

RLS

RAINS LUCIA STERN, PC
Attorneys and Counselors at Law

Declaration of Dr. Edward J. Bronson

People of the State of California vs. Johannes Mehserle

EXHIBIT 1

1 Michael L. Rains (SBN 091013)
2 **RAINS LUCIA STERN, PC**
3 2300 Contra Costa Blvd., Suite 230
4 Pleasant Hill, CA 94523
5 Tel: (925) 609-1699
6 Fax: (925) 609-1690
7 Email: mrains@rlslawyers.com

8 Attorneys for Defendant
9 **JOHANNES MEHSERLE**

10
11
12 **IN THE SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF ALAMEDA**
14 **WILEY M. MANUEL COURTHOUSE**

15 **THE PEOPLE OF THE STATE**) Case Number: 547353-7
16 **OF CALIFORNIA**)
17) **DECLARATION OF EDWARD J. BRONSON**
18) **IN SUPPORT OF MOTION FOR CHANGE OF**
19) **VENUE PURSUANT TO THE 6TH AND 14TH**
20) **AMENDMENTS TO THE UNITED STATES**
21) **CONSTITUTION, ARTICLE I, §16 OF THE**
22) **CALIFORNIA CONSTITUTION, AND PENAL**
23) **CODE §1033**
24)
25) Date: October 2, 2009
26) Time: 2:00p.m.
27) Dept: 11
28)

I, Edward J. Bronson, declare as follows:

1. I am a Professor Emeritus of Political Science at California State University, Chico.
2. Counsel for Defendant Johannes Mehserle have retained me for the purpose of making a recommendation to the Court as to whether, in my opinion, the pretrial publicity surrounding this case provides support for their motion for a change of venue.
3. I conducted a review of media coverage, focusing primarily on the newspaper coverage in the Oakland Tribune, then wrote a community survey to explore awareness of the case and prejudgment about the guilt or innocence of former BART police officer Johannes

1 Mehserle in the killing of victim Oscar Grant III, and to identify other possible types of relevant
2 bias and knowledge in Alameda County.

3 4. As is set forth in detail below, it is my opinion that the Mehserle case is one of the
4 strongest I have ever encountered for a change of venue. I am not given to overstatement on
5 this issue, and in fact have recommended against the need for a change of venue in 172 cases,
6 but I am comfortable with saying that, as of this time, if this case does not justify a change of
7 venue, virtually no case can meet the legal standard.

8 5. In explaining to the Court the underlying reasons for my opinion, I will divide this
9 affidavit into six sections, as follows: I. Qualifications; II. Introduction; III. Media Analysis; IV.
10 Survey Analysis; V. Alternative Remedies: Voir Dire and Related Matters; and VI.
11 Conclusion.

12 **I. QUALIFICATIONS**

13 6. Education and Experience: I will begin by briefly reviewing my qualifications, and I
14 have attached a curriculum vitae to this affidavit as Attachment A. After my undergraduate
15 education, I received a J.D. from the University of Denver; an L.L.M. from New York
16 University; and a Ph.D. in Political Science, emphasizing Public Law, from the University of
17 Colorado. As part of the study for my doctorate, I received training in various types of social
18 scientific analysis.

19 7. I have been employed since 1969 at California State University, Chico, where I have
20 been a Professor of Political Science, now emeritus, in the College of Behavioral and Social
21 Sciences. I have taught courses in Administration of Justice, Legal Analysis, and Constitutional
22 Law. In addition, I have taught at the University of Colorado as a Visiting Professor, and in
23 summer programs at several law schools, including the University of San Francisco; the
24 University of Santa Clara; the University of California at Hastings, Berkeley, and Los Angeles;
25 the University of San Diego; California Western; and the University of Puget Sound (now
26 University of Seattle). I have been a Visiting Scholar at the University of Alaska and at the
27 College of Micronesia, and in 1992 I was a Fulbright Scholar at the Center for Judiciary
28 Studies, Ministry of Justice, in Lisbon, Portugal, where judges and public prosecutors are

1 trained. My role there was to explain the use of juries and social science in the American
2 courts.

3 8. In my research, dating back to 1968, I have studied the attitudes of jurors toward
4 relevant issues of criminal justice, the effects of those attitudes on verdicts, and the way that
5 various processes, including voir dire and publicity, affect jury behavior. I have done research
6 and published articles about these subjects, a number of which are set forth in the
7 accompanying curriculum vitae. (Attachment A)

8 9. In addition, I have acted as a consultant on ways to improve the fairness of voir dire
9 and jury selection. I have testified and submitted pretrial and post-trial affidavits on these
10 matters in many cases, have reviewed transcripts of voir dire as part of the preparation for
11 drafting affidavits submitted for post-conviction relief and to testify on the efficacy of voir dire,
12 and have lectured on voir dire and jury selection issues at various academic and professional
13 organizations. I have previously qualified as an expert witness in approximately 200 cases, and
14 have also submitted declarations and consulted on jury issues in a large number of cases in both
15 state and federal courts around the country.

16 10. In particular, I have previously testified and qualified as an expert in jury-related
17 matters four times in Alameda County, including the Moore Brothers case, the record of which
18 formed the evidentiary basis for *Hovey v. Superior Court* (1980) 28 Cal.3d 1. In one of the
19 cases I recommended against a change of venue. In my opinion there have been few reported
20 venue cases from Alameda County because (a) I would rarely recommend a change of venue
21 from a county the size of Alameda, and (b) rarely do counsel want a change of venue from
22 Alameda.

23 11. Venue. I have been studying and doing research on pretrial publicity for almost 40
24 years. I have published and presented research papers at various academic and professional
25 meetings; done pretrial and post-conviction publicity analysis work for attorneys involved in
26 hundreds of cases; made recommendations about the need for a change of venue or other
27 remedy in many cases; developed, conducted, and evaluated surveys to measure the extent and
28 nature of pretrial publicity; qualified and testified as an expert witness on change-of-venue

1 motions in 123 cases, testifying in person 105 times and 18 times by affidavit; submitted
2 several additional affidavits in post-conviction proceedings where the issue involved possible
3 prejudicial pretrial publicity; and testified several times on the need to close various hearings
4 (preliminary, competency, and venue) or seal various matters in high profile cases. As
5 Attachment B to this declaration demonstrates, I have attached a list of all cases in which I have
6 previously testified on the venue issue. Included in Attachment B is a list of the 172 cases in
7 which I have recommended and or testified against the need for a change of venue.

8 12. I am the author of the chapters on both venue and pretrial publicity in California
9 Criminal Law Procedure & Practice, now in the tenth edition (2009), published under the
10 auspices of the University of California and the State Bar of California, and widely used by
11 state lawyers and judges.

12 13. In addition, I have consulted and sometimes testified on several cognate issues
13 involving concern about media coverage involving such matters as closing hearings, gag orders,
14 and sealing court records. Overall, my concern in such cases is with the impact of prejudicial
15 publicity on the ability of jurors in that community to sit fairly in a particular case, using a
16 variety of methods to assess the impact of the media coverage.

17 14. As noted, I have recommended *against* the need for a change of venue in 172
18 previous cases (23 times in testimony). In total, I have testified in favor of a change of venue
19 100 times, substantially less often than the 172 times I have recommended against a change of
20 venue. I have testified for and consulted with state prosecutors opposing venue changes in six
21 cases.

22 15. I have testified or consulted on the venue issue in such well-known cases as *United*
23 *States v. McVeigh* (the Oklahoma City bombing, both in Oklahoma City on the change of venue
24 motion and in Denver on the severance motion); *Oklahoma v. Nichols* (the state's more recent
25 prosecution for the bombing); *People v. Richard Allen Davis* (the Polly Klaas case); *United*
26 *States v. Kaczynski* (the Unabomber case); the John Walker Lindh case (the American Taliban);
27 the case of one of the men charged with the African Embassy bombings (Mamdouh Mahmud
28 Salim); the Orange County bankruptcy proceedings; *United States v. Skilling, et al.* (the Enron

1 case); *United States v. Scrushy* (HealthSouth); *United States v. Cary Stayner* (the Yosemite
2 Park murder case); such Bay Area cases as the dog mauling and Fajitagate cases; the Night
3 Stalker case in Los Angeles; and many other very well known cases around the country. In
4 such cases as that of the Unabomber, the American Taliban, the Orange County bankruptcy,
5 and Salim, I recommended against the need for a change of venue, despite the very high profile
6 nature of those cases.

7 16. Community Surveys and Analysis. I have also qualified frequently on the
8 conducting and critiquing of public opinion surveys. I have training and extensive experience
9 in this area and have conducted research and presented professional papers in the field. I am a
10 member of the American Association of Public Opinion Research, and have spoken at national
11 meetings of this and other professional groups. I was a member of a four-person group that was
12 commissioned to write standards for venue surveys, which have subsequently been published
13 after being adopted by the American Society of Trial Consultants.

14 17. Jury Voir Dire. I have also done much research on voir dire procedures, published
15 in this area, lectured on the topic at professional meetings both for lawyers and social scientists,
16 taught Continuing Education of the Bar classes on the topic, and testified many times on it as an
17 expert witness, both as a possible remedy for prejudicial pretrial publicity or misjoinder, and as
18 to its effectiveness in a particular case, both in pretrial and post-conviction legal contexts.

19 18. I was fairly recently appointed in San Joaquin County Superior Court in California
20 in a capital trial (*People v. Choyce*) at the court's request as the court's private consultant, with
21 the concurrence of both the prosecution and the defense, both of whom knew me, as an advisor
22 to the court on voir dire conditions, including the questionnaire, jury selection procedures,
23 death qualification, and related matters, and met with the judge privately at some length.

24 19. Summary of Qualifications. I believe I am qualified as an expert on all aspects of
25 issues related to the impact of pretrial publicity on jurors, including the use of social science
26 techniques to do that analysis. These include content analysis of media and survey responses,
27 as well as survey research design and analysis. I am also qualified on available remedies to
28 cure prejudicial pretrial publicity, including change of venue, improved voir dire, instructions,

1 and many others, and overall on the issue of whether a defendant cannot receive a fair trial in a
2 particular community in light of pretrial publicity about the case.

3 II. INTRODUCTION

4 20. The Social Science and Legal Standards for Prejudice from Pretrial Publicity. I use
5 both social science and legal standards in my analysis to assess the impact of prejudicial pretrial
6 publicity. The social science standards are a product of a substantial body of research on the
7 topic. The legal standard comes from the decisions of appellate courts in the venue area.

8 21. For me an essential aspect of a fair trial is that the defendant begins the trial with
9 the burden of proof properly in place. Defendants even in criminal trials can be and sometimes
10 are acquitted in the face of heavily biased pretrial publicity. Marion Barry and John DeLorean
11 are examples – national news programs showed secret recordings of their drug deals. But
12 without the burden of proof properly in place, the defendant has not received a fair trial
13 pursuant to federal and state constitutions require.

14 22. General Problems with Pretrial Publicity Identified by Social Science. In a major
15 review of the social science research spanning over 30 years on the effects of pretrial publicity
16 (PTP) on jurors' consideration of evidence and their ultimate decisions, the authors did a meta-
17 analysis of 44 empirical studies, representing 5,755 subjects, conducted by dozens of scholars
18 using a variety of methodologies. They concluded that, "Subjects exposed to negative PTP
19 were significantly more likely to judge the defendant guilty compared to subjects exposed to
20 less or no PTP."¹ The prejudicial impact was found at all three stages: pretrial, post-trial but
21 prior to deliberations, and post-deliberation.

22 23. The authors suggest that PTP leads to the development of a "story model." The
23 story model has been explored in a variety of modern work on memory.² The model provides
24 the means by which negative publicity provides not just isolated fragments of information, but a
25

26
27 ¹ N. Steblay, et al., "The Effects of Pretrial Publicity on Juror Verdicts: A Meta-Analytical Review," 23 Law and Human Behavior 219 (1999).

28 ² See some of the citations at *id.* 231.

1 belief framework about a defendant's guilt. Those exposed to PTP construct a story to make
2 sense out of a particular event. Once that belief is formed, it is very difficult to dislodge. New
3 information that is consistent with the story is readily absorbed, while inconsistent information
4 tends to be rejected.

5 24. The story of the case thus becomes the prism through which trial evidence and legal
6 theories are viewed at trial. If our story model leads us to believe that the defendant or
7 defendants like him are guilty, then the credibility of prosecution witnesses is enhanced, and
8 explanations or other defenses do not ring true.

9 25. While developing a story model for jurors is important in trial litigation and a
10 frequent topic at litigation training, at a fair trial the story develops at the trial, not during the
11 preceding coverage of the case or cases like it in the media.

12 26. Thus, jurors do not approach the trial as empty receptacles who passively listen to
13 the evidence and decide cases independently of their past experience, knowledge and awareness
14 of community norms. Numerous studies have shown that jurors draw upon their prior
15 understandings of the world as they evaluate and make sense of the evidence presented at trial.³
16 Jurors do not simply store and record evidence. Rather they actively select and organize the
17 trial evidence around preexisting social schemas to construct their "stories" about the events in
18 dispute. They fill in gaps in the evidence with inferences about how the world works and they
19 arrange it in sequences of motivations involved in human actions. These processes include
20 assumptions about important past events, circumstances in which events took place, inferences
21 about human character, and the motivations of the parties involved.

22 ///

23 ///

24 _____
25 ³ See, e.g., Pennington and Hastie, "A Cognitive Theory of Juror Decision Making: The Story Model," 13 Cardoza
26 Law Review 519 (1991); Pennington and Hastie, "Explaining the Evidence: Tests of the Story Model for Juror
27 Decision Making," 62 Journal of Personality and Social Psychology 189 (1982); Holstein, "Juror's Interpretation
28 Attitudes and Hindsight Bias," 9 Law and Human Behavior 83 (1985); Casper et al., "Juror Decision Making,
Attitudes and Hindsight Bias," 13 Law and Human Behavior 291 (1989); Smith and Studebaker, "What Do You
Expect?: The Effect of People's Knowledge of Crime Categories on Fact Finding," 20 Law and Human Behavior
517 (1996).

1 27. Research evidence suggests that events that cause strong negative emotions⁴ or that
2 threaten people's cultural worldview affect the way that these schemas operate.⁵ The sources of
3 the knowledge, information, and attitudes that help shape these views may come from pre-
4 existing dispositions, from mass media, and from other persons in the juror's social
5 environment through means of gossip and rumor.⁶ In ordinary cases the gossip and rumor may
6 be nugatory or absent, but in certain types of high-profile cases that are salient to many
7 members of the community, those in the community frequently discuss the event and make
8 normative statements about their meaning and about the proper outcome of a trial. The killing
9 of Oscar Grant, an unarmed African-American man by a white police officer, an event that was
10 photographed by bystanders and widely televised, is just such an event.

11 28. One author considered the issue of delay in a trial between the first exposure to
12 evidence and to hearing contradictory evidence.⁷ He noted several cognitive biases that
13 research suggests are likely to arise as a result of the delay. In particular, he noted that some
14 people "fail to remember some information that is inconsistent with" their view of the case, and
15

16 _____
17 ⁴ See, e.g., Fishfader, et al., "Evidential and Extralegal Factors in Juror Decisions: Presentation Mode, Retention
18 and Level of Emotionality," 20 Law and Human Behavior 565 (1966); Kerr, et al., "On the Effectiveness of Voir
19 Dire In Criminal Cases With Prejudicial Pretrial Publicity: An Empirical Study," 40 American University Law
20 Review 665 (1991); Kramer, et al., "Pretrial Publicity, Judicial Remedies and Jury Bias," 14 Law and Human
21 Behavior 409 (1990); Ogloff and Vidmar, "The Impact Of Pretrial Publicity On Jurors: A Study To Compare The
22 Effects Of Television And Print Media in A Child Sex Abuse Case," 18 Law and Human Behavior 507 (1994). On
23 the other hand, there is evidence that strong emotional sympathies for victims also adversely affect rational
24 decision making in verdicts, see Feigenson, "Sympathy and Legal Judgment: A Psychological Analysis," 65
25 Tennessee Law Review 1 (1997) for a review.

26 ⁵ See, e.g., Greenberg, et al., "Terror Management Theory of Self Esteem and Cultural Worldviews: Empirical
27 Assessments and Conceptual Refinements," in M. Zanna, Ed., 29 Advances in Experimental Social Psychology,
28 61(1997); Greenberg, et al., "Evidence For Terror Management Theory II: The Effects of Mortality Salience on
Reactions To Those Who Threaten or Bolster the Cultural World View," 58 Journal of Personality and Social
Psychology 308 (1990); Florian and Mikulincer, "Fear of Death and the Judgment of Social Transgressions: A
Multidimensional Test of Terror Management Theory," 73 Journal of Personality and Social Psychology 369
(1997); Miller, et al., "Accounting for Evil and Cruelty: Is to Explain to Condone?," 3 Personality and Social
Psychology Review 254 (1999).

⁶ See N. Vidmar, "Retributive Justice: Its Social Context," in M. Ross and D. Miller, Eds., The Justice Motive in
Everyday Life (2001).

⁷ D. Sherrod, "Trial Delay as a Source of Bias in Jury Decision Making," 9 Law & Human Behavior 101 (1985).
This is analogous to the delay between exposure to PTP and sitting as a trial juror months later.

1 “recall” information they have never heard before, simply because it is consistent with” their
2 theme of the case. “[T]hese types of errors are likely to increase over time, as people are less
3 able to recall specific events and come to rely more on their general and thematic
4 knowledge about the events.”⁸

5 29. A review of the way memory works, based on themes or “schema,” shows that
6 “themes distort memory.”⁹ Thus, it is likely that jurors hearing the defense evidence will not
7 use the evidence in ways that conflict with their story model. This is particularly troubling not
8 just because of the powerful impact, but because of the great difficulty a voir dire questioner
9 will have in discovering the information or attitude.

10 30. Legal Standards. I have found that the most helpful standards are those first laid out
11 by the California Supreme Court in *Maine v. Superior Court* (1968) 68 Cal.2d 375. Since then,
12 over 41 years and in 101 cases (currently through 2006), the California appellate courts have
13 developed detailed criteria in fleshing out their venue standards. The California framework, *see*
14 *Williams v. Superior Court* (1983) 34 Cal.3d 584, and many other cases,¹⁰ examines the
15 following:

- 16 a. The extent and nature of the publicity.
- 17 b. The nature and gravity of the crime.
- 18 c. Status of the victim in the community.
- 19 d. Status of the defendant in the community.
- 20 e. Size and nature of the community.
- 21 f. Political factors or overtones.¹¹

22
23 _____
24 ⁸ *Id.*, at 102 (citations to studies omitted).

25 ⁹ *Id.*

26 ¹⁰ Attached to this Declaration as Attachment C is a list of all cases decided by the California Appellate Courts in published decisions since *Maine*.

27 ¹¹ The courts use this as an additional factor. If present, as in *Maine* and certainly in *Powell v. Superior Court*
28 (1991) 232 Cal.App.3d 785, it is a factor that can weigh heavily in favor of a change of venue. However, its absence does not weigh against the need for such a change.

1 31. As will appear, my analysis focuses on the extent and nature of the publicity in this
2 case, and its impact on the jury pool. I also discuss the issue of community size, as well as the
3 effectiveness of remedial measures. I have reviewed counsel's memorandum of points and
4 authorities in support of the motion to change venue, which discusses in great detail the other
5 factors. It is my expert opinion these analyses, with which I concur, lend strong support for my
6 conclusion that a change of venue is required in this case.

7 **III. MEDIA ANALYSIS**

8 32. Materials Reviewed. In preparing this affidavit, I have reviewed the following
9 materials: An index of newspaper articles from 18 newspapers, representative articles from the
10 Oakland Tribune over the relevant period, an index of other media (television and radio), the
11 contents of a survey testing knowledge and prejudgment, the relevant California authorities,
12 various research articles and publications on the issue of venue analyses, and the memorandum
13 of points and authorities being filed in support of the motion for a change of venue.

14 33. Exhibits. Various materials I have reviewed will be submitted by Mehserle's
15 counsel to the Court as exhibits to the venue motion, including the newspaper article logs and
16 text of newspaper articles. In addition, as noted previously, I have presented additional
17 materials as attachments to this affidavit: Attachment A: Curriculum Vitae (of Edward J.
18 Bronson); Attachment B: Bronson Cases; Attachment C: California Appellate Decisions on
19 Venue Since *Maine*; Attachment D: Survey results and report

20 34. In addition to the massive number of newspaper articles about the case, there was
21 an extraordinary amount of coverage on the airwaves, both on television and radio, as well as
22 the Internet. In my analyses, however, I focus on newspaper coverage. That is because, first,
23 my research has demonstrated, somewhat counter intuitively, that newspaper coverage of a case
24 has more impact than electronic coverage.¹² Second, it is far easier, more systematic, and more
25 complete to document newspaper coverage.

26
27
28 ¹² Prejudgment in High-Profile Cases: A Preliminary Analysis of the Relative Importance of Print Versus
Electronic Sources of Information, and Its Implications, with R. Ross, California State University, Chico
Discussion Paper Series, 1996, presented as Prejudgment in High-Profile Cases: A Meta-Analysis of the Relative

1 35. The Extent and Nature of the Publicity. This is simply a quantitative measure – how
2 much was there. The extent of coverage of this case in Alameda County and environs was
3 remarkable, almost off the scale compared to other cases I have dealt with, as I will explain.
4 There were a total of 1,867 articles that appeared over the period from January 1 of this year
5 through August 31 in newspapers that Alameda County residents were exposed to. See Exhibit
6 3 to Venue Motion, Logs of Newspaper Articles.¹³

7 36. While 1,867 articles may seem like an enormous number of newspaper articles, it is
8 not immediately apparent to what extent this number of articles is an unusually high level for
9 purposes of a change of venue, since there is no intuitive standard. I can offer the Court two
10 possible sources from which to make this comparison. One source is from my own cases,
11 covering almost a quarter century of testimony in venue litigation around the country, focusing
12 on California. Another means of comparison can be obtained by examining those published
13 California appellate venue cases in which the number of articles has been noted in the court's
14 opinion. California has an unusually large number of cases (101) dealing with venue issues,
15 and a rather well developed set of standards. I have analyzed those cases and will discuss them
16 below. Of course, the mere quantity of articles may not demonstrate prejudice – that is
17 dependent on the nature of the coverage – but prejudice based on pretrial publicity is certainly
18 related to the volume of that publicity and is unlikely to arise without it.

19 37. Comparison of This Case with Other High-Profile Venue Cases: Trial Courts. In
20 making my comparison of the extent of this case coverage to other high-profile cases, let me
21 begin first with the 123 trial cases in which I have testified over a 27-year career. They do not
22 include well over 100 other cases in which I recommended *against* the need for a change of
23

24 Importance of Print Versus Electronic Sources of Information, at the American Association for Public Opinion
25 Research, Salt Lake City, 1996.

26 ¹³ As noted, I do not discuss the number of television stories or radio pieces. Because I have reviewed the relevant
27 exhibits, I am aware that there were about 1968 separate television reports between January 1 and August 31. That
28 number is hardly surprising in light of the newspaper coverage. And the massive television (and radio) coverage
strongly supports my view that the press attention in this case, together with the nature of the coverage and the
other factors discussed, requires a change of venue.

1 venue, where the number of articles was usually substantially fewer. Attachment B lists those
2 cases, ranked on pages 10-13 by number of newspaper articles. The median number of articles
3 in the 123 cases in which I testified was 94, and even among the half with fewer than 94
4 articles, almost half of those motions were granted by either the state or federal court trial
5 judge. This case, with 1,867 articles, is approximately *20 times* as great as the median number
6 and one of the very highest I have ever dealt with. Of all the cases in which I have testified
7 (plus many others in which I consulted but did not testify), it ranks number four, exceeded only
8 by the two Oklahoma City bombing trials and the Enron/Lay/Skilling case. Furthermore, this
9 coverage arose in just eight months, whereas most venue cases have been covered for over two
10 years before a venue motion is heard. Note, too, that the Mehserle case had at least three times
11 the coverage, in just those eight months, of any California case in which I have been involved
12 and where I do most of my consulting and testifying.

13 38. Comparison of This Case with Other High-Profile Venue Cases: Appellate Courts.

14 As noted, California has an extensive venue jurisprudence (see Attachment C), with 101
15 reported cases. In 43 of those cases, the court noted the number of articles,¹⁴ although in a few,
16 the total cited also included radio and/or television coverage as well. The volume of newspaper
17 coverage in this case would have substantially exceeded every single one of those 43 California
18 cases—including those that include the TV and radio coverage—by an extraordinarily wide
19 margin.

20 39. As would be expected, both trial judges and appellate courts have been more
21 willing to grant venue changes when the volume of publicity has been high. The overall rate of
22 California appellate courts granting a change of venue in those 43 cases where the number of
23 articles was included was just 12.2 percent (5 of the 43). In approximately 19 percent of all
24 California appellate venue cases (including those cases where the number of articles is not
25 included in the opinion), the change was ordered. Significantly, we can see on page 8 of
26 Attachment C that the percentage of grants in the California appellate courts (in those 43 cases
27

28 ¹⁴ See page 7 of Attachment C.

1 where the number of articles was specified) rose to 50 percent when the number of articles was
2 just 30 or more. That is because in many of those cases with 30 or fewer articles, the appeal,
3 frankly, appears to have been frivolous. In 15 of them there were fewer than 10 articles,
4 including 6 with 0 or 1.

5 40. Other Aspects of the Extent of the Publicity. Location. A factor to consider is
6 whether articles are located on the front page or on the front page of an interior section. That is
7 a good measure of their significance in two ways. First, articles on the front page are more
8 likely to be seen and read and thus recalled than articles elsewhere. Second, placement of the
9 articles represents an editorial judgment about both the interest in and the importance of the
10 story to the local community. In this case, as shown in headed Breakdowns (all newspapers) in
11 Attachment D, there were 113 articles on the front page of the newspaper or the front page of an
12 interior section. Some newspapers, and most important here, the Oakland Tribune and its sister
13 papers, do not include the page number in the archives. Thus, while it appears that many or
14 most of the articles dealing with the Mehserle were indeed on the front page or on the front
15 page of an interior section, they are not included in this analysis.

16 41. Pattern. It is also important to examine the pattern of media coverage over time. It
17 can be argued that delay diminishes memory and thus any prejudicial effect of pretrial publicity.
18 That is because delay may allow for prejudicial facts, memories, and emotions to fade.
19 However, most high-profile cases in change of venue cases cover two or more, sometimes
20 many more, years. Yet the coverage in this case has covered only eight months. That means
21 that the average coverage for those eight months was remarkably 233 per month. In the typical
22 high profile case I have dealt with over the years, there are fewer than 100 articles in *total*, on
23 average, and they had appeared over multiple *years*.

24 42. Averages can be misleading, however, and the actual monthly coverage is shown in
25 Exhibit 2 to the Venue motion. As in all cases, coverage was highest in the early period of
26 reporting of a case, then tends to diminish. At its nadir, there were 38 articles in July, which
27 rose again to 64 in August. Even for those two low months, the total number of articles was
28 greater than the *total coverage* of a majority of the venue cases I have testified in, cases that

1 lasted much longer than the Mehserle case. More to the point, the suggestion that the
2 somewhat reduced coverage indicates that people have forgotten about this case is belied by the
3 results of the survey, completed on August 1 and described below.¹⁵

4 43. Other Factors. This case generated a remarkable 171 letters to the editor, 174
5 opinion piece, 63 commentaries, and 60 editorials, a clear indication that this case and its
6 aftermath touched a raw nerve in this community.

7 44. Conclusion on Extent of the Coverage. The extent of the coverage of this case and
8 related events is one of the most extensive I have ever reviewed. By any objective criterion, it
9 provides overwhelming support for a change of venue.

10 45. The Nature of the Newspaper Coverage. The *extent* of the publicity, as discussed
11 above, is a quantitative analysis, but the *nature* of the publicity examines its content. Massive
12 coverage, standing alone, is a necessary but insufficient factor in creating prejudice. The
13 presence or absence of prejudice is measured by considering the content analysis of what has
14 appeared.

15 46. Given the limited amount of time and the vast number of articles, it would have
16 been impractical to read every article. The complete set of articles are available to the Court in
17 the exhibit provided by counsel (Exhibit 4 to venue motion), and are identified and briefly
18 described in the Log. (Exhibit 3 to venue motion).

19 47. I limited myself to a set of 60 substantive articles selected over the entire timeframe.
20 From my general review of media materials, I believe these fairly capture the major themes in
21 the pretrial publicity. I have also reviewed the memorandum of points and authorities filed in
22 support of the motion for a change of venue, in which counsel discusses the nature of the media
23 coverage, focusing on the following factors:

24 (a) The extent of the television coverage;

25
26
27 ¹⁵ The leading case on this issue, which holds that reduced newspaper coverage may make a change of venue
28 unnecessary, is *Odle v. Superior Court* (1982) 32 Cal.3d 932. But in *Odle* the coverage had virtually disappeared
for two years since the crime had been committed.

1 (b) The extensive local screening and downloading from local media sites of the
2 amateur videos taken of the Grant shooting;

3 (c) The extent to which the coverage conveyed the media's collective view that
4 Grant is a sympathetic victim, that Mehserle should have but failed to talk to investigators and
5 that Mehserle is guilty of the charged crime;

6 (d) The extent to which statements by experts, politicians and community
7 leaders and judges of this Court were potentially prejudicial;

8 (e) The extent to which the media has conveyed the impression that the Grant
9 shooting was racially motivated or that the shooting is related to a history of racial violence by
10 white police officers in Alameda County;

11 (f) The extent to which the coverage of protests, riots, and threats stemming
12 from the case was prejudicial;

13 (g) The extent to which various events during the eight months of coverage have
14 brought the Grant shooting and the Mehserle prosecution back to the fore of public awareness;
15 and

16 (h) The extent to which the Court's order gagging defense counsel from
17 responding to the prejudicial media coverage has worsened the impact of that coverage.

18 48. Conclusion regarding nature of coverage. In my extensive expert experience and
19 opinion, the nature of the press coverage of the Oscar Grant shooting and its aftermath, has
20 been extraordinarily prejudicial, and weighs very heavily in favor of a change of venue.

21 49. Population Size. The size of the population pool from which the jury is to be
22 picked is an important factor in deciding whether a change of venue is needed. I believe it is a
23 neutral factor in this case under the analysis I use; it does not undercut my view that a change of
24 venue is required in this case.

25 50. The size of the community is a factor to consider in deciding whether a change of
26 venue is needed in a particular case, and the courts tend to favor a grant when the population is
27 small and are more disposed to denying the motion when the population is large. There are, of

28 ///

1 course, important exceptions. In the *Powell* case, of course, the court granted a venue change in
2 Los Angeles County, which is several times the size of Alameda.

3 51. The very factors that support a change of venue from small communities can also
4 support a change of venue from large communities in certain cases. To properly consider this
5 issue, it is useful to consider the policy reasons that underlie size as a factor in the venue
6 decision. I have written about precisely this issue.¹⁶ I believe there are four reasons why the
7 size of the jury pool is regarded as important in considering the need for a change of venue, and
8 I will explain them below.

9 52. Ability to Pick a Jury. The first reason why a change of venue may be less
10 necessary in a large jurisdiction is that the larger the community, the better the chance, at least
11 theoretically, of obtaining a venire that is untainted by pretrial publicity or other prejudice.
12 After all, we only need 18 or so “fair and impartial” jurors to have a fair trial, and that should be
13 easier to do in a county with a large populous.

14 53. There are important problems with that approach, however, that are applicable here.
15 First, it assumes that voir dire will allow us to determine who those fair jurors are. For reasons
16 I discuss below, I have reservations about that assumption. Second, it fails to recognize that
17 there are important differences between a cause challenge and a change of venue motion.
18 Resolution of the venue question requires consideration of the responses of jurors who do not
19 ultimately become members of the trial panel as well as those who do. Particularly pretrial, the
20 test is not just the fairness of the actual jury, but also that of the panel and perhaps the
21 community. The California Supreme Court articulated this distinction: “While the propriety of
22 a ruling on challenge for cause is governed by the statutes ... the ruling on motion to change
23 venue – the analysis of a reasonable likelihood that a fair trial cannot be had in the county – is
24 separate from, and requires a far more searching analysis than, the decision to qualify a
25

26
27 ¹⁶ Size of the Community As a Factor in Change of Venue: When a Large Community Becomes Small for
28 Purposes of Venue. California State University, Chico Discussion Paper Series, 1999. Also published in 2000
Capital Case Defense Seminar Syllabus L.A.: California Attorneys for Criminal Justice and California Public
Defenders Association.

1 particular juror. That each juror is qualified under applicable statutes and, specifically, that no
2 juror fails to meet the criteria of [being fair and impartial] is not controlling. Resolution of the
3 venue question requires consideration of the responses of jurors who do not ultimately become
4 members of the trial panel as well as those who do." *Odle v. Superior Court*, 32 Cal.3d 932,
5 944 (citations omitted).

6 54. After all, community prejudice can affect jurors who do not themselves harbor bias,
7 even when those jurors can be identified. For example, jurors may feel pressure from their
8 community. The nature of the media coverage of this event can create pressure on local jurors,
9 perhaps consciously, perhaps not, to return a verdict of guilty lest they incur the displeasure of
10 their friends, neighbors, and co-workers. Jurors ought not to have to consider risking
11 martyrdom in order to acquit, as has been the fate of some who acquitted O.J. Simpson.¹⁷

12 55. A final problem is that analysis of survey data from many cases around the country
13 in which I have consulted show that those who do not recognize a case like this or who have not
14 prejudged are less likely to read newspapers, to watch or listen to the news, to participate in
15 community activities, or be otherwise involved; such uninterested people (as contrasted with
16 disinterested) hardly comport with our ideal of jurors serving as a cross-section and as the
17 conscience of the community. I have called this phenomenon "perverse effects."¹⁸

18 56. On the basis of my research and that of others, I believe that in a mega-case like
19 this, the jury selection cannot adequately protect the fair trial rights of the defendant, can make
20 the resulting pool less representative, and might exclude those usually thought of as the best
21 jurors. At any rate, in a case as likely to be as widely recognized as this, the prejudice is likely
22 to be widespread.

23 57. Communications Network. A second reason that size of the community is
24 important relates to the network of communications through which residents learn about a case

26 _____
27 ¹⁷ Similarly, local jurors who recently acquitted Michael Jackson have been excoriated.

28 ¹⁸ Jury Selection in High-Profile Cases: The Perverse Effects of Voir Dire, with R. Ross. California State University, Chico Discussion Paper Series, 1997.

1 and make judgments thereon. Word travels more quickly in a smaller community, but in some
2 cases like this where the salience is high, that happens in large counties, too. The
3 communication is informal – gossip over the back fence, rumors, coffee shop interchanges –
4 rather than formal, that is, only through the media. That is especially true when the population
5 is relatively homogeneous, and the smaller the community, the greater the likelihood of
6 homogeneity. But in a case like this, with so many people affected and likely to be interested, I
7 would expect there to have been much informal discussion of the case in the county.

8 Discussing the case acts as a multiplier of the media stories by exposing the community to
9 repeated re-telling of what is in that coverage. It also acts as a catalyst for rumors, gossip, and
10 stories of how people have been affected. It is worth considering the difference between
11 “evidence” in the media and that to which jurors will eventually be exposed to in the
12 courtroom. Those same facts may (or may not) be introduced at trial, but in a controlled
13 setting. The atmosphere is sober, the judge is there and in control, and defense lawyers are
14 standing by ready to object, cross-examine, and rebut. That is certainly not so while discussing
15 the case over the back fence, at the breakfast table, in the workplace, over coffee, at the barber
16 or beauty shop, or in many other informal settings.

17 58. Rules of evidence do not control such informal discussions, and gossip, rumors,
18 hearsay, and the like are the currency of that “trial.” The elements of those discussions are
19 likely to include material that is inadmissible, inaccurate, emotional, inflammatory, content
20 speculative, and expressing shared outrage.

21 59. The stories and opinions of friends, relatives, neighbors, and coworkers may have a
22 special credibility, and future jurors can learn the community values with respect to the
23 “proper” result. This could lead to a sort of pressure to convict or to face a perceived need to
24 explain the verdict to those family members, friends, neighbors, and fellow workers.

25 60. Such prior discussion of the case would not automatically disqualify a person from
26 serving on the jury, but it would be disquieting. Not even jury members are supposed to
27 discuss the case before it is submitted to them, and those jury discussions are likely to be much
28 less prejudicial than those held at a neighborhood bar. Population size is not likely to be much

1 help.

2 61. Attention and Memory. A third reason why a change of venue is more likely to be
3 granted from a smaller community is that a case tends to receive less attention in a larger area.
4 It would have to compete with a greater number of other local news stories. For the same
5 reason, it would tend to fade away more quickly. That is clearly not true here. Like "The Great
6 Flood" or "The Great Earthquake" in other places, this case is now part of the collective
7 memory of the community, and will be imbedded there for many years. We are now close to
8 the time of the trial, and it is clear to me, and as the survey discussed below demonstrates
9 convincingly, there has been no forgetting of the sort that can often occur if there is a
10 substantial delay between the event and the trial; the memory of this case has not faded and is
11 seared into the collective psyche of the local community.

12 62. Nature of the Community. In addition to the size of the community, its nature can
13 also play a role in deciding whether a change of venue is necessary, particularly as that nature
14 changes in response to the crime charged. The quality of the media's coverage of this case tells
15 us much about the community's reaction, first, because the media causes much of that reaction;
16 also, because it reflects a professional judgment by the media as to what will interest the public,
17 that is, what it wants to read about. It is difficult to imagine any other case receiving the kind of
18 sustained and extensive coverage in the area or around the state.

19 63. All of these factors tend to weaken the usual effect of a large population in diluting
20 prejudice in some high-profile cases; I believe this is one of those cases where a relatively large
21 population will not protect the defendant.

22 64. Political Overtones. When there are significant political overtones in connection
23 with a case, that can be a factor weighing in favor of a venue change. That is because such
24 extraneous matters ought not be factors in deciding a case. The focus should be on determining
25 guilt or innocence. To the extent that influential political figures or political issues intrude, jury

26 ///

27 ///

28 ///

1 83. Prejudgment. The second crucial area to measure in a venue survey is the extent to
2 which the community has prejudged the case. To make that determination, all respondents who
3 recognized the case on Q2a were asked the following question:

4 Q3a. The BART officer who fired the shot that killed Oscar
5 Grant is named Johannes Mehserle. He is now charged
6 with murder. Based on what you have read, seen, or heard
7 about the case, do you believe that Johannes Mehserle is
definitely guilty; probably guilty; definitely not guilty; or
probably not guilty of the murder charge?

8 84. The four people who identified the case on Q2b (and thus were given other
9 information before being asked the prejudgment question, including the name of the defendant)
10 were asked the following question:

11 Q3b. Mehserle is now charged with murder. Based on what you
12 have read, seen, or heard about the case, do you believe that
13 he is definitely guilty; probably guilty; definitely not guilty;
or probably not guilty of the murder charge?

14 85. As shown in Attachment D, the prejudgment by those who recognized the case is as
15 follows:

16 Q3. Prejudgment (by those who recognize case, n=388):
17 Definitely guilty: 64 (16.5%); probably guilty: 114 (29.4%);
18 Definitely not guilty: 29 (7.5%);
19 Probably not guilty: 77 (19.8%);
20 Don't know/not sure/refused to answer: 104 (26.8%).
21 Combined guilt: 45.9%.
22 Combined not guilty: 27.3%.
23 Combined prejudgment: 73.2%

24 86. Thus, almost three-fourths (73.2%) of all the respondents who recognized the case
25 have prejudged the guilt or innocence of the defendant. Almost half (45.9%) believe the
26 defendant is guilty, and another quarter (27.3%) believe he is not guilty.

27 87. Furthermore, almost half of all respondents (44.8%) interviewed, including those
28 who did not recognize the case (and thus were not asked the guilt question), said the defendant
is guilty. That means that of every 100 people who walk through the courthouse door,
including those who did not recognize the case, almost half are likely believe the defendant is
guilty.

1 88. The ranking of prejudgment of guilt for this case against the state appellate cases
2 shows that in the 18 cases where the prejudgment of guilt level was given in the opinion, the
3 percentage in the Mehserle case, using the 45.9% figure, was exceeded by seven; and in my
4 own cases, as can be seen in Attachment B, this case would rank in the lower quartile. It should
5 be noted that in various cases in which California cases have granted venue, either no
6 prejudgment number was reported at all (*see Powell*) or the number reported was far lower than
7 it is in this case. *Williams* (22%).

8 89. There are several aspects of the prejudgment data in this case that ought to inform
9 the Court's analysis and which in my expert opinion suggests the true prejudgment in this case
10 is extraordinarily high, and that impact of the prejudgment in this case will equal the highest
11 reported in California cases or in my own venue litigation.

12 90. First, invariably, in the past I have used the terms "prejudgment rate" and "guilt
13 rate" interchangeably. That is because the typical percentage of those saying not guilty on my
14 venue surveys has been 1 to 3 percent (it was approximately three percent in both the Alexander
15 and Mabanag cases), and sometimes even zero. Prior to the Mehserle case, I do not recall any
16 case even as high as five percent except for one, where it reached 14.2 percent in the killing of a
17 sheriff's deputy by a Native American. In that case, as in Mehserle, there was a local history of
18 incidents involving overreaction by law enforcement to minority residents, there to Native
19 Americans, that no doubt accounted for a good portion of the high level of not guilty opinions,
20 those who believed the killing was in self defense.

21 91. While the relatively high level of not guilty responses in the Mehserle case might be
22 viewed as a reason not to move the case, that is not a reasonable inference, as I will explain.

23 92. As will be recalled, the prejudgment question asked respondents if they believe the
24 defendant is definitely guilty; probably guilty; definitely not guilty; or probably not guilty of the
25 *murder charge*.

26 93. What becomes clear upon review of the comments made to an open-ended question
27 in this survey (Attachment D) is that there are many who think Mr. Mehserle is guilty of
28 *something*, like manslaughter or some other lesser charge, but not murder.

1 94. In other words, of those who prejudged Mehserle *not guilty of murder*, a substantial
2 number can be assumed to have prejudged him guilty of some criminality. Thus, the
3 prejudgment number in the survey, while already high, understates the relevant prejudgment
4 number by a considerable margin.

5 95. Thus, it is my expert opinion that 45.9% prejudgment on guilt significantly
6 understates the percentage of the Alameda County jury who believe the defendant is guilty of
7 some crime.

8 96. Another aspect of this prejudgment data suggests the trial must be moved out of
9 Alameda County. The combined results on prejudgment—those in the survey who believe the
10 defendant is guilty (45.9%) plus those who believe the defendant is not guilty (27.3%) (or as
11 explained, may believe he is guilty of some crime other than murder), adds to a combined total
12 of 73.2%, only exceeded by three of my cases in which prejudgment was reported. (Attachment
13 B) That sort of combined prejudgment rate—that is, including prejudgment for both guilt and
14 innocence is precisely the measure the California Supreme Court used in the *Williams* case to
15 find that a change of venue was necessary. 34 Cal.3d at 590.

16 97. The combined prejudgment number in this case shows an extraordinarily polarized
17 community, not the kind of jury pool that can approach the case with fully open minds. That
18 may lead to great difficulty arriving at a unanimous verdict since there are relatively very few
19 who have not already made up their minds, one way or the other. Much of this sharp division
20 may be explained by race and racial attitudes, as will be seen below, and those are the kinds
21 of attitudes that tend to be relatively intractable.

22 98. Finally, there is the issue of racial polarization, a topic of particular sensitivity in a
23 case that has been widely reported as having racial overtones. As counsel details in his
24 supporting memorandum, a significant portion of the media coverage has focused on the fact
25 that Mehserle is White and that Grant is Black, and that the Black community views the
26 shooting as part of a history of violence by White police officers against the Black
27 community.

28 99. There is no escaping the relevant data: as a whole, 45.9% of those aware of the

1 case have prejudged Mehserle guilty of murder, whereas 27.3% have prejudged him innocent
2 of that crime. But a remarkable 78.4% of African-Americans have prejudged Mehserle guilty
3 of murder (not to mention those that may believe he is guilty of some lesser crime). That
4 proportion is at the very top of the cases I have worked on (Attachment C) and at the top of
5 all of the reported California cases. (Attachment C)

6 100. Whites have judged Mehserle not guilty at a rate slightly higher than the survey
7 total—some 33.1%. But as discussed previously, the not guilty number is extraordinarily
8 high when compared to other cases I have worked on. As noted, the not guilty rate among
9 Whites in this case is twice the highest I have ever measured, and in most cases I would
10 expect to see that number closer to one or two percent.

11 101. Conclusion. Based on my review of the pretrial publicity in this case and the
12 survey results, plus my understanding of relevant legal and social science rules, it is my
13 opinion that there is a reasonable likelihood that without a change of venue the defendant
14 cannot receive a fair trial in Alameda County. I would go so far as to state, as I did at the
15 outset, that in light of the pretrial publicity and survey data, that if the Mehserle case does not
16 justify a change of venue, virtually no case can meet the legal standard

17 **V. REMEDIES: VOIR DIRE AND RELATED MATTERS**

18 102. Problems in Relying on Voir Dire. I will explain next why I believe, and social
19 science research supports, that voir dire is not adequate to protect a defendant in the face of
20 pretrial coverage in this case. Extensive empirical research in social psychology has
21 documented the degree to which attitudes and behavior are shaped and influenced by
22 situational conditions. That is, characteristics of the setting often determine behavior more
23 than do the personality characteristics of the person in that setting. Prospective jurors answer
24 questions in front of a group of strangers. For over half a century, social psychologists have
25 been studying the topic of the lowered independence of individual judgment in a group
26 setting. In one classic study, it was demonstrated that over one-third of the subjects asked to
27 judge the length of a line went along with the majority, even when that majority was clearly

28 ///

1 and demonstrably wrong in its judgment.²⁴ When the experimental stimuli are statements of
2 opinion endorsed by authority figures, the proportion of agreement is much higher.

3 103. Thus, the immediate environment exerts a powerful influence on what people say
4 and do. A special problem in voir dire is that questioning takes place in the courtroom, where
5 the basic notions of justice and good citizenship are the prevailing ethos. One is on one's best
6 behavior. It is not easy to tell the judge sitting up on the bench in black robes that one cannot
7 do one's duty, cannot be fair and impartial, cannot follow the instructions of the court, and
8 cannot be a good citizen.

9 104. In my experience, it is almost unheard of for prospective jurors to make remarks
10 like some of the respondents did in the survey discussed above (Attachment D, comments)
11 about police officers or about other issues relevant to the case.

12 105. Voir Dire. The expressed attitudes of prospective jurors are also greatly affected,
13 and can be modified, by what they learn about the expressed beliefs and attitudes of other
14 prospective jurors during the voir dire. It is not uncommon for jurors to adopt what is called a
15 "social desirability response set."²⁵ That is, prospective jurors will attempt to respond in what
16 they may consider is a socially appropriate manner instead of by simply being truthful. This
17 social behavior pattern actually causes some people to modify their own answers to conform
18 with those which they have heard expressed earlier by other jurors. The tendency to conform in
19 a group has been well documented in the social psychology literature. The effect of this
20 tendency is that opinions given in public often differ from opinions given in private.²⁶ It is
21 difficult to educate jurors so that they understand that the purpose of voir dire is to get at jurors'
22 real feelings, not to get people to say they are fair and impartial.

23 ///

24 ²⁴ S. Asch, "The Effects of Group Pressure Upon the Modification and Distortion of Judgments," in H.
25 Guetzlow, ed., Groups, Leadership and Men, Carnegie Press, 1951.

26 ²⁵ D. Marlowe. and D. Crowne, "Social Desirability and Response to Perceived Situational Demands," 25
27 Journal of Consulting Psychology, 109 (1968).

28 ²⁶See A.P. Hare, Handbook of Small Group Research, The Free Press of Glencoe, 1962, and studies cited therein.

1 106. In addition, voir dire is an unfamiliar and uncertain situation for prospective
2 jurors. Courtroom proceedings are relatively formal social settings with which most people are
3 unfamiliar. Because of uncertainty and unfamiliarity, people are highly susceptible to "social
4 comparison information," indications from other persons about the appropriateness of their
5 behavior, attitudes, and feelings.²⁷

6 107. Basically, people ask themselves how they look in comparison with others before
7 answering a question. For example, some prospective jurors will cover up certain feelings or
8 opinions when questioned in a group voir dire situation. Others will consciously or not try to
9 have their answers conform as closely as possible to those of other members of the group,
10 especially answers of those who appear to be the most "respectable" members of the group.
11 Still others will contrive to be seated or excused by adjusting their responses to the results
12 observed during the questioning of other prospective jurors. Socially acceptable responses to
13 voir dire questions are established early in the voir dire process. These responses appear
14 continuously throughout the examination, so that less and less honest information is elicited
15 from the venirepersons during standard group voir dire as the process continues.

16 108. During voir dire, prospective jurors are often being questioned about delicate
17 personal information, as well as about deeply held attitudes and moral values. They often are
18 questioned about highly emotion-provoking facts and complex legal issues. Many times, jurors
19 are asked their opinions about subjects that they have never examined or even thought about
20 before. The presence of a large audience hampers their performance of this unfamiliar task.²⁸

21 109. The psychological influences discussed above operate in standard group voir dire
22 to mask or distort juror responses to precisely the kind of highly difficult questions that will
23 need to be asked in this case. Prospective jurors who are concerned about how they will be
24 evaluated by others in the courtroom, or who are answering in a socially desirable fashion in
25 order to obtain the judge's approval, are unlikely to admit to prejudice. At the very least they
26

27 ²⁷ E.g., L. Festinger, "A Theory of Social Comparison Processes," 7 Human Relationships 117 (1954).

28 ²⁸ R. Zajonc, "Social Facilitation," 149 Science 269 (1965).

1 tend to minimize prejudicial knowledge or attitudes, and to exaggerate their willingness and
2 ability to put aside such prejudice. Nor are they likely to concede confusion concerning the
3 basic constitutional tenets that will govern this trial.

4 110. The voir dire setting makes jurors highly sensitive about the expected
5 consequences of their words and actions.²⁹ The voir dire process may inhibit even the most
6 conscientious jurors from responding frankly and openly. Individuals are concerned about
7 whether they receive approval or disapproval from others. Thus, they devote considerable time
8 and energy to trying to learn what factors will have a positive influence on how they will be
9 received or evaluated, and they try to behave in a manner that will give a favorable
10 impression.³⁰ This is particularly true in the presence of a respected authority figure, such as
11 the judge, but also the attorneys, who are often perceived as having a higher social status than
12 the juror, especially in the courtroom. Their views, expressed through questioning or in more
13 subtle ways, can influence responses. When a prospective juror is openly "fired," the ultimate
14 expression of disapproval for disqualifying responses, even when those are exactly the honest
15 sorts of responses that voir dire should encourage, the unintended message to avoid such candor
16 is all too clear.

17 111. The courtroom is an intimidating place for most prospective jurors. Most people,
18 and therefore most prospective jurors, are uncomfortable speaking in front of groups, something
19 they are asked to do during voir dire in a criminal trial. Even if a portion of the voir dire is
20 sequestered, the voir dire will be before a group that includes the lawyers and especially the
21 judge, very high status people in the courtroom.

22 112. If prospective jurors become aware of specific "qualities" that the Court is looking
23 for in a juror, such as being fair and impartial, they are likely to give the appropriate responses.

24
25
26 ²⁹ For a discussion of the effects that perceived consequences have on attitudes and beliefs, see B. Collins and M.
27 Hoyt, "Personal Responsibility for Consequences: An Integration of the Forced Compliance Literature," Journal
28 of Experimental Social Psychology, 558-93 (1972).

³⁰ R. Arkin, et al., "Social Anxiety, Self-Presentation and the Self-Serving Bias in Causal Attribution," 38
Journal of Personality and Social Psychology 23 (1980).

1 This phenomenon is what social psychologists have termed "evaluation apprehension," or
2 heightened concern for what respected authority figures think of them.³¹ Prospective jurors
3 learn the right answers not only through pre-instructions, body language, and their own
4 knowledge and education, but their sense of what is appropriate for a juror in an American
5 courtroom. This is not say that a significant number of jurors dissemble or ignore their oath;³²
6 it is to say that their responses are filtered through an internal prism.

7 113. The problem is particularly intractable with pretrial publicity. Jurors know that
8 they are supposed to be fair and impartial and that good jurors are not supposed to bring their
9 biases and knowledge of cases into the courtroom. Those who previously missed that civics
10 lesson quickly learn it during the voir dire, particularly the standard voir dire that is so common.
11 It is typical to see preinstructions that focus on being fair and impartial rather than open and
12 honest; to see the voir dire conducted almost entirely by the court rather than by attorneys;³³
13 overuse of closed-end and even leading questions; very few follow-up questions; inadequate
14 time allowed for questioning; little or no individualized and/or sequestered voir dire, even on
15 sensitive topics such as pretrial publicity; and failure to grant challenges on prejudice related to
16 pretrial publicity except under an unreasonably high standard.³⁴ Good voir dire techniques are
17 based on traditional research in social psychology and have been adopted routinely in difficult
18 cases by many courts around the country.

19
20
21 ³¹ E.g., M. Rosenberg, "When Dissonance Fails: On Eliminating Evaluation Apprehension from Attitude
22 Measurement," *Journal of Personality and Social Psychology* 28 (1965).

23 ³² Except perhaps for those who are trying to avoid service. Preventing the learning process through which
24 jurors learn what works and what doesn't to escape jury duty is one reason to have some sequestered voir dire in
25 trials that are expected to be long and difficult.

26 ³³ Studies show that people and thus jurors are more likely to be forthcoming with those whose status is closer to
27 their own -- attorneys rather than judges.

28 ³⁴ Sometimes it is argued in venue cases that jurors should be seated unless they have "fixed" opinions about
guilt. In my opinion, the argument fails because it cannot be literally true. No rational panelist could ever state
that even in the face of overwhelming trial evidence of an airtight alibi or the like, he or she would not abandon
his or her position on guilt. But even a lower standard than a fixed opinion could make the trial unfair if it forces
the defendant to prove innocence rather than being protected by the presumption thereof.

1 114. The Inability of a “Fair and Impartial” Voir Dire Question to Protect the Fair Trial
2 Rights of the Defendant. One often sees a well-meaning attempt made in cases where there is a
3 concern about prejudice to protect the defendant’s fair trial rights by asking prospective jurors a
4 conclusory question such as in this case, “Can you put aside whatever you may have read or
5 heard about other cases involving high-level corporate executives before you came to court, and
6 render an impartial verdict based solely on the evidence you hear in court?”

7 115. As the United States Supreme Court observed in *Irvin v. Dowd*, 366 U.S. 717, 728
8 (1961): “No doubt each juror was sincere when he said that he would be fair and impartial to
9 petitioner, but the psychological impact requiring such a declaration before one’s fellows is
10 often its father.”

11 116. In the many voir dire transcripts I have reviewed over decades, it is rare to see
12 more than a handful of prospective jurors acknowledge that they cannot be fair and impartial,
13 even in a lynch-type atmosphere. I almost never use a fair and impartial question in venue
14 surveys because there is so much pressure, even in an anonymous survey, for respondents to
15 give the socially desirable and “good citizen” response. Those who perceive themselves or
16 wish to be perceived as good citizens are reluctant to admit they cannot be fair. The same
17 “good citizen” impulse leads a number of respondents even in anonymous telephone voting
18 surveys to claim that they are registered to vote when in fact they are not.³⁵

19 117. In addition to the social desirability pressure to give the “proper” response, there
20 are other reasons not to rely on such assurances of fairness. For some people in a case like this,
21 the only fair and impartial verdict is guilty – and perhaps the death penalty if the law allowed it.
22 Another problem is that prospective jurors may not know what attitudes and knowledge they
23 have that would be improper and would taint their verdicts.

24 118. Many of us have great difficulty in recognizing our own biases, and most greatly
25 overestimate their ability to deal with them. For example, most of us honestly think we can be
26 fair in a dispute between our child and another child.

27
28 ³⁵ B. Silver, et al., “Who Overreports Voting?” 80 American Political Science Review 6, 13 (1986).

1 119. It is important to note that by no means am I suggesting that jurors will lie.
2 although of course that sometimes happens. Often their true attitudes and feelings are as
3 unknown to themselves as they are to the court and counsel.

4 120. The Problem with Relying on Instructions. It is often assumed that prejudice can
5 be overcome, at least in part, by judicial instructions. It is unwise to assume that instructions
6 can overcome prejudice of the sort faced here, even though they may have some efficacy in
7 curing minor problems. An extensive range of empirical studies have documented what most
8 experienced trial attorneys have long since learned: objections and requests that the jury be
9 instructed can often be more prejudicial than helpful, and they rarely eliminate biased views.
10 One major study found, "Our results are completely consistent with prior research on the
11 ineffectiveness of judicial cautionary instructions. An admonition from the judge to ignore all
12 publicity had no effect on juror or jury verdicts. Nor were instructed juries more likely to
13 contest references to pretrial publicity during jury deliberations."³⁶

14 121. Of particular relevance to the pretrial publicity of concern here, the authors found
15 that with respect to jurors' evaluation of the defendant, such instructions were actually
16 counterproductive, strengthening the impact of the publicity. That is important in this case
17 because the negative portrayal of the in the media is likely to affect the jurors' assessment of its
18 credibility, integrity, and even guilt.³⁷

19 122. Another study of the effectiveness of instructions found that jurors were unaware
20 of the extent to which they had been biased in their decision-making by the improperly
21 considered evidence.³⁸

22
23 ³⁶ G. Kramer, et al., "Pretrial Publicity, Judicial Remedies and Jury Bias," 14 Law and Human Behavior 409, 430
24 (1990). The study summarizes much of the research on the topic, id., at 412-13.

25 ³⁷ Another study found that subjects tended to ignore the limiting instruction, in a criminal case, juries with
26 criminal record information were likely to discuss it as evidence the defendant committed the crime. V. Hans and
27 A. Doob, "Section 12 of the Canada Evidence Act and the Deliberation of Simulated Juries," 18 Criminal Law
28 Quarterly 235 (1976).

³⁸ W. Thompson, "Inadmissible Evidence and Juror Verdicts," 40 Journal of Personality and Social Psychology
453 (1981).

1 123. The classic statement of the lack of effectiveness of judicial instructions to cure
2 the incurable came almost 40 years ago: "The naive assumption that prejudicial effects can be
3 overcome by instructions to the jury . . . all practicing lawyers know to be unmitigated fiction. .
4 . ." *Bruton v. United States* (1967) 391 U.S. 123, 129 (citations omitted).

5 **VI. CONCLUSION**

6 124. In conclusion, my analysis of the publicity and survey results in this case strongly
7 suggests the need for a change of venue in order to avoid the impact of prejudicial publicity on
8 prospective jurors in Alameda County.

9 I declare under penalty of perjury that the foregoing is true and correct, except as to
10 those matters stated on information and belief, and as to those matters, I believe them to be true.

11 Executed on this 10th day of September 2009, at Chico, California.

12
13 

14
15 _____
16 Edward Bronson

17
18
19
20
21
22
23
24
25
26
27
28

[Please credit Indybay.org if this document used as source material elsewhere.
More Justice for Oscar Grant Movement news at www.indybay.org/oscargrant.]

Attachment A

Curriculum Vita September 2009

Edward J. Bronson

Home office: 2086 Vallombrosa Ave.
Chico, CA 95926
(530) 343-6653

Professor Emeritus, Political Science, Public Law
California State University, Chico
e-mail: ebronson@csuchico.edu

EDUCATION Ph.D., Political Science (Public Law), University of Colorado, 1972
LL.M., New York University, 1961
B.S., J.D., University of Denver, 1957, 1959

ACADEMIC EXPERIENCE

Professor of Political Science, Public Law, California State University, Chico,
since 1969 (now Emeritus)
Courses: Constitutional Law, Administration of Justice, Legal Analysis

University of Colorado

Visiting Assistant Professor, Spring 1972. Teaching Associate/Instructor, 1965-69

University of Alaska, Anchorage

Visiting Scholar, Spring 1981

College of Micronesia

Visiting Scholar, Spring and Summer 1978

Center for Judiciary Studies, Ministry of Justice, Lisbon

Fulbright Scholar, Researcher and Lecturer, Spring 1992

OTHER TEACHING (including summer teaching and other programs)

School of Law, University of Santa Clara, 1991, 1983, 1979, 1975, 1974
Constitutional Law, Jurisprudence, Legal Analysis (CLEO)

School of Law, Univ of San Francisco, 1990, 1982. Jurisprudence, Legal Analysis (CLEO)

Hastings College of Law, University of California, 1989. Legal Writing (CLEO)
La Raza LEOP, 1976. Constitutional Law, Legal Analysis

School of Law, University of San Diego, 1988, 1987. Jurisprudence, Legal
Analysis (CLEO)

Boalt Hall School of Law, University of California, Berkeley, 1986, 1984
Jurisprudence, Legal Analysis (CLEO)

California Western School of Law, 1985. Jurisprudence, Legal Analysis (CLEO)

Saipan, Commonwealth of the Northern Mariana Islands; Trust Territory of the Pacific Islands; and Ponape, Federated States of Micronesia; 2002, 2000, 1994, 1987, 1979, 1978, 1977. Program Director; taught Constitutional Law, Legal Writing and Analysis

Justice Center, University of Alaska, Anchorage, 1982, 1981, 1980
Program Director; Constitutional Law

School of Law, University of Puget Sound (now Seattle), 1981. Constitutional Law, Jurisprudence (CLEO)

School of Law, University of California, Los Angeles, 1977. Legal Analysis (CLEO)

Third World Studies Institute. New College of Law, 1977. Constitutional Law, Legal Analysis

California Northern School of Law. Former Academic Advisor to Board of Directors; taught Constitutional Law

PUBLICATIONS AND CONFERENCE PAPERS

Change of Venue, with J. Philipsborn, Ch. 15, in *California Criminal Law: Procedure & Practice*, 1995-2009 ed.; Berkeley: Continuing Education of the Bar, California

Pretrial and Trial Publicity, with J. Philipsborn, Ch. 14, in *California Criminal Law: Procedure & Practice*, 1995-2009 eds.; Berkeley: Continuing Education of the Bar, California

Based on What You Know...: Race, Prejudgment, and the Death Penalty, with R. Ross, Public Opinion Pros, July 2007 (selected for publication by editors from among papers presented at national meeting of AAPOR)

Support for the Death Penalty When Knowing the Defendant's Race, with R. Ross, presented at American Association for Public Opinion Research, Anaheim, 2007

True Feelings: Strength of Opinion of Those Who Support the Death Penalty, with R. Ross, Public Opinion Pros, July 2006 (selected for publication by editors from among papers presented at national meeting of AAPOR)

Severance, in W. Rountree (Ed.), *Jurywork: Systematic Techniques* (3d ed.) New York: Clark Boardman, 2006 ed.

Strength of Opinion in Death Penalty Decisions: An Investigation of Death Qualification on Producing Pro-Prosecution Attitudes and Unrepresentativeness of Juries in Capital Cases, with R. Ross, presented at American Association for Public Opinion Research, Montreal, 2006

Severance of Defendants in Capital Trials. 2006 Capital Case Defense Seminar Syllabus. Sacramento: California Attorneys for Criminal Justice and California Public Defenders Association

Death Penalty, in E. Krauss & B. Bonora (Eds.), with D. Logan. Jurywork: Systematic Techniques (2nd ed.), New York: Clark Boardman, 1987-2005 eds, , 2006 ed., W. Rountree (Ed.)

Change of Venue in Civil Cases, presented at national meeting of American Society of Trial Consultants, Austin, 2006

Standards for Survey Research in Connection with Motions to Change Venue, with R. Dillehay, E. Krauss, S. Macpherson, American Society of Trial Consultants, revised for adoption at 2006 national meeting

The Effects of Race on the Prejudgment of Guilt and Penalty in 60 Venue Surveys, with R. Ross, presented at American Association for Public Opinion Research, Nashville, 2003

The Media and Pre-Trial Prejudice, presented at national meeting of American Society of Trial Consultants, Reno, 2003

Size of the Community As a Factor in Change of Venue: When a Large Community Becomes Small for Purposes of Venue. Originally published in California State University, Chico Discussion Paper Series, 1999. Also published in "Jury Reforms and Innovations, The American Society of Trial Consultants 2003; also in 2000 Capital Case Defense Seminar Syllabus. L.A.: California Attorneys for Criminal Justice and California Public Defenders Association

Some Notes on Waiting Until Voir Dire to Decide Whether to Grant a Change of Venue: Bad Law, Bad Social Science. 2003 Capital Case Defense Seminar Syllabus. Sacramento: California Attorneys for Criminal Justice and California Public Defenders Association

Exploring the Standards for Prejudice from Pretrial Publicity. 2003, 2002 Capital Case Defense Seminar Syllabus. L.A.: California Attorneys for Criminal Justice and California Public Defenders Association

Guidelines for Survey Research in Connection with Motions to Change Venue, updated 2002 from Proposed Minimum Standards for Survey Research in Connection with Motions to Change Venue, with S. Macpherson, E. Krauss, R. Dillehay. Court Call, Journal of the American Society of Trial Consultants, Spring 1998; republished as part of Code of Professional Standards, American Society of Trial Consultants, 2003; also printed in Change of Venue, in E. Krauss & B. Bonora (Eds.), with D. Logan. Jurywork: Systematic Techniques (2nd ed.). Ch. 7. New York: Clark Boardman, 1999 rev.

A Declaration on Sealing the Grand Jury Transcript and on a Possible Change of Venue
The 2002 CACJ/CPDA Capital Case Seminar Electronic Syllabus

Survey Data to Support a Change of Venue: How Much Prejudice Does It Take? with R. Ross. California State University, Chico Discussion Paper Series, 1998; also published as How Much Prejudice Does It Take for a Change of Venue? in 2001 Capital Case Defense Seminar Syllabus. L.A.: California Attorneys for Criminal Justice and California Public Defenders Assn.

The Effects of Race on the Prejudgment of Guilt and Penalty in 20 Venue Surveys, with R. Ross, presented at VIIIth Conference of International Society for Justice Research, International Society for Justice Research, Tel Aviv, 2000

A Meta-Analysis of the Effect of the Race of the Defendant and Victim on the Prejudgment of Guilt and Penalty by Whites and Blacks in the Jury Pool, with R. Ross, presented at American Association for Public Opinion Research, Portland, 2000, published as part of California State University, Chico Discussion Paper Series, 2000

Gender and Salience As Factors in Jury Pool Bias: A Preliminary Investigation, with R. Ross, presented at panel at Southwestern Political Science Assn, San Antonio, 1999, published as part of California State University, Chico Discussion Paper Series, 1999

Minimum Standards for Venue Surveys, presenter, organizer and chair of panel at American Association for Public Opinion Research, St. Louis, 1998

Measuring Prejudice in Venue Surveys: How Much Is Enough? with R. Ross, presented at panel, Surveys and the Courts, at American Association for Public Opinion Research, St. Louis, 1998

Chair, Plenary Session, The Death Penalty in America; presenter, The Continuing Impact of Race in the Administration of the Death Penalty, VIIth Conference of International Society for Justice Research, Denver, 1998

Discriminatory Charging of the Death Penalty: A Modest Proposal. 1998 Capital Case Defense Seminar Syllabus. L.A.: California Attorneys for Criminal Justice and California Public Defenders Association

Jury Selection in High-Profile Cases: The Perverse Effects of Voir Dire, with R. Ross. California State University, Chico Discussion Paper Series, 1997

Declaration in Support of a Motion for Discovery on Arbitrary Charging of the Death Penalty. 1997 Capital Case Defense Seminar Syllabus. L.A.: California Attorneys for Criminal Justice and California Public Defenders Association

Developing Standards for Change of Venue Surveys, panel at Midwest Association for Public Opinion Research, Chicago, 1997 (convenor of panel)

Jury Selection in High Profile Cases: The Perverse Effects and Limitations of Voir Dire, with R. Ross, presented at American Association for Public Opinion Research, Norfolk, 1997, organizer of panel: The Change of Venue in High Profile Cases: Measuring Prejudice and Its Impact on the Jury

Political Process and Race in the Administration of the Death Penalty, presented at Vth Conference of International Society for Justice Research, Potsdam, FRG, 1997

Prejudgment in High-Profile Cases: A Preliminary Analysis of the Relative Importance of Print Versus Electronic Sources of Information, and Its Implications, with R. Ross. California State University, Chico Discussion Paper Series, 1996, presented as Prejudgment in High-Profile Cases: A Meta-Analysis of the Relative Importance of Print Versus Electronic Sources of Information, at American Association for Public Opinion Research, Salt Lake City, 1996

Race in the Courtroom: It's More Than the "N" Word. California Death Penalty Defense Manual (1996 ed.). L.A.: California Attorneys for Criminal Justice and California Public Defenders Association

Declaration on Discriminatory or Arbitrary Imposition of the Death Penalty. California Death Penalty Defense Manual (1996 ed.). L.A.: California Attorneys for Criminal Justice and California Public Defenders Association

The Meaning of Life: Why Capital Jurors Choose Death. California State University, Chico Discussion Paper Series, 1995

Severance of Co-Defendants in Capital Cases: Some Empirical Evidence. 21 Forum 52 (1994). (Also published in California State University, Chico Discussion Paper Series, 1994.)

Fatal Misconception: Convincing Capital Jurors That LWOP Means Forever, with J. Ramos & J. Sannes-Pond, 21 Forum 42 (1994)

The Effectiveness of Voir Dire in Discovering Prejudice in High-Publicity Cases: An Archival Study of the Minimization Effect. California State University, Chico Discussion Paper Series, 1989. Also published as The Effectiveness of Voir Dire in Discovering Prejudice in High Publicity Cases: A Case Study of the Minimization Effect in 20th Anniversary Celebration Seminar. California Attorneys for Criminal Justice, 1993

A Practical Approach to Researching and Presenting the Basis for a Change of Venue Motion, with J. Philipsborn & Q. Denvir. California Death Penalty Defense Manual (1993 ed.). L.A.: California Attorneys for Criminal Justice and California Public Defenders Association

Change of Venue in the California Courts: What They Say and What They Do, California State University, Chico Discussion Paper Series, 1992. Also published in Proceedings of the Annual Meetings, American Political Science Association 1992. Also published as The California Appellate Courts and the Change of Venue: Politics in Search of Law in 20th Anniversary Celebration Seminar. California Attorneys for Criminal Justice, 1993

Exposing the Capital Defendant to Jurors Biased by Prejudicial Pretrial Publicity: The

Fruit of the Poisoned Pen, panel presentation on Pretrial Publicity and the Capital Juror in Symposium, Justice and the Capital Juror, IVth Conference of International Society for Justice Research, University of Trier, FRG, 1993

Change of Venue in the California Courts: What They Say and What They Do, presented at national meeting, American Political Science Association, Chicago, 1992

Justice in the Era of the High-Profile Defendant: Will a Change of Venue Help? presented at national meeting, American Political Science Association, Washington, D.C., 1991

Declaration in Support of Motion to Compel Discovery of Death Penalty Charging Practices. California Death Penalty Defense Manual (1992 ed.). L.A.: California Attorneys for Criminal Justice and California Public Defenders Association

Effective Jury Voir Dire, with Hon. M. Virga, J. Morris, Jr., C. Wieckowski. Tapes and materials. Berkeley: Continuing Education of the Bar, 1991

Justice in the Era of the High-Profile Defendant: Will a Change of Venue Help? with R. Ross. California State University, Chico Discussion Paper Series, 1991. Also published as part of Proceedings of the Annual Meetings, American Political Science Association 1991. Nominated by Section on Law and Courts for the Pi Sigma Alpha Award for best paper at annual meeting

California Appellate Decisions Since Maine, in M. Arkelian, Ed., Homicide Defense. Section 2. California Public Defenders Association, 1991

Declaration in Support of a Change of Venue Motion, in E. Krauss & B. Bonora, Eds., Jurywork: Systematic Techniques (2nd ed.) Appendix E-2). New York: Clark Boardman, 1987, 1989 rev. Reprinted as part of Ch. 7, 78-22, 1990 rev., 1998 rev.

Does Prejudicial Pretrial Publicity Affect Jurors? A Case Study of the Minimization Effect, presented at national meeting, Law and Society Association, Madison, 1989

Challenging the Death-Qualifying Voir Dire After Lockhart, in E. Krauss & B. Bonora (Eds.), Jurywork: Systematic Techniques, 2nd ed. Ch. 3. New York: Clark Boardman, 1987

Declaration in Support of Proposed Voir Dire Procedures. California Death Penalty Defense Manual (1987 ed.). L.A.: California Attorneys for Criminal Justice and California Public Defenders Association

Surveys and the Law, panel, American Statistical Association national meeting, Las Vegas, 1985

Does the Exclusion of Scrupled Jurors in Capital Cases Make the Jury More Likely to Convict? Some Evidence from California. Woodrow Wilson Journal of Law, 1981

Measuring the Number of Automatic Death Penalty Jurors: A Response to Hovey (1981). Research monograph submitted to several courts

The Exclusion of Scrupled Jurors in Capital Cases: The California Evidence on Conviction Proneness and Representativeness. California State University, Chico Discussion Paper Series, 1979

Trial by Numbers: The LSAT and Cultural Bias. The Guild Practitioner, 1977

On the Conviction Proneness and Representativeness of the Death-Qualified Jury: An Empirical Study of Colorado Veniremen. 42 University of Colorado Law Review 1, 1970

NON-ACADEMIC CONFERENCES & OTHER PROFESSIONAL PRESENTATIONS

Using Venue and Jury Composition Challenges to Get Better Trial Conditions, Death Penalty Conference, Monterey (2008)

The Crime Within: Prison Law Symposium, King Hall, University of California, Davis School of Law (2007)

Federal Death Penalty-Multi-Defendant Cases, Death Penalty Conference, Monterey (2007)

Community Attitude Survey in Civil Cases, national meeting of American Society of Trial Consultants, Austin (2006)

Severance of Defendants in Capital Trials, Death Penalty Conference, Monterey (2006)

The Media and Pre-Trial Prejudice, national meeting of American Society of Trial Consultants, Reno (2003)

Free Press vs. Fair Trial, invited presentation, San Diego Psych-Law Association (2002)

The Role of Juries in a Democratic Society, invited presentation for the CNMI Council for Humanities and the Commonwealth, Supreme Court, Saipan (2002). Also, a separate invited presentation, Public Funding of Private Schools
Social Science in the Courts: Change of Venue in a High-Profile Case, invited presentation at McGeorge School of Law (2002)

Voir Dire Procedure, CLE presentation, Commonwealth of the Northern Mariana, Islands, Saipan (2002)

Exploring the Standards for a Change of Venue Motion, Death Penalty Conference, Monterey (2002)

How Much Prejudice Does It Take for a Change of Venue? Death Penalty Conference, Monterey (2001)

- The Role of the Jury in a Democratic Society, invited presentation at the Public Law Forum, sponsored by the Northern Marianas Council for the Humanities, Saipan (2000)
- Change of Venue Motions, Death Penalty Conference, Monterey (2000)
- Venue and Social Science, Visiting Scholar Series, Grant Sawyer Center for Justice Studies, and Graduate Program in Social Psychology, University of Nevada, Reno (1999)
- Discriminatory Charging of the Death Penalty: A Modest Proposal, presentation at plenary session, Death Penalty Conference, Monterey (1998)
- How Size and Nature of the County Affects Venue and Other Issues, presentation in panel, Small County Issues, Death Penalty Conference, Monterey (1998)
- The Anti-Terrorism Act: Can We Rely on a Politicized State Judiciary? presented in Symposium, The Politics of Criminal Prosecution, California State University, Chico (1997)
- Effective Jury Voir Dire, presentation, Continuing Education of the Bar, Sacramento (1997)
- Race in the Courtroom: It's More Than the "N" Word, presentation at Death Penalty Conference, Monterey (1996)
- From Oklahoma City to Denver: The Change of Venue in a High-Profile Death Penalty Case, Public Lecture at University of Colorado School of Law (1996)
- Social Science in High-Profile Death Penalty Cases: Examining Pretrial Publicity, Race, and the Jury, Public Lecture sponsored by Grant Sawyer Center for Justice Studies, University of Nevada, Reno (1996)
- Delegate to First National Conference on Eliminating Racial and Ethnic Bias in the Courts, National Center for State Courts, Albuquerque (1995) (appointed by Chief Justice of Supreme Court of the Commonwealth of Northern Mariana Islands); Racial and Ethnic Fairness Subcommittee meeting, California State Team. Los Angeles (1997)
- The Meaning of Life: Why Capital Jurors Choose Death, panel presentation on Death Penalty Justice: Social Science Research and Courtroom Practice, Vth Conference of International Society for Justice Research, University of Nevada (1995)
- Effective Jury Voir Dire, presentation, Continuing Education of the Bar, McGeorge School of Law, Sacramento (1995)
- Presenting Social Science Research in Support of Novel Motions and Other Courtroom Applications, presenter and panel chair, American Society of Trial Consultants, Portland (1994)
- The Third Constitutional Convention of the Commonwealth of the Northern Mariana Islands, two public fora sponsored by the Commonwealth Council for the Humanities, Saipan (1994)

Bold Beginnings for the Defense: Venue and Jury Selection Strategy, address to annual meeting, California Attorneys for Criminal Justice, San Francisco (1993)

In Limine and Trial Motions, Death Penalty College, School of Law, University of Santa Clara (1993)

Lectures given in Portugal during Fulbright Scholar Award: Public Opinion, Media, and Criminal Justice, university lecture, Centro de Estudos Sociais, Faculdade de Economia, Universidade de Coimbra, Coimbra, Portugal (1992); Lisbon, 1992: Social Science Research in the Courts, and The Adversary System of Justice in the United States, lectures to faculty and student body, Centro de Estudos Judiciários, Ministério da Justiça; The American Justice System, lecture, Faculdade de Direito de Lisboa, Cidade Universitário; Law and Justice in the United States, Juries and Public Opinion, lectures, Instituto Superior de Ciências do Trabalho e da Empresa; The Role of Juries in the Transformation of Society, lecture, Universidade de Psicologia, Instituto Superior de Psicologia Aplicada

Effective Jury Voir Dire, presentation, Continuing Education of the Bar, McGeorge School of Law, Sacramento (1991)

The Change of Venue in California, presentation to California Public Defenders Association meeting, Homicide Defense, Napa (1991)

Analysis of Media Coverage of Capital Cases, presented at national meeting, Amnesty International, Chicago (1989)

Social Science Analysis of Pretrial Publicity, at Death Penalty Conference, Monterey (1988)

Venue Issues and Answers, at Death Penalty Conference, Monterey (1988)

Invited speaker, Legal Education Conference, Ponape, FSM (1987)

Change of Venue, panel presentation at Death Penalty Conference, Monterey (1986)

A Matrix Remedy Analysis of Solutions to Hovey, in panel, Jury Selection in Capital Cases, Death Penalty Conference, Monterey (1985)

TESTIFYING & CONSULTING

VENUE: Expert witness on change of venue motions in 122 cases, testifying (21 times by declaration) regarding publicity analyses, public opinion surveys, evaluations of research, and remedies in California (state and federal), Colorado, Florida (federal), Illinois, Kansas (state and federal court), Mississippi (federal and state court), Missouri (federal court), Montana (federal), Oklahoma (state and federal court), Oregon, and Texas. (Motion granted in 51 of 117 cases decided by trial court.)

Cases have included the Oklahoma bombing case, Enron/Jeff Skilling/Ken Lay case, Night Stalker case in L.A., Unabomber case, Polly Klaas case, American Taliban case, Hurricane Katrina insurance cases, Orange County bankruptcy, San Francisco dog mauling case, Billionaire Boys Club, etc.

Presented evidence on venue by declaration or affidavit in other cases (pretrial and post-trial, criminal and civil) in Alabama, Arizona, California, Florida, Georgia (testified), Illinois, Indiana, Kansas, Kentucky, Nevada, New Mexico, New York, North Carolina, Pennsylvania, Virginia, and Wyoming. Consulted with attorneys, did publicity analyses, and worked on public opinion surveys on venue in many other cases. Reviewed and analyzed many transcripts of voir dire in high-publicity cases. Wrote and/or analyzed juror questionnaires

Recommended against the need for a change of venue in 172 cases, including 24 cases in which I testified or submitted a declaration; testified in favor of change of venue in 106 cases

SEVERANCE: Testified about, consulted on, and empirically researched issues related to severance and joinder, pretrial and post-trial, particularly in capital cases. Dealt with severance of co-defendants and of charges. Research dealt with case-specific problems and general issues

On severance of defendants, testified in New Mexico (federal court), Colorado (federal court), Pennsylvania, California in counties of Fresno, San Diego, San Francisco, San Jose, Trinity. By declaration in federal courts in Arizona, California, Colorado, Florida, New Mexico, New York, Oklahoma, Virginia, West Virginia; in state courts in California (5), Indiana (2)

On severance of charges, testified in San Diego, San Bernardino, Sacramento. And by declaration in other cases

DISCRIMINATION: Testified, submitted declarations and/or consulted on possible abuse of prosecutorial discretion in death penalty charging in several counties. Presented statistical analyses

Testified, submitted declaration and/or consulted on jury selection and discrimination issues, including compositional challenges to trial and grand juries, cognizability of certain groups; presented statistical analyses of data

Testified on possible effects of community racial discrimination against Indians, as measured by media coverage on Indian and police officer in killing of police officer
Testified and/or consulted on impact of community racial prejudice on fair trial rights

Delegate to First National Conference on Eliminating Racial and Ethnic Bias in the Courts, National Center for State Courts, Albuquerque (1995) (appointed by Chief Justice of Supreme Court of the Commonwealth of Northern Mariana Islands)

Did studies and consulted on community prejudice regarding race, as it affected police, prosecutors, and prospective jurors. Conducted community forum attempting to alleviate racial tension between police and young black males

VOIR DIRE: Testified numerous times as expert witness and submitted many declarations on voir dire conditions and on the efficacy of voir dire in various contexts, including death

qualification, pretrial publicity, insanity, and sensitive issues (such as race, gangs, mental issues, and AIDS). Issues included use of questionnaires, attorney-conducted voir dire, individualized and sequestered voir dire, questioning techniques. Also, on ineffectiveness of counsel at voir dire

Appointed by court in capital trial as its advisor on voir dire, jury selection procedures, death qualification, and related matters (San Joaquin County Superior Court, 2006)

DEATH QUALIFICATION: Testified in *Hovey v. Superior Court* (1980) 28 Cal.3d 1, and *Lockhart v. McCree* (1986) 476 U.S. 162. My research cited in these and many other appellate cases

Testified as expert witness on death-qualified-jury issues over 50 times. In Alabama, Arkansas (federal court), Arizona, California, Colorado, Illinois, Nebraska, New Mexico, and Oregon

Submitted affidavits and/or consulted with attorneys regarding death qualification in dozens of cases throughout U.S. and in Canada, pretrial and post-conviction. Issues included guilt proneness, juror attitudes, voir dire, representativeness, the automatic-death-penalty juror problem, voir dire process effects, and various remedies

OTHER TESTIFYING AND CONSULTING

Testified, consulted, and did empirical research on other jury issues, including compositional challenges (grand and trial juries), closing preliminary and competency hearings, sealing transcripts and other records, meaning of LWOP to jurors and effect on sentencing decision

Consultant to Continuing Education of the Bar, California, for California Criminal Law Procedure & Practice, on venue, voir dire, and death penalty

Court-appointed coordinator to monitor and coordinate implementation of consent decree regarding conditions at Butte County Jail (since 1994)

Consultant, Amnesty International, content analysis of media coverage of the death penalty in the United States (1989)

Consultant, United States Department of the Interior, National Park Service, training on penal history for Alcatraz staff (1989-90); Member, Advisory Board, Alcatraz Exhibit, Federal Bureau of Prisons and United States Department of Interior (1990-91)

Consultant to Justice Improvement Commission, Trust Territory of the Pacific Islands, criminal justice education, training, and practice; also on legal education (1977-1987)

Consultant, Legal Services section, Title I, Higher Education Act (1970-1973)

OTHER: PRIOR CRIMINAL JUSTICE ACTIVITIES:

California Correctional Center, Susanville, California: Taught in-service training for prison correctional staff; taught law classes for prisoners and paralegal classes for Inmate Resource Center program; on Board of Directors. Member, Chavareem, multiracial prisoner group

Served on oral boards for court OR program director, probation, and police hiring

Established, coordinated Criminal Justice program; established and taught in off-campus degree programs for criminal justice personnel. California State University, Chico.

Criminal Justice Chair, Law Enforcement Committee, Regional Criminal Justice Planning Board Executive Comm., Training and Education System Project that planned Butte Regional Criminal Justice Training Center, member of advisory board and committees, one-time vice chair; and Chair, Policy Sub-Committee, Butte County Jail Advisory Committee; Project STAR, Teaching Criminal Justice Role Training, Academy of Justice, Riverside, CA

GRANTS AND PROGRAMS FOUNDED OR CO-FOUNDED:

Legal Services section, Title I, Higher Education Act

Public Law Internship. Follow-up to Title I grant, from Associated Students, CSU Chico. Now Community Legal Information Center (CLIC), 12 separate clinical law programs

Chico Area Legal Services grant. Also, former Chair, Board of Directors, Senior Information and Referral Center grant, now Area Agency on Aging. Project Director, then Vice-Chair of board; Board of Directors, Legal Services of Northern California and predecessor organizations

Other Local Program Development (all programs still operating):

Butte County Welfare Rights (1970)	Chico Consumer Protection Agency (1974)
Own Recognizance Bail Project (1971)	Penal Law Project (1974)
Housing Affairs Office (1971)	Women's Law Project (1975)
Family Law Program (1972)	Disabled and the Law Project (1976)
Environmental Advocates (1973)	

OTHER:

Served on doctoral committees in psychology and political science at University of California, University of Colorado, University of Nevada

Some additional past activities: Coordinator and founder, Public Law Program; Community Legal Information Center (CLIC); Paralegal Certificate Program; also campus Pre-Law Advisor; founder and advisor, Minority Student Law Union; Chair, Speech and Advocacy Committee (all at California State University, Chico)

Vice-Chair, Butte County Personnel Appeals Commission; Clerk to Associate Justice, Colorado Supreme Court

Since 1994, court-appointed Coordinator to monitor, coordinate, and audit implementation of Superior Court consent decree regarding conditions at Butte County Jail

The Outstanding Teacher, 1988, California State University, Chico. Also, The Meritorious Professional Performance Award, 1990; Professional Achievement Honors Award, 1995

Fulbright Scholar Award, Portugal, 1992

Ed Bronson-Ron Dillehay Award, established by the American Society of Jury Consultants Foundation for significant contributions through research and education in the fields of *venue*, *voir dire*, and procedural justice (2006)

[Please credit Indybay.org if this document used as source material elsewhere.
More Justice for Oscar Grant Movement news at www.indybay.org/oscargrant.]

Attachment B

VENUE CASES WHERE BRONSON TESTIFIED (ranked by recognition %)

RANK	DEFENDANT	COUNTY	POP.	RECOG. %	GLT % 1	GLT % 2	NWSP ART	DISPOSITION
1	Nichols '03	Oklahoma City	662,153	99	83	82	5,000	Granted
2	Mehserle '09	Alameda	1,556,657	98	46	45	1,867	
3	Riot Cases '90	Butte	182,000	98	74	73	476	Denied
4	Krebs '00	San Luis Obispo	241,600	97	81	79	407	Granted (i)
5	Whitehurst '96 (d)	Ulster, NY	165,304	97	82	79	287	Denied A
6	Knoller/Noel '01	San Francisco	793,700	97	71	69	223	Granted
7	Nguyen '93	Sacramento	1,121,200	97	85	83	185	Granted
8	Courtney '01	Kansas City, MO	1,107,893	97	80	77	104	Denied
9	Al-Arian '05 (d)	Tampa, FL	3,703,622	96	58	55	973	Denied
10	Puente '92	Sacramento	1,041,219	96	76	73	269	Granted
11	Thomas '98 (d)	Sacramento	1,159,800	96	69	66	119	Granted (1)
12	Mickel '04	Tehama	58,700	95	83	79	413	Granted
13	Cheek '98 (d)	Kansas City, KA	161,000	94	52	49	109	Denied
14	Moore/Russell '93	Fresno	713,700	94	82	78	62	Granted
15	Fanus '99	Douglas, OR	98,000	94	71	67	50	Denied
16	O'Neill '96 (d)	Glenn	26,600	94	68	64	36	Granted
17	Watkins '88 (b)	San Diego	2,132,000	93	53	49	371	Granted
18	Farley '89	Santa Clara	1,440,900	93	90	84	218	Denied
19	Crittenden '88	Butte	172,500	93	61	57	214	Granted
20	Winger/Dunaway '96	Humboldt	128,900	93	63	59	122	Granted
21	W.R. Grace, et al. (05)	Missoula, MT	268,628	92	-	55	359	Denied
22	Borg '87	Tehama	44,000	92	35	32	41	Denied
23	Bengochia '06	Inyo	18,592	92	79	72	9	Granted
24	Skilling, et al. '04 (d)	Houston, TX	4,637,853	91	64	58	5,361	Denied
25	McMahan '02 (d, e)	Yuba	60,800	91	66	60	260	Granted
26	Haun/Dally '97 (g)	Ventura	716,100	91	83	76	172	Granted
27	Sanchez '89	Santa Clara	1,431,600	91	46	42	107	Denied
28	UAW, et al. '95 (e)	Peoria, IL	153,260	91	44	40	86	Granted
29	Hansen '87	Humboldt	113,000	91	67	61	80	Granted
30	Melton '88 (d)	Solano	303,500	90	61	55	186	Granted
31	Taylor '86	Merced	161,000	90	70	63	82	Granted
32	Bogdanoff '90 (c)	Santa Barbara	348,400	90	43	39	73	Denied
33	Mauzy '88	Shasta	137,000	90	54	48	65	Denied
34	Baker '95	Humboldt	128,900	90	68	61	26	Denied
35	Williams, T '02	Shasta	169,200	89	75	67	558	Granted
36	Jackson '86	Sacramento	894,000	89	53	47	55	Denied

VENUE CASES WHERE BRONSON TESTIFIED (ranked by recognition %)

37	Winger/Dunaway '94	Humboldt	126,900	89	49	44	42	Denied
38	Casey '97	San Luis Obispo	234,100	88	76	67	103	Denied
39	Ellis '96	Butte	204,300	88	85	76	98	Denied
40	Dodds et al. '93	Trinity	13,450	87	52	45	68	Granted
41	Avila '04	Orange	3,017,700	86	72	62	412	Denied
42	Hale '95 (d)	Glenn	26,500	86	84	72	22	Granted
43	Thornton '94	Ventura	708,200	85	67	56	171	Denied
44	Larmour '05	Shasta	178,197	85	69	59	110	Denied
45	Harden '98 (d)	Mendocino	83,600	85	59	50	52	Granted (1)
46	Franklin '00 (c)	Plumas	20,450	85	-	-	38	Denied
47	Williams/Williams '01 (d)	Sacramento	3,412,740	84	55	46	333	Denied
48	Fagan et al. '04	San Francisco	792,700	84	87	73	330	Granted
49	Allen '08	Stanislaus	525,903	84	62	52	144	Granted
50	Rupe '86	Shasta	132,000	84	71	60	34	Denied
51	Carrillo '09	Plumas	20,632	84	68	57	27	(1)
52	Famalaro '97	Orange	2,624,300	83	70	59	251	Denied
53	Scully '96	Sonoma	421,500	83	78	65	131	Denied
54	Rubio '87 (d)	Solano	292,500	83	74	61	52	Denied
55	Garza/Ramirez '00	Kern	648,400	82	66	54	225	Denied
56	Coffman/Marlowe '88 (b)	San Bernadino	1,240,000	82	70	57	154	Denied
57	Bently '01 (d)	Glenn	27,100	82	58	47	40	Denied
58	Williams, M '02	Shasta	168,600	81	83	67	522	Denied
59	Volarvich '07	Yolo	193,983	81	62	50	122	Denied
60	Polk et al. '92	Monterey	355,660	81	80	65	111	Denied
61	Coleman et al. '89	Madera	81,600	81	58	47	101	Granted
62	Schultz '98	Placer	217,900	81	76	62	79	Denied
63	Engel, et al. '99	Plumas	20,450	81	67	55	50	Granted
64	Mozingo, D. '83	Sacramento	894,000	81	65	53	42	Denied
65	Ashmus '85	Sacramento	894,000	81	60	48	26	Granted
66	Wittig '03 (k)	Topeka, KA	445,674	80	57	45	251	Granted
67	Pearce '90 (b)	San Diego	2,418,200	80	70	56	170	Denied
68	General Motors (e)	Maverick, TX	48,259	80	35	28	91	Granted
69	Brothers '07	Kern	779,869	79	58	45	250	Denied
70	Ramirez '01 (c)	Kern	658,900	79	-	-	242	Denied
71	Endicott '07	Tehama	61,774	79	71	56	95	Denied
72	Pride '85	Sacramento	894,000	79	34	27	24	Denied
73	Nacchio '06 (d)	Denver	2,075,603	78	81	63	1,408	Denied

VENUE CASES WHERE BRONSON TESTIFIED (ranked by recognition %)

74	Diaz '98	Mendocino	85,900	78	41	32	96	(h)
75	Peoples '98	San Joaquin	545,200	78	69	54	64	Granted
76	O'Callaghan '88	Humboldt	113,000	78	75	58	58	Granted
77	Weber '96 (c, d)	Colusa	17,950	78	23	18	46	N.A.
78	Leahy et al. '92	Humboldt	123,600	78	63	49	31	Denied
79	Hunt '88	San Mateo	627,500	77	66	51	85	Denied
80	Pommier '90	Sonoma	371,600	77	69	53	30	Denied
81	Solomon '92	Sacramento	1,041,219	76	-	-	144	Denied
82	Waski '01 (e)	Kern	658,900	76	33	25	44	Denied
83	Espinoza '95 (d)	San Benito	40,950	76	56	42	13	Granted
84	Shuler/Stone '88	Humboldt	115,000	75	89	67	175	Denied
85	Walker '92	Mariposa	14,302	75	43	33	13	Denied
86	Verketis '85	Solano	275,000	74	67	50	160	Granted
87	Suarez '00	Placer	225,900	74	76	56	73	Granted
88	Suff '95	Riverside	1,357,400	73	67	49	252	Denied
89	Siervonti '86	Butte	164,000	73	65	47	220	Denied
90	Harris '99	Kern	639,800	72	55	39	48	Denied
91	A. Fiorella '98	San Luis Obispo	239,000	72	65	47	30	Denied
92	Welch '91	Plumas	19,900	71	18	13	7	Granted
93	Shermantine '00	San Joaquin	554,400	70	56	39	226	Granted
94	Jacobs '90	Monterey	349,000	69	47	32	92	Denied
95	Parsons '94	Butte	197,100	69	68	47	50	Denied
96	Kruse/Beavers '87	Nevada	68,000	69	55	38	28	Denied
97	Nicolaus '86	Sacramento	894,000	68	82	56	30	Granted
98	Elder '83	Sacramento	894,000	68	33	22	22	Granted
99	Solomon '91 (c)	Sacramento	1,041,219	66	27	18	115	Denied
100	Penry '90	Walker, TX	55,200	64	67	43	89	Denied
101	Mateo 1 '98 (c, d)	Monroe, NY	727,575	64	-	-	29	Denied A
102	Schleuder '90	Mendocino	76,900	64	61	39	17	Denied
103	Baker et al. '89	Lake	52,100	60	64	38	58	Granted
104	Holloway '84	Sacramento	894,000	60	35	21	16	Denied
105	Bledsoe '08	Yuba	71,929	58	82	47	26	Denied
106	Wright '02	Sacramento	1,279,900	56	58	32	87	Denied
107	Bigelow '87	Merced	161,000	52	62	32	14	Granted
108	Foster/Fennell '97	Shasta	162,700	48	47	23	51	Denied
109	Mateo 2 '99 (d, i)	Monroe, NY	727,575	32	61	20	111	Denied A
110	Salim '02 (a, d)	New York	4,871,285	22	67	14	Unk	Denied

VENUE CASES WHERE BRONSON TESTIFIED (ranked by recognition %)

111	Nichols/McVeigh '96	Oklahoma	3,000,000	-	-	-	42	2,213	Granted
112	State Farm '06 (d)	Biloxi. MS	465,241	-	54	-	-	1,431	Denied
113	Mollica '84 (a)	Yuba	54,000	-	-	-	-	181	Granted
114	Walker '84 (a)	Yuba	54,000	-	-	-	-	179	Granted
115	Fain '90 (a)	Alameda	1,252,400	-	-	-	-	114	Denied
116	Matthews '86 (a)	Yuba	54,000	-	-	-	-	98	Granted
117	Ferrari '86 (a)	Yuba	54,000	-	-	-	-	81	Granted
118	Potts '01 (d) (k)	San Bernardino	1,689,300	-	-	-	-	38	Granted
119	Davis '02	Shasta	165,300	-	-	-	-	31	Denied
120	Croy '86	Placer	138,000	-	-	-	-	26	Granted
121	Gianino/Suggs '91 (a)	Plumas	19,900	-	-	-	-	15	Granted
122	Franklin et al. '92 (a)	Lassen	27,598	-	-	-	-	9	Granted
123	Flanagan, et al. '04	Trinity	13,450	-	-	-	-	8	Denied
124	Croy '88 (a)	San Joaquin	451,000	-	-	-	-	0	Granted (1)

Notes:

Guilt % 1 = guilt % of those who recognized case; guilt % 2 = % of everyone in survey;

- (a) no survey;**
 - (b) district survey;**
 - (c) voir dire analysis;**
 - (d) by declaration;**
 - (e) civil-guilt % = anti-defendant;**
 - (f) nwsp count includes only 1 art. of each edition of 5-paper chain;**
 - (g) jury imported;**
 - (h) court granted requested substantial trial delay;**
 - (i) 87% recognition of earlier trial;**
 - (j) granted on writ;**
 - (k) court granted requested intra-county or district transfer;**
 - (l) Court granted several requested remedies**
- Denied A = appellate court decides venue in NY;**
Granted (1) = exhibits submitted, change granted prior to hearing.

**CASES WHERE BNSON RECOMMENDED AGAINST CHANGE
 OF VENUE**

No.	Defendant	Date	County	Survey	Testified
1	McHargue	1983	Butte	No	No
2	Mroczko	1984	San Luis Obispo	Yes	No
3	Morgan	1986	San Francisco	Yes	No
4	Ayala Bros.	1987	San Diego	No	Yes
5	Hines	1987	Sacramento	Yes	No
6	McMurphy	1987	Solano	Yes	No
7	Barnette	1988	Butte	No	No
8	Bowman	1988	Santa Cruz	No	No
9	Brown	1988	Sonoma	Yes	No
10	Crittenden	1988	Placer	No	No
11	Farris	1988	Humboldt	No	No
12	Gilmore	1988	Siskiyou	No	No
13	Jacobs	1988	Solano	No	No
14	Jones	1988	Sacramento	Yes	No
15	Angulo, et al.	1989	Siskiyou	No	No
16	Blake	1989	Solano	Yes	No
17	Easley	1989	Monterey	No	No
18	Jacobs	1989	Monterey	No	No
19	Murphy	1989	Fresno (federal)	No	No
20	Nesbitt	1989	Sacramento	No	No
21	Pizarro	1989	Madera	No	No
22	Reyes	1989	Kern	No	No
23	Welch	1989	Alameda	Yes	No
24	Coffman	1990	Orange	No	No
25	Dewberry	1990	Humboldt	Yes	No
26	Maiden	1990	Madera	No	No
27	Reardon	1990	San Diego	No	No
28	Ricci	1990	Mendocino	No	No
29	Schneider	1990	Sacramento	No	No
30	Solomon	1990	Sacramento	No	No
31	Townsel	1990	Madera	Yes	No
32	Waldon	1990	San Diego	No	No
33	Gianino, et al.	1991	Plumas	No	Yes
34	Welch	1991	Plumas	Yes	Yes
35	Dunkle	1991	Sacramento	No	No
36	Edelbacher	1991	Fresno	Yes	No
37	Jensen	1991	Santa Clara	No	No
38	Lival	1991	San Francisco	Yes	No
39	Mitchell	1991	Monterey	Yes	No
40	Moreno	1991	Santa Clara	Yes	No
41	Partlow	1991	Plumas	No	No
42	Franklin, et al.	1992	Lassen	No	Yes
43	De La Serda	1992	San Joaquin	No	No
44	Simpson	1992	Humboldt	No	No
45	Smith	1992	Madera	Yes	No
46	Blacksten	1993	Butte	No	No
47	Brown, et al.	1993	Sacramento	No	No

CASES WHERE B. JOHNSON RECOMMENDED AGAINST CHANGE OF VENUE

48	Carpenter	1993	Sutter	No	No
49	Estrada	1993	Solano	No	No
50	James	1993	Fresno	No	No
51	Osborne	1993	Humboldt	No	No
52	Powell, et al.	1993	Sacramento	Yes	No
53	Parsons	1994	Butte	Yes	Yes
54	Soto	1994	Santa Cruz	No	Yes
55	Abbett	1994	Shasta	Yes	No
56	Avila	1994	Fresno	Yes	No
57	Baird	1994	Sacramento	No	No
58	Cornwell	1994	Sacramento	No	No
59	Hanes	1994	Shasta	No	No
60	McCay	1994	Mariposa	No	No
61	Speegle	1994	Butte	No	No
62	Rouster/Williams	1995	Indiana	No	Yes*
63	Bissell/Graham	1995	Plumas	No	No
64	Hitchings	1995	Humboldt	No	No
65	Miles	1995	San Bernardino	No	No
66	Money	1995	Lassen	No	No
67	Steele	1995	Butte	No	No
68	Thao	1995	Humboldt	No	No
69	Braggs	1995	Trinity	No	No
70	Brown	1996	Sacramento	No	No
71	Hilbun	1996	Orange	Yes	No
72	Lewis	1996	Orange	Yes	No
73	Lincoln	1996	Mendocino	Yes	No
74	Tuffree	1996	Ventura	Yes	No
75	Weber	1996	Colusa	No	No
76	Johnson	1997	Ventura	No	No
77	Kaczynski	1997	Sacramento (federal)	No	No
78	Lester	1997	Mendocino	Yes	No
79	Lester	1997	Mendocino	Yes	No
80	Diaz	1998	Mendocino	Yes	Yes
81	Boswell	1998	Monterey	No	No
82	Fizzell	1998	Stanislaus	No	No
83	Miller	1998	San Mateo	No	No
84	Boyce	1999	Orange	Yes	No
85	Gorman	1999	Cochise, AZ	No	No
86	Manibusan	1999	Monterey	No	No
87	Whitebird	1999	Plumas	No	No
88	Davis	2000	Stanislaus	No	No
89	Galusha	2000	Sacramento	No	No
90	Gilbert	2000	Springfield, MA (federal)	Yes	No
91	Graham	2000	Contra Costa	No	No
92	Lindquist	2000	Nevada	No	No
93	O'Dell	2000	Sacramento	No	No
94	Rainsbarger	2000	Glenn	No	No
95	Saldana	2000	Fresno	No	No

CASES WHERE EMMERSON RECOMMENDED AGAINST CHANGE OF VENUE

96	Lakireddy, P	2000	Oakland (federal)	Yes	No
97	Burger	2001	Shasta	No	No
98	Caro	2001	Ventura	No	No
99	Clevenger	2001	Kern	No	No
100	Diaz	2001	Mendocino	No	No
101	Dickey-O'Brien	2001	Plumas	No	No
102	Sackrider	2001	Amador	No	No
103	Lindquist	2001	Nevada	No	No
104	McNally	2001	Plumas	No	No
105	Potts	2001	San Bernardino	No	No
106	Dickey-O'Brien	2001	Plumas	No	No
107	DeGuzman	2001	Santa Clara	No	No
108	Metcalf	2001	Humboldt	No	No
109	Salim	2002	New York, NY (federal)	Yes	Yes*
110	Wright	2002	Sacramento	Yes	Yes
111	Lakireddy, V	2002	Oakland (federal)	No	No
112	Walker-Lindh	2002	Virginia (federal)	Yes	No
113	Dickey-O'Brien	2002	Plumas	No	No
114	Steskal	2002	Orange	No	No
115	Lakireddy, P	2002	Oakland (federal)	No	No
116	Smith	2002	Nevada	No	No
117	Chevys	2002	Sacramento	No	No
118	Davis	2002	Humboldt	No	No
119	Salim	2002	New York (federal)	Yes	No
120	Nichols	2003	Oklahoma City, OK	Yes	Yes
121	Bryan	2003	Fresno	No	No
122	Thorpe	2003	Nevada	No	No
123	Helzer, et al.	2003	Contra Costa	Yes	No
124	Teitgen	2003	Solano	Yes	No
125	Hull	2003	El Dorado	No	No
126	Burke	2003	Nevada	No	No
127	Bolter	2003	Del Norte	No	No
128	Hartmann	2003	Santa Barbara	No	No
129	Teitgen	2003	Solano	Yes	No
130	Karis	2004	Sacramento	No	Yes*
131	Govin	2004	Los Angeles	No	Yes*
132	Flanagan, et al.	2004	Trinity	No	Yes
133	Tonsing, Lee	2004	San Francisco	Yes	Yes
134	Young	2004	Tulare	Yes	No
135	Jim Hogg Sch Dist	2004	Jim Hogg, Tx	No	No
136	Miller	2004	Lassen	No	No
137	Appley	2004	Plumas	No	No
138	Mickel	2004	Colusa	No	No
139	Flanagan	2005	Trinity	No	No
140	Fernandez	2005	Placer	No	No
141	Pippin	2005	Siskiyou	Yes	No
142	Rupp	2005	Shasta	No	No
143	Jones	2005	Trinity	No	No

CASES WHERE BRISON RECOMMENDED AGAINST CHANGE
 OF VENUE

144	Cooper	2005	Siskiyou	No	No
145	Espino	2005	El Dorado	No	No
146	Wood	2005	Lassen	No	No
147	Abdullah	2005	Fresno	Yes	No
148	Bengochia	2006	Inyo	No	No
149	Scrushy	2006	Montgomery, AL	Yes	No
150	Karis	2006	El Dorado	No	No
151	Lee	2006	San Francisco	No	No
152	Bradbury	2006	Modoc	No	No
153	Branson	2006	Mariposa	No	No
154	Schwartzmiller	2006	Santa Clara	Yes	No
155	Lexin	2006	Imperial (federal)	Yes	No
156	Alvarez	2007	San Mateo	No	Yes
157	Volarvich	2007	Yolo	Yes	Yes
158	Endicott	2007	Tehama	Yes	Yes
159	Norcal, et al.	2007	Santa Clara	Yes	No
160	Baumhammers	2007	Pittsburg, PA	No*	No
161	Dixon	2007	Butte	No	No
162	Endicott	2007	Tehama	Yes	Yes
163	Schuttloffel	2008	San Mateo	No	Yes*
164	Ayala	2008	San Mateo	No	Yes
165	Lee	2008	San Francisco	Yes	No
166	Schmid	2008	San Joaquin	Yes	No
167	Kovacich	2008	Placer	Yes	No
168	Calhoun	2008	Stanislaus	No	No
172	Varner	2008	Shasta	No	No
169	Anderson	2008	Yolo	No	No
170	Sang	2008	San Joaquin	No	No
171	Dunn	2009	Sacramento	No	Yes*
172	Carrillo	2009	Plumas	Yes	Yes

* Testified by sworn declaration

VENUE CASES WHERE BRONSON TESTIFIED (ranked by nwsp art %)

RANK	DEFENDANT	COUNTY	POP.	NWSP ART	RECOG. %	GLT % 1	GLT % 2	DISPOSITION
1	Skilling, et al. '04 (d)	Houston, TX	4,637,853	5,361	91	64	58	Denied
2	Nichols '03	Oklahoma, OK	662,153	5,000	99	83	82	Granted
3	Nichols/McVeigh '96	Oklahoma	3,000,000	2,213	-	-	42	Granted
4	Mehserle '09	Alameda	1,556,657	1,867	98	46	45	
5	State Farm '06 (d)	Biloxi, MS	465,241	1,431	-	-	54	Denied
6	Nacchio '06 (d)	Denver	2,075,603	1,408	78	81	63	Denied
7	Al-Arian '05 (d)	Tampa, FL	3,703,622	973	96	58	55	Denied
8	Williams, T '02	Shasta	169,200	558	89	75	67	Granted
9	Williams, M '02	Shasta	168,600	522	81	83	67	Denied
10	Riot Cases '90	Butte	182,000	476	98	74	73	Denied
11	Mickel '04	Tehama	58,700	413	95	83	79	Granted
12	Avila '04	Orange	3,017,700	412	86	72	62	Denied
13	Krebs '00	San Luis Obispo	241,600	407	97	81	79	Granted (f)
14	Watkins '88 (b)	San Diego	2,132,000	371	93	53	49	Granted
15	W.R. Grace, et al. (05)	Missoula, MT	268,628	359	92	-	55	Denied
16	Williams/Williams '01 (d)	Sacramento	3,412,740	333	84	55	46	Denied
17	Fagan et al. '04	San Francisco	792,700	330	84	87	73	Granted
18	Whitehurst '96 (d)	Ulster, NY	165,304	287	97	82	79	Denied A
19	Puente '92	Sacramento	1,041,219	269	96	76	73	Granted
20	McMahan '02 (d, e)	Yuba	60,800	260	91	66	60	Granted
21	Suff '95	Riverside	1,357,400	252	73	67	49	Denied
22	Wittig '03 (k)	Topeka, KA	445,674	251	80	57	45	Granted
23	Famalaro '97	Orange	2,624,300	251	83	70	59	Denied
24	Brothers '07	Kern	779,869	250	79	58	45	Denied
25	Ramirez '01 (c)	Kern	658,900	242	79	-	-	Denied
26	Shermantine '00	San Joaquin	554,400	226	70	56	39	Granted
27	Garza/Ramirez '00	Kern	648,400	225	82	66	54	Denied
28	Knoller/Noel '01	San Francisco	793,700	223	97	71	69	Granted
29	Siervonti '86	Butte	164,000	220	73	65	47	Denied
30	Farley '89	Santa Clara	1,440,900	218	93	90	84	Denied
31	Crittenden '88	Butte	172,500	214	93	61	57	Granted
32	Melton '88 (d)	Solano	303,500	186	90	61	55	Granted
33	Nguyen '93	Sacramento	1,121,200	185	97	85	83	Granted
34	Molica '84 (a)	Yuba	54,000	181	-	-	-	Granted
35	Walker '84 (a)	Yuba	54,000	179	-	-	-	Granted
36	Shuler/Stone '88	Humboldt	115,000	175	75	89	67	Denied

VENUE CASES WHERE BRONSON TESTIFIED (ranked by nwsp art %)

37	Haun/Dally '97 (g)	Ventura	716,100	172	91	83	76	Granted
38	Thornton '94	Ventura	708,200	171	85	67	56	Denied
39	Pearce '90 (b)	San Diego	2,418,200	170	80	70	56	Denied
40	Verketis '85	Solano	275,000	160	74	67	50	Granted
41	Coffman/Marlowe '88 (b)	San Bernardino	1,240,000	154	82	70	57	Denied
42	Solomon '92	Sacramento	1,041,219	144	76	-	-	Denied
43	Allen '09	Stanislaus	525,903	144	84	62	52	Granted
44	Scully '96	Sonoma	421,500	131	83	78	65	Denied
45	Volarvich '07	Yolo	193,983	123	81	62	50	Denied
46	Winger/Dunaway '96	Humboldt	128,900	122	93	63	59	Granted
47	Thomas '98 (d)	Sacramento	1,159,800	119	96	69	66	Granted (1)
48	Solomon '91 (c)	Sacramento	1,041,219	115	66	27	18	Denied
49	Fain '90 (a)	Alameda	1,252,400	114	-	-	-	Denied
50	Polk et al. '92	Monterey	355,660	111	81	80	65	Denied
51	Mateo 2 '99 (d, i)	Monroe, NY	727,575	111	32	61	20	Denied A
52	Larmour '05	Shasta	178,197	110	85	69	59	Denied
53	Cheek '98 (d)	Kansas City, KA	161,000	109	94	52	49	Denied
54	Sanchez '89	Santa Clara	1,431,600	107	91	46	42	Denied
55	Courtney '01	Kansas City, MO	1,107,893	104	97	80	77	Denied
56	Casey '97	San Luis Obispo	234,100	103	88	76	67	Denied
57	Coleman et al. '89	Madera	81,600	101	81	58	47	Granted
58	Matthews '86 (a)	Yuba	54,000	98	-	-	-	Granted
59	Ellis '96	Butte	204,300	98	88	85	76	Denied
60	Diaz '98	Mendocino	85,900	96	78	41	32	(h)
61	Endicott '07	Tehama	61,774	95	79	71	56	Denied
62	Jacobs '90	Monterey	349,000	92	69	47	32	Denied
63	General Motors (e)	Maverick, TX	48,259	91	80	35	28	Granted
64	Penry '90	Walker, TX	55,200	89	64	67	43	Denied
65	Wright '02	Sacramento	1,279,900	87	56	58	32	Denied
66	UAW, et al. '95 (e)	Peoria, IL	153,260	86	91	44	40	Granted
67	Hunt '88	San Mateo	627,500	85	77	66	51	Denied
68	Taylor '86	Merced	161,000	82	90	70	63	Granted
69	Ferrari '86 (a)	Yuba	54,000	81	-	-	-	Granted
70	Hansen '87	Humboldt	113,000	80	91	67	61	Granted
71	Schultz '98	Placer	217,900	79	81	76	62	Denied
72	Suarez '00	Placer	225,900	73	74	76	56	Granted
73	Bogdanoff '90 (c)	Santa Barbara	348,400	73	90	43	39	Denied

VENUE CASES WHERE BRONSON TESTIFIED (ranked by nwsp art %)

74	Dodds et al. '93	Trinity	13,450	68	87	52	45	Granted
75	Maury '88	Shasta	137,000	65	90	54	48	Denied
76	Peoples '98	San Joaquin	545,200	64	78	69	54	Granted
77	Moore/Russell '93	Fresno	713,700	62	94	82	78	Granted
78	O'Callaghan '88	Humboldt	113,000	58	78	75	58	Granted
79	Baker et al. '89	Lake	52,100	58	60	64	38	Granted
80	Jackson '86	Sacramento	894,000	55	89	53	47	Denied
81	Rubio '87 (d)	Solano	292,500	52	83	74	61	Denied
82	Harden '98 (d)	Mendocino	83,600	52	85	59	50	Granted (1)
83	Foster/Fennell '97	Shasta	162,700	51	48	47	23	Denied
84	Parsons '94	Butte	197,100	50	69	68	47	Denied
85	Fanus '99	Douglas, OR	98,000	50	94	71	67	Denied
86	Engel, et al. '99	Plumas	20,450	50	81	67	55	Granted
87	Harris '99	Kern	639,800	48	72	55	39	Denied
88	Weber '96 (c, d)	Colusa	17,950	46	78	23	18	N.A.
89	Waski '01 (e)	Kern	658,900	44	76	33	25	Denied
90	Winger/Dunaway '94	Humboldt	126,900	42	89	49	44	Denied
91	Mozingo, D. '83	Sacramento	894,000	42	81	65	53	Denied
92	Borg '87	Tehama	44,000	41	92	35	32	Denied
93	Bently '01 (d)	Glenn	27,100	40	82	58	47	Denied
94	Potts '01 (d) (k)	San Bernardino	1,689,300	38	-	-	-	Granted
95	Franklin '00 (c)	Plumas	20,450	38	85	-	-	Denied
96	O'Neill '96 (d)	Glenn	26,600	36	94	68	64	Granted
97	Rupe '86	Shasta	132,000	34	84	71	60	Denied
98	Leahy et al. '92	Humboldt	123,600	31	78	63	49	Denied
99	Davis '02	Shasta	165,300	31	-	-	-	Denied
100	Pommier '90	Sonoma	371,600	30	77	69	53	Denied
101	Nicolaus '86	Sacramento	894,000	30	68	82	56	Granted
102	A. Fiorella '98	San Luis Obispo	239,000	30	72	65	47	Denied
103	Mateo 1 '98 (c, d)	Monroe, NY	727,575	29	64	-	-	Denied A
104	Kruse/Beavers '87	Nevada	68,000	28	69	55	38	Denied
105	Carrillo '09	Plumas	20,632	27	84	68	57	(1)
106	Croy '86	Placer	138,000	26	-	-	-	Granted
107	Bledsoe '08	Yuba	71,929	26	58	82	47	Denied
108	Baker '95	Humboldt	128,900	26	90	68	61	Denied
109	Ashmus '85	Sacramento	894,000	26	81	60	48	Granted
110	Pride '85	Sacramento	894,000	24	79	34	27	Denied

VENUE CASES WHERE BRONSON TESTIFIED (ranked by nwsp art %)

111	Hale '95 (d)	Glenn	26,500	22	86	84	72	Granted
112	Elder '83	Sacramento	894,000	22	68	33	22	Granted
113	Schleuder '90	Mendocino	76,900	17	64	61	39	Denied
114	Holloway '84	Sacramento	894,000	16	60	35	21	Denied
115	Gianino/Suggs '91 (a)	Plumas	19,900	15	-	-	-	Granted
116	Bigelow '87	Merced	161,000	14	52	62	32	Granted
117	Walker '92	Mariposa	14,302	13	75	43	33	Denied
118	Espinoza '95 (d)	San Benito	40,950	13	76	56	42	Granted
119	Franklin et al. '92 (a)	Lassen	27,598	9	-	-	-	Granted
120	Bengochia '06	Inyo	18,592	9	92	79	72	Granted
121	Flanagan, et al. '04	Trinity	13,450	8	-	-	-	Denied
122	Welch '91	Plumas	19,900	7	71	18	13	Granted
123	Salim '02 (a, d)	New York	4,871,285	0	22	67	14	Denied
124	Croy '88 (a)	San Joaquin	451,000	0	-	-	-	Granted

[Please credit Indybay.org if this document used as source material elsewhere.
More Justice for Oscar Grant Movement news at www.indybay.org/oscargrant.]

4

Attachment C

CALIFORNIA APPELLATE DECISIONS ON VENUE SINCE MAINE (1968)

Name	County	Population*	Writ	D.P.	Survey (if reported)	Nwsp Art	Changed
Maine v Sup Ct (1968) 68 Cal.2d 375	Mendocino	51,200	Yes	Yes	No	unkn	Yes
P v Risenhoover (1968) 70 Cal.2d 39	Fresno	413,000	No	Yes	No	1 (a)	No
P v McKee (1968) 265 CA2d 53	Sacramento	631,000	No	No	No	1	No
P v Frogge (1969) 270 CA2d 106	Kern	343,000	No	Yes	No	unkn	No
P v O'Brien (1969) 71 Cal.2d 394	Los Angeles	7,032,000	No	Yes	No	unkn	No
P v Miller (1969) 71 Cal.2d 459	Sacramento	631,000	No	Yes	No	unkn	No
Smith v Sup Ct (1969) 276 CA2d 145	Los Angeles	7,032,000	Yes	No	No	290	Yes
P v Floyd (1970) 1 Cal.3d 694	Los Angeles	7,032,000	No	Yes	No	0	No
Fain v Sup Ct (1970) 2 Cal.3d 46	Stanislaus	185,000	Yes	Yes	No	unkn	Yes
P v Tidwell (1970) 3 Cal.3d 62	Lassen	18,000	No	Yes	Yes	unkn	Yes
P v Tidwell (1970) 3 Cal.3d 82	Lassen	18,000	No	Yes	Yes	unkn	Yes
Clifton v Sup Ct (1970) 7 CA3d 245	Humboldt	100,000	Yes	Yes	No	unkn	Yes
P v Quinlan (1970) 8 CA3d 1063	San Luis Obispo	106,000	No	No	No	unkn	No
Lansdown v Sup Ct (1970) 10 CA3d 604	Kern	329,000	Yes	No	Yes	unkn	Yes
Frazier v Sup Ct (1971) 5 Cal.3d 287	Santa Cruz	124,000	Yes	Yes	No	unkn	Yes
P v Blake (1971) 21 CA3d 211	Butte	102,000	No	No	No	unkn	No
P v Salas (1972) 7 Cal.3d 812	Sacramento	637,000	No	Yes	No	6 (b)	No
P v Welch (1972) 8 Cal.3d 106	Kern	343,000	No	Yes	No	15 (c)	No
Corona v Sup Ct (1972) 24 CA3d 872	Sutter	42,000	Yes	Yes	Yes	unkn	Yes
Griffin v Sup Ct (1972) 26 CA3d 672	Stanislaus	185,000	Yes	Yes	No	39 (d)	Yes
P v Hathcock (1973) 8 Cal.3d 599	Fresno	413,000	No	Yes	No	unkn	No
P v Sommerhalder (1973) 9 Cal.3d 290	Marin	204,800	No	Yes	Yes	28	No
P v Preston (1973) 9 Cal.3d 308	Marin	204,800	No	Yes	No	28 (e)	No
P v Whalen (1973) 33 CA3d 710	Tulare	200,000	No	Yes	No	unkn	No

In re Miller (1973) 33 CA3d 1005	Stanislaus	195,000	No	Yes	No	unkn	Yes
P v Murphy, et al. (1973) 35 CA3d 905	Orange	1,420,386	No	No	No	unkn	No
P v Hillery (1974) 10 Cal.3d 897	Kings	49,954	No	Yes	No	unkn	Waived
P v Barger (1974) 40 CA3d 662	Alameda	1,000,000	No	No	No	unkn	No
P v Langley (1974) 41 CA3d 339	Shasta	77,640	No	No	No	unkn	No
Bunnell v Sup Ct (1975) 13 Cal.3d 592	Santa Clara	1,100,000	Yes	No	No	13	No
P v Witt (1975) 53 CA3d 154	Tulare	200,000	No	No	No	7 (a)	No
P v Manson (1976) 61 CA3d 102	Los Angeles	7,000,000	No	Yes	No	188 (a)	No
P v Jacla (1978) 77 CA3d 878	Solano	195,000	No	No	No	1	No
Steffen v Munic Ct (1978) 80 CA3d 623	San Mateo	575,000	Yes	No	No	unkn	Yes
P v Martinez (1978) 82 CA3d 1	Kern	337,000	No	Yes	Yes	unkn	No
P v Caldwell (1980) 102 CA3d 461	Contra Costa	611,800	No	No	No	unkn	No
P v Harris (1981) 28 Cal.3d 935	San Diego	1,700,000	No	Yes	No	unkn	No
P v Szeto (1981) 29 Cal.3d 20	San Mateo	588,000	No	No	No	1	No
Martinez v Sup Ct (1981) 29 Cal.3d 574	Placer	106,500	Yes	Yes	Yes	97	Yes
P v Jurado (1981) 115 CA3d 470	Merced	122,600	No	No	No	19	No
Lucero v Sup Ct (1981) 122 CA3d 484	San Bernardino	750,000	Yes*	Yes	No	unkn	No
Young v Sup Ct (1981) 126 CA3d 167	San Luis Obispo	155,435	Yes	No	No	unkn	Yes
P v Boyce (1982) 128 CA3d 850	Los Angeles	7,000,000	No	No	No	unkn	No
Odle v Sup Ct (1982) 32 Cal.3d 932	Contra Costa	666,000	Yes	Yes	No	150 (a)	No
P v Mendonsa (1982) 137 CA3d 888	Contra Costa	666,000	No	No	No	unkn	No
F. Williams v Sup Ct (1983) 34 Cal.3d 584	Placer	117,000	Yes	Yes**	Yes	157 (f)	Yes
P v Clay (1984) 153 CA3d 433	San Francisco	678,974	No	No	No	unkn	No
P v Balderas (1985) 41 Cal.3d 144	Kern	405,600	No	Yes	Yes	unkn	No
P v McGhee (1987) 193 CA3d 1333	Sacramento	806,100	No	No	No	unkn	No
P v Anderson (1987) 43 Cal.3d 1104	Riverside	600,000	No	Yes	No	15	No
P v Ainsworth (1988) 45 Cal.3d 984	Sacramento	738,500	No	Yes	No	unkn	No

P v Bonin (1988) 46 Cal.3d 659	Orange	2,000,000	No	Yes	No	unkn	No
P v Bean (1988) 46 Cal.3d 919	Sacramento	738,500	No	Yes	Yes	unkn	No
P v Adcox (1988) 47 Cal.3d 207	Tuolumne	36,555	No	Yes	No	10	No
P v Hernandez (1988) 47 Cal.3d 315	Los Angeles	7,032,000	No	Yes	No	16	No
P v Edelbacher (1989) 47 Cal.3d 983	Fresno	551,200	No	Yes	Yes	21	No
P v Coleman (1989) 48 Cal.3d 112	Sonoma	299,681	No	Yes	Yes	unkn	No
P v Murtishaw (1989) 48 Cal.3d 1001	Kern	405,600	No	Yes	Yes	unkn	No
P v K. Williams (1989) 48 Cal.3d 1112	Placer	117,000	No	Yes	No	50 (a, f)	Yes
P v Hamilton (1989) 48 Cal.3d 1142	Tulare	250,000	No	Yes	Yes	20	No
P v Douglas (1990) 50 Cal.3d 468	Orange	2,000,000	No	Yes	No	9 (g)	No
P v Kelly (1990) 51 Cal.3d 931	Riverside	820,600	No	Yes	No	4	No
P v Gallego (1990) 52 Cal.3d 115	Contra Costa	666,000	No	Yes	No	unkn	No
P v Daniels (1991) 52 Cal.3d 815	Riverside	600,000	No	Yes	No	unkn	No
P v Jennings (1991) 53 Cal.3d 334	Fresno	580,200	No	Yes	Yes	6	No
P v Cooper (1991) 53 Cal.3d 771	San Diego	2,248,500	No	Yes	No	unkn	No
P v Sully (1991) 53 Cal.3d 1195	San Mateo	616,600	No	Yes	Yes	193	No
Powell v Sup Ct (1991) 232 CA3d 785	Los Angeles	8,863,164	Yes	No	Yes	unkn	Yes
P v Edwards (1991) 54 Cal.3d 787	Orange	2,053,700	No	Yes	Yes	unkn	No
P v Price (1991) 1 Cal.4th 324	Humboldt	108,024	No	Yes	No	unkn	No
P v Howard (1992) 1 Cal.4th 1132	Tulare	253,000	No	Yes	Yes	unkn	No
P v Fauber (1992) 2 Cal.4th 792	Ventura	619,300	No	Yes	No	7	No
P v Pride (1992) 3 Cal.4th 195	Sacramento	875,800	No	Yes	Yes	23	No
P v Proctor (1992) 4 Cal.4th 499	Shasta	122,100	No	Yes	Yes	26 (b)	No
P v Cummings (1993) 4 Cal.4th 1233	Los Angeles	8,085,300	No	Yes	No	51	No
P v Webb (1993) 6 Cal.4th 494	San Luis Obispo	200,000	No	Yes	Yes	19	No
P v Venegas (1994) 25 CA4th 1731	Del Norte	28,000	No	No	Yes	0 (h)	No
P v Sanders (1995) 11 Cal.4th 475	Los Angeles	7,477,503	No	Yes	No	unkn	No

P v D. Williams (1997) 16 Cal.4th 635	Los Angeles	8,155,300	No	Yes	No	4	No
P v Dennis (1998) 17 Cal.4th 468	Santa Clara	1,400,000	No	Yes	No	unkn	No
P v Bolin (1998) 18 Cal.4th 297	Kern	543,477	No	Yes	Yes	unkn	No (i)
P v Massie (1998) 19 Cal.4th 550	San Francisco	741,300	No	Yes	No	unkn	No
P v Hart (1999) 20 Cal.4th 546	Riverside	900,000	No	Yes	No	3	No
P v Welch (1999) 20 Cal.4th 701	Alameda	1,252,400	No	Yes	Yes	unkn	No
P v Hayes (1999) 21 Cal.4th 1211	Santa Cruz	214,000	No	Yes	No	unkn	No
P v Jenkins (2000) 22 Cal.4th 900	Los Angeles	9,000,000	No	Yes	No	93	No
P v Staten (2000) 24 Cal.4th 434	Los Angeles	638,000	No	Yes	No	few	No
P v Weaver (2001) 26 Cal.4th 876	Kern	450,000	No	Yes	Yes	12	No
P v Maury (2003) 30 Cal.4th 342	Shasta	137,000	No	Yes	Yes	unkn	No
P v Navarette (2003) 30 Cal.4th 458	Los Angeles	9,000,000	No	Yes	No	4	No
P v Coffman&Marlow (2004) 34 Cal.4th 1	San Bernardino	1,240,000	No	Yes	Yes	150+	No
P v Vieira (2005) 35 Cal.4th 264	Stanislaus	370,000	No	Yes	Yes	unkn	No
P v Panah (2005) 35 Cal.4th 395	Los Angeles	1,000,000+	No	Yes	No	18	No
P v Ramirez (2006) 39 Cal.4th 398	Los Angeles	8,292,800	No	Yes	Yes	unkn	No
P v Prince (2007) 40 Cal.4th 1179	San Diego	2,000,000	No	Yes	Yes	270	No
P v Leonard (2007) 40 Cal.4th 1370	Sacramento	1,000,000+	No	Yes	Yes	130	No
P v Alfaro (2007) 41 Cal.4th 1277	Orange	2,512,200	No	Yes	No	20	No
P v Zambrano (2007) 41 Cal. 4th 1082	Alameda	1,300,000	No	No	No	unkn	No
P v Lewis (2008) 43 Cal.4th 415	Los Angeles	9,087,400	No	Yes	No	39	No
P v Davis (2009) Cal.4th	Santa Clara (j)	1,607,700	No	Yes	Yes	unkn	No
P v Farley (2009) Cal.4th	Santa Clara	1,500,000	No	Yes	No	39	No

= death penalty; *At time of case; *2 1/2 weeks of voir dire; **Initially charged as death penalty; unkn = unknown; here are or could be additional articles; (b) Approximate; (c) Broadcasts -- no count of newspaper articles; (d) Plus an additional articles over 10 years earlier; (e) Count taken from venue issue in co-defendant's case (Preston); (f) Includes some number of radio casts; (g) Plus an additional 43 articles from 5 years earlier; (h) Motion based on community prejudice against inmates; (i) Venue-IAC issue; (j) Previously moved from Sonoma County.

California Appel. Venue Cases with Reported Recognition/Prejudgment%

Case Name	Year	Recognition	Guilt 1 *	Guilt II *	Guilt	Source	Decision
1 Tidwell	1970	100%	31%	31%		Survey (a)	Granted
2 Frogge	1969	100%	0%	0%		Voir dire	Denied
3 Powell	1991	97%	81%	79%		Survey	Granted
4 Ramirez	2006	94%	55%	52%		Survey	Denied
5 Miller	1973	93%	18%	17%		Voir dire	Granted
6 Harris	1981	90%				Voir dire	Denied
7 Maury	2003	90%	54%	49%		Survey	Denied
8 Bonin	1988	85%				Voir dire	Denied
9 Leonard	2007	85%	58%	49%		Survey	Denied
10 Proctor	1992	81%	38%	31%		Survey	Denied
11 Pride	1992	79%	34%	27%		Survey	Denied
12 Prince	2007	74%	25%	19%		Survey	Denied
13 Murtishaw	1989	73%				Survey	Denied
14 Jennings	1991	72%		31%**		Survey	Denied
15 Lewis	2008	72%				Voir dire	Denied
16 Coffman & Marlow	2004	71+%	80+%	57%+		Survey	Denied
17 Edelbacher	1989	70%	21%	20%		Survey	Denied
18 Williams	1983	65%		22%**		Survey	Granted
19 Sully	1991	63%	18%	12%		Survey	Denied
20 Welch	1999	62%	78%	48%		Survey	Denied
21 Bean	1988	56%	39%	22%		Survey	Denied
22 Martinez	1978	55%	16%	8%		Survey	Denied
23 Balderas	1985	54%				Voir dire	Denied
24 Williams	1989	53%				Voir dire	Granted
25 Sommerhalder	1973	50%	25%	12%		Survey	Denied
26 Martinez	1981	50%		5%		Survey	Granted
27 Coleman	1989	46%	68%	31%		Survey (a)	Denied
28 McGhee	1987	39%				Voir dire	Denied
29 Hernandez	1988	37%				Voir dire	Denied
30 Jurado	1981	37%				Voir dire	Denied
31 Lucero	1981	35%				Voir dire	Denied
32 Howard	1992	33%				Survey (a)	Denied
33 Price	1992	27%				Voir dire	Denied
34 Caldwell	1980	26%				Voir dire	Denied
35 Staten	2000	12%				Voir dire	Denied
36 Webb	1993	"High"		"Low"		Survey	Denied
37 Hamilton	1989	"Most"			"Low"	Voir dire	Denied
38 Fauber	1992	"Few"			"Low"	Survey	Denied
39 Clay	1984	"Most did not"				Voir dire	Denied

California Appel. Venue Cases with Reported Recognition/Prejudgment%

Case Name	Year	Recognition	Guilt 1 *	Guilt II *	Guilt	Source	Decision
40 Massie	1998	"Overwhelming majority knew nothing"				Voir dire	Denied
41 Manson	1976	-		12% to 23%		Voir dire	Denied
42 Weaver	2001	-		8%		Survey	Denied
43 Cooper	1991	-		33%	31% ***	Voir dire	Denied

CALIFORNIA APPELLATE DECISIONS RANKED BY NEWSPAPER ARTICLES

No.	CASE NAME AND CITATION	COUNTY	NWSP ART	MOVED
1	Smith v Sup Ct (1969) 276 CA2d 145	Los Angeles	290	Yes
2	P v. Prince (2007) 40 Cal.4th 1179	San Diego	270	No
3	P v Sully (1991) 53 Cal.3d 1195	San Mateo	193	No
4	P v Manson (1976) 61 CA3d 102	Los Angeles	188	No
5	F.Williams v Sup Ct (1983) 34 Cal.3d 584	Placer	157	Yes
6	P v Marlow (2004) 34 Cal.4th 1	San Bernardino	150+	No
7	Odle v Sup Ct (1982) 32 Cal.3d 932	Contra Costa	150	No
8	Martinez v Sup Ct (1981) 29 Cal.3d 574	Placer	97	Yes
9	P v Cummings (1993) 4 Cal.4th 1233	Los Angeles	51	No
10	P v K.Williams (1989) 48 Cal.3d 1112	Placer	50	Yes
11	Griffin v Sup Ct (1972) 26 CA3d 672	Stanislaus	39	Yes
12	P v Lewis (2008) 43 Cal.4th 415	Los Angeles	39	No
13	P v Preston (1973) 9 Cal.3d 308	Marin	28	No
14	P v Sommerhalder (1973) 9 Cal.3d 290	Marin	28	No
15	P v Proctor (1992) 4 Cal.4th 499	Shasta	26	No
16	P v Pride (1992) 3 Cal.4th 195	Sacramento	23	No
17	P v Edelbacher (1989) 47 Cal.3d 983	Fresno	21	No
18	P v Hamilton (1989) 48 Cal.3d 1142	Tulare	20	No
19	P v Alfaro (2007) 41 Cal.4th 1277	Orange	20	No
20	P v Jurado (1981) 115 CA3d 470	Merced	19	No
21	P v Webb (1993) 6 Cal.4th 494	San Luis Obispo	19	No
22	P v Panah (2005) 35 Cal.4th 395	Los Angeles	18	No
23	P v Hernandez (1988) 47 Cal.3d 315	Los Angeles	16	No
24	P v Welch (1972) 8 Cal.3d 106	Kern	15	No
25	P v Anderson (1987) 43 Cal.3d 1104	Riverside	15	No
26	Bunnell v Sup Ct (1975) 13 Cal.3d 592	Santa Clara	13	No
27	P v Weaver (2001) 26 Cal.4th 876	Kern	12	No
28	P v Adcox (1988) 47 Cal.3d 207	Tuolumne	10	No
29	P v Douglas (1990) 50 Cal.3d 468	Orange	9	No
30	P v Witt (1975) 53 CA3d 154	Tulare	7	No
31	P v Fauber (1992) 2 Cal.4th 792	Ventura	7	No
32	P v Salas (1972) 7 Cal.3d 812	Sacramento	6	No
33	P v Jennings (1991) 53 Cal.3d 334	Fresno	6	No
34	P v Kelly (1990) 51 Cal.3d 931	Riverside	4	No
35	P v D.Williams (1997) 16 Cal.4th 635	Los Angeles	4	No
36	P v Hart (1999) 20 Cal.4th 546	Riverside	3	No
37	P v Navarette (2003) 30 Cal.4th 458	Los Angeles	2	No
38	P v Risenhoover (1968) 70 Cal.2d 39	Fresno	1	No
39	P v McKee (1968) 265 CA2d 53	Sacramento	1	No
40	P v Jacla (1978) 77 CA3d 878	Solano	1	No
41	P v Szeto (1981) 29 Cal.3d 20	San Mateo	1	No
42	P v Venegas (1994) 25 CA4th 1731	Del Norte	0	No
43	P v Floyd (1970) 1 Cal.3d 694	Los Angeles	0	No

Effect of Number of Newspaper Articles on California Appellate Decisions to Grant Change of Venue

(Based on 43 cases in which number of articles noted)

I. ALL CASES (43 of 98 cases)

GRANTED BY APPELLATE COURT	DENIED BY APPELLATE COURT
12% (5)	88% (38)

II. BY NUMBER OF NEWSPAPER ARTICLES

NUMBER OF ARTICLES	GRANTED BY APPELLATE COURT	DENIED BY APPELLATE COURT
0-25 (27 cases)	0% (0)	100% (27) (15 under 10, 6 with 0 or 1)
26 or more* (16 cases)	31% (5)	69% (11)

*26-50 = 5
51-100 = 2
Over 100 = 8

[Please credit Indybay.org if this document used as source material elsewhere.
More Justice for Oscar Grant Movement news at www.indybay.org/oscargrant.]

Attachment D

METHODOLOGY & PROCEDURES

The survey was conducted by Winkelman Consulting, an independent opinion research which is in the general practice of conducting surveys throughout the United States and Canada.

General Approach

The survey interviewing was conducted by experienced, trained opinion research interviewers working for Performance Research & Marketing, Inc. (PRM) under the supervision of skilled supervisory personnel of both PRM and Winkelman Consulting (WC). WC and/or PRM were responsible for the following tasks:

- Reviewing the questionnaire (WC)
- Selecting the sample (WC)
- Preparing the training materials (WC)
- Training, supervising, and monitoring the interviewing staff (WC & PRM)
- Conducting the interviews (including refusal conversion attempts) using a CATI survey system that directly enters all data and comments into the computer (PRM)
- Computer-editing and coding of data and comments (WC)
- Running a full set of requested frequencies (WC)
- Writing a full description of the survey methodology, including dispositions of the sample (e.g., business, refusals, etc.) in the form of this report (WC)
- Delivering paper copies of the report and all other requested support materials (WC)

PRM, a division of Performance Centers, Inc., is a professional survey research firm that specializes in the collection of data for market research companies across North America. PRM opened for business in 2002 and is centered on collecting accurate, reliable information. Their state-of-the-art facility currently has 188-seats wired with Computer Assisted Telephone Interviews (CATI) technology. In an average year, PRM completes over 250 studies for their clients.

Survey Size

A total of 413 interviews were completed. Of these, thirteen were with self-described or potential felons, which were omitted from the data analysis by WC. Thus, a net sample of 397 is used for the survey tabulations.

Dates of Field Work

Interviewing was conducted July 6 – August 1, 2009.

Respondent Eligibility

All respondents interviewed were eighteen years of age or older, U.S. citizens, residents of Alameda County, and either registered to vote in Alameda County or holders of a current California driver's license or state-issued I.D. card with an address in Alameda County. Respondents' testimony to the interviewer was taken as valid for the purpose of eligibility.

Household Selection

The sample of households to be called was selected by computer. Listed telephone numbers were secured from Survey Sampling International (SSI), of Fairfield, CT, the leading provider of scientifically selected phone samples in the world. All known business, government, and disconnected numbers were removed from the sample. All directory coverage areas of Alameda County were represented in proportion to their size.

Respondent Sample Selection

When a household spokesperson was reached, interviewers used a systematic selection procedure to determine the person to interview. First, the interviewer asked for the youngest eligible male in the household. If no eligible male was at home, the interviewer asked to speak to the oldest eligible female who was at home. This procedure, sometimes called the "youngest male-oldest female" technique, has been shown to provide an age-gender distribution in survey samples which more closely matches the Census age-gender distribution of the adult population.

Implementation of the Sample

Interviewers made up to seven attempts to reach and interview an eligible adult at each residential household. Businesses and disconnected phones received no callbacks. Callback attempts were made on different days and at different hours during the interviewing period. Call backs were done in four different time periods: (1) mid-day until 4:00 p.m., (2) weekday evenings 5:00-9:00 p.m., (3) weekends 10:00 a.m.-2:00 p.m., and (4) Sunday 4:00-8:00 p.m.

Interviewing Procedures

All telephoning was done from PRM's facilities in Fargo, North Dakota, with one supervisor for every five to six interviewers.

Before beginning their assignment, interviewers were required to attend a personal briefing session where all aspects of the survey were explained and the questionnaire read aloud to help identify special problems, if any. Interviewers were then paired off to practice administering the questionnaire. This was followed by a debriefing session to identify and correct problems, if any. Interviewers were then placed on telephones for practice calls. This phase also constituted a pre-test of the questionnaire to ensure its clarity and logical consistency. Another debriefing took place before interviewers returned for live interviews.

To increase the representativeness of the sample, an extra effort was made to complete an interview with those who refused to be interviewed on the initial contact. That is, one more attempt was made at another time, by another, specially trained interviewer, to convert this refusal into a completed interview.

To eliminate potential order bias, two versions of the survey were used. The only difference between the two versions was the order of the guilt (Q3) response choices. For Version 1, the response choices began with "Definitely guilty", while the response choices began with "Definitely not guilty" for Version 2.

Results of Interviewing Attempts

Total Numbers Dialed		6,510
Unuseable Numbers		
Business Number	-	
Do Not Call/Privacy Manager	80	
Disconnected	1,565	
Fax/Modem Line	-	
Total Unusable Numbers		1,645
Households Never Reached		
No Answer/Answering Machine	2,799	
Busy	-	
Total Never Reached		2,799
Household Reached and Screened		
Language Barrier	232	
No one eligible/eligible not available	113	
Gender Quota Full	14	
Total Reached & Screened		359
Net Effective Sample Base		
Interview Completed	413	
Interview Refused	1,263	
Terminated Interview	31	
Net Effective Sample Base		1,707

Data Processing

Interviewers read from the CATI questionnaire. Answers were recorded by clicking on or typing in the respondent's answer in the CATI questionnaire which controls the questions that each respondent is to answer/skip based on their responses to previous questions and prevents interviewers from entering illegal entries. Supervisors randomly monitored calls to verify the accuracy of completed surveys.

Data and comments were then imported into both Microsoft Excel and the Statistical Package for the Social Sciences (SPSS) 13.0 and delivered to Winkelman Consulting for editing, coding, and analysis. Frequency or marginal totals for all questions were then transferred to the original questionnaire. Additional analysis of this data can be performed as requested.

Respondent Anonymity

To guarantee respondent anonymity, information identifying the respondent was deleted before any data files were transmitted to Dr. Bronson. This is a standard practice at WC and is required by the ethical and legal codes of the opinion research industry. This practice is accepted practice at other major polling and opinion research organizations and by all WC clients.

AL DA COUNTY RESIDENTS SURVEY (Mel. 3)
Screening Form – June 2009

Interviewer Note: Alameda is pronounced “Ala-mee-da” – “Ala” as in the word “Alabama”, “me” as in the word “meet”, and “da” as the word “duh” [As shown by the bold/underlined print in Alameda, emphasis is on “me”].

Intro1. Hello. My name is (*Your First Name*) and I’m calling for Winkelman Consulting, a professional public opinion firm in Fargo, North Dakota. We are not selling anything and this is not a political survey. We’re doing a public opinion survey of Alameda County residents to obtain opinions about the justice system and a specific case. Your cooperation is very important because your household was selected at random by computer as being representative of Alameda County.

[IF RESPONDENT HESITATES TO COOPERATE, SAY: “If you like, you can verify the authenticity of the survey by contacting Mark Winkelman at Winkelman Consulting during regular office hours by calling toll free at 1-877-769-6918, emailing MRWinkelman@cableone.net, or writing to PO Box 11375, Fargo, ND 58106.”]

[IF RESPONDENT INDICATES GREAT DIFFICULTY WITH ENGLISH, SAY OR PLAY: *Hola. Llamo del Estudio de mercado de Winkelman. Se encuentra alguna persona que hable ingles? ¿Hay alguien allí quién habla inglés? Deseo hablar con alguien que habla inglés, por favor.*]

- S0. [Do Not Read] Does the respondent have a reasonable working knowledge of English?
1.....Yes
2.....No → → → → *Discontinue Close (Language) “That’s all the questions I have for you. Thank you for your time and have a great (day/evening)!”*
- S1. First, is this household in Alameda County?
1.....Yes
2.....No → → → → *Discontinue Close (DC1) “Thank you very much but this survey is only being conducted in Alameda County, so that’s all the questions I have for you. Thank you for your time and have a great (day/evening)!”*
- S2. Is there a U.S. citizen in this household 18 or older who is registered to vote in Alameda County or has a California driver’s license or state-issued identification card with an address in Alameda County?
1.....Yes
2.....No → → → → *Discontinue Close (DC2) “Thank you very much but this survey is only being conducted in Alameda County, so that’s all the questions I have for you. Thank you for your time and have a great (day/evening)!”*
3.....Refused → → *Discontinue Close (Refusal) “That’s all the questions I have for you. Thank you for your time and have a great (day/evening)!”*
- S3. So that our final sample has the appropriate number of men and women for this survey, my instruction is to first ask to speak with a male. Are there currently any males 18 or older in this household who are a U.S. citizen and registered to vote here in Alameda County or have a California driver’s license or state-issued identification card with an address in Alameda County?
1.....Yes
SKIP to S5 ← ← ← 2.....No, not available
SKIP to S5 ← ← ← 3.....Refused
- S3a. [IF S3 ≠ 2, then SKIP to S5 (S3a-S4a = 99).] May I speak with the youngest male 18 or older who is a U.S. citizen and is registered to vote here in Alameda County or has a California driver’s license or state-issued identification card with an address in Alameda County?
SKIP to Intro2 ← ← ← 1.....Yes
2.....No
3.....Refused → → *Discontinue Close (Refusal) “That’s all the questions I have for you. Thank you for your time and have a great (day/evening)!”*

S4. [IF S3a = 1, then SKIP to Intro2 (S7 = 999).] **Is there any other male in your household 18 years or older who is a U.S. citizen and is registered to vote in Alameda County or has a California driver's license or state-issued identification card with an address in Alameda County?**

- 1.....Yes
SKIP to S5 ← ← ← 2.....No, not available [IF the number of completed female interviews exceeds the quota, then set as a "Male callback".]
SKIP to S5 ← ← ← 3.....Refused → → [IF the number of completed female interviews exceeds the quota, then set as a "Male callback".]

S4a. [IF S4 ≥ 2, then SKIP to S5 (S4a = 98).] **May I speak with him?**

- SKIP to Intro2 ← ← ← 1.....Yes
2.....No
3.....Refused → → *Discontinue Close (Refusal) "That's all the questions I have for you. Thank you for your time and have a great (day/evening)!"*

S5. [IF S4a = 1, then SKIP to Intro2 (S5-S7 = 998).] **Are there currently any females 18 or older in your household who are a U.S. citizen and registered to vote here in Alameda County or have a California driver's license or state-issued identification card with an address in Alameda County?**

- 1.....Yes
SKIP to S7 ← ← ← 2.....No, not available
SKIP to S7 ← ← ← 3.....Refused

S5a. [IF S5 ≥ 2, then SKIP to S6 (S5a = 97).] **May I speak to the oldest female 18 or older who is a U.S. citizen and registered to vote in Alameda County or has a California driver's license or state-issued identification card with an address in Alameda County?**

- SKIP to Intro2 ← ← ← 1.....Yes
2.....No
3.....Refused → → *Discontinue Close (Refusal) "That's all the questions I have for you. Thank you for your time and have a great (day/evening)!"*

S6. [IF S5a = 1, then SKIP to Intro2 (S6-S7 = 997).] **Is there any other female in the household 18 years or older who is a U.S. citizen and registered to vote in Alameda County or has a California driver's license or a state-issued identification card with an address in Alameda County?**

- 1.....Yes
SKIP to S7 ← ← ← 2.....No, not available
SKIP to S7 ← ← ← 3.....Refused

S6a. [IF S6 ≥ 2, then SKIP to S7 (S6a = 96).] **May I speak with her?**

- SKIP to Intro2 ← ← ← 1.....Yes
2.....No
3.....Refused → → *Discontinue Close (Refusal) "That's all the questions I have for you. Thank you for your time and have a great (day/evening)!"*

S7. [IF S6a = 1, then SKIP to Intro2 (S7 = 996).] **When could I call back to find a person 18 or older who is a U.S. citizen and who is registered to vote in Alameda County or who has a California driver's license or state-issued identification card with an address in Alameda County?**

- Timed Callback 1 → → → → [Callback date/time: _____]
Refused..... 2 → → → → DISCONTINUE CLOSE (DC?): "That's all the questions I have for you. Thank you for your time and have a great (day/evening)!"

AL. CLAY COUNTY RESIDENTS SURVEY (Mehserle)
Main Questionnaire - June 2009
Version 2 (Q3a2 & Q3b2 start with "Definitely not guilty")
Use this Version to complete 100 male and 100 female "non-felon" interviews

Interviewer Note:

- **Johannes** is pronounced "Joe-hann-es" - "Jo" as in the name "Joe", "hann" as in the word "hand", and "es" as in the word "yes" [As shown by the bold/underlined print in **Johannes**, emphasis is on "hann"].
- **Mehserle** is pronounced "Mezz-er-lee" - "Mehs" as in the word "mezzanine", "er" as in the word "her", and "lee" as in the name "Lee" [As shown by the bold/underlined print in **Mehserle**, emphasis is on "Mehs"].

Intro2. Before I begin asking you questions, I'd like you to know that there are no right or wrong answers and that you are free to respond with a "don't know" answer to any question. All of your answers will remain confidential!

Q1. Now I'd like to read you some statements about the criminal justice system. For each statement I read, please tell me whether you agree strongly; agree somewhat; disagree somewhat; or disagree strongly. Here's the first one:

Q1a. If the government brings someone to trial, that person is probably guilty.

- 1..... Agree strongly
- 2..... Agree somewhat
- 3..... Disagree somewhat
- 4..... Disagree strongly
- 8..... Don't know
- 9..... Refused, No Answer

Q1atxt:

Q1b. Next, it is better for society to let some guilty people go free than to risk convicting an innocent person.

- 1..... Agree strongly
- 2..... Agree somewhat
- 3..... Disagree somewhat
- 4..... Disagree strongly
- 8..... Don't know
- 9..... Refused, No Answer

Q1btxt:

Q1c. The insanity defense is a loophole that allows too many guilty people to go free.

- 1..... Agree strongly
- 2..... Agree somewhat
- 3..... Disagree somewhat
- 4..... Disagree strongly
- 8..... Don't know
- 9..... Refused, No Answer

Q1ctxt:

Q1d. Even the worst criminal should be considered for mercy.

- 1..... Agree strongly
- 2..... Agree somewhat
- 3..... Disagree somewhat
- 4..... Disagree strongly
- 8..... Don't know
- 9..... Refused, No Answer

Q1dtxt:

Q2a. Now I'd like to ask you about a recent criminal case that is coming to trial inameda County. Early in the morning on this past New Year's day, there was a disturbance at the Fruitvale BART station in Oakland in which a BART police officer shot an unarmed young man named Oscar Grant in the back while Grant was lying face down on the station platform. Have you read, seen, or heard anything about this incident?

- (Ask Q2a below) 1..... Yes
SKIP to Q2b ← ← ← 2..... No
SKIP to Q2b ← ← ← 8..... Don't know
SKIP to Q2b ← ← ← 9..... Refused, No Answer

Q2atxt:

Q3a2. [IF Q2a = 2, then SKIP to Q2b (Q3a = 998).] The BART officer who fired the shot that killed Oscar Grant is named Johannes Mehserle. He is now charged with murder. Based on what you have read, seen, or heard about the case, do you believe that Johannes Mehserle is definitely not guilty; probably not guilty; definitely guilty; or probably guilty of the murder charge?

- SKIP to Q4 ← ← ← 1 Definitely not guilty
SKIP to Q4 ← ← ← 2 Probably not guilty
SKIP to Q4 ← ← ← 3 Definitely guilty
SKIP to Q4 ← ← ← 4 Probably guilty
SKIP to Q4 ← ← ← 8 Don't know
SKIP to Q4 ← ← ← 9 Refused, No Answer

Q3atxt:

Q2b. [IF Q2a = 1, then SKIP to Q4 (Q2b-Q3b = 999).] The BART officer who fired the shot that killed Oscar Grant is named Johannes Mehserle. He is white, and the young man killed - Oscar Grant - was Black. Have you read, seen, or heard anything about this incident?

- (Ask Q3b below) 1..... Yes
SKIP to Q6 ← ← ← 2..... No
SKIP to Q6 ← ← ← 8..... Don't know
SKIP to Q6 ← ← ← 9..... Refused, No Answer

Q2btxt:

Q3b2. [IF Q2b = 2, then SKIP to Q6 (Q3b-Q5e = 998).] Mehserle is now charged with murder. Based on what you have read, seen, or heard about the case, do you believe that he is definitely not guilty; probably not guilty; definitely guilty; or probably guilty of the murder charge?

- (Ask Q4 below) 1 Definitely not guilty
(Ask Q4 below) 2 Probably not guilty
(Ask Q4 below) 3 Definitely guilty
(Ask Q4 below) 4 Probably guilty
(Ask Q4 below) 8 Don't know
(Ask Q4 below) 9 Refused, No Answer

Q3btxt:

[ASK Q4 OF ALL THOSE WHO RECOGNIZED CASE (Q2a = 1 or Q2b = 1)]

Q4. [IF Q2a = 2 and Q2b = 2, then SKIP to Q6 (Q4-Q5e = 999).] What are your feelings about Oscar Grant, the man who was shot; Johannes Mehserle, the former BART officer; or the case? [Clarify] [Probe for up to six responses] What other feelings do you have about the victim, the defendant, or the case? [Clarify]

Q4atxt.

Q4btxt.

Q4ctxt.

Q4dtxt.

Q4etxt.

Q4ftxt.

Q5. As you may know, the media has reported a number of things about this case. Some people may remember some things, while others may remember other things. We're interested in what you may remember, even if you already told me in one of the previous questions.

[ASK Q5a ONLY OF THOSE WHO RECOGNIZED THE CASE ON Q2a (Q2a = 1).]

Q5a. [IF Q2a >= 2, then SKIP to Q5b (Q5a = 998).] Have you read, seen, or heard if the man who was killed was Black, and the BART officer who killed him is White?

- 1..... Yes
- 2..... No
- 8..... Don't know
- 9..... Refused, No Answer

Q5atxt:

[ASK Q5b-Q5e OF ALL THOSE WHO RECOGNIZED THE CASE (Q2a = 1 or Q2b = 1)]

Q5b. Have you read, seen, or heard if Mr. Mehserle claims that he thought he was just shooting his Taser at Oscar Grant, but that he pulled out his gun by mistake?

- 1..... Yes
- 2..... No
- 8..... Don't know
- 9..... Refused, No Answer

Q5btxt:

Q5c. Have you read, seen, or heard if there were large protests and demonstrations, and even some near-riots and violence, in reaction to the killing of Oscar Grant?

(Ask Q5c1 below)

1..... Yes

SKIP to Q5d ← ← ←

2..... No

SKIP to Q5d ← ← ←

8..... Don't know

SKIP to Q5d ← ← ←

9..... Refused, No Answer

Q5c1txt:

Q5c1. [IF Q5c >= 2, then SKIP to Q5d (Q5c1-Q5c2 = 998).] Some people are concerned that if the jury acquits Mehserle of murdering Oscar Grant, there could be violence. Do you agree or do you disagree that there could be violence if the jury acquits Mehserle of murdering Oscar Grant?

- 1 Agree
- 2 Disagree
- 8 Don't know
- 9 Refused, No Answer

Q5c1txt:

Q5c2. Do you think some members of the jury will be concerned that if they don't convict Mehserle, there could be some violence, or that other members of the community will think they should have found him guilty?

- 1 Yes
- 2 No
- 8 Don't know
- 9 Refused, No Answer

Q5c2txt:

Q5d. Have you read, seen, or heard if others on the BART platform took any camera pictures that showed the shooting?

(Ask Q5d1 below) 1.....Yes

SKIP to Q5e ← ← ← 2.....No

SKIP to Q5e ← ← ← 8.....Don't know

SKIP to Q5e ← ← ← 9.....Refused, No Answer

Q5dtxt:

Q5d1. [IF Q5d = 2, then SKIP to Q5e (Q5d1 = 998).] Have you seen any of those pictures?

1.....Yes

2.....No

8.....Don't know

9.....Refused, No Answer

Q5d1txt:

Q5e. Have you ever talked about the case with family, friends, co-workers, or others, or have you heard others talking about it?

1.....Yes

2.....No

8.....Don't know

9.....Refused, No Answer

Q5etxt:

[ASK EVERYONE]

Q6. Finally, I have a couple more questions to be sure we have included all groups in this survey. All of your answers will remain confidential.

Q6a. First, how often do you read a newspaper – would you say every day, several times a week, once or twice a week, or less often?

(Ask Q6b below) 1.....Every day

(Ask Q6b below) 2.....Several times a week

(Ask Q6b below) 3.....Once or twice a week

(Ask Q6b below) 4.....Less often than once a week

SKIP to Q7 ← ← ← 8.....Don't know

SKIP to Q7 ← ← ← 9.....Refused, No Answer

Q6b. [If Q6a = 8, then SK. Q7 (Q6ba-Q6hf = 999).] What newspaper: you read – both local and out-of-town papers? [Clarify] [Probe for up to six responses] What other newspapers do you read? [Clarify]

	A	B	C	D	E	F
Alameda County Publications						
25.	25	25	25	25	25	25
50. Alameda Times-Star	50	50	50	50	50	50
75. The Argus (Fremont)	75	75	75	75	75	75
100. Berkeley Daily Planet	100	100	100	100	100	100
125. The Daily Californian Online (Univ. of Cal., Berkeley)	125	125	125	125	125	125
150. Daily Review (Hayward)	150	150	150	150	150	150
175. East Bay Express (Berkeley)	175	175	175	175	175	175
200. El Cerrito Wire	200	200	200	200	200	200
225. In Alameda (Alameda)	225	225	225	225	225	225
250. India West (San Leandro)	250	250	250	250	250	250
275. Oakland News	275	275	275	275	275	275
300. Oakland Post	300	300	300	300	300	300
325. Oakland Tribune	325	325	325	325	325	325
350. Piedmont Post	350	350	350	350	350	350
375. Tri-Valley Herald (Pleasanton)	375	375	375	375	375	375
Out-of-County Major Newspapers						
400. The Contra Costa Times	400	400	400	400	400	400
425. San Francisco Chronicle	425	425	425	425	425	425
450. San Francisco Examiner	450	450	450	450	450	450
475. San Jose Mercury News	475	475	475	475	475	475
Underground Publications/Websites						
500. http://www.indybay.org/	500	500	500	500	500	500
525. http://revcom.us/	525	525	525	525	525	525
550. http://www.ruckus.org/	550	550	550	550	550	550
575. http://www.joincape.blogspot.com/	575	575	575	575	575	575
600. http://www.uhurunews.com/	600	600	600	600	600	600
625. http://www.nojusticenobart.blogspot.com/	625	625	625	625	625	625
990. Other [Specify name & city: _____]	990	990	990	990	990	990
991. Not sure, No response	991	992	993	994	995	996

[If Q6ba = 991, then SKIP to Q7 (Q6bb = 992, Q6bc = 993, Q6bd = 994, Q6be = 995, Q6bf = 996).]

[If Q6bb = 992, then SKIP to Q7 (Q6bc = 993, Q6bd = 994, Q6be = 995, Q6bf = 996).]

[If Q6bc = 993, then SKIP to Q7 (Q6bd = 994, Q6be = 995, Q6bf = 996).]

[If Q6bd = 994, then SKIP to Q7 (Q6be = 995, Q6bf = 996).]

[If Q6be = 995, then SKIP to Q7 (Q6bf = 996).]

Q7. How often do you listen to news on radio or on TV – would you say you listen to news on radio or on TV every day; several times a week; once or twice a week; or less often?

- 1..... Every day
- 2..... Several times a week
- 3..... Once or twice a week
- 4..... Less often than once a week
- 8..... Don't know
- 9..... Refused, No Answer

Q8. Do you use the Internet to get news from your news?

- 1..... Yes
- 2..... No
- 8..... Don't know
- 9..... Refused, No Answer

Q9. Could you please tell us how old you are?

[Do not read responses unless the respondent gives a vague answer (i.e. "over 30") or is reluctant to give a response. Then read "Which age group includes you - would you say..."]

- 1..... 18 to 24,
- 2..... 25 to 34,
- 3..... 35 to 44,
- 4..... 45 to 54,
- 5..... 55 to 64, or
- 6..... 65 or over?
- 9..... [Do Not Read] Refused, No Answer

Q10. Are you registered to vote?

(Ask Q10a below)

1..... Yes

SKIP to Q11 ← ← ← 2..... No

SKIP to Q11 ← ← ← 8..... Don't know, not sure

SKIP to Q11 ← ← ← 9..... Refused, no response

Q10a. [IF Q10 ≥ 2, then SKIP to Q11 (Q10a = 999).] Are you registered as a Democrat, Republican, or something else?

- 1..... Democrat
- 2..... Republican
- 3..... Declined to state
- 4..... Other [Specify: _____]
- 8..... Don't know, not sure
- 9..... Refused, no response

Q11. What town do you live in or nearest?

- 5..... Alameda
- 10..... Albany
- 15..... Berkeley
- 20..... Dublin
- 25..... Emeryville
- 30..... Fremont
- 35..... Hayward
- 40..... Livermore
- 45..... Newark
- 50..... Oakland
- 55..... Piedmont
- 60..... Pleasanton
- 65..... San Leandro
- 70..... Union City
- 990..... Other [Specify: _____]
- 998..... Don't know, not sure
- 999..... Refused, no response

Q12. Are you Spanish, Hispanic, or Latino - for example - Mexican, Mexican-American, Chicano, Puerto Rican or Cuban?

- 1..... Yes
- 2..... No
- 8..... Don't know, not sure
- 9..... Refused, no response

Q13. What is your race – are you white, black, Asian, Pacific Islander, American Indian, a member of some other race, or a mix of two or more races?

- SKIP to Q14 ← ← ← 1.....White
SKIP to Q14 ← ← ← 2.....Black
SKIP to Q14 ← ← ← 3.....Asian/Pacific Islander
SKIP to Q14 ← ← ← 4.....Native American
SKIP to Q14 ← ← ← 5.....Other [Specify: _____]

(Ask Q13a below) 7.....Mixed

- SKIP to Q14 ← ← ← 8.....Don't know
SKIP to Q14 ← ← ← 9.....Refused, No Answer

Q13a. [IF Q13 < 7 or Q13 > 7, then SKIP to Q14 (Q13ad-Q13ae = 998).] What races are those – do they include...

- a. White?
1 Yes
2 No, not sure, refused
- b. Black?
1 Yes
2 No, not sure, refused
- c. Asian or Pacific Islander?
1 Yes
2 No, not sure, refused
- d. American Indian?
1 Yes
2 No, not sure, refused
- e. Some other race?
1 Yes [Specify: _____]
2 No, not sure, refused

Q14. Finally, for statistical purposes only, we need to know if you have ever been convicted of a felony.

- 1.....Yes
2.....No
8.....Don't know, not sure
9.....Refused, no response

Q15. [Do Not Read] Enter gender of respondent.

- 1.....Female
2.....Male

VERIFICATION CLOSE: That's all the questions I have for you. Lastly, let me verify that I dialed ____-_____. Again, my name is (*Your First Name*), and on occasion a small percentage of people like you are called back just to verify that this interview actually took place. May I please have your first name, and first name only, so my supervisor will know whom to ask for in case this interview is verified? Thank you for your time and have a good (evening/day)!

Resp. First Name: _____ Phone: (____) _____-

Call Center Employee: _____ Interview Date: ___/___/___ End Time: _____ Call Center ID #: _____

ALAMEDA COUNTY RESIDENTS SURVEY (Mel...)
Final Results Summary

n = 397 (410 completed interviews – 13 reported/potential felons = 397 interviews used for analysis)
Survey conducted July 6 - August 1, 2009

Q1. Now I'd like to read you some statements about the criminal justice system. For each statement I read, please tell me whether you agree strongly; agree somewhat; disagree somewhat; or disagree strongly. Here's the first one:

Q1a. If the government brings someone to trial, that person is probably guilty.

<u>Percent</u>	<u>Number</u>	
3.5%	14	Agree strongly
15.6%	62	Agree somewhat
29.2%	116	Disagree somewhat
44.6%	177	Disagree strongly
7.1%	28	Don't know, Not Sure, Refused, No Answer
100.0%	397	Total

Q1b. Next, it is better for society to let some guilty people go free than to risk convicting an innocent person.

<u>Percent</u>	<u>Number</u>	
21.7%	86	Agree strongly
22.2%	88	Agree somewhat
21.4%	85	Disagree somewhat
24.9%	99	Disagree strongly
9.8%	39	Don't know, Not Sure, Refused, No Answer
100.0%	397	Total

Q1c. The insanity defense is a loophole that allows too many guilty people to go free.

<u>Percent</u>	<u>Number</u>	
19.1%	76	Agree strongly
23.2%	92	Agree somewhat
27.5%	109	Disagree somewhat
18.1%	72	Disagree strongly
12.1%	48	Don't know, Not Sure, Refused, No Answer
100.0%	397	Total

Q1d. Even the worst criminal should be considered for mercy.

<u>Percent</u>	<u>Number</u>	
17.1%	68	Agree strongly
28.0%	111	Agree somewhat
20.4%	81	Disagree somewhat
24.9%	99	Disagree strongly
7.8%	38	Don't know, Not Sure, Refused, No Answer
100.0%	397	Total

Q2a. Now I'd like to ask you about a recent criminal case that is coming to trial in Alameda County. Early in the morning on this past New Year's day, there was a disturbance at the Fruitvale BART station in Oakland in which a BART police officer shot an unarmed young man named Oscar Grant in the back while Grant was lying face down on the station platform. Have you read, seen, or heard anything about this incident?

Note: Data for Q2 and Q 3 are found on page 3

Yes

No (SKIP to Q2b)

Don't know, Not Sure, Refused, No Answer (SKIP to Q2b)

Q3a. The BART officer who fired the shot that killed Oscar Grant is named Johannes Mehserle. He is now charged with murder. Based on what you have read, seen, or heard about the case, do you believe that Johannes Mehserle is definitely guilty; probably guilty; definitely not guilty; or probably not guilty of the murder charge?

Definitely guilty (SKIP to Q4)

Probably guilty (SKIP to Q4)

Definitely not guilty (SKIP to Q4)

Probably not guilty (SKIP to Q4)

Don't know, Not Sure, Refused, No Answer (SKIP to Q4)

Q2b. The BART officer who fired the shot that killed Oscar Grant is named Johannes Mehserle. He is white, and the young man killed – Oscar Grant – was Black. Have you read, seen, or heard anything about this incident?

Yes

No (SKIP to Q6)

Don't know, Not Sure, Refused, No Answer (SKIP to Q6)

Q3b. Mehserle is now charged with murder. Based on what you have read, seen, or heard about the case, do you believe that he is definitely guilty; probably guilty; definitely not guilty; or probably not guilty of the murder charge?

Definitely guilty (GO to Q4)

Probably guilty (GO to Q4)

Definitely not guilty (GO to Q4)

Probably not guilty (GO to Q4)

Don't know, Not Sure, Refused, No Answer (GO to Q4)

ASK Q4 OF ALL THOSE WHO RECOGNIZED CASE

Q4. What are your feelings about Oscar Grant, the man who was shot; Johannes Mehserle, the former BART officer; or the case? [Clarify] [Probe for up to six responses] What other feelings do you have about the victim, the defendant, or the case? [Clarify]

NOTE: Comments and analysis of contents to be provided by Dr. Edward Bronson

COMBINED TOTALS Q2 (Recognition) and Q3 (Prejudgment)

Q2. Recognition (n=397)

	<u>Number</u>	<u>Percent</u>
Recognize case.....	388	97.7%
Doesn't recognize case	9	2.3%
First probe (Q2a).....	384	
Second probe (Q2b).....	4	

Q3. Prejudgment (by those who recognize case, n=388)

	<u>Number</u>	<u>Percent</u>	<u>Combined</u>
Definitely guilty.....	64	16.5% \	
Probably guilty.....	114	29.4% /	45.9%
Definitely not guilty	29	7.5% \	
Probably not guilty	77	19.8% /	27.3%
Don't know, Not Sure, Refused, No Answer	104	26.8%	

Q3. Prejudgment (by total sample, n=397)

	<u>Number</u>	<u>Percent</u>	<u>Combined</u>
Definitely guilty.....	64	16.1% \	
Probably guilty.....	114	28.7% /	44.8%
Definitely not guilty	29	7.3% \	
Probably not guilty	77	19.4% /	26.7%
Don't know, Not Sure, Refused, No Answer	104	26.2%	
Doesn't recognize case	9	2.3%	

Q5. As you may know, the media has reported a number of things about this case. Some people may remember some things, while others may remember other things. We're interested in what you may remember, even if you already told me in one of the previous questions.

[ASK Q5a ONLY OF THOSE WHO RECOGNIZED THE CASE ON Q2a.]

Q5a. Have you read, seen, or heard if the man who was killed was Black, and the BART officer who killed him is White?

<u>Percent</u>	<u>Number</u>	
89.3%	343	Yes
4.2%	16	No
6.5%	25	Don't know, Not Sure, Refused, No Answer
100.0%	384	Total

[ASK Q5b-Q5e OF ALL THOSE WHO RECOGNIZED THE CASE]

Q5b. Have you read, seen, or heard if Mr. Mehserle claims that he thought he was just shooting his Taser at Oscar Grant, but that he pulled out his gun by mistake?

<u>Percent</u>	<u>Number</u>	
79.9%	310	Yes
11.6%	45	No
8.5%	33	Don't know, Not Sure, Refused, No Answer
100.0%	388	Total

Q5c. Have you read, seen, or heard if there were large protests and demonstrations, and even some near-riots and violence, in reaction to the killing of Oscar Grant?

<u>Percent</u>	<u>Number</u>	
95.4%	370	Yes
2.3%	9	No (SKIP to Q5d)
2.3%	9	Don't know, Not Sure, Refused, No Answer (SKIP to Q5d)
100.0%	388	Total

Q5c1. Some people are concerned that if the jury acquits Mehserle of murdering Oscar Grant, there could be violence. Do you agree or do you disagree that there could be violence if the jury acquits Mehserle of murdering Oscar Grant?

<u>Percent</u>	<u>Number</u>	
82.2%	304	Agree
4.9%	18	Disagree
12.9%	48	Don't know, Not Sure, Refused, No Answer
100.0%	370	Total

Q5c2. Do you think some members of the jury will be concerned that if they don't convict Mehserle, there could be some violence, or that other members of the community will think they should have found him guilty?

<u>Percent</u>	<u>Number</u>	
60.8%	225	Yes
14.9%	55	No
24.3%	90	Don't know, Not Sure, Refused, No Answer
100.0%	370	Total

Q5d. Have you read, seen, or heard if others on the BART platform took cell-phone camera pictures that showed the shooting?

<u>Percent</u>	<u>Number</u>	
87.4%	339	Yes
8.5%	33	No (SKIP to Q5e)
4.1%	16	Don't know, Not Sure, Refused, No Answer (SKIP to Q5e)
100.0%	388	Total

Q5d1. Have you seen any of those pictures?

<u>Percent</u>	<u>Number</u>	
78.8%	267	Yes
19.5%	66	No
1.8%	6	Don't know, Not Sure, Refused, No Answer

	100.0%	388	Total
Q5e. Have you ever talked about the case with family, friends, co-workers, or others, or have you heard others talking about it?			
	<u>Percent</u>	<u>Number</u>	
	74.0%	287	Yes
	24.5%	95	No
	1.5%	6	Don't know, Not Sure, Refused, No Answer
	100.0%	388	Total

[ASK EVERYONE]

Q6. Finally, I have a couple more questions to be sure we have included all groups in this survey. All of your answers will remain confidential.

Q6a. First, how often do you read a newspaper – would you say every day, several times a week, once or twice a week, or less often?

	<u>Percent</u>	<u>Number</u>	
	46.9%	186	Every day
	12.3%	49	Several times a week
	10.1%	40	Once or twice a week
	23.7%	94	Less often than once a week
	7.0%	28	Don't know, Not Sure, Refused, No Answer (SKIP to Q7)
	100.0%	397	Total

Q6b. What newspapers do you read – both local and out-of-town papers? [Clarify] [Probe for up to six responses] What other newspapers do you read? [Clarify]

	<u>Percent</u>	<u>Number</u>	
	10.8%	40	The Argus (Fremont)
	14.9%	55	Oakland Tribune
	37.7%	140	San Francisco Chronicle
	43.2%	158	Misc. other Alameda County and Bay Area newspapers (less than n=40)
	23.3%	87	Misc. other National newspapers, publications
	10.6%	40	Misc. other Web/Internet news (non-newspaper)
	2.7%	10	Misc. other newspapers, publications, responses
	9.2%	36	Not sure, No response
	61.5%	229	No 2 nd response
	89.7%	333	No 3 rd response
	97.3%	361	No 4 th response
	99.5%	370	No 5 th response
	99.7%	371	No 6 th response
	100.0%	369	Total

NOTE: Each respondent was allowed to give up to six responses to Q6b. Therefore, the percentages shown above will exceed 100% when summed.

Q7. How often do you listen to new radio or on TV – would you say you listen news on radio or on TV every day; several times a week; once or twice a week; or less often?

Percent	Number	
69.5%	276	Every day
14.6%	58	Several times a week
8.8%	35	Once or twice a week
5.3%	21	Less often than once a week
1.8%	7	Don't know, Not Sure, Refused, No Answer
100.0%	397	Total

Q8. Do you use the Internet to get any of your news?

Percent	Number	
65.5%	260	Yes
33.8%	134	No
0.8%	3	Don't know, Not Sure, Refused, No Answer
100.0%	397	Total

Q9. Could you please tell us how old you are?

[Do not read responses unless the respondent gives a vague answer (i.e. "over 30") or is reluctant to give a response. Then read "Which age group includes you – would you say..."]

Percent	Number	
3.0%	12	18 to 24
8.1%	32	25 to 34
16.1%	64	35 to 44
20.7%	82	45 to 54
27.2%	108	55 to 64
23.7%	94	65 or over
1.3%	5	Refused, No Answer
100.0%	397	Total

Q10. Are you registered to vote?

Percent	Number	
93.2%	370	Yes
5.8%	23	No (SKIP to Q11)
1.0%	4	Don't know, Not sure, Refused, No Answer (SKIP to Q11)
100.0%	397	Total

Q10a. Are you registered as a Democrat, Republican, or something else?

Percent	Number	
54.1%	200	Democrat
15.7%	58	Republican
13.2%	49	Declined to state
9.5%	35	Other
7.6%	28	Don't know, Not sure, Refused, No Answer
100.0%	370	Total

Q11. What town do you live in or near?

<u>Percent</u>	<u>Number</u>	
8.6%	34	Alameda
2.5%	10	Albany
11.1%	44	Berkeley
1.0%	4	Dublin
1.0%	4	Emeryville
12.8%	51	Fremont
7.8%	31	Hayward
7.3%	29	Livermore
2.0%	8	Newark
24.9%	99	Oakland
1.0%	4	Piedmont
6.8%	27	Pleasanton
4.0%	16	San Leandro
1.5%	6	Union City
5.0%	20	Other
2.6%	10	Don't know, Not sure, Refused, No answer
100.0%	397	Total

Q12. Are you Spanish, Hispanic, or Latino – for example – Mexican, Mexican-American, Chicano, Puerto Rican or Cuban?

<u>Percent</u>	<u>Number</u>	
9.8%	39	Yes
84.6%	336	No
5.5%	22	Don't know, Not sure, Refused, No answer
100.0%	397	Total

Q13. What is your race – are you white, black, Asian, Pacific Islander, American Indian, a member of some other race, or a mix of two or more races?

<u>Percent</u>	<u>Number</u>	
64.5%	256	White (SKIP to Q14)
9.3%	37	Black (SKIP to Q14)
8.8%	35	Asian/Pacific Islander (SKIP to Q14)
0.5%	2	Native American (SKIP to Q14)
6.0%	24	Other
6.0%	24	Mixed
4.8%	19	Don't know, Not Sure, Refused, No Answer (SKIP to Q14)
100.0%	397	Total

Q13a. What races are those – do they include...

a. White?

<u>Percent</u>	<u>Number</u>	
87.5%	21	Yes
12.5%	3	No, not sure, refused
100.0%	24	Total

b. Black?

<u>Percent</u>	<u>Number</u>	
25.0%	6	Yes
75.0%	18	No, not sure, refused
100.0%	24	Total

c. Asian or Pacific Islander?

<u>Percent</u>	<u>Number</u>	
12.5%	3	Yes
87.5%	21	No, not sure, refused
100.0%	24	Total

d. American Indian?

<u>Percent</u>	<u>Number</u>	
41.7%	10	Yes
58.3%	14	No, not sure, refused
100.0%	24	Total

e. Some other race?

<u>Percent</u>	<u>Number</u>	
58.3%	14	Yes

41.7%.. No, not sure, refused
100.0% 24 Total

Q14. **Finally, for statistical purposes only, we need to know if you have ever been convicted of a felony.**

<u>Percent</u>	<u>Number</u>	
0.0%	0	Yes
100.0%	397	No
0.0%	0	Don't know, Not sure, Refused, No response
100.0%	397	Total

Q15. *[Do Not Read]* Enter gender of respondent.

<u>Percent</u>	<u>Number</u>	
54.9%	218	Female
45.1%	180	Male
100.0%	397	Total

Questionnaire Version.

<u>Percent</u>	<u>Number</u>	
53.1%	211	Version 1 (guilty options read/listed first)
46.9%	186	Version 2 (not guilty options read/listed first)
100.0%	397	Total

CROSS TABULATIONS

1. Local Media Exposure

	<u>Percent</u>	<u>Number</u>
Q6a Reads paper regularly*	59.2%	235
Does not read regularly	40.8%	162
*Reads local paper at least several times a week.		
Q7 Watches local news regularly*	84.1%	334
Doesn't watch regularly	15.9%	63
*Watches news on local TV or listens on local radio at least several times a week.		

2. Local Media Penetration

	<u>Percent</u>	<u>Number</u>
High Media Penetration		
Reads regularly <u>and</u> watches/listens regularly*	51.6%	205
.....		
Medium Media penetration		
Reads regularly but doesn't watch/listen regularly <u>or</u> watches/listens regularly but doesn't read regularly	40.1%	159
Low Media Penetration		
Does not read <u>or</u> watch/listen regularly.....	8.3%	33
*Regularly means at least several times a week.		

3. Cumulative Number of Additional Facts Recognized*

	<u>Percent</u>
One or more additional facts	97.0%
Two or more additional facts	95.2%
Three or more additional facts	91.4%
Four or more additional facts	81.1%
Five additional facts	50.6%
No additional facts	3.0%

* Percentage who knew of incident and answered "yes" to one or more of questions Q5a, Q5b, Q5c, Q5d, and Q5e.

4. Prejudgment L, Race (n = 388)

Col Pct (Count)	White	Black	Other
Guilty	38.7% (96)	78.4% (29)	51.5% (53)
Not guilty	33.1% (82)	5.4% (2)	21.4% (22)
Don't know, Refused	28.2% (70)	16.2% (6)	27.2% (28)
	100.0% (248)	100.0% (37)	100.0% (103)

$\chi^2 = 24.575$

Sig. = 0.000

5. Prejudgment χ^2 , Area of Residence (n = 300)

Col Pct (Count)	Hayward- Livermore	Oakland- Berkeley	Other
Guilty	41.4% (24)	53.2% (75)	41.8% (79)
Not guilty	31.0% (18)	22.7% (32)	29.6% (56)
Don't know, Refused	27.6% (16)	24.1% (34)	28.6% (54)
	100.0% (58)	100.0% (141)	100.0% (189)

$\chi^2 = 4.966$

Sig. = 0.291

Menserie - Q4a Comments

q4aTXT
Oscar Grant didn't have any weapons, no reason to shoot him
I feel sad for him
I feel it was accidental
He probably should have submitted to the officers orders instead of mouthing off.
It was horrible - They have a footage of him shooting him in the back
Probably shot unnecessarily
Some things are hard to describe how I feel - I believe they don't respect the authority
I feel that he was unfairly and unjustly killed - While he maybe was a rabble rouser and I do not feel he deserved in any way to be killed - I do not feel he deserved to be tasered - He also worked at my local grocery store - I feel it's very demoralizing to the community when people are unjustly murdered by the police - Police are to take care of them.
Oscar was a very nice person
I feel he wanted to do what he wanted to do was to kill the young man for no apparent reason
I feel sorry for him and his family
He was wrongfully murdered
That we don't know enough info that the public is not aware of the info that prompted and that he was an innocent bystander
I think it is a real mess
He should have stayed home with his child and not on BART
I don't know him
My personal feeling it was a tense situation
Don't know enough about Taser to make decision
Makes you aware of what's going on around us
I feel Oscar Grant was wrongly murdered
They're human beings
It is horrible situation
I feel that what happened was unfortunate and Oscar didn't deserve that but he put himself in a bad situation
There needs to be better training with the police officer
I would say the case happens a lot and there needs to be more training and role playing.
I think it needs to be able to go to court - I don't have any feelings about the case one way or another
He was a normal citizen riding a train - Killed for no reason
I don't really know - I just know he was basically a young kid - I cant judge him because I don't know him
I feel that based on what I don't know about him the media said that he was a trouble maker but shouldn't be a bearing on weather he should get shot
I don't have any feelings as I don't know any of them
I believe the officers explanation is that he thought it was a taster, that is very weak being a trained officer
I feel bad for him and his family
I don 't know too much about it
I feel he should not have done that, shot right away, life is very important
I feel they should be trained on what they pull be it the gun or the taster
I think he was probably mouthing off to him - He was under control, there was no reason to use a weapon - He could have used a Billy club or something different than a hand gun
I think the case is very unfortunate
Grant was not armed
I think the whole thing was an accident
I think Oscar Grant did not deserve to die however he was probably provoking the police
Very irrelevant he was unarmed - The media has betrayed Oscar Grant as a bad person
I do not know anything about them personally so I can only go by what the media says about Oscar and Johannes
I know he was part of a disturbance and it was unfortunate he was in the wrong place at the wrong time - An officer pulled out his gun instead of his taster
Racist stereotype collectively - racial profiling
I don't know the case in detail - I say that nobody should be shooting unless there is something against someone else

Mehserle - Q4a Comments

He was unarmed - He should of never been shot
I think it was a tragic loss and Oscar was a victim of this crime and its devastating
Honestly I feel very sorry for him and how the accident happened - He left a daughter and son behind and a girlfriend
The BART policeman I don't have any feeling one way over the other if he was doing his job or not
I think it was wrong to shoot him
Only thing I feel is the pictures show that there was a mistake made
It was new years eve according to the media - The guy is no saint but did the guy deserve to get shot? No™
I think Johannes Mehserle was doing his duty
I feel bad for him
Bit stupid
I feel that Oscar was innocent
I think Oscar Grant was being a smart ass punk and he should have followed the directions of the cop - It showed him on the video walking up to the cop and he should have stopped - Black people think they have extra rights but they have no problem getting in your face when you are white
No feelings but he does not deserve to die
I feel like he got himself into trouble - but he shouldn't have been murdered for it
He was a victim - He was murdered
I can only say that I have compassion for all involved
He and his buddies were gang involved and school dropouts and not law abiding.
If he was a trouble maker there had to be some contact they were trying to disperse him
From what I understand, it was action above and beyond by the officer and the person killed was; not a threat to the officer
It was terrible that it happened.
The guy who was shot - I have no idea - He was probably rambunctious
I think Oscar was bad before all this but he shouldn't been shot
Very, very hard to say
It's a tragic case that's unfortunately going to cost Alameda County a lot of money in both criminal and civil charges
The young man was a brother that got caught up in the wrong trap - The police just eliminate them - He was in the wrong place at the wrong time
I am sorry that the case turned out the way it did
I feel that Oscar Grant is a victim and is a person of circumstances
That's terrible that he was killed for nothing
Oscar Grant is dead - I don't think Johannes Mehserle should be a BART officer and he should be tried
Feel bad for Oscar Grant, could have been anybody in the situation
I don't believe that he deserved to be shot - He did not deserve to die
I believe that the officer abused his power
I think it was unfortunate for the victim and his family
I believe the law enforcement community is to aggressive
Cannot say guilty or not
I don't know - All the facts need to be explained out in court
I feel that Oscar was an innocent person
Neutral
Oscar Grant tragedy wrong place wrong time
I felt that the officer should have went to see if the man was guilty or not before he shot him
I don't know all the facts - I heard the young man was fighting back and I saw some on the video.
No feelings about this
I think that a lot of people are using it for other reasons
I have no feelings toward the murder suspect
It was an accident, didn't try to kill him
It is too bad it had to happen - too bad it did happen
Should have happened a long time ago
Oscar Grant did not have enough love from his girlfriend

Mehserle - Q4a Comments

I don't know all the details
I feel bad for Oscar Grant and the family - I have also compassion for the officer as I don't think he had enough experience.
I think its appropriate that theirs a investigation first
If I were sitting in the trial, I would want to know how far defense are going to go with the taser information
Oscar Grant I don't know
I didn't know either one of them - The incident happened and he is going to trial for that
Oscar Grant was a victim - He is dead - He was killed
I think that its terrible that he got shot when Oscar Grant was not resisting arrest
It was unfortunate incident - I don't think the officer meant to kill him - He pulled his taster - The gun got used instead of the zapper
Oscar Grant - see that the young man could have not been behaving correctly
Its a tragedy - I felt like he was racially profiled - I felt like he was shot because he was a young black man
I did not follow up on the case - To me the police make some mistakes but maybe he is under certain stress but he is probably guilty but I vaguely know about the whole thing
Officer was not trained good and was an accident
Too much publicity
The young man was in the wrong place at the wrong time when that officer was on duty
I feel like an argument on the BART train was escalated - The operator should have taken control and it would not have escalated like it was
I don't trust the newspaper or the TV
I think that Grant was not cooperating with police and the officer was trying to bring people in line - And that he was bringing out his taster but brought out the gun instead
I don't know about Oscar Grant
The man-who-was-shot was not complying with the officers request and had already-been involved in a skirmish that had the police out there
I think Oscar Grant is not a hero - he did bad stuff to get himself in trouble and confront police officers
I don't have anything to say about that
He made a mistake but guilty the same.
Sadness
I feel sad for his family
He's innocent, poor guy, no reason to shoot anybody on public transportation - He didn't do anything that bad to deserve to get shot - He didn't attack the Mehserle from what I seen on the videos
I don't if you can get an impartial jury in Alameda county
I feel sorry for the BART officer as he was attempting to do his job but he over-reacted, but that does not seem what happened
I would like to see justice done whether Johannes Mehserle is guilty or not guilty
Sympathy
Shouldn't have been fighting on the train
Feelings are it's a shame - in the wrong place at the wrong time
My feelings are Oscar Grant was a product of a deprived society and his age limited his cultural and social experiences but it was definitely not a reason for a man of his age to be shot in the back and no excuse for any American young man to be shot in the back to death being unarmed
Oscar Grant is dead
Could have been handled differently
I don't know much about it but I saw the news about it
No one knows the true circumstances, there was no reason to pull the gun at Oscar he was contained
I was not there so I can't say but what I see about the videos I think he meant to go for his taster but pulled his gun and he should have known what was in his hand before he shot
Saw news and it looked like Oscar was not cooperating
The officers that were involved other than Mehserle made a statement that someone would be killed that night
Officer is trained in their field, short sentence off duty
I feel there was disobedience going on
Oscar Grant was a victim of injustice and there needs to be something done about this
Are irrelevant to the fact that a crime was committed - My feelings are not a legal question
I feel sorry for the man the got shot
I think it was an unfortunate event and the officers could not control what was happening
I think it needs to go to trial and play out

Mehserle - Q4a Comments

I feel bad Oscar Grant
I think it was wrong as what happened - He was handcuffed and should not have been shot
It's taking too long
Its a shame that Oscar Grant is dead
He has a bad track record - Two weeks prior he was involved with a police car case
It's a tremendously sad situation
I think it was unfortunate and got a lot of press
Officer could have made an mistake - I need more facts
The man who was shot made trouble and the police came to take care of it for safety of other people
I don't know him as a person at all except sympathy
I don't think he can claim innocent
I disagree with that Mr. Mehserle killed him
Oscar a tragedy, I have not heard anything negative
Officer is trying to do his duty
Society should not have habit of being aggressive and fix the system
My heart goes out to everybody - It was unfortunate for Oscar Grant - It is consistent with other injustices and people of color being victims of violence
It has gotten a lot of hype in media - Problems with traffic and age protest - I don't think they are showing the whole thing
I feel that the incident at the BART station was not handled well at all - I think that having had grandchildren in their 20's and taking the BART transport there were a lot of people drinking
We don't know what he may have said to the officer or what he was told to do or if he did it
I think he should get manslaughter if anything - I think the whole police dept should be responsible and not just him
I don't know too much about the two gentlemen but the officer did shoot and he is guilty of something but not murder
I don't know much about it
Oscar Grant seems like if he would have cooperated there would not have been problems
I feel sorry about that act that his criminal past was brought up it had nothing to do with this situation
I am neutral on all counts
It seems to me that he was executed with no probable cause
I have a vague familiarity with the details but I don't have enough knowledge to give informed opinions
Oscar is gone too soon - He is too young to die
I think he was rude and didn't listen to instruction
He was unfairly murdered
I think he got into a situation on the BART ride - This had to come out from what happened on the ride - Regardless of what the video showed that he was contained, there was no reason to use his gun or taster five police were there
I feel the officer is not guilty, the circumstances say that the officer thought he was grabbing a taster
I think he may have contributed to the problem - He should not have been shot in the position he was in, unless the officer thought he was using a taster instead of a gun
I think it is a shame - I feel bad for everybody - It is very unfortunate for both the guy who got shot and the guy who shot him
You cannot just shoot anyone - The officer should have used a little more pattice
The Officer did not realize what he was doing
In the wrong place at the wrong time
I cant give an opinion on that - I don't know the young man or what led up to it - I am not giving an answer
I think Oscar Grant has a bad record
Oscar Grant was too young - He probably lipped off at the cop and the cop overly reacted
The one that was shot put himself in that position - Shot or not he should not have been there doing something illegal and he would not have been shot
Officer should have wounded Oscar Grant only - Again he should have been wounded only - He is going to answer to his crimes
Oscar Grant was probably not a good guy - I think he was probably a bad person
I don't have any feelings
I feel that Oscar Grant is a victim - Should not have been shot
I don't have an opinion one way or the other
He was just doing a job

Mehserle - Q4a Comments

Based on the reports it does not seem the shooting was justified - Very rarely are police prosecuted for shooting people
It was probably a racist incident and it seems from what I have heard that the police officer was acting very much immorally and probably murdered this guy
Oscar Grant was causing problems
Poor innocent guy in the wrong place
Terribly sorry about the situation
From what I have heard I think the officer was going for the taser and not the gun - He made a mistake and it cost a life
I think the case needs to proceed - I've seen the video tapes and the man who was shot was on the floor - I assumed he was misbehaving but not enough to die for
I think the officer went for a taser and got his gun - I feel emotions got the best of the situation
Oscar Grant was doing stupid things
I think they are both good guys
I think the case reminds people to not act out of law - They should not resist and get shot like that
I am disappointed
I have no comments - I would like the jury to decide
Very public
Oscar Grant was disruptive but he didn't deserve to die - He was a problem for the police to deal with so Oscar has to take some responsibility
If he didn't cause any problems nothing would have happened
I don't believe Grant was an alter boy - There is a rap sheet on him coming back from the new years eve - He is not innocent and had something to do with the results
It was unfortunate
I think it was all so sad
It is unfortunate it happened - He is the father of a 4 year old girl - I don't know if he resisted arrest but I think they are both at fault and it escalated to taking the life
The only thing I can say is it is difficult to believe the press
It could have been a mistake
Locally it was a mess - so much publicity, caused riots, I got tired of listening to it - It became a personal issue
I know that there might have been a scuffle - I think the police overreacted
I don't know much about the victim so I don't have an opinion
I have no feeling about the case
Wish it didn't happened
Oscar was not innocent
No strong feelings at this time
I think that it is very unjust to shoot someone in the back - it was unnecessary and excessive action
I feel concerned that the officer will get a fair trial in Alameda county
He should not have shot him - cant justify using the wrong weapon
I didn't know who Oscar Grant was but the idea a officer killed him by accident, I don't believe that
I have no feelings about any of it
I have only heard from the media and I don't see how anyone can judge from that
Oscar Grant should not have been shot
As a person who has ridden BART there have been cases of younger people causing trouble on BART
A tragedy
I try to keep an open mind on these things
Unfortunate
I think there was too much force used in the situation - I read the disturbance calmed down when the police arrived
I don't know enough about it to have an opinion
I have heard different things but that is all
It would of been nice if he wouldn't have been shot
I feel like it was an accident
I think it was terrible and hugely unfortunate - The young man was foolish at best
He deserved it

Mehserle - Q4a Comments

Oscar Grant was a student at the school at his job
Unfortunately he got killed - I think he was mistakenly killed
At this point, because of the media frenzy, it makes it hard to know the facts
I read that he cased a disturbance, a very murky case
I feel sad for his family - I don't have any feelings at all about him either unlucky or stupid
Victim of circumstances
The Officer ran away - His behavior seemed not good
It happens too often and I think the officer was not trained very well - I have a feeling the BART should not be their own police
We weren't there - We don't know
I think it was an unfortunate accident
I wish Oscar Grant wouldn't of been shot
He is innocent
Oscar Grant was too young and maybe did something wrong
Big mistake
I think its a very tough job and you have to make decisions in a split second, sometimes those decisions made can be a wrong decision
He was in mischief but the officer should have never shot him
I believe that when the police uses force they should be held responsible
I am somewhat bias when it comes to the case - I have several relatives on the force or retired and I am a retired Fire Chief
If the victim was cooperating the officer should have been in trouble
I feel that he was a scumbag and was there because he was doing something wrong
For the BART police to respond to the incident I'm sure he done some actions for the BART police to appear - I don't feel he should of been shot but he must of done something for the BART police to appear
It was very sad
Shooting someone in the back leaves a question mark
I think that he didn't yield to the police officers - He didn't deserve to die
I am curious about whether the officer mistakenly shot him - I think it was wrong that he got shot but I don't know if that was the officers intention
He was a bum
The whole thing is tragic - I don't necessarily believe force was necessary
I think it was a tragic situation - Oscar was not resisting arrest and did not deserve this
It was unfortunate he had to be killed that way - Mr. Grant was not armed
I have read about it but don't know about it enough - There is a reason this case is getting so much attention
It seems like the BART Police are not suppose to shoot anyone
It is sad event and don't believe he did not deserved to be killed
I feel sorry for Oscar Grants family
The way it has been portrayed it sounded like he was on the floor and not threatening and I cant understand why he got shot
Wrong place at the wrong time
It is a sad situation - The world is too violent
The officer thought that he was pulling his taser and needs to serve time and is guilty
I feel very sad for society and the young man Oscar Grant
Oscar Grant should not have been killed
Usually two sides of the story not enough to justify what the police officer did
The young man was wrongly killed
This is a tough situation - I feel sorry for the young man
My wife and I talked to cops the other night - she hates cops - I respect them and I think they have a hard stressful job
I don't have any feelings
Oscar Grant was our butcher and we live by the BART station and we are sad for everyone concerned
I have no feelings about it
I think it is a terrible thing that happened but in high stress situations with that crowd and in that area I feel the BART area police need to be trained if they have weapons
Completely innocent

Menserie - Q4a Comments

The man was laying face down on the ground and he shot him and that says it all - I feel he made a mistake but that is the problem
Confusing
I feel terrible
They need to find out who did it
I thought it was racist and unsecured situation that got out of hand
I don't know anything about the people personally
I feel sad he was shot
Sad and unfortunate
The victim I feel is not entirely innocent
It is very unfortunate for both people
Very unfortunate for both families
I have forgotten all the details about it - I know it happened and there was a big hoopla but I don't recall details now
He probably brought some of it on his own self but when the firearm was discharged it was the officers Johannes fault

COMPARISON OF SURVEY RESULTS TO 2000 CENSUS

<u>Gender</u>	<u>Survey (n=397)</u>	<u>Actual¹</u>
Female.....	54.9% ... n=218.....	51.5%
Male.....	45.1% ... n=179.....	48.5%

<u>Age</u>	<u>Survey (n=397)</u>	<u>Actual¹</u>
18 to 24.....	3.0% ... n=12.....	12.7%
25 to 34.....	8.1% ... n=32.....	22.1%
35 to 44.....	16.1% ... n=64.....	22.8%
45 to 54.....	20.7% ... n=82.....	18.4%
55 to 64.....	27.2% ... n=108.....	10.4%
65 or over.....	23.7% ... n=94.....	13.6%
Refused, No Answer.....	1.3% ... n=5.....	0.0%

<u>Race/Ethnicity</u>	<u>Survey (n=397)</u>	<u>Actual²</u>
Hispanic, Latino *.....	9.8% ... n=39.....	16.7%
White.....	63.5% ... n=252.....	44.4%
Black.....	9.3% ... n=37.....	14.0%
Native American.....	0.3% ... n=1.....	0.4%
Asian/Pacific Islander.....	8.8% ... n=35.....	21.1%
Multiple – Non-Hispanic.....	3.5% ... n=14.....	3.1%
Other, don't know, refused.....	4.8% ... n=19.....	0.3%

* Hispanics can be any race

<u>Political Party</u>	<u>Survey (n=370)</u>	<u>Actual³</u>
Democrat.....	54.1% ... n=200.....	57.8%
Republican.....	15.7% ... n=58.....	15.1%
Declined to state.....	13.2% ... n=49.....	22.5%
Other.....	9.5% ... n=35.....	4.6%
Don't know, refused.....	7.6% ... n=28.....	0.0%

¹ Table P12. SEX BY AGE [49] - Universe: Total population; Data Set: Census 2000 Summary File 1 (SF 1) 100-Percent Data; Alameda County, California. <<http://factfinder.census.gov/home/saff/main.html>>

² Table P6. HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE FOR THE POPULATION 18 YEARS AND OVER [73] - Universe: Total population 18 years and over; Data Set: Census 2000 Summary File 1 (SF 1) 100-Percent Data; Alameda County, California. <<http://factfinder.census.gov/home/saff/main.html>>

³ California Secretary of State; Registered Voters as of May 4, 2009 for Alameda County, California. <<http://www.sos.ca.gov/elections/ror/ror-pages/15day-stwdsp-09/ror-050409.htm>>

RESUME FOR MARK R. WINKELMAN

Mark R. Winkelman

Winkelman Consulting • PO Box 11375 • Fargo ND 58106-1375

Phone: 701-237-2283 • Cell: 701-799-0877 • Fax: 701-237-6877 • Email: MRWinkelman@cableone.net

Experience

December 1999 to Present

Winkelman Consulting

Fargo, ND

Owner, Market Research & Planning Consultant

Philosophy: "Every client/project deserves my personal attention and full expertise".

Mission: "Contribute to the success of every client by enabling them to make better decisions".

After seventeen years as the leader of Precision Marketing, Inc. (PMI), was interested in seeking a career change that would allow working more closely with clients, being more involved in each project, and doing what love most – use skills and expertise to enhance the success of those served! In December of 1999, dissolved PMI and opened Winkelman Consulting, a private market research consulting firm. To enhance abilities, portions of larger projects are occasionally subcontracted to other capable vendors or consultants.

This move enabled providing the highest quality and customer service in providing a wide variety of marketing research and consulting services, including:

- Research & Survey Design
- Statistical Analysis
- Seminars & Training
- Focus Group Moderating
- Marketing Consulting
- Planning
- Customer, Market, Product, and Advertising Research
- Internet-Based Research Methodologies.

Since 1980:

- Successfully designed and implemented nearly 1,800 projects for more than 300 clients from a variety of industries in numerous states or provinces.
- Developed and conducted numerous live and/or satellite training workshops and seminars on research design, political polling, questionnaire development, strategic planning, and focus group moderation.
- Used frequently by news media as a professional resource in conducting quality market research and interpreting the results.
- Used as an expert witness to substantiate (or refute) claims made by parties involved in litigation, change of venue, and/or a motion to close a preliminary hearing in Arizona, California, Colorado, Minnesota, and North Dakota.

March to May 2006

Minnesota State University Moorhead

Moorhead, MN

Adjunct Instructor

Taught Market Research class (MKTG 422) while the professor was on medical leave.

August 1983 to December 1999 *Precision Marketing, Inc.* **Fargo, ND**
President, Market Research Consultant & Senior Research Analyst

In 1983, helped found Precision Marketing, Inc., the first full-service market research firm in North Dakota.

- Responsible for all business operations (accounting, planning, sales & marketing, human resources).
- Managed a staff as large as six full-time and as many as 200 part-time associates.
- Initiated the marketing and sales efforts that resulted in substantial revenue growth and placed Precision Marketing, Inc. as the eighth fastest growing business in Fargo in 1989.

September 1982 to May 1983 *North Dakota State University* **Fargo, ND**
Graduate Assistant, College of Business

Assisted professors and instructors in grading quizzes, test and papers, as well as occasionally lecturing for classes.

September 1979 to May 1983 *The Spectrum* **Fargo, ND**
Business Manager (1981-83), Advertising Manager (1980-81) & Advertising Sales (1979-80)

As Business Manager and Advertising Manager for *The Spectrum*, NDSU's student newspaper, instilled the philosophy and developed the staff/structure needed to both reduce the paper's dependence on university funds from over \$35,000 per year to less than \$10,000 per year and still generate excess revenues that enabled the paper to make over \$20,000 in unbudgeted equipment purchases.

Education

September 1982 to May 1983 *North Dakota State University* **Fargo, ND**
Masters of Business Administration Coursework

Completed all required coursework with a concentration in marketing & market research. Due to demands of starting a new business, family, etc., did not complete Master's Thesis.

September 1978 to May 1982 *North Dakota State University* **Fargo, ND**
Bachelor of Science, Business Administration, Minors in Statistics and Economics

Current and/or Past Professional Memberships

American Marketing Association • Market Research Association • Academy for Health Services Marketing • Greater North Dakota Association • Fargo Cass County Economic Development Corporation • Fargo-Moorhead Chamber of Commerce • Grand Forks Chamber of Commerce • Mental Health Association of North Dakota

Current and/or Past Volunteer Positions & Honors

Fargo-Moorhead Family YMCA Board President, Board of Directors, Executive Committee, Membership and Marketing Committee, Partner of Youth Campaign, and Endowment Board • YMCA Flickertail Cluster 1999 Volunteer of the Year • First United Methodist Church Council, Council on Ministries (Chair), Men's Club (President), and Growing Core Ministry Liaison to Church Council (responsible for communication, small group development, and member involvement/assimilation) • Gus Macker Tournament Committee and "Gus Buster" • Holiday Clearing Bureau Committee • Fargo Chamber Marketing and Program Committees • Grand Forks Chamber Marketing Committee • Calvary United Methodist Church Education (Chair) and Pastor-Parish Relations Committees • United Way Marketing Committee • F-M Athletics football coach • YMCA and traveling basketball coach • Metro Tournament Committee tournament volunteer

Personal Information

Married to my high school sweetheart since 1981 • Two children – Tyler & Steve • Enjoy basketball, handball, exercise, hunting, fishing, singing in the church choir • Four-year letterman for the NDSU Bison football team (1978-81) • Worked while going to college and personally paid 100% of my college expenses • Graduate school GPA of roughly 3.75 and undergraduate GPA of 3.49 • 1978 Bismarck High School graduate • Worked through high school while participating in football, basketball, track, concert choir and swing choir • Began working in sixth grade as a Minneapolis Tribune carrier and won trips to Washington, D. C., Disney World, Minneapolis, and Medora by selling subscriptions

Have provided research & consulting services to many different industries

Accounting • Addiction (Chemical Dependency & Gambling) • Advertising • Adult Day Care • Agriculture • Alternative Fuels • Architectural Design • Arts (Museums, Theaters, & Entertainment) • Professional Associations • Automotive Sales, Services & Parts • Banking • Beverage Sales (Soda & Alcohol) • Cable Television Services • Charitable/Non-Profit Organizations • Child Care • Chiropractors • Churches/Religious Services • Clinics • Commercial/Ag Lending • Commercial Services • Community/Regional Planning and Development • Computers/Electronics • Construction/Home Improvement • Consumer Services • Cooperatives • Dentists • Economic Development • Education • Entertainment • Environmental/Wild Life • Equipment Rental • Ethanol • Eye Care & Eye Wear • Farm Machinery • Farming/Ranching • Financial Services/Investment • Food Products • Fraternal Organizations • Funeral Homes • Furniture • Gaming/Bingo/Casinos (Charitable, Native American, and For-Profit) • Grocery Stores • Government (City, County, State, and Federal) • Health & Fitness Facilities • Healthcare • Heating & Air Conditioning • Heavy Equipment Sales, Service and Parts • Home Health Services • Home Security • Hospitals • Hotels • Human Services • Hunting Equipment • Insurance • Law Enforcement • Legal/Litigation Support • Magazines • Manufacturing/Ag Processing • Media • Mental Health Services • Moving & Storage • New Products, Businesses & Ventures • Newspapers/Shoppers • Nursing Homes • Office Equipment • Organic Foods/Processing • Packaging • Parks & Recreation • Pet Care Products • Photography • Political Candidates & Political Issues • Radio • Real Estate • Recycling • Rental Property • Restaurants • Retail Stores/Shopping Centers • Road Emergency Services • Social Issues • Sporting Goods & Apparel • Telecommunications • Telephone Directories • Television • Tourism/Travel • Truck Stops • Utility Companies • Water Craft • Wholesalers & Distributors

Have completed many types of research and planning projects

Attitude Studies • Benchmark Studies • Brainstorming Sessions • Business Plans • Change of Venue • Community Leader Surveys • Concept Tests • Consumer/Customer Panels • Consumer Preference, Habit, & Use Evaluations • Corporate Branch/Division Evaluations • Customer Profiles • Customer Satisfaction • Customer Surveys • Database & Literature Searches • Demand Assessments • Demographic Profiles • Employee Attitude Assessments • Employee Evaluations • Employee Satisfaction Surveys • Feasibility Studies • Focus Groups • Image Evaluations • Image/Position Studies • Life-Style Profiles • Logo Tests & Evaluations • Mail Surveys • Mall & Retail Intercept Interviews • Market Assessments • Market Share Estimates • Marketing Plans • Media Habits & Use Studies • Needs Assessments • New Market Entry/Penetration • New Product/Service Research • Patient Satisfaction Surveys • Perception Studies • Personal Interviews • Performance Audits • Planning • Position Appraisals • Pre-Election Polls • Pre-Studies & Post-Studies • Product & Service Evaluations • Product Placements • Public Opinion Polls • Satisfaction Surveys • Secondary Research • Secret Shopper Evaluations • Self-Administered Questionnaires • Situation Analysis • Strategic Plans • Telephone Interviews • Tracking/On-Going Studies

Have conducted a wide variety of local, statewide, regional, national, and international projects, including research or consulting services for clients in the following states or provinces:

Manitoba • Saskatchewan • Washington, D.C. • North Dakota • Minnesota • Alaska • Arizona • Arkansas • California • Colorado • Connecticut • Florida • Illinois • Iowa • Kansas • Louisiana • Maryland • Massachusetts • Michigan • Missouri • Montana • Nebraska • Nevada • New Hampshire • New Jersey • New York • North Carolina • Ohio • Oklahoma • Oregon • Pennsylvania • South Carolina • South Dakota • Texas • Utah • Washington • West Virginia • Wisconsin • Wyoming

Have consistently conducted any highly accurate polls and research studies

Date of Poll - Measure or Race on the Ballot	Sample Size	Poll Results	Actual Election Outcome	Maximum Margin of Error
April 1999 - Cass County Jail Sales Tax <i>Results show those who would/did vote "Yes"</i>	458	69.2%	70.8%	±4.3%
November 1996 - ND Governor <i>Results show those who would/did vote for "Ed Schafer"</i>	550	70.8%	66.2%	±4.2%
November 1996 - ND House of Representatives <i>Results show those who would/did vote for "Pomeroy"</i>	550	60.2%	55.1%	±4.2%
November 1996 - ND Agricultural Commissioner <i>Results show those who would/did vote for "Johnson"</i>	550	51.5%	50.1%	±4.2%
November 1996 - ND Auditor <i>Results show those who would/did vote for "Peterson"</i>	550	50.9%	54.6%	±4.2%
November 1996 - ND Public Service Commission <i>Results show those who would/did vote for "Wefald"</i>	550	60.3%	60.3%	±4.2%
November 1996 - ND Superintendent of Public Instruction <i>Results show those who would/did vote for "Sanstead"</i>	550	62.4%	59.2%	±4.2%
April 1996 - Fargo Use of Fargodome Tax for Streets <i>Results show those who would/did vote "Yes"</i>	550	72.7%	74.8%	±4.1%
April 1996 - Fargo Super Majority (60%) on Taxes <i>Results show those who would/did vote "Yes"</i>	550	62.5%	60.1%	±4.1%
April 1996 - Fargo Publication of Commission Minutes <i>Results show those who would/did vote "No"</i>	550	83.6%	84.2%	±4.1%
February 1996 - ND Republican Presidential Primary Dole Forbes Buchanan Alexander	179	57.6% 21.2% 15.1% 6.1%	56% 20% 18% 6%	±7.3%
November 1995 - Grand Forks Event Center Sales Tax <i>Results show those who would/did vote "Yes"</i>	550	58.5%	60.0%	±4.0%
November 1992 - ND Governor <i>Results show those who would/did vote for "Ed Schafer"</i>	504	58.9%	58.0%	±4.3%
April 1992 - Fargo Road/Water Plant Sales Tax <i>Results show those who would/did vote "Yes"</i>	485	69.1%	66.0%	±4.4%
November 1990 - ND Labor Commissioner <i>Results show those who would/did vote for "Craig Hagen"</i>	392	59.7%	60.4%	±4.9%
November 1990 - ND Measure #5 (Metigoshe Gaming) <i>Results show those who would/did vote "Yes"</i>	479	33.2%	32.1%	±4.5%
November 1990 - ND Measure #6 (Video Gaming) <i>Results show those who would/did vote "Yes"</i>	484	33.5%	33.4%	±4.5%
April 1990 - Fargo, ND Mayor <i>Results show those who would/did vote for "John Lindgren"</i>	322	60.2%	62.6%	±5.4%
December 1988 - Fargo, ND Dome Sales Tax <i>Results show those who would/did vote "Yes"</i>	415	59.5%	60.5%	±4.9%

*All poll results are released with the full permission of past clients.