

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**CORNELL HOLDEN, MIGUEL MEJIA,  
MALCOM RUSSELL, and MARCOS POLONIA  
on behalf of themselves and all others similarly  
situated,**

**Plaintiffs,**

**17 Civ. 2192 (JGK)**

**-against-**

**PLAINTIFFS' EXPERT  
REPORT**

**THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY; THE PORT AUTHORITY  
POLICE DEPARTMENT; and MICHAEL  
OPROMALLA, SHAUN KEHOE, JOHN TONE,  
JORDAN ESPOSITO, MICHAEL DEMARTINO,  
RICHARD AYLNER, PAUL MILLER, JOHN  
FITZPATRICK, MARK MONTERO, VIJAY  
SEETARAM, MELVIN CRUZ, MARTIN  
JAYCARD, PAUL O'DELL, and OFFICERS  
JOHN DOE 1-100, sued in their individual  
capacities and official capacities as officers of the  
Port Authority Police Department,**

**Defendants.**

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**OPENING EXPERT REPORT OF JASON PIERCESON, PH.D.**

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I, Jason Pierceson, hereby declare as follows.

## **I. INTRODUCTION**

1. I am submitting this report regarding issues of interest to the Plaintiffs in this litigation against the Port Authority Police Department (“PAPD”).

2. This report reflects my expertise on communities marginalized on the basis of sexual orientation and gender identity, historically and in contemporary contexts. In particular, this report focuses on discrimination by law enforcement against these communities. I have actual knowledge of the matters stated in this report, and I could and would so testify if called as a witness.

3. To prepare this report, I reviewed the Plaintiff’s second amended complaint; deposition transcripts; relevant documents from the litigation; court decisions in similar cases, including *Martinez v. Port Auth. of N.Y. & N.J.*, No. 01 CIV. 721 (PKC), 2005 WL 2143333, at \*1 (S.D.N.Y. Sept. 2, 2005), *aff’d sub nom. Martinez v. The Port Auth. of New York & New Jersey*, 445 F.3d 158 (2d Cir. 2006); relevant scholarly sources; and news accounts of police tactics related to the LGBTQ community. In addition to this material, I rely upon my own research and experience in developing my findings. All materials I reviewed in compiling this report are listed in Exhibit A.

## **II. COMPENSATION**

4. I have been retained by counsel for plaintiffs in this litigation. I am receiving no compensation for this testimony, only potential reimbursement for travel expenses related to the litigation. This reimbursement does not depend on the results of this litigation, nor my opinions and testimony.

## **III. QUALIFICATIONS**

5. I am Professor of Political Science at the University of Illinois Springfield. My research emphasizes the legal status of communities marginalized on the basis of sexual orientation

and gender identity. My qualifications and publications are listed in my curriculum vitae, Exhibit B attached to this report.

6. I am the author of *Courts, Liberalism, and Rights: Gay Law and Politics in the U.S. and Canada* (Philadelphia: Temple University Press, 2005); *Same-Sex Marriage in the United States: The Road to the Supreme Court* (Lanham, MD: Rowman & Littlefield, 2013); *Sexual Minorities and Politics: An Introduction* (Lanham, MD: Rowman & Littlefield, 2016); and am lead author and editor of the forthcoming *LGBTQ Americans in the U.S. Political System: An Encyclopedia of Activists, Voters, Candidates, and Officeholders* (ABC-CLIO, 2019). In addition, I am the author of several articles and book chapters on LGBTQ law and politics.

#### **IV. SUMMARY OF FINDINGS**

7. Despite a previous legal finding of discriminatory enforcement against men perceived to be gay in 2005, the PAPD engaged in discriminatory enforcement of public lewdness and exposure statutes against men perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men in men's restrooms at the Port Authority Bus Terminal without probable cause for arrests, with only the arresting officers as witnesses and using boilerplate language in arrest reports.

8. PAPD engaged in a long-standing and illegal tactic of targeting and enticing men perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men in restrooms. Historically, these tactics were used in "sweeps" to arrest significant numbers of persons. However, when legally challenged, these charges were dismissed, or the defendants were found not guilty, due to a lack of evidence or probable cause. Despite decades of legal challenges, these tactics persist. Starting with the emergence of communities marginalized on the basis of sexual orientation and gender identity in the early-to-mid twentieth century, law enforcement has targeted these communities, relying on the power of shame and social stigma to

convince targets of biased police enforcement measures, most of whom are innocent, to plead guilty, often to a lesser charge, to avoid public scrutiny.

9. Arrests in 2014 were driven by a “quality of life” initiative in the Port Authority Bus Terminal,<sup>1</sup> utilizing relatively new PAPD officers on plainclothes details. Complaints about criminal activity for lewdness or exposure were few.<sup>2</sup> In other arenas in which illegal activity, such as exposure or lewdness, was reported or observed, no stings or sweeps were initiated. Classic enticement techniques were used: officers standing at urinals next to a target of police profiling; officers making eye contact with targets of police profiling; if targets of police enticement respond in any way, or even if they do not, they are arrested. All of the elements of the 2014 initiative reflect historical patterns of discriminatory policing against men perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men.

### **Historical Context**

10. Communities marginalized on the basis of sexual orientation and gender identity have been targeted by law enforcement in a discriminatory manner for decades, even dating to the early-twentieth century. By the 1950s, two dynamics merged, resulting in increased policing of gender and sexual minority communities, individuals who identify as gay, lesbian, bisexual, trans, or queer and commonly referred to as the “LGBTQ” or “Queer Community.” First, these communities began to form social, and limited political, communities, especially in urban areas and college towns.<sup>3</sup> Thus, the communities became more visible to the community and governmental authorities. Second, a concern about sexual deviancy arose in the United States, and

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<sup>1</sup> See Port Authority Police Department: Public Safety Department Weekly Report for Week Ending 5/2/14 (PA005716).

<sup>2</sup> See *Montero Tr.* at 63, 78, 79, 80; *Fitzpatrick Tr.* at 66; *Seetaram Tr.* at 52; *Kehoe Tr.* at 235; *Ehler Tr.* at 51, 52.

<sup>3</sup> See John D’Emilio, *CAPITALISM AND GAY IDENTITY* (Ann Snitow, Christine Stansell & Sharan Thompson. New Feminist Library Series, New York: Monthly Review Press 1983).

gender and sexual minorities endured the brunt of the legal aspects of this sex panic through the enforcement of sodomy laws, solicitation laws, and public lewdness laws. Throughout all levels of government, there was concerted effort to eliminate sexual and gender minorities through law enforcement and discriminatory treatment, such as a ban on federal government employment. Historians refer to this dynamic as the Lavender Scare.<sup>4</sup> A 1950 report of the United States Senate captured the tenor of government and law enforcement officials: “sex perverts, like all other persons who by their overt acts violate moral codes and laws and the accepted standards of conduct, must be treated as transgressors and dealt with accordingly.”<sup>5</sup>

11. William Eskridge describes a change in police tactics against sexual minorities, toward discriminatory and harassing treatment, that we still see in contemporary policing: “Regularization came to most cities through the creation or reconfiguration of police department vice or morals squads, which boomed in cities with large gay subcultures.... Vice squads consisted of officers wholly devoted to ferreting out sex crimes, and (judging from annual police reports) their productivity was measured by the number of prostitutes, sexual perverts, and drug dealers they arrested. Their attention increasingly focused on homosexuals after 1946.”<sup>6</sup> Sexual and gender minorities were under constant surveillance and threat of arrest by police through raids on establishments with LGBTQ clientele using liquor regulations, sweeps of public and semi-public places under the banner of sodomy and lewd conduct laws, and the policing of the gender binary through the enforcement of laws banning cross-dressing. In other words, policing the LGBTQ community was a central part of policing for decades, and the legacy of this approach persists.

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<sup>4</sup> See David K. Johnson, *THE LAVENDER SCARE: THE COLD WAR PERSECUTION OF GAYS AND LESBIANS IN THE FEDERAL GOVERNMENT* (The University of Chicago Press 1st ed. 2006).

<sup>5</sup> Jason Pierceson, *SEXUAL MINORITIES AND POLITICS: AN INTRODUCTION*, 20 (Rowman & Littlefield, 2016).

<sup>6</sup> William N. Eskridge, *GAYLAW: CHALLENGING THE APARTHEID OF THE CLOSET*, 63 (Harvard University Press 1st ed. 1999).

12. The harassment and enticement of sexual and gender minorities was so severe that it was a primary focus of the early lesbian and gay rights, or homophile, movement.<sup>7</sup> One of the founders of the Mattachine Society, one of the first long-lasting homophile organizations, Dale Jennings was arrested in Los Angeles in 1952 after simply using a public restroom. After leaving the facility, he was followed home by a police officer who forced his way into Jennings' residence and made advances on Jennings, including forcing Jennings' hand down the officer's pants. He was then arrested by the officer and pressured to plead guilty to lewd vagrancy, in his own home. One of the few individuals at this time to challenge the charges, Jennings went to trial that resulted in a deadlocked jury with only one juror voting for conviction.<sup>8</sup> The Society developed a publication with advice on how to avoid and challenge police profiling and enticement. As William Eskridge notes, police discretion was not limited by the California Supreme Court under the lewd vagrancy law until 1979.<sup>9</sup> The ubiquity of police profiling, surveillance, and false arrests of men perceived to be gay was yet again reflected in the arrest of one of the leaders of the homophile movement, Frank Kameny, in San Francisco in 1956. His arrest for lewdness in a public restroom led to his firing from his position as an astronomer with the Army Map Service a year later. The U.S. Supreme Court upheld the dismissal.<sup>10</sup> In the mid-1960s, San Francisco's Society for Individual Rights created a pamphlet, the "Pocket Lawyer," advising individuals what to do in case of an arrest—evidence of the pervasiveness of police harassment and enticement.<sup>11</sup>

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<sup>7</sup> Initially, the movement was focused primarily on issues relating to lesbians and gay men, but it later expanded to include more perspectives and experiences, such as those of bisexual, transgender, and gender non-conforming individuals.

<sup>8</sup> See Lillian Faderman, *THE GAY REVOLUTION: THE STORY OF THE STRUGGLE* (Simon & Schuster 1st ed. 2015).

<sup>9</sup> See William N. Eskridge, *Law and the Construction of the Closet: American Regulation of Same-Sex Intimacy, 1880-1946*, 82 *Iowa L. Rev.* 1007 (1997).

<sup>10</sup> See *Kameny v. Brucker*, 365 U.S. 843 (1961).

<sup>11</sup> See Nan Alamilla Boyd, *WIDE-OPEN TOWN: A HISTORY OF QUEER SAN FRANCISCO TO 1965* (University of California Press 1st ed. 2003).

13. The Jennings case reflects the model form of profiling and enticement used by law enforcement then and now. A plainclothes officer makes an advance, hoping to entice the target of profiling into engaging in activity that the officer can deem illegal. Alternatively, especially when proof of a crime is often not needed to make an arrest “stick,” officers take advantage of the fear and shame of the victim and the absence of non-law enforcement witnesses to make an arrest without probable cause, assuming illegal activity to have taken place.

14. After the Stonewall Riots in 1969, which occurred in response to police harassment of bar patrons, the lesbian and gay rights movement became more visible, but police harassment and profiling/enticement continued. For example, a leading LGBTQ rights organization, New England-based GLBTQ Advocates and Defenders (“GLAD”), was formed in the 1970s in response to police profiling and enticement of male patrons of the Boston Public Library. In events similar to that of this litigation, 103 men were arrested in a two-week period in 1978 in restrooms for exposure and lewd conduct. A young officer on plainclothes detail was utilized to arrest bathroom patrons by standing at a urinal and touching his genitals and/or verbally propositioning patrons. Only one of these men was found guilty at trial (35 entered guilty pleas), and that conviction was overturned. The arresting officer used identical language in multiple police reports, despite varying accounts from those who were arrested.<sup>12</sup>

### **Contemporary Developments**

15. The persistence of sting operations targeted at men perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men is related to the rise of “quality of life” and “broken windows” police tactics. These tactics were deployed aggressively in New

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<sup>12</sup> See *Doe v. McNiff*, GLAD.ORG (Feb. 19, 2018, 10:15AM), <https://www.glad.org/cases/doe-v-mcniff/>.



York City starting in the 1990s.”<sup>13</sup> These tactics are prone to biased enforcement.

16. The practice of using of decoy plainclothed police officers to entice male patrons in restrooms persists. In 2014, the same year as the events at issue in this litigation, sting operations in Long Beach and San Jose, California resulted in judicial rebukes of these discriminatory law enforcement practices. The 19 San Jose arrests were carried out by a unit of the San Jose police with a focus on quality of life issues. One officer was involved in most of the arrests, and he would verbally proposition restroom patrons. A Santa Clara County Superior Court judge dismissed charges against six men arrested in the sting operation, noting minimal public complaints about lewd activity and condemning the police tactics as clearly discriminatory.<sup>14</sup>

17. A challenge to a 2014 lewdness arrest in Long Beach led to the discovery of an extensive and discriminatory sting operation targeted at men perceived to be gay or bisexual. Despite public complaints of a range of public sexual activity, including by men and women in public parks and on public beaches, only men’s rooms were targeted for enforcement. A common tactic used by undercover officers was to stand for long periods of time at urinals while making eye contact with patrons. A Los Angeles Superior Court judge found these tactics to be discriminatory, in that the police singled out individuals for arrest based upon their sexual orientation.<sup>15</sup> The judge found that the police tactics caused crimes and that police repeatedly used boilerplate language in police reports.<sup>16</sup> As a result, a 2017 policy of the Long Beach Police Department states: “Detectives shall not engage in behaviors intended to encourage the

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<sup>13</sup> See Joey L. Mogul, Andrea J. Ritchie & Kay Whitlock, *QUEER (IN)JUSTICE: THE CRIMINALIZATION OF LGBTQ PEOPLE IN THE UNITED STATES (QUEER IDEAS/QUEER ACTION)* (Beacon Press Books 1st ed. 2011).

<sup>14</sup> See Tracey Kaplan, *San Jose: Judge Dismisses Lewd Conduct Charges Against Gay Men*, THE MERCURY NEWS (Jun. 17, 2016).

<sup>15</sup> See Michael L. Stern, *See You in Court? Not Anytime Soon in Los Angeles*, LOS ANGELES TIMES (Sept. 1, 2016).

<sup>16</sup> See Philip Zonkel, *Long Beach Police Discriminate Against Gay Men Undercover Sting Operation, Judge Says*, QVOICE NEWS (Apr. 29, 2017).

commission of lewd conduct in their presence, or communicate sexual advances.”<sup>17</sup> The policy also states that undercover tactics should only be used when other tactics have been exhausted, such as visibility by uniformed patrol officers.

18. The PAPD engaged in similar tactics in the 2000s and was found to have acted without probable cause and in a discriminatory manner. Confirming a jury award in favor of Alejandro Martinez against the PAPD for an improper arrest, Judge Kevin Castel declared that “a reasonable jury could have concluded that the Port Authority had a policy, custom, or practice of initiating public lewdness arrests as a part of ‘sweeps’ to clear the restrooms of persons subjectively viewed by the Port Authority as undesirable, regardless of whether there was probable cause to make the arrests.”<sup>18</sup> In that litigation, it was demonstrated that the PAPD engaged in phases of significant restroom arrests, followed by long periods of time with no arrests. Police reports of the arrests included similar, boilerplate language, and jurors in the civil case did not believe PAPD officer testimony that Mr. Martinez was seen masturbating. Neither did the judge in the criminal trial, finding Martinez not guilty. Martinez testified that he overheard the arresting PAPD officers reference setting a trap for him.

19. From the historical and contemporary records, clear patterns may be seen, relating to the policing of restrooms. These sites are targeted without connection to complaints and/or out of proportion to complaints about sexual activity in public places, such as parks and beaches that involve male-female interaction. While arrests often lack probable cause, they are used as leverage to gain guilty pleas of lesser charges. Sting operations have an “assembly-line” quality: many arrests are effectuated in a short period of time, using boilerplate language. Tactics repeat

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<sup>17</sup> Manual of the Long Beach Police Dep’t, at 8.6 (revised Apr. 17, 2017).

<sup>18</sup> *Martinez v. Port Auth. of N.Y. & N.J.*, No. 01 CIV. 721 (PKC), 2005 WL 2143333, at \*9 (S.D.N.Y. Sept. 2, 2005), *aff’d sub nom. Martinez v. The Port Auth. of New York & New Jersey*, 445 F.3d 158 (2d Cir. 2006).

themselves: plainclothes officers entice restroom patrons by standing at urinals for extended periods, making eye or verbal contact, or seemingly touching themselves in a sexual manner. There is seldom testimony from non-officer eye witnesses.

### **Evaluation of Exhibits**

20. The discovery in this litigation revealed clearly that the elements of police enticement and discriminatory enforcement were at play in the arrests of Cornell Holden, Miguel Mejia, and other Plaintiffs. In 2014, the PAPD engaged in an effort targeted at men perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men as part of a “quality of life” initiative. Men’s restrooms were targeted despite reports of lewd conduct being reported in other areas of the Port Authority Bus Terminal, such as stairwells and parking areas.<sup>19</sup> New officers were utilized in plainclothes details to make arrests,<sup>20</sup> some in very concentrated time-frames and constituting a disproportionate make-up of officers’ overall arrests.<sup>21</sup> The assembly-line nature of the process in other contexts was present in these arrests, most reflected in the boilerplate language used in arrest reports and the tactics utilized by officers.<sup>22</sup> Reference to Officer Opromolla as the “gay whisperer” (a reference not denied by Opromolla in his

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<sup>19</sup> See Montero Tr. at 66-68. Officer Montero admitted that women’s rooms are seldom patrolled and that lewd arrests have occurred in parking areas.

<sup>20</sup> See Montero Tr. at 70-72. Officer Montero admitted that plainclothes details were designed to make more arrests in restrooms by making officers less visible and that arrests, not deterrence of behavior, were the goal of these details.

<sup>21</sup> See Opening Expert Report of John F. Pfaff, Ph.D., at 14. “The central issue here is that while nearly 100 PAPD officers made at least 1 arrest in 2014, just 5 officers—Kehoe, Opromolla [sic], Seetaram, Tone, and Trubia (KOSTT)—made 70% of all public lewdness arrests (42 out of 60), despite making only 19% of arrests in total (85 out of 448), and only 11% of all non-lewdness arrests (43 out of 388). All told, just slightly less than half of all arrests made by KOSTT were for public lewdness (49%), with Opromolla’s 73% the most extreme.”

<sup>22</sup> For example, compare the language used by Officer Seetaram in PA002536-PA002567:

“At T/P/O Def was in a public restroom in full view of the public manipulating his naked erect penis in a back and forth motion.”

to the language used by Officer Kehoe in PA003154-PA003183:

“At T/P/O Def did in public view manipulate his erect penis in an up and down motion””

deposition)<sup>23</sup> indicates intentionality of discrimination on behalf of PAPD officers and reflected the legacy of discriminatory policing outlined above. I offer support of these findings drawn from the record:

21. A report indicates that Tactical Patrol Units were utilized starting in March 2014 to make public lewdness arrests.<sup>24</sup> A memorandum from the PAPD Superintendent dated May 2, 2014, notes that Officer Opromalla was “utilized” to affect public lewdness arrests, indicating enforcement specificity and intentionality.<sup>25</sup> In addition, Officer Opromalla stated that he was directed to make lewdness arrests in the men’s restrooms by Captain Fitzpatrick.<sup>26</sup> The same memorandum references “Quality of Life sweeps” coordinated with the NYPD. This is consistent with NYPD enforcement tactics referenced above, tactics that have sustained the discriminatory treatment of gender and sexual minorities.

22. Despite some contradictory deposition testimony on the issue of whether public lewdness is a quality of life enforcement issue, key individuals, including Captain Fitzpatrick, include lewdness in their definition of quality of life crimes. For instance, Officer Tone stated that lewdness is a quality of life issue, but, after a break, he backed away from that position.<sup>27</sup> Officer Seetaram stated that lewdness is not “necessarily” a quality of life issue.<sup>28</sup> Sergeant Miller stated

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<sup>23</sup> See Opromalla Tr. at 273.

<sup>24</sup> See Port Authority Bus Terminal: Statistical Report (PA003961), at 7.

<sup>25</sup> See Port Authority Police Department: Public Safety Department Weekly Report for Week Ending 5/2/14 (PA005716), at 10.

<sup>26</sup> See Opromalla Tr. at 85. “Captain Fitzpatrick. He, he had explained that this [public lewdness] was an ongoing condition and that he wanted us to continue to enforce the laws specifically regarding this condition.”

<sup>27</sup> See Tone Tr. at 28, 104.

<sup>28</sup> See Seetaram Tr. at 94. “Quality of life is more like hustlers and trespass, things of that nature. Like solicitors. Not necessarily public lewdness.”

that lewdness is a quality of life issue.<sup>29</sup> Captain Fitzpatrick indicated that lewdness “absolutely” was a quality of life crime.<sup>30</sup> The affirmation of lewdness as a quality of life issue by a sergeant and a captain, as well as the initial position of Officer Tone, clearly establishes that men’s room sweeps at the Port Authority Bus Terminal were a significant element of the 2014 enforcement initiative noted by PAPD leaders.

23. As noted above, enticement tactics are consistent and common among law enforcement actions in restrooms, including standing at urinals and attempting to gain the attention of patrons. These tactics were utilized by Officer Opromalla, who admitted to standing at urinals up to 10 minutes at a time,<sup>31</sup> and were endorsed by Officer Tone. Tone noted that looking over urinal dividers could be an appropriate law enforcement method. He also stated that an officer could legitimately expose his genitals to a patron and that enticing patrons into committing an illegal act (including making eye contact, exposing/touching the officer’s groin, and whispering) might be acceptable, depending on the circumstances.<sup>32</sup> He did not clearly state that this would be inappropriate or illegal. While he stated that he did not stand at urinals, he observed other officers doing so to urinate.<sup>33</sup> In other words, Tone endorsed, and possibly utilized or witnessed, the classical enticement tactics seen in historical and contemporary examples discussed above.

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<sup>29</sup> See Miller Tr. at 145-46. “Lewd behavior, I would say in a public bathroom in a transportation center, is a quality-of-life, yes.”

<sup>30</sup> See Fitzpatrick Tr. at 63.

<sup>31</sup> See Opromalla Tr. at 171-72. “He [Sergeant Miller] informed me that if you stand at the urinal long enough, you may see somebody engage in this type of [lewd] behavior.”

Q. What’s the longest that you stood at a urinal waiting for this behavior to occur?

A. Five, ten minutes.

<sup>32</sup> See Tone Tr. at 67, 87, 90-91.

<sup>33</sup> See *id.* at 79.

24. The illegal nature of these tactics is reflected by the fact that several other officers criticized these tactics for their unlawfulness, including supervisors who directed the enforcement in the restrooms. This could either be a legitimate condemnation of these tactics or an attempt to distance themselves from the actions of those they supervise. The latter seems possible, given the fact that supervisors were pleased with the arrests and did not challenge these arrests. At any rate, there was either a lack of training or a willful ignorance of these illegal tactics. Sergeant Miller condemned Office Opromalla's tactics, indicating that he was "luring" suspects.<sup>34</sup> Miller also stated that it would be inappropriate for officers to look at a patron's penis that was not exposed to the public, but several officers indicated that they engaged in this tactic, including Officer Seetaram, who indicated that he angled behind patrons to view their penises.<sup>35</sup> In reference to peering, Captain Fitzpatrick stated, "I'm not sure of the legality of that" and that peering should not be used to establish probable cause.<sup>36</sup>

25. Captain Fitzpatrick, who initiated the 2014 enforcement despite acknowledging few complaints about lewd behavior in the Port Authority restrooms, exhibited significant ignorance of the LGBTQ community, and made statements reflecting bias against the LGBTQ community.<sup>37</sup> In his deposition, he admitted that he profiles men perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men by appearance, and he used the term "gay alternative lifestyle."<sup>38</sup> This is an outdated term and one that is used commonly by opponents of LGBTQ rights. It represents an attempt to describe sexual minorities as markedly

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<sup>34</sup> See Miller Tr. at 83. "If you're going to stand there and look for somebody to masturbate, that would be kind of like luring the person into masturbating."

<sup>35</sup> See Seetaram Tr. at 57. "They're short dividers on those walls. And I'd be at an angle behind them."

<sup>36</sup> Fitzpatrick Tr. at 76.

<sup>37</sup> See *id.* at 66.

<sup>38</sup> *Id.* at 27, 33-35.

different from the rest of society, and it is a term (alternative lifestyle) that is never used in reference to other socially marginalized groups. It is based upon reductionist stereotyping of sexual minorities, defining them exclusively by their sexual orientation while not doing the same for heterosexuals. Those who invoke this marginalizing term intrinsically assume that sexual diversity is a deviation from the social norm of heterosexuality. There is no “heterosexual lifestyle”; only an alternative is a “lifestyle.” The term also implies that sexual orientation is a “lifestyle choice” for sexual minorities in a way that it is not for heterosexuals. Lifestyles refer to modes of living chosen by a range of individuals, often related to leisure activities, not fundamental aspects of individual identity. Furthermore, the term is often used in tandem with the term “perverted lifestyle,” as was common among those who attempted to marginalize sexual minorities during the AIDS Crisis. The term “lifestyle” is simply not used by supporters of LGBTQ rights to describe the community, as it is widely understood to be a term of marginalization. For instance, the Chief of Staff to Vice President Mike Pence recently apologized for using the term “perverted lifestyle” in direct reference to the AIDS Crisis.<sup>39</sup> Beyond the use of the term “gay alternative lifestyle,” Fitzpatrick engaged in blatant stereotyping of the LGBTQ community in the following passage from his deposition:

A: But if you watch the fashion shows on television, E! and all these things, and you see some of the gentlemen doing interviews, you will know exactly what I’m talking about.

Q. Do you mean by the way that they may speak?

A. Yes.

Q. What about the way that they walk?

A. Again, effeminate doesn’t mean gay, but some men are more effeminate than others.<sup>40</sup>

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<sup>39</sup> See Trudy Ring, *New Pence Chief of Staff Once Called Gay Sex ‘Repugnant,’ ‘Perverted,’* THE ADVOCATE, Feb. 28, 2019.

<sup>40</sup> See Fitzpatrick Tr. at 34.

This language reflects, especially combined with the use of the term “gay alternative lifestyle,” a profound ignorance and apathy about a community that has endured a legacy of discrimination and harassment at the hands of law enforcement. Given this level of ignorance and apathy, it is easy to see how discriminatory enforcement patterns could be replicated in PAPD enforcement endeavors. The depositions of Port Authority officers and other officials repeatedly indicate a lack of training on LGBTQ issues.<sup>41</sup>

26. The limited training offered by the PAPD reinforces and replicates the discrimination and marginalization reflected in Captain Fitzpatrick’s testimony. Remarkably, a PowerPoint slide used by Officer Scott Benoit in his diversity training for PAPD officers is entitled, “Policing People with Alternative Lifestyles.”<sup>42</sup> The slide notes that PAPD facilities are located in “alternative lifestyle communities.”<sup>43</sup> The immediately preceding slide includes terms that are out-of-date, and their use reflects a lack of knowledge and training. For instance, the term homosexuality is represented as preferable to the term sexual orientation.<sup>44</sup> This is problematic for several reasons. Both homosexuality and heterosexuality, along with bisexuality, pansexuality, asexuality, etc., are sexual orientations, but the slide only connects homosexuality with sexual orientation.<sup>45</sup> This framing of the topic marginalizes same-sex attraction and intimacy. Further, the terms homosexual and homosexuality are used only in narrow contexts in contemporary discussions. It is much more commonly accepted, especially by those engaging in up-to-date diversity training and within the LGBTQ community, to use the terms lesbian or gay to refer to

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<sup>41</sup> See Montero Tr. at 38; Fitzpatrick Tr. at 36-37.

<sup>42</sup> Port Authority Police Department, Bias Based Policing In-Service, 2017 (PA011094).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> The term “homosexuality” is used throughout the PAPD slideshow in a derogatory and stigmatizing manner. Much of this stigma can be traced back to “homosexuality” being classified as a diagnosis in the DSM.



those whose primary sexual attraction is to members of the same sex. Despite the assertion made on the slide, “sexual orientation” is the preferred term used to describe this, not “homosexuality.” Equally problematic are the terms used by Officer Benoit to describe transgender and gender non-conforming individuals on the same PowerPoint slide. The term “transvestites” is outdated. The correct term for individuals who challenge society’s traditional notions of feminine and masculine attire and appearance is “cross-dresser.” “Transgender,” not “transgendered” as the slide presents, is the proper term to refer to individuals whose gender identity (a term that was not used in the presentation) does not match one’s sex assigned at birth. The term “transsexuals” is presented in the slide as defining a “desire to live and be accepted as a member of opposite sex.”<sup>46</sup> This term technically applied historically to transgender individuals who had undergone gender confirmation surgery, but, like homosexuality today, is used in very limited, clinical contexts. The term should not be used as a term to describe transgender individuals, as many transgender individuals do not undergo gender confirmation surgery and transition in myriad other ways. In sum, the slide reflects a profound ignorance of issues relating to sexual orientation and gender identity.

27. In his deposition testimony, Officer Benoit denied that any PAPD academy students possess implicit biases,<sup>47</sup> and he reduced cultural bias to differences in carbohydrate consumption among ethnic groups.<sup>48</sup> This runs contrary to extensive social science literature on implicit bias, as well as Officer Benoit’s own diversity training PowerPoint slides, in which he states: “we can be corrupted by our likes and dislikes, prejudices and stereotypes, especially unconscious ones... [e]ven subconsciously held preconceived notions can influence thin slicing, allowing things like

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<sup>46</sup> See Port Authority Police Department, *Bias Based Policing In-Service*, 2017 (PA011094).

<sup>47</sup> See Benoit Tr. at 58.

<sup>48</sup> *Id.* at 116.

racial overtones to play a part in decision making.”<sup>49</sup> This clearly undermines his deposition testimony on the issue of implicit bias and the lack of such bias in PAPD recruits and officers.

28. It is my expert opinion, based upon the presentation slides that Officer Benoit developed and his deposition, that Officer Benoit lacks sufficient knowledge and training on LGBTQ issues. Furthermore, he is contributing, through the replication of discriminatory terms and concepts in officer trainings, to the PAPD’s discriminatory actions against Port Authority patrons. This deeply problematic training, combined with the discriminatory statements of PAPD leaders such as Captain Fitzpatrick, reflects a distinct lack of concern with issues of sexual orientation and gender diversity within the PAPD. These are issues that should have been engaged and addressed after *Martinez*.

29. It is clear from plaintiff testimony that they were not engaging in illegal activity but were targeted using invasive and illegal enforcement tactics. No Plaintiffs were actually convicted of the charges levied by the PAPD, either through the dropping of charges or through acquittals at trial. There is no evidence in the record that they were doing anything but using urinals in a private manner as done by countless patrons of the PABT restrooms. No arrest records indicate that they were in more public areas of the restrooms when alleged illegal acts occurred. Problematic and illegal police tactics are documented by plaintiff statements, including staring/attempting to make eye contact, peering into urinals around privacy dividers, and PAPD officers standing at urinals for long periods of time. As the complaint states, testimony has been provided that Officer Seetaram exposed his genitals for the purpose of enticement.

30. Plaintiff Holden’s discussion of the reference to Officer Opromalla as the “gay whisperer” is compelling and is a prime example of the disregard for, and marginalization of, men

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<sup>49</sup> Port Authority Police Department, *Bias Based Policing In-Service*, 2017 (PA011094).

perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men exhibited by the PAPD outlined in this report. As previously noted, this designation of Officer Opromalla was not denied by him. It is clearly a reference to the film *The Horse Whisperer*, and the nickname indicates an attitude within the PAPD that certain officers are more effective at profiling and enticing, based upon stereotypes, men perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men. Holden also stated in his deposition that PAPD officers joked about Officer Opromalla having a date, presumably with Holden, after arresting him.<sup>50</sup> This example of bias and a lack of professionalism in the PAPD is supported by the analysis above and reflects historical and contemporary patterns of policing within the LGBTQ community.

## V. CONCLUSION AND RECOMMENDATIONS

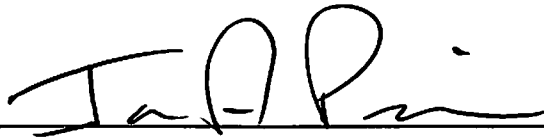
31. The actions of the Port Authority Police Department in 2014 that resulted in the arrests of Plaintiffs is fully consistent with historical and contemporary police practices and tactics illegally targeting men perceived to be gay or bisexual, and/or gender non-conforming, and/or men who have sex with men. Judges and juries have consistently found these tactics to be legally problematic and lacking sufficient, if any, probable cause. They are tactics that sexual and gender minorities, or those perceived to be sexual or gender minorities, have faced since the formation of LGBTQ communities in the United States and have resulted in countless unwarranted arrests and ruined lives. It is remarkable that these tactics continued for over a decade after the PAPD was put on notice in *Martinez*.

32. Beyond the ceasing of these tactics by the PAPD and the awarding of monetary damages to Plaintiffs, the PAPD should engage in rigorous and thorough training of PAPD

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<sup>50</sup> See Holden Tr. at 167.

personnel, preferably through the use of highly qualified external consultants. Nothing in the record indicates that the PAPD is capable of this level of training on its own. This training should include an examination of the history of the LGBTQ rights movement, the history of discriminatory policing tactics, and training in best/legal practices, such as those outlined in the Long Beach policy. The PAPD should also engage in outreach to the LGBTQ community in their officer and staff recruiting efforts. The Long Beach policy, or a significantly similar policy, should be adopted by the PAPD. A PAPD police officer should also be designated as a liaison to the LGBTQ community. This officer should have a commensurate background in the issues outlined above. Without these changes, it is very likely that the illegal and discriminatory practices of the PAPD will continue.

A handwritten signature in black ink, appearing to read 'J.A. Pierceson', written over a horizontal line.

Jason A. Pierceson, Ph.D.

DATE: New York, New York  
March 29, 2019

**OPENING EXPERT REPORT OF JASON PIERCESON, PH.D.**

**March 29, 2019**

**EXHIBIT A: MATERIALS CONSIDERED**

(1) Plaintiff's Second Amended Class Action Complaint; dated November 28, 2018, ECF No. 117.

(2) **Deposition Transcripts:**

- a. Cornell Holden, taken August 3, 2018 (with exhibits 1-10)
- b. Miguel Mejia, taken August 21, 2018 (no exhibits marked)
- a. Diannae Ehler, taken October 26, 2018 (with exhibits 1-3)
- c. Michael Ford, taken October 23, 2018 (with exhibits 1-5)
- d. John Fitzpatrick, taken October 1, 2018 (with exhibits 1-4)
- e. Paul Miller, taken October 30, 2018 (with exhibits 1-11)
- f. Michael Opromalla, taken June 26, 2018 (with exhibits 1-21)
- g. Vijay Seetaram, taken October 29, 2018 (with exhibits 1-9)
- h. John Tone, taken October 5, 2018 (with exhibits 1-12)
- i. Mark Montero, taken February 6, 2019 (with exhibits 1-14)
- j. Scott Benoit, taken February 28, 2019 (with exhibits 1-3)

(3) **PAPD Discovery**

- a. Port Authority Bus Terminal – Statistical Report, Bates No. PA003961
- b. PAPD Memo – Analysis of 2016 Arrests for Public Lewdness and Arrests in Restrooms at the Port Authority Bus Terminal, Bates No. PA008527
- c. PAPD Memo – Public Safety Department Report for Week Ending 5/2/2014, Bates No. PA005716
- d. PAPD Buckslip – Quality of Life Initiative, Bates No. PA005782
- e. **PAPD Training Materials**
  - i. PA Guide to Port Authority Ethical Standards, Bates No. PA008789
  - ii. Port Authority Employee Code of Ethics, Bates No. PA008839
  - iii. Port Authority Diversity Awareness Program, Bates No. PA010535
  - iv. Port Authority Police Department: Introduction to Community Policing Presentation, Bates No. PA010534

v. Port Authority Police Department: Ethics for Individual Officers Presentation, Bates No. PA010538

f. Officer Arrest Records

i. Arrest Records for Officer Opromalla, Bates Nos. PA001578; PA001612; PA001654; PA001675R; PA001868; PA001917R; PA001972R; PA002004; PA002046; PA002445R; PA002509; PA002820.

ii. Arrest Records for Officer Vijay Seetaram, Bates Nos. PA2536-2567; PA2568-2584; PA2641-2665; PA2666-2699; PA2700-2717; PA2718-2737; PA2738-2764; PA2765-2819; PA2941-2978; PA3024-3074; PA3338-3361; PA3362-3385; PA3461-3493; PA3494-3526; PA3543-3578; PA3579-3596.

g. Arrest Records of Named Plaintiffs

i. Holden Arrest Record, Bates No. PA1750-1777

ii. Mejia Arrest Record, Bates Nos. PA2385-2415; PA000050-000085

iii. Russel Arrest Record, Bates No. PA003223-3244

(4) Cases Review:

a. *Martinez v. The Port Auth. of New York & New Jersey*, 445 F.3d 158 (2d Cir. 2006).

b. *Kameny v. Brucker*, 365 U.S. 843 (1961).

(5) Relevant Scholarly Sources:

a. John D'Emilio, CAPITALISM AND GAY IDENTITY (Ann Snitow, Christine Stansell & Sharan Thompson. New Feminist Library Series, New York: Monthly Review Press 1983).

b. David K. Johnson, THE LAVENDER SCARE: THE COLD WAR PERSECUTION OF GAYS AND LESBIANS IN THE FEDERAL GOVERNMENT (The University of Chicago Press 1st eds. 2006).

c. William N. Eskridge, GAYLAW: CHALLENGING THE APARTHEID OF THE CLOSET, 63 (Harvard University Press 1st ed. 1999).

d. Lillian Faderman, THE GAY REVOLUTION: THE STORY OF THE STRUGGLE (Simon & Schuster 1st ed. 2015).

- e. William N. Eskridge, *Law and the Construction of the Closet: American Regulation of Same-Sex Intimacy, 1880-1946*, 82 Iowa L. Rev. 1007 (1997).
- f. Nan Alamilla Boyd, *WIDE-OPEN TOWN: A HISTORY OF QUEER SAN FRANCISCO TO 1965* (University of California Press 1st ed. 2003).
- g. Joey L. Mogul, Andrea J. Ritchie & Kay Whitlock, *QUEER (IN)JUSTICE: THE CRIMINALIZATION OF LGBT PEOPLE IN THE UNITED STATES (QUEER IDEAS/QUEER ACTION)* (Beacon Press Books 1st ed. 2011).
- h. Jason Pierceson, *SEXUAL MINORITIES AND POLITICS: AN INTRODUCTION* (Rowman & Littlefield, 2016).

(6) News Accounts & Misc.:

- a. Tracey Kaplan, *San Jose: Judge Dismisses Lewd Conduct Charges Against Gay Men*, THE MERCURY NEWS, Jun. 17, 2016.
- b. Michael L. Stern, *See You in Court? Not Anytime Soon in Los Angeles*, LOS ANGELES TIMES, Sept. 1, 2016.
- c. Philip Zonkel, *Long Beach Police Discriminate Against Gay Men Undercover Sting Operation, Judge Says*, QVoice News, April 29, 2017.
- d. *Doe v. McNiff*, GLAD.ORG, (Feb. 19, 2018, 10:15AM), <https://www.glad.org/cases/doe-v-mcniff/>.
- e. Trudy Ring, *New Pence Chief of Staff Once Called Gay Sex 'Repugnant,' 'Perverted,'* THE ADVOCATE, Feb. 28, 2019.
- f. Manual of the Long Beach Police Department, at 8.6 (Revised April 17, 2017).

**OPENING EXPERT REPORT OF JASON PIERCESON, PH.D.**

**March 29, 2019**

**EXHIBIT B: CURRICULUM VITAE**

**Jason A. Pierceson  
Curriculum Vitae**

University of Illinois Springfield  
One University Plaza, MS PAC 350  
Springfield, IL 62703-5407

(217) 206-7842  
jpier2@uis.edu

**EDUCATION**

Ph.D., Department of Politics, Brandeis University, 2003

Dissertation: *Courts, Liberalism, and GLBT Rights: An Analysis of Judicial Policymaking in the United States and Canada*

B.A. in History with Honors, *magna cum laude*, Knox College, 1994

**ACADEMIC POSITIONS**

Professor of Political Science, University of Illinois Springfield, 2016

Associate Professor of Political Science, University of Illinois Springfield, 2013–2016

Fulbright Visiting Research Chair in American Studies, University of Alberta, Fall 2011

Associate Professor of Political Science and Legal Studies, University of Illinois Springfield, 2009–2012,  
Chair of Political Science, 2009–2012

Assistant Professor of Political Science and Legal Studies, University of Illinois Springfield, 2005–2009

Assistant Professor of Political Science, St. Norbert College, 2002–2005

Adjunct Instructor of Political Science, University of Massachusetts at Boston, Jan. 2000–May 2002

**PUBLICATIONS/RESEARCH**

**Books:**

*LGBTQ Americans in the U.S. Political System: An Encyclopedia of Activists, Voters, Candidates, and Officeholders*, ABC-CLIO, forthcoming.

*Sexual Minorities and Politics: An Introduction*, Lanham, MD: Rowman & Littlefield, 2016.

*Same-Sex Marriage in the United States: The Road to the Supreme Court*. Lanham, MD: Rowman & Littlefield, 2013.

*Same-Sex Marriage in the United States: The Road to the Supreme Court and Beyond, with Epilogue*. Lanham, MD: Rowman & Littlefield, 2014.

*Courts, Liberalism, and Rights: Gay Law and Politics in the U.S. and Canada*. Philadelphia: Temple University Press, 2005.



**Edited Books:**

*Same-Sex Marriage in Latin America: Promise and Resistance*, Jason Pierceson, Adriana Piatti-Crocker and Shawn Schulenberg, Lanham, MD: Lexington Books, 2013.

*Same-Sex Marriage in the Americas: Policy Innovation for Same-Sex Relationships*, Jason Pierceson, Adriana Piatti-Crocker, and Shawn Schulenberg, eds. Lanham, MD: Lexington Books, 2010.

*Moral Argument, Religion, and Same-Sex Marriage: Advancing the Public Good*, Gordon Babst, Emily Gill and Jason Pierceson, eds. Lanham, MD: Lexington Books, 2009.

**Articles and Book Chapters:**

"Theoretical Perspectives on Subnational Public Policy and Law," in *The Oxford Research Encyclopedia of LGBT Politics and Policy*, Donald P. Haider-Markel, ed., Oxford University Press, forthcoming.

"Marriage and Family (Right to Marry)," in *Legislating Morality in America Debating the Morality of Controversial U.S. Laws and Policies*, Donald P. Haider-Markel, ed. ABC-CLIO, forthcoming.

"Transgender Rights and the Judiciary," in *The Remarkable Rise of Transgender Rights*, with Donald Haider-Markel, Daniel Lewis, and Jami Taylor. University of Michigan Press, 2018.

"From Kameny to Kennedy: The Road to the Positive Rights Protection of Marriage Equality in *Obergefell v. Hodges*," *Politics, Groups, and Identities*, 3:4 (December 2015), 703-710.

"Same-Sex Marriage in Canada and the U.S.: The Role of Political and Legal Culture," *The American Review of Canadian Studies*, 44:3 (Fall 2014).

"Judicialization and Relationship Equality in Latin America," in *Same-Sex Marriage in Latin America: Promise and Resistance*, Jason Pierceson, Adriana Piatti-Crocker and Shawn Schulenberg, eds. Lanham, MD: Lexington Books, 2013.

"Law, Sexuality, and Morality in the United States," in *Faith, Politics and Sexual Diversity in Canada and the United States*, David Rayside, and Clyde Wilcox, eds. Vancouver: University of British Columbia Press, 2011.

"Introduction," with Adriana Piatti-Crocker, in *Same-Sex Marriage in the Americas*, Adriana Piatti-Crocker, Jason Pierceson, and Shawn Schulenberg, eds. Lanham, MD: Lexington Books, 2010.

"Deconstructing the Backlash: Same-Sex Marriage Litigation and Social Change," in *Same-Sex Marriage in the Americas*, Adriana Crocker, Jason Pierceson, and Shawn Schulenberg, eds. Lanham, MD: Lexington Books, 2010.

"Juristocracy in the Americas?" in *Same-Sex Marriage in the Americas*, Adriana Crocker, Jason Pierceson, and Shawn Schulenberg, eds. Lanham, MD: Lexington Books, 2010.

"Same-Sex Marriage and the American Political Tradition," in *Moral Argument, Religion, and Same-Sex Marriage: Advancing the Public Good*, Gordon Babst, Emily Gill and Jason Pierceson, eds. Lanham, MD: Lexington Books, 2009.

**Other Research:**

"Examining Attitudes toward the 'T' in LGBT: Public Support for Transgender Rights and Supportive Policies," with Ashley Kirzinger, UIS Survey Research Office, 2015.

"This is what Americans think about transgender students in locker rooms," *The Monkey Cage*, [washingtonpost.com](http://washingtonpost.com), December 21, 2015.

**Short Articles/Reviews:**

Book review, *Queer Clout: Chicago and the Rise of Gay Politics*, in *Political Science Quarterly*, Summer 2017

Book review, *The Trouble with Lawyers*, in *Choice*, February 2016.

Book review, *Mea Culpa: Lessons on Law and Regret from U.S. History*, in *Choice*, September 2015.

Book review, *The Royalist Revolution: Monarchy and the American Founding*, in *Choice*, June 2015.

Book review, *Statebuilding from the Margins: Between Reconstruction and the New Deal*, in *Choice*, January 2015.

Book review, *Intimate Associations: The Law and Culture of American Families*, in *Choice*, August 2014.

Book review, *The Federalist Society: How Conservatives Took the Law Back from Liberals*, in *Choice*, November 2013.

Book review, *The Unwieldy American State: Administrative Politics Since the New Deal*, in *Choice*, June 2013.

Book review, *Making Rights Claims: A Practice of Democratic Citizenship*, in *Choice*, January 2013.

Book review, *Delirium: How the Sexual Counterrevolution is Polarizing America*, in *Choice*, October 2012.

Book review, *The Straight State: Sexuality and Citizenship in Twentieth-Century America*, for *Public Voices*, XII: 1 (2011), 139-141.

Book review, *Direct Democracy and the Courts*, for *Law & Society Review*, 45:1 (March 2011), 220-222.

Book review, *Law's Environment: How the Law Shapes the Places We Live*, in *Choice*, February 2011.

Book review, *Gay Families and the Courts: The Quest for Equal Rights*, in *Law and Politics Book Review*, 20: 6 (June, 2010), 217-219.

Book review, *At Home in the Law: How the Domestic Violence Revolution is Transforming Privacy*, in *Choice*, June 2010.

Book review, *A Government out of Sight: The Mystery of National Authority in Nineteenth Century America*, in *Choice*, November 2009.

Book review, *The Sodomy Cases*, in *Choice*, October 2009.

Book review, *Defiant Dads: Father's Rights Activists in America*, in *Choice*, June 2009.

Book review, *American Jeremiahs: Contemporary Visions of American Decline*, in *Choice*, January 2009.

"Gay and Lesbian Rights," *Encyclopedia of the United States Constitution*, David Schultz, ed. New York: Facts on File, 2008.

"Regulatory Taking," *Encyclopedia of the United States Constitution*, David Schultz, ed. New York: Facts on File, 2008.

**Op-Ed:**

"City Must Offer Benefits to Partners," with Kathryn Eisenhart, *The State Journal-Register*, January 4, 2012.

"Support for Civil Unions is Growing," *The State Journal-Register*, March 28, 2009.

"Time is Right for Illinois to Recognize Civil Unions," *The State Journal-Register*, April 23, 2007.

**“Many Snags to Open Talk about Race,”** *The State Journal-Register* 18, January 20, 2007.

## **CONFERENCE PRESENTATIONS/PARTICIPATION**

**Roundtable panelist, “Pertinent Aspects of the *Masterpiece Cakeshop* Decision,”** Midwest Political Association Annual Conference, April 2019.

**“Unpacking the Backlash to Marriage Equality in Latin America,”** with Adriana Piatti-Crocker. Paper presented at the Law & Society Annual Meeting, Mexico City, June 2017.

**“Litigating Transgender and Intersex Rights,”** paper presented at the Midwest Political Science Association Annual Conference, April 2016.

**“Defending the Marriage Equality Movement,”** presentation for short course, “Struggles of Marriage Equality,” American Political Science Association Annual Conference, Washington, D.C., August 2014.

**“Same-Sex Marriage in Canada and the U.S.: The Role of Political and Legal Culture,”** paper presented at the Midwest Political Science Association Annual Conference, April 2014.

**“Same-Sex Marriage Diffusion in North America: Litigation in Varied National Contexts,”** paper presented at the annual meeting of the International Studies Association, April 3-6, 2013 and the Fulbright Canada/CONNECT Colloquium, University of California at Berkeley, May 8-9, 2013.

**“Same-Sex Marriage in the 1970s,”** paper presented at the Midwest Political Science Association Annual Conference, April 2012.

**“Juristocracy in the Americas: Courts and Relationship Equality from Canada to Argentina,”** paper presented at the American Political Science Association Annual Conference, Washington, D.C., 2010

**“Pushing for Equality within the Backlash and in the Middle: Institutions, Public Opinion and Same-Sex Marriage in Upper Midwestern States,”** paper presented at the 10th Annual State Politics and Policy Conference, Springfield, IL, June 2010

**“Pushing for Equality within the Backlash: Same-Sex Marriage and Civil Unions in Three Midwestern States,”** paper presented at the American Political Science Association Annual Conference, Toronto, 2009

**“Deconstructing the Backlash: Same-Sex Marriage Litigation and Social Change,”** paper presented at the Law and Society Assoc. Annual Conference, Montreal, Quebec, Canada, May 29-June 1, 2008

**“New Judicial Politics: Interest Groups in State Supreme Court Races,”** presented at the Midwest Political Science Association, April 2008. Kathleen Hale and Ramona McNeal, co-authors.

**“Jail for Judges? Direct Democracy and Judicial Accountability in the States,”** Kathleen Hale and Ramona McNeal, co-authors. Paper presented at the American Political Science Association Annual Conference, Chicago, 2007.

**“The Rise and Stagnation of Gay Rights in American Political Development,”** paper presented at the Midwest Political Science Association, April 2007

**“Litigating Amid the Backlash: Relationship Equality Litigation in Iowa and Wisconsin,”** paper presented at the Midwest Political Science Association, April 2007

**Roundtable panelist, Same-Sex Marriage Litigation and Social Change,** Midwest Political Science Association, April 2007

**Roundtable panelist, Liberalism's Accommodation of the Morality of Gay Rights,** Western Political Science Association, March 2006

**“Gay Rights Litigation and Social Change: An Analysis of Judicial Policymaking in Canada and the U.S.,”** paper presented at the Law and Society Association Annual Meeting, June 2003

**“Is Liberalism Good for Gay Rights?”** Paper presented at the New England Political Science Association Annual Meeting, May 2003

**“State Courts and Sodomy Law Reform: Effects of Limiting the Scope of the Conflict,”** paper presented at the New England Political Science Association Annual Meeting, May 2002

**“Marriage But Not Hate Crime Laws: Contradictions in Andrew Sullivan’s Liberalism,”** paper presented at the Annual Conference of the Northeastern Political Science Association, November 2001

**“Courts and Social Change: An Assessment of Same-Sex Marriage Litigation,”** paper presented at the New England Political Science Association Annual Meeting, May 2001

## **COURSES TAUGHT**

Introduction to Politics and Political Science

U.S. Politics and Government/American Political System

Introduction to the American Legal System

Introduction to Political Philosophy

Ideas, Ethics, and Public Policy

Philosophy of Law

Judicial Process and Behavior/Supreme Court and Judicial Politics

Constitutional Law

Administrative Law

Sexuality, Law, and Politics

Women and Politics

Western Ideologies/Political Ideas of the Twentieth Century

American Political Thought

Law and Inequality

Law and Society

Graduate Seminar in Courts and Policymaking

## **DISTINCTIONS/GRANTS**

Provost’s Summer Competitive Scholarly Research Grant, UIS, 2007, 2015

Fulbright Award, 2011

Competitive Public Affairs Research Grant, UIS, 2011

Dean’s Summer Research Grant, College of Public Affairs and Administration, UIS, 2007, 2008

University Prize Instructor, Brandeis University, 2001

Gordon Fellow, Brandeis University, 1997-2000

Phi Beta Kappa, Knox College, 1994

## **PROFESSIONAL SERVICE**

Referee, University of Toronto Press; Oxford University Press, Cambridge University Press, University Press of Kansas; Routledge; Bloomsbury Academic; Houghton Mifflin; Rowman & Littlefield; *American Political Science Review*; *Australian Journal of Political Science*; *Canadian Journal of Political Science*; *Journal of Women's History*; *Journal of Religion and Politics*; *Law & Society Review*; *Law and Social Inquiry*; *Politics & Gender*; *Studies in Law, Politics & Society*; *American Sociological Review*; *Journal of Civil and Human Rights*; *State and Local Government Review*; Social Sciences and Humanities Research Council of Canada.

Book reviewer, *Choice*; *Law & Society Review*; *Law and Politics Book Review*; *Political Science Quarterly*.

External reviewer, Ball State University Department of Political Science, April 2015.

Discussant, Assessing the LGBT Social Movement, Midwest Political Science Association Annual Conference, April 2014.

Member, Bailey award committee, LGBT Caucus, American Political Science Association, 2013–2014.

Discussant, LGBT Issues in Global Context, Midwest Political Science Association, April 2013

Chair, LGBT Policy Change and Resistance, Midwest Political Science Association, April 2012.

Program Committee for 2010, 2011, and 2012 Annual Conferences/Section Head, Caucus for LGBT Political Science, Midwest Political Science Association.

Chair/Discussant, The Global Politics of Sexuality, Midwest Political Science Association, April 2011.

Treasurer, Sexuality and Politics Section, American Political Science Association, 2009–2011.

Member, Executive Council, Sexuality and Politics Section, American Political Science Association, 2008–09.

Chair, Law & Society in the Undergraduate Curriculum, Midwest Law and Society Retreat, September 19–20, 2008.

Organizer and panelist, Same-Sex Marriage Litigation and Social Change, Midwest Political Science Association, April 2007.

Discussant, Some Consequences of Same-Sex Marriage, Midwest Political Science Association, April 2006.

Chair, Intersecting Contestations Regarding Citizenship and Gender, Western Political Science Association, March 2006.

Chair/Discussant, Roundtable on Ellen Andersen's *Out of the Closet and into the Courtroom*, Law and Society Annual Meeting, June 2005.

Discussant, Same-Sex Marriage Panel, Midwest Political Science Association, April 2005.

Discussant, New Perspectives on LGBT's and Politics, Midwest Political Science Association, April 2005.

Discussant, Political Theory Panel, Marquette Univ. Political Science Grad. Student Conference, April 2004.

## **UNIVERSITY SERVICE**

*University of Illinois Springfield*

Member, Safe Zone Committee, 2019

Member/Advisor, Nationally Competitive Scholarship Committee, 2018 – present

Advisor, Model Illinois Government Moot Court, 2013–present

Recipient, Pat Langley Award for Outstanding Community Engagement, UIS LGBTQA

Resource Office, 2015

Women and Gender Studies, Program and Personnel Committees, 2014

Advisor, College Republicans, 2015–2017  
Tenure Review Committee, 2013–2016  
Committee on Academic Freedom and Tenure, 2013–2016  
LGBTQ Resource Center Advisory Committee, 2010–2012  
Campus Promotions Committee, 2010–2013  
Legal Studies Online Coordinator/CPAA Advisor Search Committee, 2010  
Illinois Articulation Initiative, Political Science Panel, 2009–2013, Co-chair, 2011–2013  
Chair, Department of Political Science, 2009–2012  
College of Public Affairs and Administration Executive Committee, 2009–2013  
LGBTQ Coordinator Search Committee, 2009  
Doctorate of Public Administration Program Committee, 2008–2011, 2012–2013  
Wepner Distinguished Professorship in Political Science Search Committee, 2007–2009  
Associate Vice Chancellor for Undergraduate Education Search Committee, 2006  
Committee on Rights, Diversity and Access, 2006–2009, Co-chair, 2007–2009  
Criminal Justice Search Committee, 2006  
College of Public Affairs and Administration Scholarship Committee, 2006  
Undergraduate Council, 2005–2008  
American Democracy Project Committee, 2005–2006  
Political Studies Search Committee, 2005–2006  
Legal Studies Search Committees, 2005–2006, 2006–2007, 2007–2008 (chair), 2012  
Legal Studies Program/Personnel Committees, 2005–2012  
Political Science Program/Personnel Committees, 2005–present

#### *St. Norbert College*

American Studies Advisory Committee, 2002–2005  
Student Life Committee, 2003–2005  
Peace and Justice Center Advisory Committee, 2003–2005  
Associate Dean for Social Science Search Committee, 2003–2004  
Phi Beta Kappa Application Committee, 2003  
Admissions Committee, 2004–2005  
Campus Diversity Advisory Committee, 2004–2005  
Advisor, College Democrats, 2004–2005  
Advisor, Pi Gamma Mu, 2004–2005

#### **INVITED TALKS AND MEDIA ACTIVITY**

“Previewing *Masterpiece Cakeshop v. Colorado Civil Rights Commission*,” Southern Illinois University School of Law, October 31, 2017.  
“Public Support for LGBT Policies: Where are we going next?” with Ashley Kirzinger, LGBT Equality Institute, Springfield, IL, August 29, 2015.  
“Same-Sex Marriage In the United States: The Road to the Supreme Court,” Knox College, May 13, 2013.  
“Same-Sex Marriage In the United States: The Road to the Supreme Court,” Illinois State University, April 22, 2013.  
“Contemporary Law and Politics in Canada,” World Affairs Council of Central Illinois, May 3, 2012.  
Fulbright Lecture, “Judicial Activism in the United States,” Faculty of Law, University of Alberta, November 30, 2011.  
Presentation and discussion moderation of the film, “Outrage,” UIS, November 15, 2010. “Same-Sex Marriage as a Case for Political Science,” Keynote Address, 16th Annual Illinois State University Conference for Students of Political Science, April 4, 2008.  
“Canadian and U.S. Constitutions and Same-Sex Marriage,” Constitution Day Lecture, University of Illinois at Springfield, Sept. 17, 2007.

Panelist, "Justice for All," University of Illinois at Springfield, January 29, 2007.

"The Continuing Conflict over Same-Sex Marriage in the U.S.," Illinois State University, November 14, 2006.

"The Current State of Same-Sex Marriage in the United States," Gay and Lesbian Assoc. of Decatur, Jan. 14, 2006.

"Gay Marriages, Civil Unions, Domestic Partnerships & Constitutional Amendments," Marquette University Law School, February 21, 2005.

"International and Domestic Developments on the Same-Sex Marriage Front," St. Norbert College, Feb. 25, 2003.

Political Analyst, WMAY-TV Green Bay, WI; WLUK-TV, Green Bay; *Green Bay Press-Gazette*; *Appleton Post-Crescent*; Wisconsin Public Radio; *State Journal-Register*, *Illinois Issues*, *Illinois Times*, Illinois Channel, Illinois Radio Network, WICS-TV Springfield, WCIA-TV Champaign, WAND-TV Decatur, WUIS, Reuters, Minnesota Public Radio, *New York Times*, *The Economist*, PolitiFact, *U.S. News & World Report*, 2002–2017.

#### **ACADEMIC ORGANIZATIONS**

American Political Science Association, Law & Society Association, Western Political Science Association

#### **RELATED EXPERIENCE**

Coordinator of Graduate Student Services, Brandeis University, August 2001–July 2002

Counselor, McNair Scholars Program, Brandeis University, December 1998–August 2001

Admissions Counselor, Brandeis University, August 1997–November 1998

Admission Counselor, Assistant Director of Admission, Knox College, July 1994–July 1997