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**Empirical Legal Studies: Sociology of
 Law, or Something ELS Entirely?**

Mark Suchman

University of Wisconsin-Madison

I have just returned from the annual meeting of the Law and Society Association, an organization with deep roots in the sociology of law -- and a second (or even first) home for many of us in the Sociology of Law Section of the ASA. At this year's LSA meetings, however, the buzz was not primarily about sociology of law, nor about any of the other social science disciplines that comprise most of the LSA's membership. Rather, the words on everyone's lips -- whether enthusiastically or sarcastically -- were "empirical legal studies."

Some members of our section, no doubt, are more familiar with the empirical legal studies movement (or "ELS") than I; others may have encountered it in passing but not yet given it much thought; and still others may not have encountered it at all. But with ELS on the rise, we would do well to begin taking notice and making sense of this new player in our intellectual field.

ELS Ascendant

Empirical legal studies have formed the backbone of the sociology of law since the days of Durkheim and have been at the core of the law and society tradition since its inception in the 1960s. The Empirical Legal Studies *movement*, however, dates only to the mid-1990s at the earliest. In 1996, Harvard opened what may have been the nation's first self-proclaimed ELS program, and in 2004, Blackwell launched the *Journal of Empirical Legal Studies* (edited at Cornell). "Empirical Scholarship" was the theme of the 2006 AALS meeting, and later this year the University of Texas will convene the First Annual Conference on Empirical Legal Studies. There is now even

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a ranking of the “top ELS law schools” (George 2005) and a lively ELS blog. (Said blog, by the way, will feature some of our own section members as guest bloggers in the coming months -- see: <http://www.elsblog.org/>.)

At the LSA meetings, presenters proudly proclaimed allegiance to ELS, and law schools touted their ELS bona fides. Everyone, it seemed, was confident that ELS was the wave of the future and that they, themselves, were riding the crest.

No one, however, seemed quite as confident of what, exactly, ELS *is*. People who merely parsed ELS's self-proclaimed moniker wondered aloud whether ELS might simply be the sociology of law in new clothing. Or more menacingly, law and economics in sociologists' clothing. Or more cynically, the legal professoriate in the emperor's new clothing. But the uninitiated were hardly alone in their uncertainty. Even some editors of the ELS blog could be heard soliciting others' opinions about what exactly the enterprise should entail. ELS may be all the rage, but in Meadian terms, it is still an “I” in search of a “me.”

Membership, Method and Mission

It may seem a bit unfair to pigeonhole a movement whose flagship journal is less than two years old. But as ELS becomes a growing presence on our campuses and in our reading, sociologists of law will increasingly encounter the question of how this emerging tradition fits with (or within) our own.

ELS, we are told, promotes “legally sophisticated empirical [analysis,] ... to inform litigants, policymakers, and society as a whole about how the legal system works” (Eisenberg 2004). But as our friends in science and technology studies would remind us, such statements gain substance only when instantiated by a particular scholarly community, with a particular methodological style, on a particular intellectual mission.

In its social origins, ELS is closer to law schools than to disciplinary social science departments. That, presumably, is what “legally sophisticated” means. But since

law schools historically have done little to train empirical scholars, ELS is quite open to participants from the social sciences. To date, ELS's largest contributing disciplines seem to be psychology and economics, but sociology could certainly claim a place at the table if we so chose.

In its methods, ELS is more quantitative than qualitative and more contemporary than historical. But these affinities are contested, and no one yet seems to be excommunicating any method, as long as it is “empirical.” ELS may slight some of the more interpretive and humanistic approaches that have recently gained footholds in the legal academy and in the Law and Society Association, but most sociological ethnography and historiography should easily pass muster. If quantitative (and particularly experimental) methods currently have the upper hand in ELS circles, this may be due more to the kinds of audiences that ELS wants to address than to the kinds of evidence that ELS is willing to consider.

This brings us to ELS's mission, which appears to be the application of rigorous empirical methods to questions of legal (as opposed to disciplinary) import. This, I take it, is what ELS means by “informing litigants, policymakers, and society as a whole about how the legal system works.” ELS is the empirical study of all those phenomena that have long commanded the attention of legal scholars and practitioners, but that have heretofore been “known” only through doctrine, personal experience, and common-sense assumptions about human nature.

Thus, for example, ELS might ask whether an increase in the number of lawyers leads to an increase in litigiousness; whether videotaped confessions elevate the likelihood of conviction; or whether understaffed trial courts push more cases toward out-of-court settlement. In contrast to the sociology of law, however, ELS would be far less likely to ask whether professional occupations gain status in post-industrial societies; whether confessions depart from the speech patterns of conversational storytelling; or whether

mimetic isomorphism fosters new “logics” of dispute resolution. These latter questions arise not from the concerns of the legal community but from the theoretical program of sociology as a discipline -- an agenda that many legal scholars would find rather arcane.

Often, of course, this difference is merely a matter of framing. Many studies could presumably fit equally comfortably into either *ASR* or *JELS*, with a few revisions to their introductions, literature reviews and conclusions, but with their data, methods and results sections largely unchanged. (Attention publication-hungry assistant professors!)

At the same time, however, framing can drive practice: ELS's orbit lies well within the gravitational “pull of the policy audience” (Sarat & Silbey 1988), and this presumably privileges the types of questions that lawyers might ask, the types of evidence that courts might admit, and the types of answers that legislators (and other people of action) might find useful.

ELS and Us

What then should be our stance toward this new movement? Part of me (and, I'm sure, part of us) welcomes this development and hopes that the sociology of law can find a seat on the ELS bandwagon. If ELS shakes up the routines of the legal academy and injects some empirical humility into traditional doctrinalism, that can only be to sociology's benefit -- as well as to the long-run benefit of doctrinalism itself. If, beyond that, ELS bolsters the resources, the visibility, and the impact of empirical social scientists who study law and legal institutions, the sociology of law would almost certainly stand to gain.

At the same time, however, I see cause for caution as well, because in clambering aboard the ELS bandwagon, we may be tempted to leave behind many of the trappings that identify us as sociologists. Often, the questions that ELS asks are not the questions of sociology as a discipline, and the answers that ELS obtains are of only limited disciplinary relevance. ELS is hardly the “crass empiricism” that we were

warned about in graduate school, but neither is it the sort of theory-driven “basic” scholarship that defines what Burawoy (2005) has labeled “professional sociology.” Rather, at least in its early incarnations, ELS appears to be largely “policy sociology”-- to the extent that it is sociology at all.

In this, ELS differs more from the sociology of law than from the law and society movement, which was also not particularly theory-driven in its early days. But law and society has always harbored a deep commitment to the sorts of reflexive scholarship that Burawoy labels “public” and “critical” sociology, as well as to self-critique and thoroughgoing interdisciplinarity. It remains to be seen whether ELS will follow this same arduous path, or whether instead it will become a more complacent, insular, and technocratic endeavor.

Moreover, there is some risk that as ELS gains traction, the sociology of law, as we know it, may become even more marginal in the legal world than it is today. As legal scholars become more and more methodologically skilled, they may have less and less patience for disciplinary social scientists who cannot estimate a regression or run a mock jury experiment without citing Marx, Weber, and Durkheim. And as legal scholarship becomes more and more empiricist, it may leave less and less room for theoretical analyses that critique the social foundations of the legal enterprise itself. In tandem with the law and society movement, the sociology of law has spent half a century linking empirical studies of law to broader concerns about inequality, power, social order and social change. ELS may yet turn toward such questions itself; but if not, we could be headed back to a future in which the impact study would once again be the *ne plus ultra* of sociolegal inquiry.

For better or worse, however, the one stance toward ELS that we *cannot* afford to adopt is a posture of willful ignorance. ELS is both an important new audience for our scholarship and an important new discourse reshaping the perceptions of old and new

audiences alike. A greater appreciation for empirical work within the legal academy is almost certainly a good thing, and a more diverse intellectual ecology is surely a healthier one. After all, not all interesting empirical questions are “sociological” in the disciplinary sense. But regardless of whether we choose to embrace ELS or to confront it, we will face new tasks of definition and translation, new challenges of differentiation, assimilation, justification and persuasion.

For now at least, ELS seems more friend than foe. And in the short run at least, ELS and the sociology of law seem to be traveling along largely congruent paths. But we should keep our eyes open. Objects in the mirror are often closer than they appear. And that is perhaps why, amid the hubbub of enthusiasm and fellow-feeling at the

The Ground Game: Dismantling Rule of Law Ideology

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I am struck by the fortitude of ideology. Who isn't? But it's one thing for these fabrics to wield their voodoo on the unsuspecting hoi polloi and quite another for the victim to be a grad school hardened, semi-accomplished, mid-career social scientist.

For the past decade I've been researching laws that mandate parental involvement in the abortion decisions of pregnant teens (coming soon to a bookstore near you). The basic deal, fashioned by the Supreme Court, is that states can require parental consent or notification as long as there's a way for minors to get around this involvement, say in cases where telling one's parents would be dangerous. Almost all of the 34 states that have such a requirement make judges the arbiters of the bypass processes. My question: Can minors who want bypass hearings actually get them?

The Court has pretty clearly set out what an acceptable bypass process is supposed to look like, saying that states must provide an expedited and confidential avenue for a

LSA, one could detect just the slightest undertone of nervous laughter.

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minor to prove either that she is mature enough to proceed with an abortion on her own or that the abortion is in her best interest (see, e.g., *Bellotti v. Baird II*, 1979). And states have pretty much borrowed the Court's language in writing their laws. Often states go the Court one or two better, codifying such protections for minors as appointed counsel, which is not mandated by the Court. On paper, everything looks oh so reasonable.

Reality, though, does not much resemble what the law promises (see, e.g., Silverstein 1999; Silverstein and Speitel 2002; Silverstein, Fishman, Francis, and Speitel 2005). A lot of times, local courts don't even know that it's their responsibility to handle bypass cases. Individuals designated to aid minors are often unavailable. Sometimes anti-abortion judges make up their own rules, some forcing minors to endure pro-life counseling or appointing lawyers to represent the interests of the fetus. Other judges leave minors in the lurch by refusing, on ideological grounds, to hear these petitions. It's really quite a mess.

The results I uncovered were not unpredictable. We have a recalcitrant and powerful state regulating an almost powerless population. Couple that with run

of the mill bureaucratic inefficiency and a few zealots, and it's going to be bad news for the powerless population.

My reaction to these results was somewhat less predictable.

Thirty-five years ago, Stuart Scheingold introduced us to "the myth of rights," an alluring ideology that "rests on a faith in the political efficacy and ethical sufficiency of law as a principle of government" (1974, 17). Subscribers to this ideology believe that

the political order in America actually functions in a manner consistent with the patterns of rights and obligations specified in the Constitution. The ethical connotations of this rule of law system are based on a willingness to identify constitutional values with social justice. It encourages us to break down social problems into the responsibilities and entitlements established under law in the same way that lawyers and judges deal with disputes among individuals. Once the problem is analyzed, the myth, moreover, suggests that it is well on its way to resolution, since these obligations and rights are not only legally enforceable but ethically persuasive, because they are rooted in constitutional values. (Scheingold 1974, 17).

Now, I know Stu Scheingold. Stu Scheingold is a friend of mine. Hell, my work gets a mention in the preface to the new and improved anniversary edition of *The Politics of Rights* (2004). Nevertheless, apparently, I'm no Stu Scheingold, because instead of meeting my results with an unfiltered cigarette, a small bitter coffee, and a knowing shake of the head (perhaps while muttering "pas bien" under my breath), I feel betrayed. "But the law is so clear," I want to say. "How can they get away with this?" How undergraduate!

It doesn't seem to matter that much of my professional career has been about deflating the pretensions of rule of law ideology. It's not that I don't believe that it's all about politics, power relationships,

and social control. I believe it. I know the Kafka, the Foucault, the Wittgenstein.

And yet, as I went about the business of figuring out how court personnel handle bypass inquiries, my jaw dropped anew each time I encountered a court administrator who said, "Honey, I have no idea," or an intake officer who self-assuredly declared, "She needs to hire a lawyer," or a judge's secretary who asked, "Has she prayed about it?"

What seems to be the case is that debunking mythologies is only partially about changing beliefs. Sure, myths have doctrines, and showing those doctrines to be false is part of the project. But myths also have majesty, and poetry, and music, pomp and circumstance. I remember when Pope John Paul II died. My husband, an educated man and an equal opportunity antitheist, was transfixed. Break the ring, puffs of smoke ... it was fascinating to watch him be fascinated.

Well the law, too, has its pageantry. Marble columns and black robes. Sacred texts and pithy, profound aphorisms. "We are a country of laws, not men."

Popular culture also adds its two cents. Consider *Law and Order*, and before that *Matlock* and *Perry Mason*. Glorifications and hegemonifications. It's enough to make you want to hug a porcupine.

I sometimes wonder about the value of work like mine, horizontal, intra-paradigm studies that lend empirical support to previously articulated theoretical landscapes. But, it seems, contests over meaning are not settled in one session. They play themselves out, perhaps over a generation or more. We are not all generals. We pick our sides and we fight our little battles. If we are lucky, we shall be able to convince ourselves.

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Helena Silverstein is Professor of Government and Law at Lafayette College. Her book on parental involvement mandates is due out in 2007 from New York University Press. She is the author of *Unleashing Rights: Law, Meaning, and the Animal Rights Movement* (University of Michigan Press, 1996).

Getting the Truth about Consequences

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Anyone who spends time with those who have *done* time soon hears two types of questions: (1) "*when do I stop being a felon?*" and, (2) "*what did my crime have to do with X?*" in which X refers to some restriction imposed upon felons but not other adult citizens. One study puts the number of former felons in the United States at 11.7 million (Uggen, Manza, and Thompson 2006), many of whom never entered prison gates. Though they are "off-paper" and no longer under correctional supervision, they remain stigmatized in both a formal and informal sense. Depending upon where they live, many cannot vote, see their children, work in their chosen occupations, obtain Pell grants for school, possess firearms, reside in public housing, serve on juries, run

for office, receive public assistance, public housing, or student financial aid, or enjoy other of the taken-for-granted rights and responsibilities of citizenship.

The concomitant penalties resulting from felony convictions are called *collateral consequences* or *civil disabilities*. Such sanctions are not imposed by judges at sentencing, but are instead governed by a sociolegal spider's web of constitutional and statutory law, executive orders, administrative rules, and local practice. We here consider collateral consequences through the lens of some classic and emerging questions in the sociology of law and related fields.

Rulemaking. Such sanctions are often taken for granted, as part of the dusty legal furniture surrounding criminal punishment. Yet the imposition of collateral restrictions is ultimately a social choice and a productive research setting for studying the dynamics of rulemaking. With the exception of certain federally mandated sanctions, such as student financial aid restrictions for drug felons, collateral sanctions differ *dramatically* across space and time. For example, Maine and Vermont currently permit prisoners to vote while Florida and Virginia disenfranchise former prisoners and felony probationers for life. Though all states restrict some felons from some occupations, the specific exclusions vary dramatically across the states. In many cases, however, this variation has yet to be described or modeled, with little sociological attention to the rulemaking process that drives their passage and persistence.

Criminology. Do collateral sanctions reduce crime and recidivism? While restricting felons' firearms rights likely enhances public safety, it is difficult to see how prohibiting them from working as barbers meets the same standard. Indeed, to the extent that sanctions impede successful reintegration, they could compromise public safety. For individuals, they represent barriers to reentry and reintegration (Mauer and Chesney-Lind 2002; Travis 2005). For families, the inability to receive public

assistance or reside in public housing directly impacts felons' children, while occupational restrictions and disenfranchisement likely bring wide-ranging and indirect intergenerational effects. We do not yet know which collateral consequences bring a net gain and which bring a net loss to public safety, although some sanctions appear to be linked to more crime, not less (Manza and Uggen 2006).

Broader Impacts. For larger communities, collateral consequences can affect labor markets, democratic institutions, and civic life more generally. Had former felons been allowed to participate in the 2000 presidential election, for example, candidate Al Gore would almost certainly have been elected president (Manza and Uggen 2006). How might bans on employment, housing, and jury service exert similar effects on important institutions?

Inequalities. As imprisonment has become a more common life event for less-educated African-American males (Pettit and Western 2004), collateral consequences strike communities of color with particular force. In fact, power appears to motivate passage of some sanctions, particularly the dilution or suppression of African-American social and political power. More generally, collateral sanctions may operate as an interconnected system of disadvantage that amplifies existing disparities (Wheelock 2005).

Lawyers and the Bar. Perhaps the greatest need for researchers is a detailed cataloguing of these sanctions, such as the specific occupations prohibited in each jurisdiction. Many in the American Bar Association are beginning to ask whether public defenders and other attorneys have a duty to inform their clients about the consequences of such sanctions. During plea negotiations, courtroom actors focus on whether and where the client will do time. Nevertheless, collateral consequences are sometimes even more consequential for defendants, sometimes resulting in deportation, termination of parental rights, or the termination of a valued career. There is currently no comprehensive list of, say,

prohibited occupations, which attorneys could reference or provide to clients.

Deviance and Stigma. Given their broad range and tendency to go unnoticed, the number of ex-felons subject to each sanction is unknown. Yet information technology has today rendered the stigma of felony conviction -- and even simple arrest -- increasingly public. Some states list photos, maps, and home addresses of sex offenders and other felons. Vigilantes have employed such information to hunt down former felons. Michael Mullen, who confessed to killing two former sex offenders, detailed his method in a hand-written note to the *Seattle Times*:

"The State of Washington like many states now lists sexual deviants on the Net. And on most of these sites it shares with us what sexual crimes these men have been caught for ... We cannot tell the public so-and-so is 'likely' going to hurt another child, and here is his address then expect us to sit back and wait to see what child is next."

Registries now target methamphetamine makers and garden-variety felons as well as sex offenders. The erosion of privacy rights in the Internet age is a much broader issue, linked to a highly charged political debate about the extent and nature of punishment. Although life course criminology has shown us that almost every delinquent ultimately desists from crime (Laub and Sampson 2003), sociolegal research on collateral sanctions could show us whether, when, and how they might stop being felons.

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****JOBTRAK****

Status Exclusions as a System of Disadvantage." *Journal of Contemporary Criminal Justice* 21:82-90.

Christopher Uggen is Distinguished McKnight Professor and Chair of Sociology at the University of Minnesota. He studies crime, law, and deviance; especially how former prisoners manage to put their lives back together. With Jeff Manza, he is the author of *Locked Out: Felon Disenfranchisement and American Democracy* (Oxford, 2006).

Mike Vuolo is a graduate student in the Department of Sociology and the School of Statistics at the University of Minnesota. His research interests include incarceration, legitimacy of the criminal justice system, and drug use.

Caroline Lee has completed her PhD in Sociology from the University of California San Diego and is now an Assistant Professor of Anthropology and Sociology at Lafayette College.

Mary Nell Trautner has finished her PhD at the University of Arizona and is headed to the University at Buffalo, SUNY as Assistant Professor of Sociology.

Annette Nierobisz, Assistant Professor of Sociology at Carleton College, has been invited to be a Senior Researcher at the Canadian Human Rights Commission (CHRC) in Ottawa, Ontario. In this two-year position, Annette will develop and coordinate research on human rights issues in Canada.

PANEL DESCRIPTION

BUILDING JUST, DIVERSE AND DEMOCRATIC COMMUNITIES: The Case of Academic Freedom

Saturday, August 12th 10:30-12:10

Academics in general and sociologists in particular have long been advocates of those excluded in U.S. society, including the poor, the non-White, the non-Christian, the disabled, women, gay men, lesbians, bi and transsexuals. Recently, the radical Right has been actively seeking not only to dismantle social programs, abandon civil rights, and increase economic inequality but also to undermine the very freedoms that academics have shared to speak out against such injustices.

This panel explores how academic freedom, as the right to speak out against injustice and inhumanity in its various forms, might be ensured in today's political climate. Melanie Bush from Adelphi University begins by providing an overview of where we stand today. Bart W. Miles and Stephen J. Sills from Wayne State University describe three strategies that faculty researchers have used to challenge the oppressive structures of Institutional Review Boards.

G. Anthony Rosso, Academic Freedom Officer for the Southern Connecticut State University chapter of the AAUP, will discuss Association principles of academic freedom and collective bargaining strategies. Gerald Turkel, Chair of AAUP's Committee on Government Relations, will discuss AAUP noncollective bargaining approaches to resisting political attacks on academic freedom. And last but certainly not least, Jameel Jaffer, an attorney for the American Civil Liberties Union who is currently litigating a case filed on behalf of the American Academy of Religion, the American Association of University Professors and PEN American Center, and that names as a plaintiff in the lawsuit Professor Tariq Ramadan, a Swiss intellectual who is widely regarded as a leading scholar of the Muslim world, will discuss the methods of the ACLU. Consistent with SSSP President Claire M. Renzetti's vision for the 2006 meeting, it is hoped that this panel, sponsored by the *Standards and Freedom of Research, Publication and Teaching Committee*, will encourage scholars devoted to the eradication of social injustice to energize, mobilize and strategize in an effort to thwart current threats to our academic freedom.

****SPOTLIGHT ON NEW PHD SCHOLARSHIP IN THE SOCIOLOGY OF LAW******Mary Nell Trautner****"Screening, Sorting, and Selecting in Complex Personal Injury Cases: How Lawyers Mediate Access to the Civil Justice System"**

Personal injury lawyers aid clients who see themselves as victims of medical, commercial, or other forms of negligence and who seek compensation through the civil justice system. Previous studies have suggested that these lawyers are highly selective, accepting only a small percentage of potential cases with which they are presented. Yet little is known about the actual process of screening. How do lawyers decide which cases to accept and which to decline? Do lawyers agree on the factors that make a good case and those which make a bad case? How might local legal and cultural environments influence the screening process? These questions, and related issues of access, inequality, policy, and justice, are at the core of this dissertation.

Using in-depth interviews and an experimental vignette study given to 83 lawyers who specialize in medical malpractice and products liability, I examine the case screening process, paying particular attention to the roles of tort reform and the legal cultures and environments in which lawyers work. Half the lawyers I interviewed practice in states which are considered to be difficult jurisdictions for the practice of personal injury law due to tort reform and conservative political climates (Texas and Colorado), while the other half work in states that have been relatively unaffected by tort reform and are considered to be more "plaintiff friendly" (Pennsylvania and Massachusetts).

Lawyers respond not only to legal rules and changes to those rules, but also to their perceptions of how jurors will respond to and evaluate their case. My analyses show that while lawyers in both types of states accept roughly the same percentage of cases, they do so using different approaches and theories of liability. When making distinctions between good and bad cases, lawyers in states without tort reform emphasize the importance of a client's "likeability" and jury appeal, while lawyers in states with tort reform place more importance on characteristics related to the defendant, particularly the strength of liability and causation. I address the implications of intended and unintended consequences of tort "reform" for inequality, access, and the growth or inhibition of tort law itself.

BIO: Mary Nell Trautner just completed her Ph.D. in Sociology at the University of Arizona. Starting Fall 2006, she will join the faculty at the University at Buffalo, SUNY, as Assistant Professor of Sociology.

2006 Sociology of Law-Related ASA Sessions

Editor's Preface: I have listed the Section's sessions and some additional sociology of law related sessions. All sessions take place at the Palais des Congrès de Montréal. I have listed the sessions chronologically and have added abstracts or introductions to the sessions when they were available.

Thursday August 10**7:00pm - 8:00pm WELCOMING****PLENARY: Social Science and Human Rights**

Abstract: Pierre Sané (formerly Secretary General of Amnesty International) will discuss his work developing new programs of research-policy linkages in the study and management of social transformation. These include strengthening the interactions among researchers, policy makers, and International bodies such as UNESCO towards advancing programs in human rights and development,

gender and women's rights, racism and discrimination, poverty, and development of civil society.

Session Organizer: Cynthia Fuchs Epstein (Graduate Center, City University of New York)

President: Cynthia Fuchs Epstein (Graduate Center, City University of New York)
Introduction, Valentine M. Moghadam (Chief, Gender Equity and Development Section, UNESCO) "Integrating Social Science and a Human Rights Agenda" Pierre Sané (Assistant Director-General for Social and Human Sciences, UNESCO).

Friday August 11**12:30-2:15 Transgressing Sex Segregation: The Law, Social Science, and Social Policy**

Abstract: This session will explore the work of law, lawyers, and the judiciary in changing conceptual and legal boundaries defining the rights of women, men, and

social groups. These speakers have all played prominent public roles in the United States and internationally, using the findings of social science to effect social change.

Session Organizer: Cynthia Fuchs Epstein (Graduate Center, City University of New York); “Women's Progress at the Bar and on the Bench” Ruth Bader Ginsburg (Justice, Supreme Court of the United States); “Social Research and Social Change: The Case of Gender Work” Deborah Rhode (Stanford University); “Law's Migration” Judith Resnik (Yale University).

2:30 - 4:10 Breaking Boundaries by Law: When It Works and When It Does Not

Abstract: Beginning in the early twentieth century, scholars in law and social science have engaged in a dialogue that moves from academic discourse to litigation strategy to public policy. In this thematic session, we explore the complexities, the subtleties, and the challenges of transgressing the boundaries of these modes of discourse.

Session Organizer: Carroll Seron (University of California, Irvine) Presider: Carroll Seron (University of California, Irvine). “Off White Over Three Centuries: Mexican Americans and the Dynamics of Legal Whiteness” Laura E Gomez (University of New Mexico); “Breaking Boundaries by Law: When it Works and When it Doesn't” Jack Greenberg (Columbia University); “The Declining Significance of Expertise: Race, Law and Social Science Evidence” Rachel Moran (University of California Berkeley); “Motherhood: Fact and Norm in the Struggle Over Abortion Law” Reva Siegel (Yale University).

2:30 - 4:10 Rethinking the Boundaries of the Body in Law

Abstract: Along many dimensions, laws in contemporary societies regulate what human bodies are and what they can do -- under what circumstances and with what other bodies. While such laws cover many topics (from assisted suicide to school sports), we restrict our attention here to sex-related matters, capturing much of the ferment and many of the issues common to the realm while maintaining focus. Drawing on

insights from their own research, panelists discuss the current state of and historical changes in the body's legal boundaries, and suggest the implications of such matters for contemporary social life. Session

Organizers: David John Frank (University of California, Irvine) & Elizabeth Bernstein (Barnard College, Columbia University) Presider: David John Frank (University of California, Irvine). “Abortion, Law, and the White Body” Nicola K Beisel (Northwestern University); “The Boundaries of the Body in Sex-Work Laws” Kamala Kempadoo (York University); “The Boundaries of the Body in Sexual Harassment Laws” Abigail C. Saguy (UCLA); Discussant: Elizabeth Bernstein (Barnard College, Columbia University).

4:30 - 6:10 Regular Session: Sociology of Law

Session Organizer: Sarah N. Gatson (Texas A&M University) Presider: Amanda K. Baumle (Texas A&M University) “Courts as a Location of Social Change: A View from the Lower Courts” Sharyn L. Roach Anleu (Flinders University); Kathy Mack (Law School, Flinders University); “The Arston Bathhouse Raid of 1903: Character, Class, and the Legal Construction of Sodomy” Brian Donovan (University of Kansas); “The Good Case: Initiating Disputes at the World Trade Organization” Joseph A. Conti (University of California); “Understanding the Organizational Life of EEO Law: Human Resources Personnel as “Suite-level” Legal Council and Marginalized Managers” Beth A. Quinn (Montana State University); “The Child's Wishes in Swedish and US: Contested Custody and Visitation Cases” Diane Marie Pranzo (Essex University); Discussant: Amanda K. Baumle (Texas A&M University).

Other Papers of Interest on Friday

August 11:

“Grass-Roots Law-Making: The Strange Case of Quebec's Anti-Poverty Law” Pascale Dufour (Université de Montréal); 10:30am - 12:10pm in: Regional Spotlight Session. Bread and Circuses I. “Effects of Merger and Antitrust Laws on Merger and Acquisition Activity: An International

Analysis” Umit Ozmel (Columbia University); 10:30am - 11:30am in: Table 11. Power and Authority. “From Manifest Destiny to Multi-Cultural Diversity: The Causes of Naturalization Law in the US, Australia, Canada and New Zealand” Thomas Edward Janoski (University of Kentucky); 4:30pm - 6:10pm in: Regular Session. Citizenship: Between National and Transnational.

Saturday August 12

8:30am - 10:10am Thematic Session: Legal and Regulatory Influences on Workplace Diversity

Abstract: This session explores the influence of the legal and regulatory environment on workplace change in employment segregation and opportunity. The influence of lawsuits, federal court conservatism, affirmative action, and OFCCP reporting are all investigated. All of these papers use longitudinal workplace observations originally collected by the U.S. Equal Employment Opportunity Commission. As such, this session is also an introduction to a major new data resource for the social science community. A short presentation format with two discussants is employed to evaluate the promise of this research for the sociologies of inequality and law, as well as the enforcement and regulation of equal opportunity in workplaces.

Session Organizer: Donald Tomaskovic-Devey (University of Massachusetts)
 Presider: Donald Tomaskovic-Devey (University of Massachusetts). "Politics, Uncertainty and Organizational Change: Workplace Sex Segregation in the Post-Civil Rights Era, 1966-2002" Kevin Stainback (University of Massachusetts); "The Organizational Construction of Discrimination-Charge Outcomes" Elizabeth Hirsh (University of Washington); "The Impact of Class Action Lawsuits, Federal Court Context and Societal Pressures on African American Access to Management" Sheryl L. Skaggs (University of Texas, Dallas); Chad King (The University of Texas at Dallas); "The Regulatory Context of Layoffs and Management Diversity"

Alexandra Kalev (University of California, Berkeley); Discussant: Lauren B. Edelman (University of California, Berkeley)
 Discussant: Barbara F. Reskin (University of Washington).

12:30-2:10 Teaching Workshop Teaching the Sociology of Law

Abstract: The goal of this workshop is to offer a number of innovative approaches to teaching sociology of law courses to undergraduates at the introductory and advanced undergraduate levels. Workshop participants come from a variety of theoretical and research traditions and teach in both large, public and small, private institutions. Whether you are new to the undergraduate teaching enterprise or a seasoned veteran looking for new ideas, you should find this workshop of interest. Panelists will share their syllabi, course assignments, and the use of multimedia technology in their courses. Panelists will also discuss how race and gender issues can be integrated into more or less conventional course offerings. There will be a special emphasis on creating a learning environment that is both innovative and interactive in nature. Session Organizer: Matthew Silberman (Bucknell University)
 Panelists: Sarah N. Gatson (Texas A&M University); Calvin Morrill (University of California, Irvine); Beth A. Quinn (Montana State University); Matthew Silberman (Bucknell University).

12:30-2:10 Regular Session: Law and Society

Session Organizer: David P. Aday (College of William & Mary) Presider: David P. Aday (College of William & Mary)
 “Ebbs & Flows: The Courts in Racial Context” Meera E. Deo (UCLA); “The Imprimatur of Recognition: The Federal Acknowledgement Process and the Legal De/Construction of American Indian Collective Identity” Angela A. Gonzales (Cornell University); “The Social Construction of Lawlessness: Media Coverage of Hurricane Katrina” Kimberly McGann (SUNY Buffalo) & Robert T. Granfield (University at Buffalo).

12:30pm - 2:10pm Thematic Session: The

Social Boundaries of Crime and Punishment

Abstract: Recent research on crime and punishment examines how the public and law enforcement authorities use race and class distinctions as imperfect markers of criminality. These distinctions affect public opinions about crime, policing practices and the administration of criminal justice. The panelists will explore this theme, discussing how crime and crime control are intimately linked to the contours of racial and class inequality in contemporary America.

Session Organizer: Bruce Western (Princeton University) Presider: Bruce Western (Princeton University) Panelists: Lawrence D. Bobo (Stanford University); Katherine Beckett (University of Washington); Christopher Uggen (University of Minnesota).

Sunday August 13

8:30am - 10:10am Section on Crime, Law, and Deviance Invited Session: New Directions in Research on Gendered Victimization

Session Organizer: Karen Heimer (University of Iowa) Presider: Karen Heimer (University of Iowa). "Gender 'n the Hood: Violence Against Girls in Public Spaces" Jody A Miller (Univ of Missouri-St. Louis); "Parental Criminality as Victimization: A Follow-up of the Children of Serious Female and Male Adolescent Offenders" Peggy C. Giordano (Bowling Green State University); Wendy Diane Manning (Bowling Green State University), Monica A. Longmore (Bowling Green State Univ), Patrick Seffrin (Bowling Green State University); "The Gender Gap in Violent Victimization, 1973-2004" Janet L. Lauritsen (University of Missouri-St. Louis), Karen Heimer (University of Iowa), Jacob Stowell (University of Massachusetts-Lowell) "Twentieth Century Trends in Intimate Partner Homicide: Women's and Men's Victimization in Four Cities" Rosemary Gartner (University of Toronto), Bill McCarthy (University of Toronto) Discussant: Candace Kruttschnitt (University of Minnesota).

10:30am - 12:10pm Section on Crime, Law, and Deviance Invited Session: Explaining Crime Trends

Session Organizer: Richard Rosenfeld (University of Missouri-St. Louis) Presider: Richard Rosenfeld (University of Missouri-St. Louis); "Criminal Victimization in American Metropolitan Areas, 1979-2004" Janet L. Lauritsen (University of Missouri-St. Louis); "Crime and the Racial Divide: Comparing City-Level Arrest Trends for African Americans and Whites in U. S. Cities: 1960-2000" Gary LaFree (University of Maryland); Robert M. O'Brien (University of Oregon), Eric P. Baumer (University of Missouri, St. Louis); "Robbery and Consumer Sentiment" Richard Rosenfeld (University of Missouri-St. Louis), Robert J. Fornango (University of Missouri-St. Louis); "Correcting the Report to the Surgeon General on Youth Violence" Gary F. Jensen (Vanderbilt University); "Indeterminacy and Uncertainty in Forecasts of Crime Rates" Kenneth C. Land (Duke University), Patricia L. McCall (North Carolina State University).

12:30 - 2:10 Law and Science (co-sponsored by the ASA Section on Sociology of Law and the ASA Section on Science, Knowledge, and Technology)

Session Organizer: Susan Silbey (Mass. Institute of Technology) & Christopher R. Henke (Colgate University). Presider: Susan S. Silbey (Mass. Institute of Technology); "Academic Science versus Commercial Science: Disobedience and Accommodation in the Face of Intellectual Property Rights" Fiona E. Murray (MIT Sloan); "Civility and Sentiment: The Circulation of Morality in Capital Sentencing Trials" Sarah Beth Kaufman (New York University); "Experience and Expertise in IRB Decision-Making" Laura Stark (Princeton University); "Technical Difficulties: Youth, Sex, and the Discourse of the Dangerous Internet" Alyssa Richman (Temple University).

2:30 - 4:10 Section on Sociology of Law Paper Session: Sociology of Law (or "Inequality and Legal Outcomes")

Session Organizer: Kitty C. Calavita

(University of California, Irvine) Presider: Carroll Seron (University of California, Irvine). "Distributive Justice & Corrective Justice: The Effect of County-Level Racial and Income Inequality on Tort Trial Outcomes" Issa Kohler-Hausmann (Northwestern University); "How Social Hierarchies within the Personal Injury Bar Affect Case Screening Decisions" Mary Nell Trautner (University of Arizona); "Social Structure and Formal Law: Social Attributes and the Outcomes of Employment Discrimination Cases" Ryon Lancaster (University of Chicago) Laura Beth Nielsen (American Bar Foundation), Robert L. Nelson (American Bar Foundation); "Treating "Youth Tried as Adults" as Kids: Parens Patriae in a Criminal Court" Carla J. Barrett (CUNY-Graduate Center).

4:30pm - 6:10pm Section on Crime, Law, and Deviance Paper Session:

Social Consequences of Prisoner Re-entry
Session Organizer: Danielle S. Rudes (University of California-Irvine) Presider: Richard Rosenfeld (University of Missouri-St. Louis). "People, Places, and Things: The Neighborhood Context of Female Offender Reentry" Andrea M. Leverentz (University of Chicago); "Voting and the Civic Reintegration of Former Prisoners" Shelly S. Schaefer (University of Minnesota Department of Sociology), Christopher Uggen (University of Minnesota); "Regionalization of Massachusetts' Forensic Transition Team" Stephanie W. Hartwell (University of Mass-Boston); "Framing Parolees: Discretionary Decision Making Processes Within the Relational Contexts of Social Control" Danielle S. Rudes (University of California-Irvine).

6:30 - 9:00 * SOCIOLOGY OF LAW SECTION DINNER *** (co-sponsored with the Section on Crime, Law and Deviance) 6:30 cocktails and dim sum snack; 7:00 dinner**

Location: La Maison Kam Fung, 1111 Rue Saint-Urbain, 514-878-2888

Abstract: This year, like last, we'll be holding an off-site dinner in lieu of an on-site reception. The dinner will be held at a highly recommended Chinese restaurant,

just around the corner from the Palais des Congres. There will be free food, excellent conversation, and a cash bar, so please do plan to attend!

Other Papers of Interest on Sunday

August 13: "The Social Construction of the Criminal Alien: Examining Changes in Immigration Law and Practice" Judith Ann Warner (Texas A&M International Univ.); 8:30am - 10:10am in: Regular Session. Immigration. "Women, Adivasi Land Rights, and the Law in India" Modhurima Dasgupta (Lewis & Clark College); 10:30am - 12:10pm in: Regular Session. Indigenous Peoples. "Why the Japanese Law School System was Established: the Mechanisms of Institutional Creation" Mayumi Saegusa (University of British Columbia); 12:30pm - 2:10pm in: Regular Session. Sociology of Higher Education. "The Professionalism of Practicing Law: A Comparison Across Two Work Contexts" Jean E. Wallace (The University of Calgary), Fiona M. Kay (Queen's University); 12:30pm - 2:10pm in: Regular Session. Jobs, Occupations, and Professions II. "Creating the Excluded: Anti-Miscegenation Laws and the Construction of Asian Identity" Deenesh Sohoni (College of William & Mary); 12:30pm - 2:10pm in: Regular Session. Critical Race and Ethnic Theory. "Law, Economy, and Globalization: Weberian Themes in the Neo-Liberal Discovery of Law" Bruce G. Carruthers (Northwestern University), Terence C. Halliday (American Bar Foundation); 2:30pm - 4:10pm in: Section on Economic Sociology Paper Session. Economic Sociology and Political Economy. "Work Commitment in the Legal Profession: A Study of Baby Boomers and Generation Xers" Jean E. Wallace (The University of Calgary), Fiona M. Kay (Queen's University); 4:30pm - 6:10pm in: Regular Session. Sociology of Work: Professional Employees and Social Inequality.

Monday August 14

8:30 - 9:30 SOCIOLOGY OF LAW ROUNDTABLES

Abstract: Annette Nierobisz of Carleton College has organized the roundtable

sessions at the 2006 ASA meetings in Montreal. The papers are organized around several themes embodied in law and society research including "legal actors;" "law, crime and gender;" "crime and punishment," "legal systems;" and "public support for the death penalty."

Table 01. Law, Crime and Gender

"Fertility and the Abortion-Crime Debate" Bryan Lamont Sykes (University of California-Berkeley); Dominik Hangartner (University of Bern), Earl A. Hathaway (University of Wisconsin Madison); "Stalking: Gender Neutral or Gender Biased?" Katherine L. Bass (University of Nebraska – Lincoln).

Table 02. Legal Actors

"The Meaning of Pro Bono in Legal Practice" Robert T. Granfield (University at Buffalo); "Theory, Values, and Practice in the Legal Lifeworld of Sociological Jurisprudence: Roscoe Pound's Views on Professional Women" Michael R. Hill (University of Nebraska-Lincoln); "Reproducing White Power and Privilege: The Manifestation of Color-Blind Racism in Elite United States Law Schools" Wendy Leo Moore (Texas A&M University).

Table 03. Crime and Punishment

"When Deviance is Conventional: Predicting the Quantity of Homicide Law" Mark Cooney (University of Georgia) & Callie Harbin Burt (University of Georgia)

Table 04. Assessing Public Support for the Death Penalty

Contemporary Regional Differences in Death Penalty Support: The Northeast Less in Favor" Steven E. Barkan (University of Maine), Steven F. Cohn (University of Maine); "Income and White Death Penalty Support, 1974-2004" Matt Schroeder (Penn State University)

Table 05. Legal Systems

"Development by Arrest: Theorizing the Growth of the Penal System in Rural America" John Major Eason (University of Chicago); "Morality and Punishment in Four Texts" Katayoun Baghai (McGill); "Sociological Democracy: An Evolutionary Approach" Richard E.D. Schwartz (Yale University); "The Israeli Legal System: A

Barrier to Theocracy" Seth B. Abrutyn (University of California, Riverside).

9:30 - 10:10 * SECTION ON THE SOCIOLOGY OF LAW BUSINESS MEETING *****

Abstract: As usual, the business meeting will provide ample opportunity to learn about the state of the section, to celebrate the achievements of our field (and particularly the achievements of our section award winners), to volunteer for section service, and to set the section's course for the coming year. Please join us for a taste of participatory democracy at its best. The Section Chair promises that the agenda will include at least one incredibly controversial proposal with vast world-historical ramifications (to be implemented by his successor, of course).

10:30 - 12:10 Section on Sociology of Law Invited Session: International Law, Human Rights, and War Crimes

Abstract: This panel draws together current research on issues of law, torture, and human rights. By including analyses of state conduct, judicial decision-making, and political events, these papers provide us with insight into current and ongoing reconfigurations of how law is implicated in defining, limiting, and enabling human rights violations. Session Organizer: John Hagan (Northwestern University). Presider: Joyce Apsel (New York University); "Torture and the Corrosion of Law" Kim Lane Scheppele (Princeton University); "Articulating and Representing the Wrongs of Human Rights" Mark Antaki (University of California, Berkeley); "Terror, Torture and the Normative Judgments of Iraqi Judges" John Hagan (Northwestern University) & Gabrielle Ann Ferrales (Northwestern University); "Extraordinary Renditions: Canada's Participation in the 'Global War on Terror'" Jean-Paul Brodeur (Universite de Montreal) & Stephane Leman-Langlois (Universite de Montreal). **2:30 - 4:10 Section on Sociology of Law Paper Session: Gender and the Law** Session Organizer: Beth A. Quinn (Montana State University). Presider: Beth A. Quinn (Montana State University). "He Said/She

Said: An Analysis of Gender and Participation in Real Jury Deliberations” Mary R. Rose (University of Texas), Shari Seidman Diamond (Northwestern University School of Law/American Bar Foundation), Beth Murphy (American Bar Foundation); “How Did Sexual Harassment Become A Social Problem In Japan? The Equal Employment Opportunity Law and Globalization” Chika Shinohara (University of Minnesota); “To Report or Not? Legal Consciousness and Women's Decisions to Report Sexual Harassment” Sandy Welsh (University of Toronto), Jayne Baker (University of Toronto). Discussant: Abigail C. Saguy (UCLA).

4:30 - 6:10 Section on Sociology of Law Paper Session: Social Policies and the Law in Action.

Session Organizer: Mary Nell Trautner (University of Arizona) Presider: Anna-Maria Marshall (UIUC). “Social Influences on the Acceptability of Employment Discrimination: Lessons from Canadian Legal Decisions, 1984-1992” Shyon S. Baumann (University of Toronto);

“Incidental to What? The Divergence of Patent and Copyright Law” Lara L. Cleveland (University of Minnesota); “Mending a Public-Private Gap: Children's Rights and the Children's Ombudsperson” Brian Gran (Case Western Reserve University), Antje Daub (Case Western Reserve University); “Creating Command-and-Control” Jodi Short (University of California, Berkeley) Discussant: Anna-Maria Marshall (UIUC).

Other Papers of Interest on Monday August 14: “Silence, Ideology, Enforced Stories, and Hidden Agendas: Laws & Policies regarding Lesbian AI and their Implementation” Amy Agigian (Suffolk University); 8:30am - 10:10am in: Thematic Session. Expanding the Boundaries in the Study of Lesbian- and Gay-Headed Families “Social Closure in the Legal Profession” Anne E. Lincoln (Southern Methodist University); 2:30pm - 4:10pm in: Regular Session. Organizations: The Newest Structuralism: Organizations, Jobs, Work, and Careers.

<p>SOCIOLOGY OF LAW ELECTION RESULTS</p> <p>The 2006 election results are provided below. Congratulations to all participants in this year’s election!</p> <p><i>Chair-Elect: Elizabeth Heger Boyle</i></p> <p><i>Secretary-Treasurer: Rebecca L. Sandefur</i></p> <p><i>Council Member: Robin Stryker, Laura Beth Nielsen, Brian Gran</i></p>	<p style="text-align: center;">***ANNOUNCEMENT***</p> <p style="text-align: center;"><i>Law & Social Inquiry</i></p> <p>http://www.blackwellpublishing.com/journal.asp?ref=0897-6546&site=1) was available to section members at a discount rate in 2005. For 2006, the journal has made the decision to publish with Blackwell Publishing, and we’re happy to continue to offer your members a discount subscription. The discount rates are available online http://www.blackwellpublishing.com/subs.asp?ref=0897-6546), members need only identify themselves as ASA members to receive the discount when ordering by phone.</p>
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NEW BOOKS RELATED TO THE SOCIOLOGY OF LAW

** CONGRATULATIONS! **

Steven E. Barkan (Department of Sociology, University of Maine) has won the 2006 "Texty" Textbook Excellence Award in the Humanities and Social Sciences category from the Text and Academic Authors Association for his *Criminology: A Sociological Understanding*, 3rd edition (Prentice Hall, 2006). Completely updated and revised throughout, and featuring a new full-color design, this book provides a sociological perspective on crime and criminal justice by treating social structure and social inequality as central themes in the study of crime and major factors in society's treatment of criminals. It gives explicit attention to key sociological concepts such as poverty, gender, race, and ethnicity, and demonstrates their influence on crime.

Jeff Manza & Christopher Uggen

Locked Out: Felon Disenfranchisement and American Democracy (Oxford, 2006)

In *Locked Out: Felon Disenfranchisement and American Democracy*, Jeff Manza and Christopher Uggen use a multi-method approach to reveal the scope, impact, history, meaning, and public support for felon voting restrictions. They employ law and demography to determine that over 5 million Americans are barred from the ballot box, large-scale surveys to show their decisive role in specific senatorial and presidential elections, historical archives to expose how racial conflict has often driven U.S. disenfranchisement practices, intensive interviews to bring to light the political thoughts and behaviors of felons inside and outside of prison, administrative data to probe the link between voting and recidivism, and a national public opinion poll to plumb Americans' support for enfranchising groups from probationers to former sex offenders. *Locked Out* concludes by describing recent legal changes bringing the vote to hundreds of thousands of former felons, calling for a "civic reintegration act" and a continuing reassessment of the practice of felon disenfranchisement.

David Shulman

From Hire to Liar: The Role of Deception in the Workplace

"There are always clients to please, rules to subvert, difficult tasks to perform, work to shirk, and upward mobility to seek . . . Most people with work experience have encountered at least some version of exaggerated resumes, exploitative bosses, self-interested shirking, collusion against disliked colleagues, lying to clients, and countless other variants of lies on the job. This book tells the tale of such lies in the workplace and examines their impact on ethics, administering work, and productivity." -from the Introduction

According to David Shulman, deception is a pervasive element of daily working life. Sometimes it is an official part of one's work-as in the case study he offers of private detectives, who lie for a living-but more often it is simply part of the fabric of life on the job. Shulman argues that workplace cultures socialize individuals into using deception as a tool in performing their everyday work. To make his point he focuses not on extreme cases but rather on less obvious forms of deception, such as pretending to show deference, shirking one's work, crafting misleading accounting reports, making false claims to customers and coworkers, and covering up business transgressions.

Shulman analyzes the motives, tactics, rationalizations, and ethical ramifications of acting deceptively in the workplace. *From Hire to Liar* offers readers both detailed accounts of workplace lies and new ways to think about the important effects of everyday workplace deceptions. Forthcoming from ILR/Cornell University Press

The New Political Sociology of Science: Institutions, Networks, and Power, edited by Scott Frickel and Kelly Moore (University of Wisconsin Press, 2006, "Science and Technology in Society" series. ISBN: 0-299-21330-5 Cloth, \$60.00. <http://www.wisc.edu/wisconsinpress/books/3618.htm> In the twenty-first century, the production and use of scientific knowledge is more regulated, commercialized, and participatory than at any other time. The stakes in understanding these changes are high for scientist and nonscientist alike: they challenge traditional ideas of intellectual work and property and have the potential to remake legal and professional boundaries and transform the practice of research. A critical examination of the structures of power and inequality these changes hinge upon, this book explores the implications for human health, democratic society, and the environment. Contributors: Rebecca Gasior Altman, Phil Brown, Steven Epstein, Scott Frickel, David H. Guston, Edward J. Hackett, Christopher Henke, David Hess, Maren Klawiter, Daniel Lee Kleinman, Brian Mayer, Sabrina McCormick, Kelly Moore, Rachel Morello-Frosch, Jason Owen-Smith, Jennifer Reardon, Laurel Smith-Doerr, Steven Vallas, Steven Wolf, Steve Zavestoski.