

Aadika Singh (Bar No. 11676)
Richard Eppink (Bar No. 7503)
AMERICAN CIVIL LIBERTIES UNION OF
IDAHO FOUNDATION
P. O. Box 1897
Boise, ID 83701
T: (208) 344-9750 ext. 1202
ASingh@acluidaho.org
REppink@acluidaho.org

Debra Groberg (Bar No. 9797)
NEVIN, BENJAMIN & MCKAY LLP
303 West Bannock
P.O. Box 2772
Boise, Idaho 83701
T: (208) 343-1000
dgroberg@nbmlaw.com

Matthew Strugar (*pro hac vice*)
Law Office of Matthew Strugar
3435 Wilshire Blvd., Suite 2910
Los Angeles, CA 90010
T: (323) 696-2299
matthew@matthewstrugar.com

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

JOHN DOE, et al.

Plaintiffs,

v.

LAWRENCE WASDEN, et al.,

Defendants.

Case no. 1:20-cv-00452-BLW

Plaintiffs' Expert Disclosures

In accordance with Rule 26(a)(2) of the Federal Rules of Civil Procedure,
Plaintiffs John Doe and Randall Menges disclose Dr. James J. Prescott as a
retained expert.

Dr. Prescott's report is attached as Exhibit A. His C.V. is attached as Exhibit
B.

Plaintiffs reserve the right to call as an expert witness any witness
designated by any other party to this matter. Plaintiffs further reserve the right to

supplement this expert witness disclosure and expert witness report provided with this disclosure.

Plaintiffs may designate rebuttal experts to address Defendants' experts.

July 22, 2022

/s/ Matthew Strugar

Matthew Strugar
Law Office of Matthew Strugar

Aadika Singh
Richard Eppink
ACLU of Idaho Foundation

Debra Groberg
Nevin, Benjamin & McKay LLP

Exhibit A

Doe v. Wasden

**EXPERT REPORT/DECLARATION OF
JAMES J. PRESCOTT, J.D., PH.D.**

I, James J. Prescott, J.D., Ph.D., state under penalty of perjury as follows:

I. Background, Education, and Qualifications

I am the Henry King Ransom Professor of Law at the University of Michigan Law School in Ann Arbor, Michigan, where I have been teaching since 2006. I also have an appointment in the Economics Department at the University of Michigan, and I co-direct the Law and Economics Program and the Empirical Legal Studies Center at the Law School. I received my Ph.D. in Economics from the Massachusetts Institute of Technology in 2006. I earned my J.D. *magna cum laude* from Harvard Law School in 2002 and my B.A. in Public Policy and Economics with honors and distinction from Stanford University in 1996.

Much of my work (which is primarily empirical) centers on the consequences of post-release laws for people convicted of sex offenses. I am most interested in the effects that sex offender registration and community notification laws have on sexual offending behavior. I have also written on what we know (and do not know) about sex offense recidivism. I have attached my CV, which lists my publications (including those from the past ten years) as well as cases in which I have testified as an expert. My CV also provides further details on my expertise and experience, including a list of institutions and conferences at which I have presented my research on measuring the effects of sex offender registration and notification laws.

Several notable opinions addressing sex offender registration and notification laws have cited my research. See, e.g., *Does #1-5 v. Snyder*, 834 F.3d 696, 704 (6th Cir. 2016); *People v. Betts*, 507 Mich. 527, 560 (Mich. 2021); *State v. Hubbard*, No. 2020-0544, 2021 WL 4898587, at *25–26 (Ohio Oct. 21, 2021).

I also recently completed co-editing (as well as writing a portion of) a collected volume summarizing the state of empirical evidence on sex offender registration and notification laws. Released in 2021 by Cambridge University Press, the book includes up-to-date consensus views of researchers in the field.¹ In one of the central chapters, along with my regular collaborator, Amanda Agan, I collect and

¹ Logan, Wayne A., & J.J. Prescott, eds., *SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS: AN EMPIRICAL ASSESSMENT* (Cambridge Univ. Press) (2021), <https://www.cambridge.org/core/books/sex-offender-registration-and-community-notification-laws/5E3B30A35C5D3CF518C9EDEEF4589BA9>.

describe at length virtually all credible empirical scholarship that examines the effects on criminal behavior (specifically, recidivism) of sex offender registration and notification laws.² The report that follows is organized around my own original research on the consequences of sex offender registration and notification laws. But my opinion, summarized below, is informed more broadly by my expertise on the extensive body of scholarship on questions relevant to this case

To prepare this report, I reviewed the complaint, my scholarship, and various Idaho statutes, including IC §§ 18-8301–18-8331, and I received information about Idaho’s registry size from plaintiffs’ counsel.

II. Summary of Expert Opinion

All of what we know about Sex Offender Registration and Notification (SORN) laws suggests that such laws do not serve their purpose of lowering the risk of recidivism, reducing the total number of sex offenses, or making communities safer. More specifically, the evidence indicates:

- States enacted and implemented registration and notification laws with no sustained or rigorous study of their likely consequences, often doing so in response to public outcry and anger following a particularly heinous crime covered at length by the media.
- Many states, including Idaho, impose post-release laws on the basis of the crime of conviction, regardless of whether the registrant presents any risk to anyone and without any attempt to use accurate and cost-effective risk assessment protocols.
- States defend these laws as attempts to combat sex offense recidivism and to make the public safer, but the scientific evidence is nearly unanimous that notification laws (and likely other types of affirmative restraints) do not reduce recidivism. This conclusion derives from a significant body of empirical work that has examined the behavior of people convicted of sex offenses and the consequences of SORN laws on recidivism.
- This body of scholarship is consistent with my own research, which shows that, at best, public registration and other affirmative restraints do not improve recidivism rates, and they may well be counterproductive, that is,

² See Agan, Amanda Y., & J.J. Prescott, “Offenders and SORN Laws,” in SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS: AN EMPIRICAL ASSESSMENT (Logan, Wayne A., & J.J. Prescott, eds.) (Cambridge Univ. Press) (2021), 102–44, http://www.dropbox.com/s/ypdki9picqizr3/Chapter_7_Agan_Prescott_2021.pdf.

they may increase recidivism. The complex burdens that registrants face in Idaho and in states with similar laws limit their ability to succeed post-release and increase the risk of re-offense.

- Although perhaps counterintuitive at first blush, this conclusion is not surprising. Sex offender laws like those in Idaho and elsewhere place substantial burdens on every registrant, not just those with a high risk of recidivism. These burdens include the public stigma of widespread notification on top of de facto housing and employment limitations, residency restrictions, and frequent registration requirements. These added hurdles likely add to the risk of recidivism rather than reduce it.
- Despite this research, most of these laws and their amendments remain non-evidence-based and do not reflect our current understanding (from decades of research) of how registrants behave or what we know works and does not work in reducing recidivism risk.
- Furthermore, research demonstrates that SORN laws like Idaho's are financially costly for states and local governments to enforce, create a great deal of useless fear among members of the public, and are financially, physically, and emotionally burdensome to registrants and their families, which, again, may increase rather than reduce recidivism risk.
- Finally, we know from well-validated research that there are alternative approaches to reducing recidivism involving treatment and targeted risk assessment. These strategies are evidence-based. When faced with effective alternatives, the use of ineffective or counterproductive registration and community notification laws like the one currently in place in Idaho is very hard for experts in the field to understand.

III. Introduction to the Research

This report addresses important questions in the *Doe v. Wadsen* litigation: In particular, does the State of Idaho have any legitimate interest in enforcing its SORN law against people convicted of having had oral or anal sex, and will the State of Idaho or the public endure any hardship if people convicted of having had oral or anal sex are not required to register under the law?

1. As to community notification—posting registrants' names and their information on a publicly accessible website—there is a clear scholarly consensus that notification laws do *not* work to reduce sex offense recidivism. In fact, as I explain below, there are very good reasons to think that, based on the data we have and existing empirical analyses, these laws *increase* sex offense recidivism by

exacerbating recidivism risk factors. While this counterproductive result may seem counterintuitive (as it was to me initially), it should not be surprising upon reflection. Community notification laws make registrants' lives very difficult: they make securing and keeping gainful employment and stable housing challenging. These particular aspects of life (i.e., employment and housing) are well-documented as important to explaining recidivism patterns. Returning to "normal" life for individuals on public registries is nearly impossible. In a nutshell, the evidence indicates that the recidivism-increasing effects of community notification laws at the very least offset and may even overwhelm whatever public safety benefits such laws might offer (if any).

2. In work released recently (see the Cambridge University Press volume that I edited with Wayne Logan, cited above), Amanda Agan and I describe this consensus on the effects of SORN laws (particularly community notification) on sex offense recidivism, concluding:

Dozens of studies to date have sought to assess whether and how SORN laws affect sex offense recidivism. Multistate studies—some national in scope—using federal crime data and deploying panel data methods or time-series approaches have found no evidence that notification reduces recidivism and some evidence that it may increase recidivism. In single-state studies, using many different empirical research tools and data sources and examining different measures of recidivism in different jurisdictions (including Arkansas, D.C., Florida, Iowa, Maryland, Minnesota, New Jersey, New York, North Carolina, South Carolina, Texas, and Wisconsin), researchers from different disciplines, working independently, have essentially all failed to detect any evidence that notification reduces recidivism. The sole exception to this scholarly consensus is Duwe and Donnay (2008), who, using a small sample of potential recidivists, in a jurisdiction (Minnesota) employing an atypical, narrow, individual risk-based approach, find at least some non-trivial evidence that notification may reduce recidivism.

3. It is of course possible to criticize some aspects of the studies finding that public registries are ineffective (I review these studies and discuss many of these criticisms myself). Nevertheless, where one study is weak, another is strong—and together, they form a convincing body of scholarship that tells a coherent and scientifically satisfying account of the general inefficacy of SORN laws (including the possibility that SORN laws may increase sex offense recidivism). Below, I describe how my own research aligns with this consensus, but there are many, many other studies that come to the same critical conclusion: that registration and

notification laws, despite being expensive to enforce, do not appear to offer anything positive in terms of public safety. This substantial body of scholarship is referenced at length in my chapter with Agan, which is cited above.

4. Although I do not focus on the argument in this report, it is worth emphasizing that baseline sex offense recidivism rates, whether high or low, are irrelevant to the central question of whether SORN laws are effective at *reducing* recidivism. The evidence in general supports the view that baseline sex offense recidivism rates are quite low.³ And yet, whatever the actual recidivism rate, the evidence indicates that SORN laws either do not change the rate (at best) or actually make recidivism worse, and concerns about under-reporting do not change this conclusion. SORN laws simply do not reduce the risk that someone will sexually reoffend, whether that risk is high or low. The idea that sex offense recidivism rates may be higher than what experts assert just confuses the most important policy question.

5. It is also worth noting that the crimes plaintiffs have committed (IC § 18-6605) are no longer being enforced under Idaho law and cannot, under the U.S. Constitution, constitute criminal offenses. Therefore, even if the court were to conclude, contrary to the research consensus, that Idaho's SORN laws might or do reduce recidivism, that conclusion would be irrelevant as to plaintiffs, who are only subject to registration and community notification for engaging in behavior that is no longer criminal.

IV. The Effects of Sex Offender Laws on Recidivism

6. My own scholarly research indicates that, rather than reducing recidivism, notification laws may well have *increased* (and almost certainly have *not* reduced) the frequency of sex crimes committed by individuals previously convicted of a sex offense.⁴ I present this research in three parts (A, B, and C of this section). First, I report the empirical results of my own research and explain their implications for evaluating Idaho's sex offender registration and notification laws.

³ Lave, Tamara Rice, J.J. Prescott, & Grady Bridges, "The Problem with Assumptions: Revisiting the Dark Figure of Sexual Recidivism," *Behav. Sci. & the Law*, 39(3) (2021), 279–306, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3906329 (explaining why claims that unreported recidivist sex crimes are pervasive are empirically unfounded).

⁴ See Prescott, J.J., & Jonah E. Rockoff, "Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?," *Journal of Law and Econ.*, 54 (2011), 161–206, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1100663.

I focus on community notification’s effects. Second, I describe the data and empirical methodology I use in my research to help the Court and others understand the inferences I draw and the robustness of the findings to alternative interpretations. Third, I explain how community notification (and, by implication, other burdensome post-release laws that share similar characteristics—like residency restrictions, requiring the reporting of vast amounts of information, or imposing travel limitations), although intended to make communities safer, may actually put people at greater risk of becoming victims.

A. The Recidivism Consequences of Registration and Notification Laws

7. Registration and notification laws have the potential to influence sex offending behavior in two primary ways. First, potential first-time sex offenders (or nonregistrants more generally) could become less likely to commit sex offenses because they fear having registration and notification laws applied to them in the future if they are caught and convicted. I refer to this behavioral response as “deterrence.” Second, individuals previously convicted of sex offenses who are presently subject to registration and notification laws could become less likely to commit additional sex offenses if these laws make doing so harder—by increasing the difficulty of committing a crime or the chance of detection—or by somehow mitigating risk factors that cause individuals to recidivate. I term this response “recidivism reduction.”

8. With respect to reducing the recidivism risk of individuals previously convicted of sex offenses, the results of my research do *not* support the use of community notification (i.e., public registries). But my results do provide some support (with the caveats detailed below) for the use of *private* registries to help the police and other authorities monitor individuals previously convicted of sex offenses. I discuss these latter findings on the effects of *private* registration briefly for completeness and in the interest of full disclosure, but *Idaho has a public registration system*. Accordingly, the somewhat mixed picture on the costs and benefits of private registration with respect to reducing recidivism cannot justify Idaho’s public registration scheme.

9. Private Registration: To begin with, I find no discernible deterrent effect of private (law enforcement only) registries on nonregistrants (i.e., *potential* sex offenders). This is not surprising—in the 1990s, private registries allowed only the police or other state officials to learn of a conviction. As a result, there was little public shame (so long as records remained confidential), and the burdens of complying with registry requirements were very low by comparison with today’s time-consuming, difficult, and expensive obligations (for example, today, SORN

compliance in Idaho requires *in-person* re-registration within two business days of a change in residence, academic status, and/or employment status).

10. With respect to the effect of private registries on recidivism, I fail to find any reliable evidence that they reduce crimes against victims who are strangers to the registrant. I do uncover evidence that private registries may decrease recidivism against victims who are “closer” to the registrant (e.g., family members, neighbors, and acquaintances), but it is possible that some of this reduction may be explained by the statistically insignificant *increase* in recidivism against victims who are strangers that I identify—i.e., private registries may partly displace crime elsewhere but not reduce it overall.

11. There are two further caveats critical to understanding my findings regarding private registries. First, although there is very little work on the recidivism effects of private registration, at least two studies have been unable to confirm any recidivism-reduction effects. Specifically, Bouffard and Askew (2019) and Agan (2011) both fail to detect any evidence that private registration reduces recidivism.⁵ Second, because research on private registration focuses on laws from the 1990s, care must be taken in extrapolating to present-day regimes re-imagined as private registries. Leaving aside the fact that registration information is now almost entirely public in Idaho (and in all states for at least some registrants) and so the effects of private registration are irrelevant, the procedures and requirements of registration in the 1990s were *significantly* less burdensome in time and money, and in terms of the difficulty of compliance, than they would be if a “private version” of the average public registry were implemented today.

12. Community Notification: With respect to community notification (i.e., *public* registration) laws like those employed in Idaho, however, I discover a different pattern. The threat of becoming subject to a community notification regime—and the shame and collateral effects that accompany being publicly identified as a “sex offender”—appear to have a measurable deterrent effect (i.e., it reduces offenses) by nonregistrants. But, once I consider the number of registrants, I find that the more people a state subjects to community notification, the *higher* the relative frequency of sex offenses in that state. These results are highly

⁵ Bouffard, Jeff A., & LaQuana N. Askew, “Time-Series Analyses of the Impact of Sex Offender Registration and Notification Law Implementation and Subsequent Modifications on Rates of Sexual Offenses,” *Crime & Delinquency*, 65(11) (2019), 1483–512, <https://journals.sagepub.com/doi/10.1177/0011128717722010>; Agan, Amanda Y., “Sex Offender Registries: Fear without Function?,” *Journal of Law and Econ.*, 54 (2011), 207–39, <https://doi.org/10.1086/658483>.

statistically significant. Thus, it is very unlikely that these laws are reducing recidivism by registrants; instead, it is probable that these laws are actually *increasing* recidivism (that is, that the laws are causing positive harm).

13. Specifically, I find a 0.86% increase in the number of sex offenses per year for every additional registrant per 10,000 people in a state with a notification regime in place. Using the average registry size across our sample of states, this practically and statistically significant increase in recidivism by registrants more than offsets the estimated gains from the deterrence of crimes by nonregistrants. On balance, for states with average-sized registries, I calculate that notification laws lead to an additional 0.144 sex offenses per 10,000 people (relative to the number of offenses that would have occurred with only a private registration law in place). If Idaho were a “typical” jurisdiction in terms of the per capita number of registrants it chose to subject to notification, these findings would translate to between 100 and 200 additional sex offenses per year in the state.

14. Idaho, however, has a relatively large public sex offender registry,⁶ which means the recidivism-*increasing* effects of community notification are likely to be even larger in magnitude. At registry sizes like Idaho’s in 2021 (conservatively estimated at more than 26 registrants per 10,000 individuals in the state), notification-generated increases in recidivism are highly likely to dwarf any plausible deterrence gains, pointing to higher overall sex offense rates than would exist in a state without a community notification law, possibly by a few percentage points. This increase in total sex offenses would be *net* of any reductions in sex offenses by first-time offenders that notification laws may deter. Put simply, existing evidence suggests that it is likely that, far from reducing sex offense recidivism, Idaho’s notification law is actively increasing the total number of sex offenses each year in the state.

15. The results of my work are rooted in comparisons of sex offense frequencies over time and across states. It is worth noting that I include Idaho’s laws and the state’s criminal offense data and other data in my analysis. I carefully control for inherent geographic, economic, and social differences and trends over time.

⁶ According to materials I reviewed, Idaho’s sex offender registry currently lists approximately 5,047 active registrants (May 17, 2022). Under IC § 18-8304(2), incarcerated individuals who would otherwise be required to register are exempt from Idaho’s registration scheme. Therefore, in the calculations I make in the text, I use 5,047 as my estimate of the number of Idaho registrants at risk of recidivism. In addition, I use 1.9 million as my estimate of the total population of Idaho in 2021, <https://www.census.gov/quickfacts/fact/table/ID/> (visited on May 23, 2022).

Changes in national mood, for example, would not generate the patterns the data reveal; one also cannot account for the study's findings by arguing that states with large registries are just *different* from other states. For one, I control for county-level demographics and income over time and for other crime rates (e.g., the frequency of non-sex crimes generally as well as the frequency of assaults). Therefore, when public registries grow, even *relative to other kinds of crime*, the number of sex offenses rises under notification. For another, even within a state, if the number of registrants grows faster than average (relative to other states), sex offenses also increase relatively faster than average.

16. Unfortunately, my research on community notification suggests the total number of sex offenses will continue to grow as Idaho's public registry itself continues to grow in size. The application of community notification to a larger group of people will likely result in *additional* sex offenses (through more crime from greater recidivism), and this growth will increasingly outweigh any fixed gains that might occur through the deterrence of nonregistrants. Likewise, policy changes that shrink public registries by making registration a consequence of fewer statutory offenses, by allowing it to apply to only later convictions, etc., are likely to reduce the total number of sex offenses.

17. My work's two main conclusions for this litigation—(1) notification does not reduce recidivism and (2) notification is likely to increase recidivism—are not outlier findings. In fact, my results align with the established consensus view of experts in the field. For example, Agan's (2011) research, cited above, largely tracks my findings. She observes that individuals subject to notification laws are, if anything, more likely to be re-arrested for a sex offense than those who are not. One might imagine this finding as consistent with an increase in sex offense *detection*, but on balance, the evidence is more consistent with the increase in arrests as evidence of elevated recidivism. Idaho is also among the states in Agan's sample.

18. Perhaps more important, my findings reflect the conclusions of virtually all careful and serious empirical work in this field. In my recent review of relevant literature for my edited volume with Wayne Logan, I report that dozens of studies to date have sought to assess whether and how registration and notification laws affect sex offense recidivism. Multistate studies—some national in scope—use federal crime data and deploy panel data methods or time-series approaches. None of them uncovers evidence that notification reduces recidivism, and some offer at least tentative evidence that it may increase recidivism. In single-state studies, using many different empirical research tools and data sources and examining different measures of recidivism in different jurisdictions (including Arkansas,

D.C., Florida, Iowa, Maryland, Minnesota, New Jersey, New York, Pennsylvania, South Carolina, Texas, and Wisconsin), researchers from different disciplines, often working independently, have essentially all failed to uncover any evidence that notification reduces recidivism.⁷ Thus, my work in both empirically researching the effects of registration and notification laws and comprehensively compiling what we know about them, along with virtually all other relevant empirical research, strongly undermines the case that community notification laws actually combat sex offense recidivism.

19. Notification also does *not* appear to make it more difficult for registrants to commit new crimes. This pattern is at odds with the underlying theory that publicly identifying individuals previously convicted of sex offenses will alert potential victims to the presence of “nearby” potential recidivists and allow these potential victims to engage in precautionary behavior to protect themselves (see part 3.C below). Specifically, I find nothing to indicate that notification laws generate different increases in the frequencies of sex offenses against each type of victim—i.e., against family members, neighbors, acquaintances, or strangers. If community notification were increasing the difficulty of committing a crime against a friend, neighbor, or acquaintance in a systematic way (versus a complete stranger, for example), we would expect to see differences in frequency growth across categories of victims. Instead, there is no evidence that neighbors and acquaintances have benefited even in a relative sense from community notification laws in terms of reduced victimization risk, suggesting that the primary hypothesis in support of notification laws is at best questionable.

* * *

⁷ The sole exception to this scholarly consensus is Duwe and Donnay (2008), who, using a small sample of potential recidivists, in a jurisdiction with an atypical, narrow, individual risk-based approach that looks nothing like Idaho’s, find at least some non-trivial evidence that notification may reduce recidivism. See Duwe, Grant, & William Donnay, “The Impact of Megan’s Law on Sex Offender Recidivism: The Minnesota Experience,” *Criminology*, 46(2) 2008, 411–446, <https://doi.org/10.1111/j.1745-9125.2008.00114.x>. There has been little research comparing risk-based versus conviction-based registration schemes, but it is worth noting that the only research showing any reduction in recidivism after implementation of a notification scheme involved a risk-based registry. There is not, to my knowledge, a single study showing that a conviction-based registry—such as the one in Idaho—reduces recidivism.

20. The evidence, according to both my research and to the vast majority of experts in this field, is clear on the effects of these post-release laws on sex offense recidivism: community notification laws do not appear to be effective at reducing recidivism; if anything, they increase it. The many burdens registrants experience when subject to notification—the extreme notoriety that accompanies it, and the poor and unstable housing and employment and the difficulty of reintegrating into society that emanate from it—go a long way toward making sense of why my research finds notification laws are associated with *increases* in recidivism.

B. Empirical Methodology for Identifying the Effects of Notification

21. Because the effects of these laws depend a great deal on how they are structured (see part 3.C below), and because the states and the federal government passed these laws with no in-depth investigation of their likely consequences, my research employs well-known federal crime data covering many states over many years and standard empirical methods to generate reliable evidence on both how these laws influence recidivism levels and, even if crime frequency remains unaffected, how these laws alter sex offending behavior more generally.

22. My approach builds on the fact that notification laws are designed to reduce recidivism by making individuals who are located “near” potential recidivists (like neighbors, acquaintances, etc.) safer by providing any potential victim with supposedly useful identifying information about individuals previously convicted of a sex offense who might pose a threat. Therefore, if notification works as its proponents suggest, we would expect to see relatively fewer offenses against neighbors and acquaintances under a notification regime. To test this empirical hypothesis, I made use of the federal government’s National Incident-Based Reporting System (NIBRS) data, the only high-quality, multi-state crime data with details about offender-victim relationships.

23. NIBRS is a relatively new data collection effort, with only a few states participating at the outset in the early 1990s. As registration and notification laws were enacted primarily in the 1990s, I selected the 15 states that were participating in NIBRS as of 1998, including Idaho: Colorado, Connecticut, Idaho, Iowa, Kentucky, Massachusetts, Michigan, Nebraska, North Dakota, Ohio, South Carolina, Texas, Utah, Vermont, and Virginia. This is a fairly representative group of states, both geographically and in terms of the evolution of their sex offender legislation. To enhance the reliability of my work, I limited my analysis to states that were part of NIBRS by 1998 to be sure that I had data for a significant period of time both before and after the states enacted their notification laws. I conducted

my analysis using NIBRS data through 2005, which translates to more than 10 years of data for some states and at least 7 years for all states.

24. Next, I collected the content and timing of the registration and notification laws in each of these 15 states. I conducted painstaking legal analysis for more than a year to identify the precise times that statutes were enacted and when each became effective and operational. (Because NIBRS crime data are collected by month, I am able to make use of these precise legal details in my empirical work.) In coding these laws, I was careful to distinguish between private registration and community notification (i.e., public registration) because the two approaches are meant to function in very different ways. I was also careful in how I characterized each notification law, as the content of these laws varies across states and over time. For example, early notification laws allowed the public merely to access paper registries; eventually, all notification laws required that data for many registrants be posted to publicly accessible internet web-registries. Some states also enacted “active” notification laws under which public employees (e.g., police officers) were required to take affirmative steps to make sure individuals deemed to be at-risk (e.g., neighbors) were informed of relevant released individuals, for example, by written notice or a personal visit by a police officer.

25. My research also took into account whether these laws had discretionary or mandatory features as they evolved over time. Finally, with respect to internet registries, I conducted a separate investigation to determine not only when each web-registry law became effective but also when each site became operational *in fact* and mostly complete in its coverage.

26. With data on individual sex offense incidents by county for 15 states (including Idaho) over many years, I was able to conduct a fairly straightforward “program evaluation” had I wished to go that route. In effect, using multiple regression analysis, I could have proceeded by examining how the frequency of sex offenses (and the types of sex offenses—in particular, the frequency of sex offenses between neighbors or acquaintances) changed in response to the implementation of registration and notification laws. With 15 states and a long stretch of years, I had the ability to control for national trends or a trend over time in a single state (one that might affect the number of sex offenses at just around the time a state passed a sex offender law) to ensure that neither was confounding the results of the research. These data allow me, for example, to account for state-specific trends in the number of sex offenses as well as trends in other crime levels.

27. If I had been interested purely in whether registration and notification laws reduced sex crime *on the whole*, this empirical strategy would have been the appro-

priate approach. But these laws have been defended as attempts to reduce *recidivism* by registrants specifically, not merely as additional deterrents to “potential” first-time offenders or nonregistrants. As I noted above, public registration laws could theoretically reduce new sex offenses in one of two ways: (1) by deterring nonregistrants (i.e., those who wish to avoid, for example, the burdens and shame of being subject to notification should they be caught and convicted), and (2) by reducing the recidivism of registrants by providing information to the public, thereby facilitating precaution-taking and monitoring. I designed my research to assess each of these policy-relevant possibilities individually. Separately identifying and measuring these two hypothetical consequences of notification laws is essential but also difficult to do with comprehensive federal crime data because these data do not indicate whether a crime was committed by a registrant (recidivism) or instead by a nonregistrant (new offender).

28. My research solved this problem in an intuitive way. Although I, too, was unable to observe whether a crime in my data was committed by a registrant or by someone who was not subject to registration, I made use of the following simple fact: registration and notification laws cannot reduce (or increase) the frequency of sex offenses through changes in recidivism levels (by, for example, improving police and public monitoring or by informing potential victims of nearby threats) when nobody or only a few individuals previously convicted of a sex offense are subject to these laws—i.e., when registries are close to “empty.” On the other hand, registration and notification laws *can*, in theory, reduce the frequency of sex offenses even when registries are “empty” by deterring nonregistrants who fear becoming subject to these laws in the future if they are convicted of committing an eligible sex offense.

29. I extend this logic in my research to take advantage of the significant variation in retroactive coverage of registration and notification laws across states. This coverage variation resulted in dramatic differences in the numbers of covered individuals as these laws became effective: some states applied their laws only prospectively; others made them retroactive, applying them to individuals convicted and/or released over a range of different time frames. Accordingly, as states began to enforce their registration and notification laws, some states had large registries while others had empty or nearly empty registries.

30. To operationalize this idea, I collected registry size data for each state at different points in time and used county-level registry sizes in August 2007 to estimate the size of the registry in each county for each month. In effect, I studied how county patterns in the number and type of sex offenses vary with my measure of registry size over time. If these laws work to reduce recidivism as proponents

assert, one would expect to see that counties with larger registry sizes had greater relative reductions in the number of sex offenses, all else equal (i.e., after controlling statistically for other differences across counties, states, and time—crime rates and how they change, demographics and how they change, national trends and shocks, etc.). Instead, I found greater relative increases in the frequency of sex offenses as registry sizes grew over time and across jurisdictions, suggesting that community notification was doing positive harm.

C. How Notification Laws Can Increase Recidivism

31. The conclusion of my research that notification appears to *increase* recidivism (see part 3.A) may seem counterintuitive at first blush. After all, community notification (i.e., the active identification of individuals previously convicted of sex offenses through public registries) is designed to alert the public to the threat a nearby registrant may pose so that people may engage in precautionary behavior and/or monitor the registrant. But, for this approach to reduce the recidivism levels of registrants, two separate conditions must be met.

32. First, for notification laws to reduce recidivism, public identification (along with other affirmative restraints placed on registrants) must make it more difficult, on average, for a potential recidivist to commit a sex crime. This condition, in turn, requires (1) that individuals who are likely to be victimized must be *newly* informed of a registrant's status *as a result* of the operation of the community notification law, (2) that potential victims are *newly* capable of acting in ways that reduce their exposure to victimization by the registrant or that the registrant at risk of committing a new sex offense is *newly* unable to access the potential victim, and (3) that the registrant at risk of committing a new sex offense will not discover an alternative victim nearby who is either unaware of the registrant's criminal history or is unable to act on the basis of that information to eliminate (or reduce by a lot) the risk of becoming a victim.

33. These conditions seem unlikely to hold simultaneously in the vast number of cases. As ample research demonstrates, offenders are rarely strangers to their victims. In fact, the vast majority of sex offenses occur within the context of an existing familial or other social relationship. Importantly, friends and family members of people previously *formally convicted* of sex offenses will often already be aware of a potential recidivist's criminal history, meaning that registry information will be irrelevant to this group of potential victims. Even if the information is news to a potential victim, and even if the victim can reduce her

exposure, which incidentally research shows may happen rarely,⁸ or if the registry information somehow prevents registrant access to some victims, a registrant who becomes at risk of reoffending will likely be able to locate other potential victims who are uninformed or unable to avoid the registrant. Thus, the set of situations in which notification can reduce overall risk appears vanishingly small.

34. Second, for notification to reduce recidivism, these laws must avoid aggravating the risk factors that can significantly increase a registrant's chance of reoffending. Even if notification and other affirmative restraints were to succeed at making it more difficult for registrants to reoffend, recidivism might still increase: after all, the difficulty of committing a crime is only one factor, among many, affecting a registrant's likelihood of recidivating. Publicly identifying an individual as a "sex offender" (as well as imposing other significant burdens, as Idaho does, for example, through frequent reporting requirements, etc.), by contrast, influences *many* of these factors by dramatically changing a registrant's daily life, future prospects, and psychological and financial burdens. Although proponents argue, without evidence, that laws that impose restraints and/or burdens on a registrant might reduce recidivism if such laws make the commission of crime more difficult or if they mitigate risk factors, SORN laws in fact seem highly likely to *increase* recidivism because they exacerbate risk factors (e.g., unemployment, unstable housing) that are known to contribute to reoffending.

35. In sum, notification regimes, with their attendant registration burdens, are much more likely to *increase* the likelihood that affected individuals return to crime, all else being equal. These laws and their application exacerbate recidivism risk factors in significant and visible ways. They do so for all publicly listed registrants, and they do so regardless of whether the registrant would have been at any risk of reoffending absent community notification. On the basis of many compelling empirical studies (and no contrary evidence to speak of), scholars agree that publicly identifying individuals who were previously convicted of sex offenses makes it more difficult for these individuals to find employment and housing. Life as a registrant, by all accounts, is simply much more difficult than it otherwise would be—in no small part because of the operation of comprehensive sex offender post-release laws.

⁸ See, e.g., Anderson, Amy L., & Lisa L. Sample, "Public Awareness and Action Resulting from Sex Offender Community Notification Laws," *Criminal Justice Policy Review*, 19(4) (2008), 371–396, <https://journals.sagepub.com/doi/10.1177/0887403408316705>.

36. Notification schemes (as well as other post-release sex offender restrictions, like residency restrictions) are intended to reproduce an upside of incarceration, essentially by “incapacitating” potential recidivists *as if* they were still in prison. Community notification and other affirmative restraints attempt to create a barrier between registrants and potential victims. Unfortunately, the analogy of post-release laws to prison is too apt: the public identification of individuals as “registered sex offenders” in society reproduces many of the deprivations and burdens of prison in addition to the fact of social and economic incapacitation. Plus, by making the world outside of prison more like being inside prison, sex offender post-release laws implicitly reduce the value of any threat to return potential recidivists to prison should they commit additional sex crimes.⁹ Put another way, the more difficult, lonely, and unstable registrants’ lives are, the more likely they are to return to crime—and the less they have to lose even if they are caught committing new crimes.

37. Idaho’s SORN law almost certainly contributes to this risk. Registrants face a variety of collateral burdens that, according to research,¹⁰ negatively interfere

⁹ See Prescott, J.J., “Portmanteau Ascendant: Post-Release Regulations and Sex Offender Recidivism,” *Connecticut Law Review*, 48(4) (2016), 1035–78, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2822045.

¹⁰ See, e.g., Evans, Douglas N., & Michelle A. Cubellis, “Coping with Stigma: How Registered Sex Offenders Manage Their Public Identities,” *American Journal of Criminal Justice*, 40 (2015), 593–619, <https://doi.org/10.1007/s12103-014-9277-z>; Lasher, Michael P., & Robert J. McGrath, “The Impact of Community Notification on Sex Offender Reintegration: A Quantitative Review of the Research Literature,” *International Journal of Offender Therapy and Comparative Criminology*, 56(1) (2012), 6–28, <https://doi.org/10.1177/0306624X10387524> (“Overall, however, almost a third (30%) reported job loss.... 12% reported that they had to move out of a home or apartment because a landlord found out and when the question was worded more broadly to include loss of housing for any reason, 19% responded affirmatively. With respect to safety issues, 16% reported that a family member or cohabitant was harassed, assaulted, or had property damaged and 44% reported being threatened or harassed by neighbors.”); Levenson, Jill S., & Leo P. Cotter, “The Effect of Megan’s Law on Sex Offender Reintegration,” *Journal of Contemporary Criminal Justice*, 21(1) (2005), 49–66, <https://doi.org/10.1177/1043986204271676> (“Overall, about one third of participants had experienced dire events, such as the loss of a job or home, threats or harassment, or property damage.”); Tewksbury, Richard, “Collateral Consequences of Sex Offender Registration,” *Journal of Contemporary Criminal*

with their ability to find gainful employment, obtain housing, and form positive relationships—all of which are key components in reducing criminal recidivism. With respect to employment, public registration facilitates discrimination by customers, clients, or co-workers (and employers willing to accommodate such discrimination), regardless of the details of the registrant’s conviction or risk of recidivating. Discrimination by landlords and anticipated difficulties with neighbors who become aware of a registrant’s status also makes securing stable, quality, reasonably priced housing challenging. Furthermore, as I have written elsewhere, “pervasive public awareness that one has committed a sex crime makes it difficult to form and maintain relationships, both with family members (who might suffer from the association) and those with whom one might wish to build a family.”¹¹ In addition to the isolating and impoverishing effect of SORN laws, making registrants’ identities and addresses publicly available leads some community members to harass and even accost registrants in public, online, or at their homes. These ancillary criminogenic consequences have been well documented by researchers.¹²

38. Adding to these burdens are the direct affirmative obligations imposed on registrants, which make everyday life more difficult and financially costly. For example, registrants must appear in person at their county’s sheriff’s office any time they change their residence, academic status or location, or employment status—and they must do so within two business days (IC § 18-8309(1)). If their vehicle information changes, or any online identifier or email address or phone number changes, a registrant must “immediately” notify the sheriff (IC § 18-8309(3)). Even when a registrant’s situation does not change at all, they must annually—and in person—verify their information (IC § 18-8307(4)(a)). (Individuals deemed “sexual predators” must verify their information in person every three months.)

Justice, 21(1) (2005), 67–81, <https://doi.org/10.1177/1043986204271704> (“[I]t is clear that the collateral consequences of sex offender registration . . . may be quite serious and harmful, for individual offenders, for their families and loved ones, and for communities in general.”).

¹¹ See Prescott, J.J., “Portmanteau Ascendant: Post-Release Regulations and Sex Offender Recidivism,” *Connecticut Law Review*, 48(4) (2016), 1035–78, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2822045.

¹² See Socia, Kelly, “The Ancillary Consequences of SORN,” in *SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS: AN EMPIRICAL ASSESSMENT* (Logan, Wayne A., & J.J. Prescott, eds.) (Cambridge Univ. Press) (2021), 78–101, <https://doi.org/10.1017/9781108328425.007> (summarizing research on the negative employment, housing, social, and health effects of SORN laws).

Once they are sent notice of their need to verify their registry information, registrants have just five days (from the mailing date as opposed to the date of receipt) to comply (IC § 18-8307(5)(c)), and they must find the time (possibly asking for time off from work) and resources to report in person at the sheriff's office. During these in-person visits, registrants must verify all employment, housing, academic, communication, commuting, and other information in writing (IC § 18-8307(1)), and they must pay at least \$80 a year as a registration fee (IC § 18-8307(2)), a significant sum for those with few economic opportunities. Registrants must immediately notify the sheriff of any lodging lasting seven days or more, even if the lodging is temporary and not a change in residence (IC § 18-8309(2)). Burdensome government requirements like these place unnecessary barriers between registrants and the support they need to reduce their risk of recidivating in the community.

V. SORN Laws, Burdens, and Recidivism Risk Factors

39. To carry out my empirical research into the consequences of sex offender post-release laws, I have had to carefully research and document relevant registration and notification laws in each of the 50 states over time. This was not a trivial exercise. In order to understand the consequences of these laws on health, crime, life prospects, etc., it is necessary to carefully distill the substantive provisions of these laws into categories that can be useful for analysis. Because my work is empirical and requires comparisons across states, I recorded all substantive post-release laws that apply specifically to individuals previously convicted of a sex offense, and I have spent considerable time ensuring that I am able to accurately assess—i.e., compare and contrast the substance of—similar-sounding approaches that appear in multiple states.

40. This research exercise thus records and describes the establishment and subsequent evolution of all forms of laws targeted exclusively at controlling and supervising registrants—including registration, community notification, residency restrictions, employment restrictions, and civil commitment, among others.

41. The record begins for most states in the late 1980s or early 1990s—Idaho's SORN law story begins in 1993, when the legislature first enacted a registration law—but in the intervening years, dozens of laws have been passed in every state, creating a complicated, constantly changing picture for individuals subject to registration and notification. More recent post-release restrictions have been built “on top” of the basic registration framework laid down in the early 1990s. I have focused on “substantive” behavioral restrictions and obligations, not the many burdensome “procedural” requirements that must be satisfied for a released

registrant to remain free (such as registering any change to any identifying registry information within a specified number of days, etc.). Although my extensive documentation does contain some of this information, and it is often easy to see how many new procedural obligations have been added to Idaho's and other states' sex offender post-release laws, my collection of data on laws is underinclusive in that it omits many of the complicated day-to-day requirements and fees that covered individuals are under pain of criminal penalties to satisfy.

42. Analysis of the evolution of the sex offender laws of the 50 states shows that the number of post-release obligations, restrictions, constraints, and disabilities placed on registrants has exploded since the 1990s and especially after 2000.

43. With very few exceptions, sex offender post-release laws across the states have been caught for years in a one-way ratchet of imposing increasingly severe and burdensome restraints and disabilities on registrants. In many states, these laws have become progressively more wide-reaching on an almost yearly basis, requiring more and more of an individual's time (and money) to remain in compliance. The regular changes and growing complexity of these laws make compliance more difficult, and innocent errors, which lead to great trouble if not prison, more common. Furthermore, legislatures regularly broaden the scope of laws that had been previously on the books, adding new individuals to the class of "registered sex offenders," even though the crimes newly covered may have been committed many years in the past.

44. The structures undergirding the vast array of state sex offender laws are the basic sex offender registration statutes. Historically, a state identified those individuals it wished to register for the sake of monitoring (often by their crimes of conviction) and defined that category as "sex offenders" or used some similar term, such as "sexually violent predators." Registration statutes sometimes create, as in Idaho, two or more groups of registrants, differentiating one from the others and from nonregistrants on the basis of the perceived seriousness of the crime of conviction and the perceived need to register the groups in question.

45. Although these groups were demarcated for a particular purpose (i.e., for registration and police monitoring) at a particular point in time, subsequent sex offender post-release laws have in effect piggybacked on the existing structure and its definitions. Yet it has never been made clear whether the individuals who the legislature originally determined ought to be publicly registered as "sex offenders" *also* ought to be subject to other requirements. In other words, the panoply of obligations and restrictions now knotted up with "sex offender" registration are premised on an individual's underlying status as a registrant regardless of whether those particular obligations and restrictions are appropriate for the wide range of

individuals who are now classified as “sex offenders” under state law, or whether they are appropriate for the extremely lengthy or lifetime registration periods that are imposed on most registrants.

46. Sex offender registration laws and the post-release requirements that derive from them share, as a general matter, a number of other characteristics, as well. To begin with, the failure to comply with the increasingly complex and confusing restraints and disabilities can return a registered individual to incarceration (IC § 18-8311), at least if the failure is found to be “knowing.” Considerable vagueness in language plagues many definitions of these constraints and obligations. There is often little discretion on the part of judges or others to loosen these restrictions, and the penalties for violations can be severe, including up to 10 years of imprisonment for even a first violation of the registration statute (IC § 18-8311). Moreover, compliance violations of Idaho’s SORN law result in *mandatory* return to jail or prison for those who are on probation or parole, regardless of a sentencing judge’s views on the appropriate sanction or how best to keep the community safe (IC § 18-8311: “If the offender is on probation or other supervised release or suspension from incarceration at the time of the violation, the probation or supervised release or suspension shall be revoked and the penalty for violating this chapter shall be served consecutively to the offender’s original sentence.”).

47. While the basic categories of sex offender restrictions built on top of early registration statutes seem straightforward enough in the abstract, the vast web of sex offender post-release laws across the states are numerous, unpredictable, unexpected, burdensome, complicated, and often vague.

48. One serious set of difficulties for those required to register in Idaho generally arises from the fact that they face additional nonobvious, diverse, and often confusing obligations in *other* states should they travel out of state for work or to visit family or friends. Post-release sex offender laws as a general matter allow only very small windows within which to comply with applicable state regulations, and because there is incredible variety in the procedures and substantive obligations across the states (including types that do not exist in Idaho), confusion on the part of the registrants is certain and accidental failure to comply is likely to be common, leaving aside the time and effort that satisfaction of these obligations requires of them.¹³

¹³ See Rolfe, Shawn M. “When a Sex Offender Comes to Visit: A National Assessment of Travel Restrictions,” *Criminal Justice Policy Review*, 30(6) (2017), 885–905, <https://journals.sagepub.com/doi/pdf/10.1177/0887403417742948> (“Most notably, there is significant variation in the number of days a registered sex

49. For example, consider an individual with a previous sex offense conviction who must register in Idaho because he maintains residency in the state (see IC §§ 18-8304(1)(b), 18-8306(8)). If this registrant visits a Nevada county for forty-eight hours or more, he must register with the local police department if there is one (NRS § 179.D.460(2)) or a sheriff's office otherwise (NRS 179.D.460(3)). If the registrant expects to enroll in higher education in Nevada, he must notify the sheriff *immediately* (NRS § 179.D.460(5)). In Montana, a person must register in person within three business days if he intends to temporarily reside in the state for ten days or more or for a total of thirty days inclusive (MC § 46-23-504(c)). States have written registration laws such that individuals may have to be simultaneously registered in many states at a time and yet the rules and procedures for registration vary by enough to make ensuring complete compliance difficult and time-consuming. Individuals who are required to register in another state for a temporary visit may also remain on that state's registry even after returning home to Idaho, and even after being removed from Idaho's registry (see, e.g., Fla. Stat. § 943.0435 et seq, *McGroaty v. Swearingen*, 977 F.3d 1302 (11th Cir. 2020)). Moreover, many states require regular *in-person* registration.

50. The complexity of the system in which registrants must live helps to make sense of the fact that registration and notification laws have real potential to increase sex offense recidivism by the heavy burdens they impose. It is essentially impossible for an Idaho registrant to travel to other states without a real risk of being found out of compliance. Even determining how to remain in compliance when traveling requires fortitude, time, and discipline. Registration laws ensnare registrants in a tangled web of administrative requirements. Normal activities, like traveling or even moving residences, force them to remain continuously apprised of intricate laws spanning multiple jurisdictions, regardless of where (or often when) they were convicted. Failing to do so risks conviction for failure to register and potentially prison. The practical impact of registration, then, is that it significantly impacts registrants' ability to associate with family or friends out-of-state, or indeed to travel for any purpose, whether to attend a political conference or go on vacation or visit their children at college.

offender has to register in any given state when they come to visit for any occasion. Depending on the state or jurisdiction that the registrant is visiting, residence restrictions may also be applicable. As a result of these laws, registrants may feel stymied from visiting another state, which may further delineate prosocial opportunities, including gatherings with family and friends or fulfilling employment obligations.”)

51. Engaging in careful compliance, on the other hand, can also be detrimental to registrants' post-release prospects. Adhering to all these requirements can take a great deal of time, from in-person registration meetings, to understanding where one is free to go, to understanding what exactly must be done (and not done). Registrants need time to find work, housing, and the social support that would—according to a mountain of research—reduce their risk of recidivism. Even when a registrant is in compliance, Idaho's notification policies broadly advertise their registrant status. This publicity directly aggravates recidivism risk factors by making it more difficult for registrants to rebuild their lives. Indeed, experts uniformly agree that these burdens, disabilities, and constraints have real potential to *increase* rather than decrease recidivism risk.

VI. Conclusion

The bottom line that emerges clearly from the research is that any “public safety” justification for modern SORN laws is contradicted by the wealth of social science and economic research that has emerged over the past 25 years. Laws like Idaho's appear, according to a large body of research, to do nothing to reduce sex offense recidivism and likely increase sex offense (and other types of) recidivism, making communities less safe overall.

Statement of Compensation: I will charge \$400 per hour for the preparation of this expert report.

I state under penalty of perjury that the above statements are true and correct to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'J | P' followed by a stylized flourish.

James J. Prescott, J.D., Ph.D.

Dated: May 26, 2022

Exhibit B

JAMES J. PRESCOTT

University of Michigan Law School
Ann Arbor, MI 48109
(Office: 734-763-2326)
jprescott@umich.edu
<https://orcid.org/0000-0001-5483-3516>

EMPLOYMENT

UNIVERSITY OF MICHIGAN LAW SCHOOL, Henry King Ransom Professor of Law (2019–)
Professor of Economics (2015–) (courtesy)
Co-Director, Program in Law and Economics (2012–)
Co-Director, Empirical Legal Studies Center (2014–)
Professor of Law (2011–19)
Assistant Professor of Law (2006–11)

Research: Criminal Law
Civil Litigation and Settlement
Empirical Law and Economics
Sentencing and Corrections
Employment Law

Teaching: Criminal Law
Employment Law
Law and Economics Workshop
Negotiation
Economic Analysis of Law

EDUCATION

MASSACHUSETTS INSTITUTE OF TECHNOLOGY, Ph.D., Economics, 2006

Honors: MIT Department of Economics Fellowship (1997–99)
Jacob K. Javits Fellowship (1998–2002)

Dissertation: *Essays in Empirical Law and Economics*
(Advisers: David Autor, Michael Greenstone, Christine Jolls)

HARVARD LAW SCHOOL, J.D., 2002

Honors: Graduated *magna cum laude*
John M. Olin Fellowship in Law and Economics (1999–2002)
Treasurer (Vol. 115) and Editor, *Harvard Law Review*

Clerkship: Hon. Merrick B. Garland, U.S. Court of Appeals for the D.C. Circuit (2002–03)

STANFORD UNIVERSITY, B.A., Public Policy and Economics, 1996

Honors: Graduated with Honors and Distinction; Phi Beta Kappa (elected in junior year);
Ethics-in-Society Honors Program; Presidential Award for Excellence in the
Freshman Year; Truman Scholar Finalist (CA)

Thesis: *Why Vote? Using Principles to Solve the Paradox of the Irrational Voter*

PUBLICATIONS & MANUSCRIPTS

- Prescott, J.J., and Evan Starr, “Subjective Beliefs about Contract Enforceability,” conditional acceptance, *Journal of Legal Studies* (2022).
- Jolly, Richard, and J.J. Prescott, “Beyond Plea Bargaining: A Theory of Criminal Settlement,” *Boston College Law Review*, 62(4) (2021), 1047–116.
- Starr, Evan, J.J. Prescott, and Norman D. Bishara, “Noncompete Agreements in the U.S. Labor Force,” *Journal of Law and Economics*, 64(1) (2021), 53–84.
- Lave, Tamara Rice, J.J. Prescott, and Grady Bridges, “The Problem with Assumptions: Revisiting the Dark Figure of Sexual Recidivism,” *Behavioral Sciences & the Law*, 39(3) (2021), 279–306.
- Bulinski, Maximilian A., and J.J. Prescott, “Designing Legal Experiences: Online Communication and Resolution in Courts,” in *LEGAL INFORMATICS* (Daniel Martin Katz, Michael J. Bommarito II and Ron Dolin, eds.) (Cambridge Univ. Press) (2021), 430–48.
- Agan, Amanda Y., and J.J. Prescott, “Offenders and SORN Laws,” in *SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS: AN EMPIRICAL ASSESSMENT* (Logan, Wayne A., and J.J. Prescott, eds.) (Cambridge Univ. Press) (2021), 102–44.
- Logan, Wayne A., and J.J. Prescott, eds., *SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS: AN EMPIRICAL ASSESSMENT* (Cambridge Univ. Press) (2021).
- Starr, Evan, J.J. Prescott, and Norman D. Bishara, “The Behavioral Effects of (Unenforceable) Contracts,” *Journal of Law, Economics, and Organization*, 36(3) (2020), 633–87.
- Prescott, J.J., and Sonja B. Starr, “Expungement of Criminal Convictions: An Empirical Study,” *Harvard Law Review*, 133(8) (2020), 2460–555.
- Prescott, J.J., Benjamin Pyle, and Sonja B. Starr, “Understanding Violent-Crime Recidivism,” *Notre Dame Law Review*, 95(4) (2020), 1643–98.
- Mentovich, Avital, J.J. Prescott, and Orna Rabinovich-Einy, “Are Litigation Outcome Disparities Inevitable? Courts, Technology, and the Future of Impartiality,” *Alabama Law Review*, 71(4) (2020), 893–979 (winner of 2021 Dispute Resolution Advancement Award presented by the Hugh L. Carey Center for Dispute Resolution at St. John’s School of Law)
- Prescott, J.J., and Sonja B. Starr, “The Power of a Clean Slate,” *Regulation*, 43(2) (2020), 28–34.
- Prescott, J.J., and Alexander Sanchez, “Platform Procedure: Using Technology to Facilitate (Efficient) Civil Settlement,” in *SELECTION AND DECISION IN JUDICIAL PROCESS AROUND THE WORLD: EMPIRICAL INQUIRIES* (Yun-chien Chang, ed.) (Cambridge Univ. Press, 2020), 30–72.
- Spier, Kathryn E., and J.J. Prescott, “Contracting on Litigation,” *RAND Journal of Economics*, 50(2) (2019), 391–417.
- Prescott, J.J., and Benjamin Pyle, “Identifying the Impact of Labor Market Opportunities on Criminal Behavior,” *International Review of Law and Economics*, 59 (2019), 65–81.
- McJunkin, Ben A., and J.J. Prescott, “Sex Offenders: Technological Monitoring and the Fourth Amendment,” *Search & Seizure Law Report*, 46(7) (2019), 75–88.

- Prescott, J.J., "Community Notification Policies," in THE SAGE ENCYCLOPEDIA OF CRIMINAL PSYCHOLOGY (Robert D. Morgan, ed.) (Thousand Oaks, Calif.: Sage Publications), Vol. 1 (2019): 138–43.
- Prescott, J.J., "Comment on 'Judicial Compensation and Performance,'" *Supreme Court Economic Review*, 25 (2019), 149–54.
- O'Neil, Meghan M., and J.J. Prescott, "Targeting Poverty in the Courts: Improving the Measurement of Ability to Pay," *Law and Contemporary Problems*, 82 (2019), 199–226.
- McJunkin, Ben A., and J.J. Prescott, "Fourth Amendment Constraints on the Technological Monitoring of Convicted Sex Offenders," *New Criminal Law Review*, 21 (2018), 379–425.
- Prescott, J.J., "Assessing Access to Justice Outreach Strategies," *Journal of Institutional and Theoretical Economics* (JITE), 174(1) (2018), 34–63.
- Prescott, J.J., "Improving Access to Justice in State Courts with Platform Technology," *Vanderbilt Law Review*, 70 (2017), 1993–2050.
- Hou, Youyang, Cliff Lampe, Maximilian Bulinski, and J.J. Prescott, "Factors in Fairness and Emotion in Online Case Resolution Systems," *Proceedings of the 2017 ACM Conference on Human Factors in Computing Systems* (May 2017).
- Prescott, J.J., and Kathryn E. Spier, "A Comprehensive Theory of Civil Settlement," *New York University Law Review*, 91 (2016), 59–143.
- Prescott, J.J., "Portmanteau Ascendant: Post-Release Regulations and Sex Offender Recidivism," *Connecticut Law Review*, 47 (2016), 1035–78
- Bulinski, Maximilian A. and J.J. Prescott, "Online Case Resolution Systems: Enhancing Access, Fairness, Accuracy, and Efficiency," *Michigan Journal of Race and Law*, 21 (2016), 205–49.
- Prescott, J.J., "Criminal Sanctions and Deterrence," in ENCYCLOPEDIA OF LAW AND ECONOMICS (2019), vol. 1 (A-E) (Alain Marciano and Giovanni Battista Ramello, eds.) (New York: Springer) (first published online in 2016), 498–510.
- Prescott, J.J., Norman D. Bishara, and Evan Starr, "Understanding Noncompetition Agreements: The 2014 Noncompete Survey Project," *MSU Law Review*, 2016, 369–464
- Gerstein, Charlie, and J.J. Prescott, "Process Costs and Police Discretion," *Harvard Law Review Forum*, 128 (2015), 268–88.
- Agan, Amanda Y., and J.J. Prescott, "Sexual Offenses," in ENCYCLOPEDIA OF LAW AND ECONOMICS (2019), vol. 3 (O-Z) (Alain Marciano and Giovanni Battista Ramello, eds.) (New York: Springer) (first published online in 2015), 1871–84.
- Prescott, J.J., Kathryn E. Spier, and Albert H. Yoon, "Trial and Settlement: A Study of High-Low Agreements," *Journal of Law and Economics*, 57 (2014), 699–746.
- Agan, Amanda Y., and J.J. Prescott, "Sex Offender Law and the Geography of Victimization," *Journal of Empirical Legal Studies*, 11 (2014), 786–828.
- Prescott, J.J., "Do Sex Offender Registries Make Us Less Safe?" *Regulation*, 35(2) (2012), 48–55.

- Prescott, J.J., “Child Pornography and Community Notification: How an Attempt to Reduce Crime Can Achieve the Opposite,” *Federal Sentencing Reporter*, 24 (2011), 93–101.
- Prescott, J.J., and Jonah E. Rockoff, “Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?” *Journal of Law and Economics*, 53 (2011), 161–206.
- Prescott, J.J., “The Challenges of Calculating the Benefits of Providing Access to Legal Services,” *Fordham Urban Law Journal*, 37 (2010), 303–46.
- Prescott, J.J., and Sonja B. Starr, “Improving Criminal Jury Decision Making After the *Blakely* Revolution,” *University of Illinois Law Review*, 2006, 301–56.
- Jolls, Christine M., and J.J. Prescott, “Disaggregating Employment Protection: The Case of Disability Discrimination,” *NBER Working Paper 10740* (2004).
- Prescott, J.J., “Tort as a Debt Market: Agency Costs, Strategic Debt, and Borrowing against the Future,” *Harvard Law Review*, 115 (2002), 2294–316 (Student Note).
- Prescott, J.J., “Prevailing Party—*Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources*, 121 S. Ct. 1835 (2001),” *Harvard Law Review*, 115 (2001), 457–67 (Student Supreme Court Case Comment).
- Prescott, J.J., “Second Circuit holds that Punitive Damages are Unavailable against Municipalities—*Ciraolo v. City of New York*, 216 F.3d 236 (2d Cir. 2000),” *Harvard Law Review*, 114 (2000), 666–72 (Student Recent Case Comment).

WORKS IN PROGRESS

- Garrett, Brandon L., and J.J. Prescott, “Determinants of Success in Post-Conviction Litigation by the Innocent,” draft available.
- Prescott, J.J., “The Possibilities of Offender Choice in Sentencing: Eliciting Forward-Looking Information,” draft available.
- Prescott, J.J., “Measuring the Consequences of Criminal Jury Trial Protections,” draft available (revise and resubmit, *Journal of Legal Studies*).
- Prescott, J.J., “Empirical Evidence of Prosecutorial Charging Manipulation: And What It Tells Us about What Prosecutors Are Trying to Do,” draft available.
- Klick, Jonathan, and J.J. Prescott, “The Effect of Sex Offender Laws on the Sexual Abuse and Health of Minors,” 25-page funding narrative available.
- Prescott, J.J., and Eric B. Laber, “The Effects of Judge, Prosecutor, and Defendant Race and Gender Interactions on Defendant Outcomes,” 15-page funding narrative available.
- Bailey, Martha J., and J.J. Prescott, “The Regulation of Vice in the 1960s: The Case of Contraception as ‘Obscene,’” précis available.
- Prescott, J.J., “Data Set: New Orleans District Attorney’s Office Data, 1988-1999,” including arrest, charging, conviction, and sentencing data with judge, prosecutor, and defendant identifiers and over 30,000 defendant observations.
- Prescott, J.J., “A Fifty-State Compendium of Sex Offender Regulation.”

OTHER WRITING

- Buhl, William, J.J. Prescott, and Miriam Aukerman, “Michigan Poised to Double Down on Failed Sex Offender Registry,” DETROIT FREE PRESS, Dec. 10, 2020, <https://www.freep.com/story/opinion/contributors/2020/12/10/michigan-sex-offender-registry-legislation/6507848002/>.
- Prescott, J.J., Benjamin Pyle, and Sonja Starr, “It’s Time to Start Releasing Some Prisoners With Violent Records,” SLATE, April 13, 2020, <https://slate.com/news-and-politics/2020/04/combat-covid-release-prisoners-violent-cook.html>.
- Prescott, J.J., and Sonja B. Starr, “The Case for Expunging Criminal Records,” N.Y. TIMES, March 20, 2019, at A27, <https://www.nytimes.com/2019/03/20/opinion/expunge-criminal-records.html>.
- Prescott, J.J., “Unclogging Courts by Resolving Simple Cases Online,” THE BRIDGE, May 19, 2016, <https://www.bridgemi.com/guest-commentary/unclogging-courts-resolving-simple-cases-online>.
- Prescott, J.J., Kathryn E. Spier, and Albert H. Yoon, “审判与和解：高低协议研究” [Trial and Settlement: A Study of High-Low Agreements] (translated by Yajie Xin. 比较): *Comparative Studies*, no. 80 (2015), 154–189.
- Prescott, J.J., “In Michigan, Access to Justice a Click Away,” DETROIT NEWS, March 12, 2015, at 3B, <http://www.detroitnews.com/story/opinion/2015/03/11/prescott-court-innovations/70166738>.
- Prescott, J.J. (principal drafter), Miriam J. Aukerman, Michael J. Steinberg, Kary L. Moss, and John R. Minock, “Distinguished Brief: People of the State of Michigan v. David Mark Cole,” *Thomas M. Cooley Law Review*, 30(3) (2013), 313–68.

GRANTS AND AWARDS

- American Civil Liberties Union (\$250,000) (“Prosecutor Transparency Project”) (2021)
- Distinguished University Innovator Award, University of Michigan (2020)
- Vital Projects at Proteus (\$20,000) (2019) (“Understanding Recidivism Rates for Homicide Offenders”) (Co-PI: Benjamin D. Pyle)
- National Science Foundation, Cyber-Human Systems (\$909,213) (2018) (“Drawing from Theories of Justice to Respond to Online Harassment”) (Co-PIs: Sarita Yardi Schoenebeck and Clifford Lampe)
- University of Michigan, Poverty Solutions at Ford School of Public Policy (\$25,000) (2017) (“Targeting Poverty in the Courts: Improving the Measurement of Ability to Pay”) (Co-PI: Meghan M. O’Neil)
- University of Michigan, Global Challenges for Third Century Initiative (Phase Two: \$2,767,500) (2014) (“Technology-Aided Access to Courts through Enhanced Online Functionality”)
- University of Michigan, Office of the Vice President for Research (\$15,000) (2013) (“A Survey of Employment Non-Competition Agreements: Incidence, Knowledge, Perceptions, and Mobility”)
- Distinguished Brief Award, Thomas M. Cooley Law Review (“recognizes the most scholarly brief filed before the Michigan Supreme Court, as determined by a panel of judges”) (2013) (*People v. Cole*, No. 143046, opinion filed May 25, 2012)

University of Michigan, Global Challenges for Third Century Initiative (Phase One: \$275,000) (2013) (“Technology-Aided Access to Courts through Enhanced Online Functionality”)

University of Michigan, Office of the Vice President for Research (\$15,000) (2011) (“The Role of the Prosecutor in Criminal Justice Outcome Disparities”)

Population Studies Center, University of Michigan (\$4,000) (2011) (“The Effects of Sex Offender Laws on Teenage Sexual Health and on the Geography of Crime Commission”)

National Fellow, Hoover Institution, Stanford University, Stanford, CA (2010–11)

National Science Foundation, Law and Social Sciences Program (\$145,000) (2010) (“Evaluating the Impact of Set-Aside Laws on Ex-Offender Recidivism and Socioeconomic Outcomes”) (Co-PI: Sonja Starr)

University of Michigan, Office of the Vice President for Research (\$15,000) (2009) (“Evaluating the Impact of Set-Aside Laws on Ex-Offender Recidivism and Socioeconomic Outcomes”)

National Poverty Center, University of Michigan (\$7,500) (2009) (“Evaluating the Impact of Set-Aside Laws on Ex-Offender Recidivism and Socioeconomic Outcomes”)

ABA Section on Litigation, Litigation Research Fund (\$12,000) (2008) (with Albert Yoon) (“Settlement and Trial? A Study of High-Low Agreements”)

PROFESSIONAL ACTIVITIES

Affiliations:

- Co-Editor-in-Chief, *American Law and Economics Review* (2017–)
- Fellow of the Society for Empirical Legal Studies (2019–)
- Research Faculty Affiliate, Pop. Studies Center, Univ. of Michigan (2009–)
- Affiliate, University of Chicago Crime Lab (2016–)
- Faculty Affiliate, National Archive of Criminal Justice Data (2017–)
- Senior Academic Affiliate, Edgeworth Economics, LLC (2012–)
- Faculty Expert, Poverty Solutions, University of Michigan (2017–)
- Research Associate, Ctr. for Research in Econometric Theory and Applications (CRETA), National Taiwan University (2018–)
- ICLE (Inst. of Continuing Legal Educ.) Tech. Advisory Board (2016–)
- Associate Editor, *International Review of Law and Economics* (2012–18)
- Board of Directors, American Law and Economics Association (2015–18)
- Co-President, Society of Empirical Legal Studies (2018–19)
- Board of Directors, Society of Empirical Legal Studies (2016–19)
- Board of Directors, Innovations for Poverty Action (2010–18)
- Working Group, Nat’l Task Force on Fines, Fees, and Bail (2016–18)
- Member, MI Advisory Comm., US Commission on Civil Rights (2013–17)
- Editorial Board, *American Law and Economics Review* (2014–17)
- Member, State Bar of California (admitted in 2002)
- Member, American Bar Association
- Member, American Economic Association
- Member, American Law and Economics Association

Referee Service:

- Journal of Legal Studies*
- Journal of Law and Economics*
- Journal of Law, Economics, and Organization*

Journal of Empirical Legal Studies
American Law and Economics Review
International Review of Law and Economics
Review of Law and Economics
Quarterly Journal of Economics
Review of Economics and Statistics
Journal of Labor Economics
American Economic Journal: Applied Economics
Journal of Public Economics
Economic Journal
Economic Inquiry
Law and Society Review
Law and Social Inquiry
Crime and Delinquency
Justice Quarterly

TESTIMONY AND EXPERT ACTIVITIES

Commonwealth of Pennsylvania v. Torsilieri, Court of Common Pleas, Chester County, PA: expert report, Apr. 1, 2021; hearing testimony, June 29, 2021.

Constan v. City of Dearborn Heights et al., Wayne County Circuit Court, Michigan: expert report, Dec. 6, 2020.

Legislative Testimony before *Michigan Senate's Judiciary and Public Safety Committee* (Lansing, MI, via Zoom), on proposed Clean Slate (expungement) legislation, June 4, 2020.

Legislative Testimony before *Michigan House of Representatives' Judiciary Committee* (Lansing, MI, via Zoom), on proposed reforms to Michigan's Sex Offender Registration and Notification Laws, May 27, 2020.

NARSOL v. Joshua Stein, U.S. District Court for the Middle District of North Carolina: expert report, Feb. 27, 2020; deposition, July 10, 2020.

John Does #1–5 v. Richard Swearingen, U.S. District Court for the Southern District of Florida: expert report, Feb. 24, 2020; deposition, Sept. 22, 2020.

John Does #1–7 v. Greg Abbott and Col. Steven McCraw, U.S. District Court for the Northern District of Texas, Dallas Division: expert report, May 25, 2018.

United States v. David Keith Wills, U.S. District Court for the Southern District of Texas, Corpus Christi Division: expert declaration, Jan. 14, 2018; hearing testimony, Jan. 29, 2018.

Lucinda J. Shuell v. Mobile Medical Response, Inc., American Arbitration Association, Case No. 01-16-0001-9155: expert report, Dec. 21, 2017.

Southern Motors Chevrolet, Inc. v. General Motors, U.S. District Court for the Southern District of Georgia, Savannah Division: expert report, June 30, 2015.

State of Georgia v. Beverly Hall, Superior Court of Fulton County for the State of Georgia: expert report, July 11, 2014.

McGuire v. City of Montgomery, Alabama et al., U.S. District Court for the Middle District of Alabama: expert report, Sept. 13, 2013; deposition, Oct. 30, 2013; rebuttal expert report, Dec. 17, 2013; trial testimony, Mar. 31, 2014, and Apr. 1, 2014.

John Does #1–5 and Mary Doe v. Richard Snyder and Col. Kriste Etue, U.S. District Court for the Eastern District of Michigan: expert report, Mar. 16, 2012; deposition, Dec. 12, 2013

UNIVERSITY SERVICE

University of Michigan: Digital Innovation Advisory Group (2014–16); Online Course Selection Committee (2013–14); UM Civil Liberties Board (2010–13).

University of Michigan Law School: Founder and Organizer, Student Research Roundtable (2007–18); Tenure Review Committee (2021–); Personnel Committee (2019–21); Alumni Survey Director (2014–); Technology Committee (2010–20); Alumni Academic Placement Committee (2010–14; 2016–18); Institutional Advancement Committee (2009–11; 2012–13); Graduate Programs and Foreign Affiliations (2011–12); Academic Standards and Practices Committee (2009–10); Clinical Committee (2008–09); Student Careers and Professional Affairs Committee (2007–08); Curriculum Committee (2006–07).

OTHER EMPLOYMENT

Academic: Visiting Lecturer, University of Tokyo Faculty of Law (Summer 2009)
Visiting Researcher, Georgetown University Law Center (2004–2006)
Special Guest, Brookings Institution, Economic Studies Program (2004–2005)
Fellow in Law and Economics, Univ. of Michigan Law School (Winter 2005)
Post-Graduate Olin Research Fellow, Harvard Law School (2003–2004)
Research Assistant, Brookings Institution, Economic Studies (1996–1997)

Law Practice: Summer Associate, Gibson, Dunn & Crutcher, LLP, New York, NY (2002)
Summer Associate, Munger, Tolles & Olson, LLP, Los Angeles, CA (2001)
Summer Associate, Morrison & Foerster, LLP, San Francisco, CA (2001)
Summer Associate, Gibson, Dunn & Crutcher, LLP, Los Angeles, CA (2000)

SELECTED PRESENTATIONS

- 2021:** Northwestern University IDEAL Workshop: Evaluation and Accountability: Technologies for Law (online) (April) (“Evaluating the Effects of Court-Technology Innovations”)
Record Clearing Research Webinar (National Record Clearing Project) (Community Legal Services – Philadelphia) (online) (March) (“Expungement of Criminal Convictions: An Empirical Study”)
Dispute Resolution Works-in-Progress Consortium (online) (March) (Discussant on Gilat Bachar, “The Psychology of Secret Settlements”)
Stanford Law Legal Tech and the Future of Civil Justice Series (Panel: “Legal Tech, A2J, and the Unrepresented”) (online) (February) (“Using ODR Platforms to Level the Playing Field: Improving Pro Se Litigation Through Technology”)
Michigan Journal of Law Reform Symposium (“The Poverty Penalty: America’s Overuse of Fines and Fees) (online) (January) (Panelist: Civil and Criminal Fines and Fees)
- 2020:** Duke Empirical Criminal Law Roundtable (online) (December) (Discussant on Ben Grunwald, “How to Reduce the Prison Population by X%”)

Columbia Law School (Law and Economics Workshop) (online) (November) (“Subjective Beliefs about Contract Enforceability”)

Conference: National Legal Aid & Defender Association (online) (November) (Panelist: “Record Clearing in 2020: Challenges and Opportunities”)

Conference: APPAM Annual Meetings (online) (November) (Discussant on Aria Golestani, Emily Owens, and Kerri Raissian, “Specialization in Criminal Courts: An Evaluation of the Impact of Domestic Violence Courts in Nashville and Davidson County, Tennessee”)

Michigan Law Insights from the Quad (online) (November) (Panelist: “Criminal Justice Reform” with Eve Primus and Margo Schlanger)

Harvard Law School (Empirical Law and Economics Workshop) (online) (October) (“Noncompetes and Employee Mobility”)

Clean Slate Initiative Panel, National Expungement Week (online) (September) (Panelist)

The 2020 University of Michigan Distinguished Innovator Award Address (Ann Arbor, MI) (September) (“Matterhorn: Technology, Access to Justice, and Democratizing American Courts”)

- 2019:** Conference: The Choice Redux: Market, Organization, Democracy, Algorithm or Community? (Univ. of Michigan Ross School of Business) (Ann Arbor, MI) (December) (“Gigs & Regs: Platform Choices for Competitive & Fair Labor Markets”)
- Conference on Empirical Legal Studies (Claremont McKenna College) (Claremont, CA) (November) (“Expungement of Criminal Convictions: An Empirical Study”)
- Notre Dame Law Review Symposium (Notre Dame Law School) (South Bend, IN) (November) (“Understanding Violent-Crime Recidivism”)
- Detroit Police’s Committee on Race and Equality Meeting (Detroit Police Department) (Detroit MI) (October) (“Expungement in Michigan”)
- Columbia Law School (Courts Workshop) (New York, NY) (May) (“Is Judicial Bias Inevitable? Courts, Technology, and the Future of Impartiality”)
- Univ. of Michigan Law School’s 2019 Junior Scholars Conference (Ann Arbor, MI) (April) (Discussant on three papers in “Panel I: Observation and Documentation”)
- Univ. of Southern California Gould School of Law (Law and Economics Workshop) (Los Angeles, CA) (April) (“Expungement of Criminal Convictions: An Empirical Study”)
- Univ. of Michigan Institute for Research on Women & Gender (Ann Arbor, MI) (March) (Book Discussant on David Halperin and Trevor Hoppe, “The War on Sex”)
- Univ. of British Columbia Allard School of Law (Law and Economics Workshop) (Vancouver, BC) (March) (“Noncompetes and Employee Mobility”)
- Conference: The Choice: Market, Organization, Democracy, Algorithm or Community? (Univ. of Michigan Ross School of Business) (Ann Arbor, MI) (February) (“Law and ‘The Choice’”) (focus on analytics, prediction, and algorithms in the law)
- 2018:** 2018 eCourts Conference (National Center for State Courts) (Plenary Panel with Judge Alexis Krot and Elizabeth Lucas) (Las Vegas, NV) (December) (“‘Right-sizing’ Penalties Through Technology”)

Notre Dame Law School (Law and Economics Workshop) (South Bend, IN) (November) (“Noncompetes and Employee Mobility”)

Symposium: Shining a Light on Dispute Resolution: Transparency, Metrics, and Empirical Research (Texas A&M Univ. School of Law) (Fort Worth, TX) (November) (“Court-Connected Mediation and Online Dispute Resolution”)

NBER Law and Economics Meetings (Cambridge, MA) (July) (Discussant on Jian Jia and Liad Wagman, “Platform, Anonymity, and Illegal Actors: Evidence of Whac-a-Mole Enforcement from Airbnb”)

Univ. of Bonn (Law and Economics Workshop) (Bonn, Germany) (May) (“Noncompetes and Employee Mobility”)

Symposium: Alternatives to Incarceration (Univ. of Haifa, Faculty of Law) (Haifa, Israel) (May) (“Targeting Poverty in the Courts: Improving the Measurement of Ability to Pay Fines”)

Univ. of Michigan Law School (Law and Economics Workshop) (Ann Arbor, MI) (March) (“Noncompetes in the U.S. Labor Force”)

Stanford Law School (Law and Economics Workshop) (Palo Alto, CA) (February) (“Noncompetes in the U.S. Labor Force”)

Supreme Court Economic Review Research Roundtable on the Economics of Legal Error (George Mason Univ. Antonin Scalia Law School) (Arlington, VA) (February) (Discussant on Gregory DeAngelo and Bryan C. McCannon, “Judicial Compensation and Performance”)

Univ. of Virginia Batten School of Policy (Faculty Research Workshop) (Charlottesville, VA) (January) (“Noncompetes in the U.S. Labor Force”)

2017: Harvard Law School (Law and Economics Workshop) (Cambridge, MA) (November) (“Noncompetes and Employee Mobility”)

Univ. of Toronto, Faculty of Law (Law and Economics Workshop) (Toronto, ON) (November) (“Noncompetes and Employee Mobility”)

George Mason Univ. Antonin Scalia Law School (Manning Forum) (Arlington, VA) (September) (Senior Commentator on Megan Stevenson, “Assessing Risk Assessment”)

Empirical Studies of Judicial Systems International Conference (Symposium: Do Courts Rule Efficiently? Empirical Inquiries) (Institutum Iurisprudentiae Academia Sinica) (Taipei, Taiwan) (June) (“Platform Procedure: Using Technology to Facilitate (Efficient) Civil Settlement”)

Seminar on Empirical Methods for the Law (Journal of Institutional and Theoretical Economics, Max Planck Institute for Research on Collective Goods, Bonn, and the Univ. of Bonn, Germany) (Syracuse, Italy) (June) (“Assessing Access to Justice Outreach Strategies”)

Duke Univ. School of Law (Culp Colloquium) (Durham, NC) (May) (Commentator on Andrea Chandrasekher, “Police Contract Status and Labor Unrest,” and Sherod Thaxton, “Disentangling Disparity: Exploring Racially Disparate Effect and Treatment in Capital Charging”)

UC Irvine School of Law Civil Justice Research Institute (Symposium: Practitioners and Scholars in Dialogue: What Do We Know About the Civil Justice System?) (UC Irvine School of Law) (Irvine, CA) (April) (Panel: Innovative Practices)

Vanderbilt Law Review Symposium on State Courts (Vanderbilt Law School) (Nashville, MI) (March) (“Improving Access to Justice in State Courts with Platform Technology”)

Michigan State Law Review Symposium (“Empirical Legal Studies and Legal Analytics: Shall the Twain Meet?”) (Michigan State Univ. College of Law) (East Lansing, MI) (March) (Panel: “ELS and Legal Analytics: Partners in the Same Pursuit or Never the Twain Shall Meet?”)

Univ. of Michigan Complexity and the Law Conference (Ann Arbor, MI) (February) (“UM’s Online Court Project: Big Data, Analytics, and Research Opportunities”)

Univ. of Arizona James E. Rogers College of Law QuantLaw Conference (Tucson, AZ) (February) (“Noncompetes and Employee Mobility”)

- 2016:** Conference on Empirical Legal Studies (Duke Univ. School of Law) (Durham, NC) (November) (“Noncompetes and Employee Mobility”)
- National Task Force on Fines, Fees, and Bail Practices Business Meeting (National Center for State Courts) (Lunch Presentation) (Arlington, VA) (November) (“Online Case Resolution”)
- National Association for Justice Information Systems 2016 Conference (Tucson, AZ) (November) (“Online Case Resolution Systems: Enhancing Access, Fairness, Accuracy, and Efficiency”)
- Georgetown Univ. Law Center (Law and Economics Workshop) (Washington, DC) (October) (“Noncompetes and Employee Mobility”)
- George Mason Univ. Antonin Scalia Law School (Law and Economics Workshop) (Arlington, VA) (October) (“Noncompetes and Employee Mobility”)
- Justice Codes Symposium (John Jay College of Criminal Justice) (New York, NY) (October) (“Citizens and Online Court Access”)
- Columbia Law School (Law and Economics Workshop) (New York, NY) (September) (“Noncompetes and Employee Mobility”)
- Concordia Univ. School of Law (Criminal Justice Reform Conference) (Boise, ID) (June) (“Online Case Resolution Systems: Enhancing Access, Accuracy, and Fairness”)
- UC Irvine Department of Informatics (Friday Seminar Series) (Irvine, CA) (May) (“Online Case Resolution Systems: Enhancing Access, Fairness, Accuracy, and Efficiency”)
- Northwestern Univ. School of Law (Colloquium on Law and Economics) (Chicago, IL) (April) (“Noncompetes and Employee Mobility”)
- Univ. of Connecticut School of Law (Faculty Workshop) (Hartford, CT) (March) (“A Comprehensive Theory of Civil Settlement”)
- NYU Law School (Law and Economics Colloquium) (New York, NY) (March) (“A Comprehensive Theory of Civil Settlement”)
- UCLA Law School (Law and Economics Workshop) (Los Angeles, CA) (February) (“A Comprehensive Theory of Civil Settlement”)
- Michigan Journal of Race & Law Symposium (“Innocent Until Proven Poor”) (Univ. of Michigan Law School) (Ann Arbor, MI) (February) (“Online Case Resolution Systems: Enhancing Access, Accuracy, and Fairness”)

- 2015:** Univ. of Texas School of Law (Law and Economics Workshop) (Austin, TX) (November) (“Noncompetes in the U.S. Labor Force”)
- Connecticut Law Review Symposium (“The Other One Percent: Prison Reform from Sentencing to Parole”) (Univ. of Connecticut School of Law) (Hartford, CT) (November) (“Post-Release Regulations and Sex Offender Recidivism”)
- Conference on Empirical Legal Studies (Washington Univ. Law School) (St. Louis, MO) (October) (“Noncompetes in the U.S. Labor Force”)
- Conference on Empirical Legal Studies (Washington Univ. Law School) (St. Louis, MO) (October) (Discussant on Thomas H. Cohen, “Does Change in Risk Matter? Examining Whether Changes in Offender Risk Characteristics Influence Recidivism Outcomes”)
- Michigan State Law Review Symposium (“Legal Quanta”) (Michigan State Univ. College of Law) (East Lansing, MI) (October) (“Noncompetes in the U.S. Labor Force”)
- Univ. of Michigan School of Information (Information Alliance for Community Development (IACD) speaker series) (Ann Arbor, MI) (September) (“Michigan’s Online Court Project: Improving Access, Accuracy, and Fairness”)
- American Law and Economics Association Annual Meetings (Columbia Law School) (New York, NY) (May) (Discussant on Andrea Cann Chandrasekher, “The Effect of Police Slowdowns on Crime”)
- NBER Mid-Year Law and Economics Meetings (Cambridge, MA) (February) (“Tailored Suits: Contracting on Litigation”)
- Harvard Law School (Law and Economics Workshop) (Cambridge, MA) (February) (“A Comprehensive Theory of Civil Settlement”)
- 2014:** Third Annual Robina Conference: The Future of Criminal Law? (Univ. of Minnesota Law School) (Minneapolis, MN) (“Policing Public Order without the Criminal Law”)
- Univ. of Virginia School of Law (Law and Economics Workshop) (Charlottesville, VA) (March) (“Neighborhood Offending: Is Sex Offense Victimization Risk Higher Where Sex Offenders Reside?”)
- 2013:** Conference on Empirical Legal Studies (Univ. of Pennsylvania Law School) (Philadelphia, PA) (October) (“Neighborhood Offending: Do Sex Offenders Reside and Offend in the Same Places?”)
- Conference on Empirical Legal Studies (Univ. of Pennsylvania Law School) (Philadelphia, PA) (October) (Discussant on Kuo-Chang Huang, “The Effect of Stakes on Settlement: An Empirical Lesson from Taiwan”)
- Tel Aviv Faculty of Law (Law and Economics Workshop) (Tel Aviv, Israel) (May) (“Criminal Choice in Sentencing”)
- Cornell-Tel Aviv Conference: Empirical Legal Studies (Tel Aviv Faculty of Law) (Tel Aviv, Israel) (May) (Discussant on Michael Frakes, “The Impact of Criminal Law on the Incidence of Crime: Evidence from Expansions in the Scope and Severity and Statutory Rape Laws”)
- Notre Dame Law School (Law and Economics Workshop) (South Bend, IN) (March) (“Criminal Choice in Sentencing”)

- 2012:** NBER Law and Economics Meetings (Cambridge, MA) (July) (Discussant on Dara Lee, “The Digital Scarlet Letter: The Effect of Online Criminal Records on Crime and Recidivism”)
- American Law and Economics Association Annual Meetings (Stanford Law School) (Palo Alto, CA) (May) (“Criminal Choice in Sentencing”)
- Univ. of Toledo College of Law (Faculty Workshop) (Toledo, OH) (March) (“Criminal Choice in Sentencing”)
- 2011:** Conference on Empirical Legal Studies (Northwestern Univ. Law School) (Chicago, IL) (November) (Discussant on Jonah Gelbach, “The Effects of Heightened Pleading on Motion to Dismiss Adjudication”)
- Univ. of Chicago Law School (Law and Economics Workshop) (Chicago, IL) (November) (“Criminal Choice in Sentencing”)
- Columbia Law School (Law and Economics Workshop) (New York, NY) (October) (“Settlement and Trial? A Study of High-Low Agreements”)
- Stanford Law School (Faculty Workshop) (Palo Alto, CA) (March) (“Settlement and Trial? A Study of High-Low Agreements”)
- Cornell Law School (Empirical Colloquium) (Ithaca, NY) (March) (“Settlement and Trial? A Study of High-Low Agreements”)
- NBER Mid-Year Law and Economics Meetings (Cambridge, MA) (February) (Discussant on Howard Chang & Hilary Sigman, “An Empirical Analysis of Cost Recovery in Superfund Cases: Implications for Brownfields and Joint and Several Liability”)
- 2010:** Conference on Empirical Legal Studies (Yale Law School) (New Haven, CT) (November) (“Settlement and Trial? A Study of High-Low Agreements”)
- Conference on Empirical Legal Studies (Yale Law School) (New Haven, CT) (November) (Discussant on Sasha Romanosky, Rahul Telang, and Alessandro Acquisti, “Do Data Breach Disclosure Laws Reduce Identity Theft?”)
- American Law and Economics Association Annual Meetings (Woodrow Wilson School of Public Policy) (Princeton, NJ) (May) (“Settlement and Trial? A Study of High-Low Agreements”)
- Univ. of Haifa Law School (Law and Economics Workshop) (Haifa, Israel via Internet) (May) (“Settlement and Trial? A Study of High-Low Agreements”)
- Univ. of Virginia Law and Economics of Crime Conference (Charlottesville, VA) (March) (“Determinants of Success in Post-Conviction Litigation by the Innocent”)
- Rice Univ. and Univ. of Houston (Applied Economics Workshop) (Houston, TX) (March) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)
- American Economic Association Annual Meetings (Atlanta, GA) (January) (“Empirical Evidence of Prosecutorial Charging Manipulation” and Discussant on Richard Boylan and Naci Mocan, “Intended and Unintended Consequences of Prison Reform”)
- 2009:** Harvard Law School (Law and Economics Workshop) (Cambridge, MA) (October) (“Settlement and Trial? A Study of High-Low Agreements”)

Univ. of Michigan Population Studies Center (Brown Bag) (Ann Arbor, MI) (October) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

Univ. of Toronto Faculty of Law (Law and Economics Workshop) (Toronto, ON) (September) (“Settlement and Trial? A Study of High-Low Agreements”)

NBER Law and Economics Summer Institute (Cambridge, MA) (July) (“Settlement and Trial? A Study of High-Low Agreements”)

UC Hastings College of Law (Faculty Workshop) (San Francisco, CA) (February) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

Stanford Law School (Law and Economics Workshop) (Palo Alto, CA) (January) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

American Economic Association Annual Meetings (San Francisco, CA) (January) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?” and “The Effects of Judge, Prosecutor, and Defendant Race and Gender Interactions on Defendant Outcomes”)

2008: American Bar Association Litigation Section Access to Justice Symposium (Atlanta, GA) (December) (“The Challenges of Calculating the Benefits of Providing Access to Legal Services”)

Searle Center Research Symposium on Empirical Studies of Civil Liability (Northwestern Univ. Law School) (Chicago, IL) (October) (“Settlement and Trial? A Study of High-Low Agreements”)

Conference on Empirical Legal Studies (Cornell Law School) (Ithaca, NY) (October) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

Conference on Empirical Legal Studies (Cornell Law School) (Ithaca, NY) (October) (Discussant on John F. Pfaff, “The Myths and Realities of Correctional Severity: Evidence from the National Corrections Reporting Program on Sentencing Practices”)

Harvard Law School (Law and Economics Workshop) (Cambridge, MA) (September) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

Law and Society Annual Meetings (Montreal, Canada) (May) (“The Effects of Judge, Prosecutor, and Defendant Race and Gender Interactions on Defendant Outcomes”)

American Law and Economics Association Annual Meetings (Columbia Law School) (New York, NY) (May) (“The Effects of Judge, Prosecutor, and Defendant Race and Gender Interactions on Defendant Outcomes”)

Univ. of Chicago Law School (Criminal Law Colloquium) (Chicago, IL) (April) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

Brooklyn Law School (Faculty Workshop) (Brooklyn, NY) (April) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

Univ. of Haifa Law School (Law and Economics Workshop) (Haifa, Israel via Internet) (March) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

Univ. of Virginia School of Law (Law and Economics Workshop) (Charlottesville, VA) (February) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)

NBER Mid-Year Law and Economics Meetings (Cambridge, MA) (February) (Discussant on Betsey Stevenson, “Beyond the Classroom: Using Title IX to Measure the Return to High School Sports”)

- 2007:** Northwestern Univ. Law School (Law and Economics Colloquium) (Chicago, IL) (December) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)
- Conference on Empirical Legal Studies (NYU Law School) (November) (Discussant on Stéphane Mechoulan, “The External Effects of Black-Male Incarceration on Black Females”)
- NBER Working Group on Crime (Cambridge, MA) (September) (“Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?”)
- National Federal Sentencing Guidelines Seminar (Salt Lake City, UT) (May) (“Using U.S. Sentencing Commission Data in Empirical Research”)
- American Law and Economics Association Annual Meetings (Harvard Law School) (Cambridge, MA) (May) (“The Effects of Sex Offender Notification laws”)

- 2006:** Conference on Empirical Legal Studies (Univ. of Texas Law School) (Austin, TX) (October) (“Empirical Evidence of Prosecutorial Charging Manipulation”)
- Conference on Empirical Legal Studies (Univ. of Texas Law School) (Austin, TX) (Discussant on Brandon Garrett, “Judging Innocence”)
- Junior Empirical Legal Scholars Conference (Cornell Law School) (Ithaca, NY) (September) (“Empirical Evidence of Prosecutorial Charging Manipulation”)
- Law and Society Annual Meetings (Baltimore, MD) (July) (“Measuring the Consequences of Criminal Jury Trial Protections”)
- Various Job Talks (January and February) (“Measuring the Consequences of Criminal Jury Trial Protections”) (Michigan; Harvard; Stanford; NYU; Columbia; Univ. of Pennsylvania; UCLA; Georgetown; USC; Washington Univ.; Univ. of Texas)

- 2005:** Various Job Talks (September through December) (“Measuring the Consequences of Criminal Jury Trial Protections”) (Yale; Univ. of Virginia; Duke; Cornell; Boston Univ.; Minnesota; Univ. of Colorado; William and Mary; Univ. of Miami)
- MIT Department of Economics Labor Seminar (Cambridge, MA) (November) (“Measuring the Consequences of Criminal Jury Trial Protections”)
- Florida State College of Law (Faculty Enrichment Series) (Tallahassee, FL) (June) (“Measuring the Consequences of Criminal Jury Trial Protections”)
- Brookings Institution, Economic Studies Program (Brown Bag Lunch Talk) (Washington, DC) (June) (“Measuring the Consequences of Criminal Jury Trial Protections”)
- American Law and Economics Association Meetings (NYU Law School) (May) (“Measuring the Consequences of Criminal Jury Trial Protections”)

PROOF OF SERVICE

I am employed in the County of Los Angeles. I am over the age of 18 and not a party to the within action. My business address is 3435 Wilshire Blvd., Suite 2910, Los Angeles, CA 90010.

On July 22, 2022, I served the foregoing documents described as: Plaintiffs' Expert Disclosures in this action by delivering a true copy thereof, as follows:

Leslie Hayes
leslie.hayes@ag.idaho.gov

Dayton Reed
Dayton.Reed@ag.idaho.gov

Deputy Attorneys General Civil Litigation Division
954 W. Jefferson Street, 2nd Floor P.O. Box 83720
Boise, Idaho 83720-0010

Bryan A. Nickels
ban@sganlaw.com
Special Deputy Attorney General
Scanlan Griffiths Aldridge + Nickels
913 W. River St., Ste. 310
Boise, Idaho 83702

by delivering a copy by electronic mail.

/s/ Matthew Strugar
Matthew Strugar