pulse,** Thao told her to **"get on the sidewalk."**
- A longtime friend of George Floyd's who was in the **passenger** seat said that **Floyd tried to defuse the tensions** with police and in no way resisted arrest.
- "He was, from the beginning, **trying in his humblest form** to show he **was not resisting** in no form or way," said the friend.
- **"I could hear him pleading, 'Please, officer, what's all this for?'"** Hall said in an interview Wednesday night with the New York Times.

- "He was just **crying out at that time for anyone to help because he was dying**," Hall said. **"I'm going to always remember seeing the fear in Floyd's face because he's such a king. That's what sticks with me, seeing a grown man cry, before seeing a grown man die."**
- ... Hall said in the interview with the Times. **"I'm a key witness to the cops murdering George Floyd**, and they want to know my side. Whatever I've been through, it's all over with now. It's not about me."
- Before Floyd's death, the Minneapolis Police Department **had a rule stating that officers had a duty "to either stop or attempt to stop another sworn employee when force is being inappropriately applied or is no longer required."**
- **"Yeah. I would say I felt like it maybe could have been handled differently or we should be reassessing what we're doing**, I think is what I was kind of coming to," Lane said.
- As George Floyd repeatedly pleaded **"I can't breathe"** to police officers holding him down on a Minneapolis street corner, **some of the officers responded by pointing out he was able to speak.**
- **Widely viewed bystander video** shows Tou Thao, the officer who was managing people who had gathered, told the concerned crowd, **"He's talking, so he can breathe."**
- **"The ability to speak does not mean the patient is without danger,"** said Dr. Mariell Jessup, chief science and medical officer of the American Heart Association.
- The **false perception that someone who can speak can also take in enough air is not part of any known police training** curriculum or practices, according to experts on police training and use of force.
- In the moments before he died, **Floyd told police he couldn't breathe more than 20 times.**
- Minneapolis police spokesman John Elder said there is **nothing in current training that instructs officers that a person who can talk while restrained is able to breathe.**
- Randy Shrewberry, executive director of the Institute for Criminal Justice Training Reform, said **officers are supposed to ease up on any restraint once a person is under control.**

- Floyd begged the officers to stop, saying, **"Tell my kids I love them. I'm dead," and repeatedly groaning, "I can't breathe,"** the suit said.
- The officers **held him in the position even as onlookers said Floyd was bleeding from the nose and begged the officers to get off him.**
- **"No officer attempted to move from Mr. Floyd's body or roll him onto his side,"** the suit says.

The widespread distribution and description of video footage of George Floyd's death likely poses the greatest threat to the Mr. Kueng's fair trial rights. The bystander video received more than 40 million views online and led to local, national, and international protests against the use of excessive force on people of color.

The interpretation and breakdown of Officer Kueng's actions captured in the bystander and body-cam videos will likely play an integral role in deliberations. Under normal circumstances, jurors would view these videos for the first time under the tightly controlled confines of the courtroom where the rules of evidence apply and witnesses can be cross-examined. However, most Hennepin County residents have already been exposed to the videos within the editorial context of news stories or social media. This type of pretrial publicity can be particularly caustic as prospective jurors establish strong attitudes and opinions over time about these key pieces of evidence. The bystander video footage is described, scrutinized, and quoted throughout the coverage:

- She had no idea **she would witness and document one of the most important and high-profile police murders in American history.**
- Cobin said Frazier **wasn't looking to be a hero** but is "just a 17-year-old high school student, with a boyfriend and a job at the mall, who did the right thing. **She's the Rosa Parks of her generation.**"
- "She **saw four officers roughly removing a black motorist** from his vehicle. Because **police brutality is so common in that neighborhood**, and the officers rarely face consequences, **she pulled out her iPhone and started recording.**"
- I cannot bear to watch the **entire snuff video of Chauvin kneeling on Floyd's neck.** It's **too traumatizing.**

- A bystander video then shows officer Derek Chauvin pinning down Floyd by his neck while **two other officers, J Alexander Keung and Thomas Lane, hold him down at his legs and back.** Officer Tou Thao stands by.
- The footage recorded by a bystander shows Chauvin with his knee on Floyd's neck as **Floyd gasps for breath on the ground with his face against the pavement. The officer does not move for at least eight minutes,** even after Floyd stops speaking and moving.
- The video shows Chauvin, who is white, holding Floyd down for minutes **as Floyd complains he can't breathe. The video ends with paramedics lifting a limp Floyd onto a stretcher** and placing him in an ambulance.
- Floyd also moans. One of the officers tells him to "relax." **The man calls for his mother and says: "My stomach hurts, my neck hurts, everything hurts ... I can't breathe."** As bystanders shout their concern, one officer says, "He's talking, so he's breathing."
- But **Floyd stops talking and slowly becomes motionless** under the officer's restraint. The officer does not remove his knee until the man is loaded onto a gurney by paramedics.
- The video also showed **bystanders begging the officers to stop,** and Thao standing watch nearby **dismissing witnesses' concerns.**
- The **bystanders become increasingly agitated.** One man yells repeatedly. **"He's not responsive right now!"**
- Two witnesses, including one woman who said she was a **Minneapolis firefighter, yell at the officers to check the man's pulse. "Check his pulse right now and tell me what it is!"** she said.
- At one point, an officer says: **"Don't do drugs, guys."** And one man yells, "Don't do drugs, bro? **What is that? What do you think this is?"**
- **"He is human, bro,"** bystanders shout at the officers. **"He's not even resisting arrest right now, bro. You're [expletive] stopping his breathing right now, bro. You think that's cool?"**
- **"Look at him,"** another cries as **Floyd becomes unresponsive.**

Public access to body-cam video from Officer Lane and Officer Keung was strictly controlled by the court. However, the videos were leaked and appeared on the *Daily Mail's* website. The content and descriptions of this footage is even more concerning than the bystander

recording. Readers and viewers of this type of pretrial publicity may formulate an impression of Mr. Kueng as cruel and indifferent, ignoring George Floyd's pleas as he "begged" for his life:

- The transcripts for the body camera videos of officers Thomas Lane and J. Kueng provide the most **detailed account** yet of what happened.
- The video itself is the **fullest public view yet of Floyd's interaction** with the officers who were later charged in his death.
- A **British media company** on Monday **published segments** of two **leaked body-worn camera videos** showing the arrest and death of George Floyd in May at the hands of Minneapolis police.
- **"They did not treat George Floyd as if he was human** from the moment they approached the vehicle - **holding him at gunpoint, not listening to him, not taking his concerns seriously."**
- Body-camera footage made public Wednesday from two Minneapolis police officers involved in George Floyd's arrest **captured a panicked and fearful Floyd pleading with the officers** in the minutes before his death, saying **"I'm not a bad guy!"** as they tried to wrestle him into a squad car.
- It also captures an **apparent lack of urgency to render aid** to Floyd for long minutes **after he stopped moving**.
- **"It was horrifying,"** said civil rights attorney and activist Nekima Levy Armstrong.
- Body camera footage showed that police **gave George Floyd no explanation for why they were questioning him** before former Minneapolis police officer Thomas Lane **pointed a gun, swore at him and forced him out of his vehicle**.
- The videos showed that **Floyd immediately grew terrified and cried** as he told Lane he hadn't done anything, and that **paramedics who arrived at the scene appeared unhurried after taking his pulse** while he **lay unresponsive** in the street.
- The videos showed that **neither Lane nor Kueng told Floyd or his two passengers why they were being investigated until** about six minutes after the encounter began and **after Floyd had been handcuffed**.
- **Floyd repeatedly said "please"** and asked what was going on. **"I didn't do nothing,"** Floyd said about two minutes into the video, holding his left hand in the air as he sat in the driver's seat of a car.

- **"Put your [expletive] hands up right now!" Lane yelled while aiming a gun at Floyd.** "Let me see your other hand."
- Floyd was also reluctant to enter the squad car after Kueng had informed him about the report of a fake bill. **He did not appear to fight back or flee.**
- At **1 minute and 44 seconds** in Lane's video, Lane pushed the car door farther open with his left hand **while pointing his gun at Floyd and ordering him to "put your [expletive] hands up."**
- **Floyd was in tears and begged him not to shoot.** Floyd was eventually removed from the vehicle. **Kueng and Lane handcuffed him, with Lane twisting Floyd's right arm up at a sharp angle.**
- **Kueng then stood him up and Floyd again began to panic, begging** them not to place him in the squad.
- **Lane and Kueng struggled** for about **three minutes to get Floyd into the back** of their squad.
- Floyd, who told them he was claustrophobic and **pleaded with them to stop**, fell sideways into the car on the rear driver's side after Kueng pressed one hand on his chest and the other on his head.
- Body camera video transcripts show Floyd initially said he had been shot before, and **begged police not to shoot him.**
- A transcript from one of two police body camera videos released Wednesday shows that at one point after **Floyd said he couldn't breathe and was being killed**, Chauvin said: "Then stop talking, stop yelling. It takes a heck of a lot of oxygen to talk."
- **"You're going to kill me, man,"** Floyd said, according to a transcript of Lane's body camera video.
- **"They'll kill me. They'll kill me. I can't breathe. I can't breathe,"** Floyd said.
- **"Oh man, God don't leave me man, please man, please man,"** he begged, later adding: **"I'll do anything y'll tell me to, man. ... I'm just claustrophobic, that's it."**
- As officers struggled to get Floyd into the squad car, Floyd said: **"I can't breathe" and "I want to lay on the ground,"** the transcripts say.
- **Bystanders told officers repeatedly to check Floyd's pulse**, and after Kueng did he said, **"I can't find one."**

- **"Huh?"** Chauvin said, according to the transcript of Keung's body camera video.
- An onlooker pleads with Floyd to stop struggling, saying, **"You can't win!"** **Floyd replies, "I don't want to win!"**
- A few minutes later, with Floyd now face down on the street, the cameras record his fading voice, still occasionally saying, **"I can't breathe" before he goes still.**
- **Chauvin and Kueng each grip one of Floyd's handcuffed hands to hold them in position behind his back, with Kueng's knee appearing to press on Floyd's bottom or just below.** Lane is at Floyd's feet.
- **About 11 minutes** into Lane's video, Lane grabbed Floyd's leg and helped Chauvin and Kueng flip Floyd from his **back onto his stomach** in the street.
- The officers **sound clinical as the minutes tick by.**
- **"I think he's passing out,"** one officer says. **"You guys all right, though?"** someone asks. "Yeah - good so far," says one. Another - apparently Lane - says: **"My knee might be a little scratched, but I'll survive."**
- **Kueng reaches out with a free hand to pull a pebble from the police SUV's tire tread** and toss it to the street.
- **Lane did not sound particularly worried the first time** he asked Chauvin whether they **should roll Floyd on his side** and suggested that Floyd might be in delirium.
- **People in the crowd** can be heard **expressing fear for Floyd's condition,** asking whether he had a pulse and was breathing.
- A couple of minutes later, **Lane sounds a bit more concerned when he asks again about rolling Floyd onto his side.**
- The officers go quiet but **show no apparent urgency as Kueng checks for a pulse** and says he **cannot find one.**
- **Lane's video showed that he asked twice about rolling Floyd** onto his side, but did **not appear to express urgency or fear** in his voice.
- About **16 minutes into Lane's video** Floyd **stopped talking and appeared unresponsive.** His last words were: **"Come on, man. ... They killed me. They killed me. I can't breathe. I can't breathe. Oh! Ah! Ah! Please, please, please."**

- **Kueng checked Floyd's pulse**, couldn't find one and **appeared to move back and stopped holding onto Floyd**. Chauvin and Lane continued restraining Floyd for about three minutes until paramedics arrived.
- The paramedic **walked away without a sense of urgency before Floyd was loaded onto a stretcher, still unresponsive and handcuffed**.
- About **three minutes after** the ambulance arrived, **a paramedic in the back of the ambulance took Floyd's pulse and instructed Lane**, who was on board, **to begin CPR** as Lane explained what happened.

The steady wave of prejudicial pretrial publicity, leaked evidence (e.g., body-cam video), and public statements about the officers' guilt continue to chip away at Mr. Kueng's fair trial rights. When this occurs, the defendant is put in the untenable positions of having to prove his own innocence. The court recognized this risk and issued a gag order to slow the deluge of prejudicial coverage. However, the gag order proved ineffective as public statements from prominent figures tied to the case continued to make it into the coverage. For example, Attorney L. Chris Scott told the media, "He was literally tortured to death." Ben Crump, who is representing the Floyd family, held a news conference and made several prejudicial statements when announcing a lawsuit against the City. The court and defense raised concerns about how such statements could generate bias within the jury pool, undermine the defendants' fair trial rights, and lead to a change of venue:

- A **judge on Monday warned that he's likely to move the trials** of four former police officers charged in George Floyd's death out of Minneapolis **if public officials, attorneys and family members don't stop speaking out about the case**.
- Hennepin County Judge Peter Cahill stopped short of issuing a gag order against attorneys on both sides, but he **said he likely will if public statements continue that make it hard to find an impartial jury**. Cahill said that **would also make him likely to grant a change-of-venue motion if one is filed, as he anticipates**.
- **"The court is not going to be happy about hearing comments on these three areas: merits, evidence and guilt or innocence,"** Cahill said.
- Cahill asked Assistant Attorney General Matthew Frank to use his influence to keep **public officials silent**, warning that if they continue to discuss it publicly, he likely would **have to pull (the trials) out of Hennepin County** and they need to be aware of

that." But he also made it clear that he **wants defense attorneys and Floyd family members to stay out of the press, too.**

- **Comments made by public officials** and others about the May 25 killing of George Floyd and the former Minneapolis police officers charged in his death **threaten to move court proceedings outside of Hennepin County, a judge warned Monday.**
- At an omnibus hearing Monday afternoon, **several of the defense attorneys** representing the former officers - Derek Chauvin, J. Alexander Kueng, Thomas Lane and Tou Thao - **criticized city, county and state officials for expressing opinions they believe have tainted their clients' constitutional right to a fair trial.**
- **"I'm fighting the battle with one hand" because of the public statements,** said Thao's attorney, Robert Paule, adding that he planned to file a motion for a change of venue.
- Hennepin County District **Judge Peter Cahill agreed that public commentary on the case has reached inappropriate levels,** specifically noting that people aligned with the prosecution are **pushing it toward a change of venue.**
- "It's in everyone's best interest" that no public statements about the case be made, Cahill said, noting that they've come from **family, friends and law enforcement officials.** **"What they're doing is endangering the right to a fair trial. They need to understand that."**
- Paule later **called out those public officials by title,** along with Minneapolis Mayor Jacob Frey, **Hennepin County Attorney Mike Freeman, President Donald Trump and attorneys for Floyd's family for speaking about the case.**
- **"There are others involved in this case who do not respect the court and do not respect my client's right to a fair trial,"** Paule said, adding that some people are using the media to further their self-interest.
- **Cahill asked both defense attorneys and Assistant Attorney General Matthew Frank,** who is leading the prosecution, **to tamp down on public commentary** from people they have "control" or "influence" over.
- **"Legally, we don't have control over them," Frank said.** "I can tell the court we are **doing what we can** to avoid these problems as well. Your comments will be shared with those individuals as much as we can."
- **Moving the trial outside Hennepin County would be a more appropriate remedy to address publicity** than recording and broadcasting the proceedings, Cahill told Plunkett.

- Nelson argued that after more than six weeks of one side of the story, **prosecutors are the only ones who have benefited from pretrial publicity.**
- Nelson, Paule and Plunkett **rebuked public officials including Attorney General Keith Ellison, Gov. Tim Walz, Minneapolis Mayor Jacob Frey and Minneapolis police Chief Medaria Arradondo and others for speaking publicly** about the case before the judge issued the gag order.
- **Cahill warned** at a June hearing that remarks from public officials, attorneys and others **were threatening to prompt the court to move the trial** or trials to **another county** because of the possibility of **biasing potential jurors.**
- **Civil rights attorney Ben Crump**, who is representing the Floyd family, **planned to hold a news conference Wednesday morning in front of the federal courthouse** in Minneapolis to **announce a lawsuit against the city** of Minneapolis and the officers involved."
- **The court finds that continuing pretrial publicity in this case by the attorneys involved will increase the risk of tainting a potential jury pool** and will impair all parties' right to a fair trial," Cahill wrote
- "What they're doing is **endangering the right to a fair trial.** They need to understand that," Cahill said at one of the first hearings in the case last month.
- In announcing his ruling, District Court Judge Peter Cahill said he **agreed with defense attorneys' arguments that a gag order would be unfair to their clients** and limit their ability to **defend against negative publicity.**
- "(The Hennepin County Attorney's Office) knew the **leaked plea negotiations would be widely reported** and **have a significant impact on the local community, potential jurors,** and the nation," Plunkett wrote.
- He also said "**unethical 'leaks' " of information** about the cases **have compromised objectivity** about the cases.

In addition to including prejudicial statements from public figures and video footage leaked to the public, the newspaper coverage also contains inadmissible material (e.g., unrelated cases, lawsuit) and references to misinformation and rumors:

- **False information surrounding** Floyd's death has **snowballed on social media** amid protests calling for justice in the killing of Floyd who had recently moved to Minneapolis to start a new life for himself.
- **"THE PLOT THICKENS!"** shouted a Facebook post Saturday claiming that **Derek Chauvin's wife, Kellie Chauvin, was the sister of an officer captured on video** standing by as the 46-year-old black man cried out for help.
- **Posts making the false claim spread across Twitter, Facebook and YouTube**, with the rumor swirling in Minneapolis' Hmong community.
- **"Kellie Chauvin is the wife of Derek Chauvin, Tou Thao is Kellie Chauvin's brother,"** said one post on Instagram with more than **3,000 likes**.
- Attorneys representing the family of George Floyd, who died while in police custody in May, are **announcing a lawsuit against the city** of Minneapolis and police officers on Wednesday.
- Crump said, **"This is an unprecedented case, and with this lawsuit we seek to set a precedent that makes it financially prohibitive for police to wrongfully kill marginalized people - especially Black people - in the future."**
- It also **alleges that the department engaged in a culture of "warrior-style" or "killology"** training, failed to terminate dangerous officers and fostered a **culture of racism**, leading to a violation of Floyd's civil rights.
- **The suit lists other litigation over allegations of police brutality** by Minneapolis officers, and cites the 2010 **death of David Smith**, who was killed by two Minneapolis police officers at the downtown YMCA when they **subdued him by placing a knee on his back for more than 4 minutes**.
- That **death was ruled a homicide** by the Medical Examiner's Office, and his family **settled the case for \$3 million**. Jeff Storms, one of the Minneapolis attorneys in that case, is now one of the lawyers representing the Floyd family.
- **For 12-year-old Tamir Rice**, it was simply carrying a toy handgun. For **Eric Garner**, it was allegedly selling untaxed cigarettes. For **Michael Brown, Sandra Bland and Ahmaud Arbery**, it was the minor offenses of jaywalking, failing to signal a lane change and trespassing on a residential construction site.

- **Eric Garner cried out "I can't breathe" 11 times** on a street in Staten Island, New York, in July 2014 after he was arrested for selling loose, untaxed cigarettes.
- The death came amid outrage over the death of **Ahmaud Arbery, who was fatally shot February 23 in Georgia after a white father and son pursued the 25-year-old black man** they had spotted running in their subdivision.
- In the end, the image that would spark a global uprising against systemic injustice and oppression would not be of a stereotypical Bubba in a pickup truck. That was so last week, when three men hunted and savagely killed **25-year-old Ahmaud Arbery as he was out for a jog not far from his home in Georgia.**
- Nor would the spark come from the **no-knock drug raid that resulted in the shooting death of Breonna Taylor**, a 26-year-old medical technician who was asleep in her Louisville, Ky., home.
- It was like four years ago, when her son, **32-year-old Philando Castile, was shot five times by officer Jeronimo Yanez after a traffic stop** in Falcon Heights.
- With the world's attention back on Minnesota, this time with intensified outrage and fervor, and the **anniversary of Philando Castile's fatal shooting** on Monday, the Pioneer Press asked Valerie Castile and a handful of others to reflect on what the community learned from his death - and what still needs to be done.
- It was **less than three years ago that Damond's fiancée, Justine Ruszczyk Damond, was shot and killed** by a Minneapolis police officer in southwest Minneapolis.
- The situation will only get worse. That's what Valerie Castile - the mother of Philando Castile, **shot and killed by a Twin Cities police officer in 2016** - told Damond after his fiancée's death.
- In that way, **George Floyd and Justine Ruszczyk Damond are intertwined symbols** of a police culture that's lost its way, and of police officers who aren't given the emotional tools to deal with a difficult job.

In conclusion, the evaluation of the media coverage through August 10, 2020 found

pervasive pretrial publicity with content that risks undermining the presumption of innocence. The coverage often includes references and quotes from prominent public figures, some calling George Floyd's death "murder." Video of the encounter—key pieces of evidence—were broadly distributed and received millions of views. At times the media sensationalized public outrage over Mr. Floyd's death by focusing on property damage and violent interactions between protesters and law enforcement. This type of reporting is likely to lead to the development of strong case-specific attitudes among members of the jury pool about Mr. Kueng, his role in George Floyd's death, and his guilt.

VI. ABILITY TO SELECT A FAIR AND IMPARTIAL JURY IN VENUES SATURATED WITH MEDIA COVERAGE

When a jury pool has been inundated with media coverage, the trial court and parties are faced with unique challenges, which are not present in most cases. In high-profile cases, many prospective jurors enter the courtroom with extensive knowledge and attitudes about the case, defendant, and victim. However, it is often difficult for prospective jurors to predict how case-specific knowledge and opinions may affect them over the course of a trial. Prospective jurors may also unintentionally omit exposure to specific media items during voir dire when asked what they recall hearing about the case. These items, however, may become salient and recalled from memory once witness testimony begins. The research also shows that information learned from media exposure can be misattributed as evidence presented at trial.¹⁵

Given these factors, it is important to ferret out during voir dire the full extent of exposure to pretrial publicity, case-specific attitudes, impressions of the defendant, and potential motivations to serve. However, the prejudicial effects of preexisting attitudes can occur at both a conscious and subconscious level, meaning jurors who profess impartiality may not be fully aware of their bias or how it may affect them as the trial unfolds. This can make it difficult to identify potential prejudice during the jury selection process. In rare cases where a community has been bathed in streams of prejudicial media, the Supreme Court has recognized the

¹⁵ Ruva, C.L., & McEvoy, C. (2008). Negative and positive pretrial publicity affect juror memory and decision-making. *Journal of Experimental Psychology: Applied*, 14(3), 226-35.

limitations of the voir dire process as a remedy for addressing potentially biased jurors. In *Irvin v. Dowd*, the Court concluded:

No doubt, each juror was sincere when he said that he would be fair and impartial to petitioner, but the psychological impact requiring such a declaration before one's fellows is often its father. Where so many, so many times, admitted prejudice, such a statement of impartiality can be given little weight. As one of the jurors put it, "You can't forget what you hear and see." With his life at stake, it is not requiring too much that petitioner be tried in an atmosphere undisturbed by so huge a wave of public passion and by a jury other than one in which two-thirds of the members admit, before hearing any testimony, to possessing a belief in his guilt.¹⁶

State appellate courts have also expressed concerns about notions that voir dire can rebalance the scales once they have been unfairly tipped by improper influence:

By this logic, it would be permissible to improperly influence a jury panel so long as we have a competent set of attorneys and a diligent trial judge willing to parse through the venire and eliminate any potential bias injected in the jury by that improper influence. **That is not the way or judicial system works. Litigants should enter the courtroom on an equal basis, not one made equal by the hard work of conducting voir dire on a bias panel** [Emphasis added].¹⁷

Research on voir dire shows that these concerns are justified. Jurors are often reluctant to disclose relevant experiences, relationships or opinions that may lead to bias, even when pretrial publicity is not an issue. One study found that while 71% of jurors had a fixed opinion regarding guilt, only 15% admitted so during the voir dire.¹⁸ Marshall obtained questionnaires from 277

¹⁶ *Irvin v. Dowd*, 366 U.S. 717, 727-28 (1960).

¹⁷ Recent decision from the Court of Appeals Seventh District of Texas: William A. Brewer III v. Lennox Hearth Products, LLC et al. (2018) No. 07-16-00121-CV

¹⁸ Fahringer, H.P. (1980). In the valley of the blind: A primer on jury selection in a criminal case. *Law and Contemporary Problems*, 43, 116-36.

former jurors in two counties and found that 18% of those jurors admitted to withholding information during voir dire.¹⁹ Seltzer reported that approximately 39% of jurors who were interviewed after trial should have come forward in response to questions regarding crime victimization or knowledge of police officers during jury selection, but failed to do so.²⁰

Many aspects of the large group voir dire format deter juror candor. Federal Court Judge Gregory Mize published his findings after experimenting with an expanded voir dire procedure in 30 federal criminal trials over a nine-month period, which included individual interviews with every venire member who failed to respond to his general opening questions. Judge Mize reported that approximately 28% of members of each panel failed to respond to the dozens of questions posed in open court, an average of about 16 people per trial. However, when questioned in private, one in five of these silent jurors disclosed personal information that was relevant to the case. In 90% of the trials, between one and four of these silent jurors expressed bias that led to their removal for cause.²¹

A search of appellate opinions shows that juror disclosure has led to several mistrials by undermining a defendant's fair trial rights. For example, in *U.S. v. Colombo*, 869 F.2d 149 (2d Cir. 1989), a juror failed to disclose when asked during voir dire that her brother-in-law was a lawyer for the government. She did not mention this fact because she wanted to sit on the jury for the case. In *Dyer v. Calderon*, 151 F.3d 970 (9th Cir. 1998), a juror answered "no" when the panel was asked if anyone had ever been the victim of a crime. After the guilt phase, the defense learned that her brother had been shot and killed six years earlier. When questioned, she told the judge that she answered "no" because she, "thought the shooting was an accident, not a crime." Her brother had been pistol-whipped four times and shot in the back of the head.

Problems such as these have also been reported in high-profile cases. For example, in the 2012 murder trial of Matthew Stebbins, who had been charged in a shooting death at a homeless

¹⁹ Marshall, L.L. (1983). Juror, judge and counsel perceptions of voir dire. Ph.D. dissertation, Boston University.

²⁰ Seltzer, R. (1991). Juror honesty during the voir dire. *Journal of Criminal justice*, 19, 451.462.

²¹ Mize, G.E. (1999). On better jury selection: Spotting UFO jurors before they enter the jury room, *Connecticut Review Spring*, 33.

shelter, a mistrial was declared after a juror announced during deliberations that she had a previous issue with violent crime. One of her children had been shot in the head. She failed to raise her hand during jury selection when asked if anyone had been a victim of a violent crime. According to her, “she did not think it was going to be an issue.”²²

A \$6.5M judgment was overturned in the high-profile police corruption lawsuit against the Public Defender surrounding the Rampart Division in Los Angeles County. It was uncovered after the verdict that one of the jurors—Jennifer Salinas—had concealed knowledge of the scandal during jury selection. She did not raise her hand when asked if anyone had some knowledge of events surrounding the Rampart Division. Later it was discovered that Salinas had played a prominent role in a movie titled “Gang Warz” that was based on the Rampart Division. Other jurors on the panel corroborated that she was very familiar with the scandal and discussed aspects that were not in the evidence.²³

Prospective jurors in cases with extensive media coverage enter the courtroom with case-specific knowledge gleaned from the media, social media, and discussions with friends, family members, and co-workers. Uncovering the full extent of jurors’ case-specific knowledge and opinions in high-profile cases can be extremely difficult. Jury selection as a judicial remedy to address such bias relies on two factors: 1) that jurors can access their source of bias and 2) are willing to report it. In one study where researchers tested the effectiveness of extended voir dire, participants in the experimental condition were exposed to pretrial publicity a week before the experiment.²⁴ Prior to viewing a trial, they were subjected to minimal or extended voir dire. The attorney in the extended voir dire condition explained how pretrial publicity may inappropriately impact decision-making, asked jurors to hold each other accountable for not discussing pretrial

²² Villarreal, M. (2012, March 12). Judge declares mistrial in Corpus Christi murder case. *Corpus Christi Caller Times*. Retrieved February 10, 2015, from <http://www.caller.com/news/local-news/crime/judge-declares-mistrial-in-corpus-christi-murder>.

²³ Ellis, S.M. (2008, January 22). Appeals court orders new trial in suit against public defender. *Metropolitan News-Enterprise*. Retrieved February 12, 2015, from <http://www.metnews.com/articles/2008/ovan012208.htm>.

²⁴ Dexter, H. R., Cutler, B. L., & Moran, G. (1992). A test of voir dire as a remedy for the prejudicial effects of pretrial publicity. *Journal of Applied Social Psychology*, 22, 819-32.

publicity, obtained public commitments to base their verdict solely on the evidence presented in court, and to ensure that fellow jurors did the same. The researchers ultimately found that educating jurors on the potential impact of pretrial publicity did not eliminate the effects of pretrial publicity.

Another unique challenge that high-profile cases pose during jury selection is what Edward J. Bronson called the “minimization effect.”²⁵ This concept refers to prospective jurors’ attempts to minimize the full extent of their exposure to pretrial publicity. *During* voir dire, prospective jurors try to downplay their knowledge of the case using qualifiers such as, “just,” “nothing other than,” “only,” “a little bit,” and “that’s all.” In an archival study that analyzed the jury selection transcripts from five high-profile cases, 69% of prospective jurors used minimization language when questioned by the judge or attorneys.²⁶

Another challenge in cases where media coverage is an issue surrounds the difficulty jurors have during voir dire in recalling every detail they have read, seen, or heard about a case. These types of open-ended “recall” questions require significant cognitive effort and often result in incomplete recollection. This phenomenon is an inherent limitation in how memory works. For example, if someone is asked to recall everything they know about the movie *Star Wars*, their description would likely miss important details they are familiar with. Memory is much more accurate when answering “recognition” questions: *Have you read, seen or heard if Darth Vader was Luke Skywalker’s father?*

The limitation in memory recall has been demonstrated in a number of high-profile cases around the country. For example, in a change of venue survey in Sonora, California, 95% of survey respondents recognized at least one additional detail reported in the media from the closed-ended recognition questions that they failed to mention in the open-ended recall question.

²⁵ Bronson, E. (1989). The effectiveness of voir dire in Discovering Prejudice in High Publicity Cases: An Archival Study of The Minimization Effect.

²⁶ Edelman, B., Dahir, V.B., & Dillehay, R. (2011). Paper presented at the meeting of the American Society of Trial Consultants.

A near identical trend (96%) was found in another high-profile case in Nashville, Tennessee.²⁷ For example, when asked, “What have you read, seen, or heard about the case,” one respondent answered, “Bits and pieces on the news. They were just talking about the case.” However, he later recognized several media items including that: 1) the shooting was captured on video by surveillance cameras in the area and played on the television news and internet; and 2) the public approved a ballot measure in the last election to create a community oversight board to monitor the Metro Nashville Police Department. Both were prejudicial items widely reported in the media.

The inability to provide a full account of everything a juror knows about a case puts the defendant in an untenable position. Counsel must choose to either rely on an open-ended question—known to generate incomplete recall—or ask media specific recognition questions, which are more diagnostic but risk exposing prospective jurors to extrajudicial information they may not be familiar with (e.g., have you read, seen or heard if the chief of police called George Floyd’s death murder).

Prospective jurors’ inability to recall the full extent of their exposure to pretrial publicity can undermine the value of voir dire as a corrective measure for identifying and ferreting out bias. If jurors are unable to fully recall from memory their detailed knowledge about a case when asked an open-ended question, it makes it difficult for counsel to effectively exercise challenges. Incomplete recall also poses a problem for the trial court when exercising its discretion to weigh prospective jurors’ self-reports about their ability to be fair and impartial and rule on cause challenges.

This predicament is compounded by research, which suggests that professions of impartiality should not always be taken at face value. Part of the challenge media coverage presents surrounds jurors’ efforts to guess how exposure to pretrial publicity may affect their evaluations of the evidence. Given the difficulties that such a guess poses, it is not surprising that claims of impartiality in high profile cases have been shown to be unreliable. A study on the

²⁷ *State of Tennessee v. Andrew Delke*, Case No. 2019-A-26 and *People of the State of California v. Diane Anderson*, Case No.: CRF53011.

prejudicial impact of pretrial publicity found that 62% of jury-eligible residents said they could be fair and impartial and decide the case solely on the basis of the evidence presented. However, only 39% said they could put knowledge of the media out of his or her mind.²⁸

Another obstacle is the well-documented tendency for individuals to respond in a manner that will be viewed favorably by others, which has been coined the “social desirability” effect. This phenomenon has been researched and found in a multitude of disciplinary settings, including the courtroom. Socially desirable responses are more likely to occur when individuals become focused on the public aspects of themselves. Public awareness of oneself can become particularly salient in a courtroom setting where prospective jurors are asked questions by an authority figure in front of a public audience. Jones, for example, reported that participants appeared to alter their answers to reflect what they thought a judge wanted to hear rather than what they actually thought.²⁹ When potential jurors learn through the jury selection process that the law requires them to be fair and impartial, there is a risk that they will overstate their ability to set-aside their knowledge and beliefs in order to create a favorable public impression.

Also referred to as response bias and demand characteristics, the effect causes the juror (interviewee) to pick up the subtle and overt clues as to what a lawyer or judge (interviewer) wants to hear. During voir dire a clear, strong message is often sent to prospective jurors: Good jurors are not supposed to have prejudicial information or biases about the case. If they do, then they should set them aside and decide the case solely on the law and the evidence presented in court.³⁰ When this is established, many prospective jurors will adjust their public statements to

²⁸ Moran, C., & Cutler, B.L. (1991). The prejudicial impact of pretrial publicity. *Journal of Applied Social Psychology*, 21(5), 345-67.

²⁹ Jones, S. (1987). Judge versus attorney conducted voir dire: An empirical investigation of juror candor. *Law and Human Behavior*, 11(2), 131-46. Responses were inconsistent with what had been reported earlier in a questionnaire.

³⁰ The same “good citizen” impulse leads a number of respondents in telephone surveys to claim that they are registered to vote when in fact they are not. Silver, B., et al., “Who Overreports Voting?” 80 *American Political Science Review* 613 (1986). Book publishers have long said that if survey respondents had actually read all the books they reported having read recently when they are surveyed, the book publishing business would be the most profitable business in the country. These effects, in response to an anonymous telephone pollster, are amplified in the presence of real authority figures in the courtroom and makes it difficult to assess problematic attitudes in prospective jurors.

meet to these courtroom norms.

The social desirability effect is found even in instances when the jury pool has been exposed to extreme forms of prejudicial media coverage. In *Rideau*, the jury pool was exposed to a taped 20-minute interview in the jail between the defendant and Sheriff.³¹ In the interrogation, the defendant confessed to the murder of three people during a bank robbery. A soundtrack was added to the recording and the interview aired three times on television within a few months leading up to trial. Three of the 12 seated jurors had seen the televised interrogation. Despite the highly prejudicial nature of such a sensational televised confession, all three jurors told the court during voir dire that they could “lay aside any opinion, give the defendant the presumption of innocence as provided by law, base their decision solely upon the evidence, and apply the law as given by the court.”³²

Accordingly, a juror’s professed ability to be fair and impartial should not be taken at face value in cases where there is substantial prejudicial pretrial publicity. This is less of an issue when dealing with the tangential experiences, limited case knowledge, and general attitudes jurors typically bring with them into the courtroom. There is little evidence, however, to suggest that individuals can forget or dissociate themselves from specific attitudes, emotions, and beliefs about the defendant and case developed from exposure to significant amounts of media coverage.

VII. CONCLUSION

The jury pool in Hennepin County has already been saturated with pretrial publicity surrounding this case. The coverage contains prejudicial, inadmissible (e.g., lawsuit, systemic racism within the MPD, police reform), and emotional content. Quotes about the guilt of the officers from prominent public figures including the mayor, governor, and chief of police appear throughout the coverage. The bystander and body-cam videos are regularly described in newspaper articles and have been televised by local news stations in countless broadcasts. These critical pieces of evidence have been shared via social media and viewed millions of times online. George Floyd’s death galvanized the local community and started a movement for

³¹ *Rideau v. Louisiana*, 373 U.S. 723 (1963).

³² *Id.* at 732.

transformative police reform within the MPD. Thousands took to the streets in peaceful protest in the days following Mr. Floyd's death. However, some turned violent and caused an estimated \$50 million in damage to local businesses.

Given the community's intense investment in this case and the nature of the pretrial publicity to date, I believe there is a reasonable likelihood that the presumption of innocence has been threatened. As such, remedial measures will be necessary to protect Mr. Kueng's Constitutional rights to a fair and impartial trial.

I declare under penalty of perjury under the laws of the State of California that the foregoing facts are true and correct, except as to facts stated upon information and belief, which facts I believe to be true.

Executed on January 10, 2020



Bryan Edelman

APPENDIX A: CURRICULUM VITA**BRYAN EDELMAN, PH.D.**

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PROFESSIONAL EXPERIENCE

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|---|---------------------|
| <p>Trial Innovations, Oakland and Los Angeles, California
<u>Co-founder</u></p> <ul style="list-style-type: none"> • Design and implement jury research • Conduct community survey research on jury issues • Serve as expert witness on venue, survey jury issues, & eyewitness identification • Assist with jury selection, juror questionnaire design, etc. • Provide trial consulting services • Provide in-house legal education • Conduct post-trial juror interviews • Conduct consumer insight research for fortune 500 companies (e.g., Facebook, Yahoo!, Google) | 2011-Current |
| <p>The Jury Research Institute, Alamo, California
<u>Senior Trial Consultant</u></p> <ul style="list-style-type: none"> • Conducted multi-stage qualitative and quantitative research (e.g., focus groups, mock trials, shadow juries) • Served as expert witness (e.g., change of venue motions) • Designed and conducted telephone and online survey research • Conducted post-trial juror interviews • Provided trial consulting services • Analyzed qualitative and quantitative data • Served as speaker and visiting lecturer at conferences, universities, law firms, and Bar Associations | 2005-2010 |
| <p>The National Jury Project, Oakland, California
<u>Associate Trial Consultant</u></p> <ul style="list-style-type: none"> • Conducted qualitative and quantitative research • Analyzed quantitative and qualitative data from prospective juror questionnaires • Interpreted research results and developed strategy recommendations • Assisted with crafting opening statements and closing arguments | 2005 |
| <p>Trial Science, Inc., Reno, Nevada
<u>Associate Trial Consultant</u></p> <ul style="list-style-type: none"> • Conducted focus groups and mock trials • Analyzed quantitative and qualitative data • Presented findings and recommendations to trial team • Developed jury selection profiles | 1999-2003 |
| <p>Grant Sawyer Center for Justice Studies, Reno, Nevada
<u>Project Manager</u>, “Predicting Failure in Pre-trial Release Programs in Washoe County”</p> <ul style="list-style-type: none"> • Designed and implemented an evaluation of the Washoe County pre-trial release program • Oversaw data collection (over 40,000 cases) and analyzed data • Served as an ombudsmen between trial courts, police departments, Court Services, and the judicial sub-committee | 2000-2003 |

- Presented findings to the Court Services Sub-Committee and at international conferences
- Research Associate, “Minimization of Pre-Trial Publicity Knowledge during Voir Dire”
- Co-developed research methodology
 - Performed content analysis of trial transcripts from high profile cases
 - Analyzed data

Research Associate, “Science in the Courtroom”

- Co-developed survey codebook
- Completed content analysis of judges’ responses regarding the Daubert standard

Research Associate, “Judicial Workload Pilot Project”

- Completed telephone interviews with judges
- Conducted content analysis of qualitative data from interviews

EXPERT WITNESS & VENUE EXPERIENCE³³

People v. Diane Anderson (2019). Conducted community attitude survey and content analysis of media coverage. Testified at change of venue hearing. Recommended change of venue.

State of Tennessee v. Nikolaus Johnson (2019). Conducted content analysis of media coverage and reviewed jury selection transcripts. Testified at post-conviction hearing.

People v. Jason Van Dyke (2018). Conducted community attitude survey and content analysis of media coverage. Testified at change of venue hearing. Recommended change of venue.

People v. Brian Cooks (2017). Conducted community attitude survey. Recommended remedial measures during jury selection.

People v. Johnathan Feit (2017). Conducted community attitude survey. Recommended change of venue.

People v. Jonathan Renfro (2017). Conducted community attitude survey. Did not make recommendations regarding remedial measures.

People v. Kenneth Rossy (2017). Conducted preliminary media analysis. Recommended moving forward with community attitude survey.

Angelo Harmon et al. v. The Salvation Army, et al (2017). Conducted community attitude survey. Did not make any recommendations.

United States v. Charles Banks (2016). Conducted community attitude survey. Recommended change of venue.

United States v. Jessie Con-ui (2016). Conducted community attitude survey. Recommended remedial measures during jury selection.

People v. Lubrin, et al. (2016). Conducted community attitude survey. Recommended remedial measures during jury selection.

Melissa Mays, et al., v. Rick Snyder, et al. (2016). Conducted community attitude survey. Recommended change of venue.

³³ This is not an exhaustive list, and does not include cases which are still pending.

People v. Balsler and Robinson (2016). Conducted preliminary media analysis. Recommended against moving forward with venue study.

United States v. Dredd (2016). Conducted community attitude survey. Recommended remedial measures during jury selection.

People v. Romero (2016): Conducted preliminary media analysis. Recommended against moving forward with venue study.

People v. Morales (2016). Conducted community attitude survey and content analysis of media coverage. Testified at change of venue hearing. Recommended remedial measures during jury selection [Granted].

People v Williams (2015). Conducted community attitude survey. Recommended against a change of venue.

Commonwealth v. Chism (2015). Approved by Court to assist with crafting juror questionnaire to address pretrial publicity.

U.S. v. Blankenship (2015). Conducted community attitude survey for the DOJ.

U.S. v. Sablan (2014). Conducted community attitude survey and submitted a declaration. Recommended a change of venue [Granted].

People v. Bealer (2014). Conducted community attitude survey and content analysis of media coverage. Testified at change of venue hearing and transfer hearing. Recommended a change of venue [Granted].

People v. Ware, et al. (2014). Conducted content analysis of media coverage and grand jury transcript. Submitted a declaration recommending that the grand jury transcript remain sealed [Granted].

People v. Castillo (2014). Conducted community attitude survey [Venue hearing denied].

People v. Shirakawa (2014). Conducted community attitude survey Recommended against a change of venue.

People v. Holmes (2014): Conducted content analysis of media coverage. Recommended a change of venue [Denied].

People v. Tree (2014): Conducted preliminary media analysis. Recommended against moving forward with venue study.

People v. Hoyt (2014): Reviewed pretrial publicity, juror questionnaires, and voir dire transcript. Recommended that trial counsel should have pursued change of venue.

People v. Duran (2014). Conducted preliminary media analysis. Recommended against moving forward with venue study.

People v. White (2013): Conducted preliminary media analysis. Recommended against moving forward with venue study.

People v. Vega (2013): Conducted preliminary media analysis. Recommended against moving forward with venue study.

People v. Ayers (2013): Conducted community attitude survey. Recommended against a change of venue.

People v. Lucero (2013): Conducted community attitude survey. Recommended against a change of venue.

People v. Bennett (2013): Conducted media analysis. Recommended against a change of venue.

People v. Deloney (2012): Testified as expert witness regarding literature on the accuracy of eyewitness identification, memory, cognition, and suggestive questioning.

People v. Ortega, et al. (2012): Conducted community attitude survey and content analysis of pretrial publicity. Testified as expert witness about results, the impact of pretrial publicity on attitudes, memory, jury selection, and jury-decision making.

People v. Bey (2011): Conducted community attitude survey and content analysis of pretrial publicity. Testified as expert witness about results, the impact of pretrial publicity on attitudes, memory, jury selection, and jury-decision making.

Johnson, et al. v. BART, et al. (2011). Conducted community attitude survey. Recommended against filing a change of venue motion.

People v. Fowler (2011): Conducted community attitude survey. Recommended certain communities be excluded from the venue [Granted]

People v. Sanchez, et al (2011): Conducted preliminary media analysis. Recommended against moving forward with venue study.

People v. Loughner (2011): Conducted media analysis.

Huang Xiu Mei, New York (2007): Expert witness in political asylum hearing.

Weather Shield v. Bostik (2005): Evaluated plaintiff's change of venue motion.

Olympic Pipeline Company v. Washington (2002). Assisted with content analysis of media coverage.

PUBLICATIONS AND PRESENTATIONS

Bronson, E. Edelman, B., & Philipsborn, J.T. (2019). Change of Venue. In N. Yuenger (Ed.), *California criminal law procedure and practice*. Oakland: Continuing Education of the Bar.

Edelman, B. (2018). *Preventing Runaway Juries*. Presented at the Michigan Defense Trial Counsel's Annual Meeting, MT Pleasant, MI.

Edelman, B. (2018). *Trial Consulting 101*. Presented at the American Psychological Association, Division 41, Memphis, TN.

Edelman, B. (2018). *Trial Consulting 101*. Presented at American Society of Trial Consultants Conference, Ft Worth, TX.

Edelman, B. (2016). *Conducting an Effective Jury Selection*. Presented at Santa Barbara Bar Association Bench and Bar Conference, Santa Barbara, CA.

Bronson, E. Edelman, B., & Philipsborn, J.T. (2015). Change of Venue. In N. Yuenger (Ed.), *California criminal law procedure and practice*. Oakland: Continuing Education of the Bar.

Edelman, B. (2015). *Trial Consulting 101*. Presented at American Society of Trial Consultants Conference, Nashville, TN.

Edelman, B. (2015). *Effective Jury Selection Lunch and Learn*. Sponsored by Thomas Reuters (Oakland).

- Edelman, B. (2015). *The Social Psychology of Jurors and Juries*. Presented at Washoe County Alternate Defender, Reno, NV.
- Edelman, B. (2013). *The Social Psychology of Jurors and Juries*. Presented at Washoe County Alternate Defender, Reno, NV.
- Edelman, B. (2013). *Police Liability*. Presented at the Lorman Education Services Seminar in Santa Rosa.
- Edelman, B., & Canon, D. (2012). *The Social Psychology of Jurors and Juries*. Presented at Office of the Public Defender, Albuquerque, NM.
- Edelman, B. (2013). *Police Liability*. Presented at the Lorman Education Services Seminar in Sacramento.
- Edelman, B., & Canon, D. (2012). *The Social Psychology of Jurors and Juries*. Presented at Office of the Public Defender, Albuquerque, NM.
- Edelman, B. (2011). Using online surveys to conduct jury research. *The Jury Expert*, 23(6), 51-54.
- Edelman, B. (2011). Juror race and capital sentencing. *The Jury Expert*, 23(4), 47-49.
- Bronson, E., Dillehay, R. Edelman, B., & Rountree, W. (2011). *Analyzing Pretrial Publicity in the New-Media Universe*. Presented at the American Society of Trial Consultants Conference.
- Edelman, B. (2010). *CLE: Selecting your Jury*. Presented at White and Williams, LLP, Philadelphia, PA.
- Edelman, B. (2010). *Trial Consulting 101*. Presented at the University of Nevada, Reno.
- Edelman, B. (2009). The impact of graphic injury photographs on liability verdicts and non-economic damage awards. *The Jury Expert*, 21(5), 1-4.
- Edelman, B. (2009) *Online Research Tools to Evaluate Cases*. Presented at the Santa Clara County Bar Association.
- Edelman, B. (2009). *Psychology in the Courtroom: Selecting Your Jury*. Presented at the Monterey County Bar Association.
- Edelman, B. (2008). *Striking the Jury*. Visiting lecturer at Stanford Law School.
- Edelman (2008). *Communicating with the Jury*. Presented at the International Symposium on Life Care Planning, Phoenix.
- Edelman (2007). *Race, Empathy, and Capital Punishment*. Visiting lecturer at the University of California, Santa Cruz.
- Edelman, B. *Racial Prejudice, Juror Empathy, and Sentencing in Death Penalty Cases*. (New York: LFB Scholarly Publishing LLC, 2006).
- Edelman, B. & J.T. Richardson, (2005). Imposed limitations on freedom of religion in China and the margin of appreciation doctrine: A legal analysis of the crackdown on the Falun Gong and other "evil cults." *The Journal of Church and State*, 47(2), 243-267.
- Richardson, J.T., & Edelman, B., Cult controversies and legal developments concerning new religions in Japan and China. In D.H. Davis & G. Besier (Eds.), *International Perspectives on Freedom and Equality of Religious Belief*, Waco: (Dawson Institute of Church-State Studies, Baylor University, 2002), reprinted in J.T.

Richardson (Ed), *Regulating Religion Case Studies from Around the World*. (United States: Kluwer Academic/Plenum Publishers, 2004), pp. 359-380.

Edelman, B. & Richardson, J.T. (2003). Falun Gong and the law: Development of legal social control in China. *Nova Religio*, 6(2), pp. 312-331.

Edelman, B., Dillehay, R.C., Bennett, D., & Hinxman, C. (2002). *The difficulties of collecting data in a local justice system*. Presented at the annual meeting of the Pacific Sociological Association, Vancouver, Canada.

Edelman, B. & Richardson, J.T. (2002). *Falun Gong and the law*. Presented at the annual meeting of the Society for the Study of Religion, Houston, TX.

Edelman, B. & Richardson, J.T. (2002). *The crackdown on the Falun Gong: Western influence and the development of the anti-cult movement in China*. Presented at the Society for the Scientific Study of Religion annual conference, Salt Lake City, Utah.

Richardson, J.T. & Edelman, B. (2001). *Cult controversies and legal developments in Japan and China*. Presented at the annual conference on "New Religions," Heidelberg, Germany.

EDUCATION

LL.M. , International Law, with Distinction, University of Kent, Canterbury, United Kingdom	2004
Ph.D. , Interdisciplinary Social Psychology, University of Nevada, Reno, Nevada	2003
B.S. , Magna Cum Laude, Psychology, Florida State University, Tallahassee, Florida	1997

