



CENTER FOR THE STUDY OF LAW AND SOCIETY BERKELEY LAW

CSLS SPEAKER SERIES

Monday, March 13, 2017

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“Psychological Constructions of Criminality: Law, Crime Severity, and Bias in Lay Determinations of Criminal Attempt”

How do jurors absorb, interpret, and apply facts and law to decide at what point a defendant's thoughts and actions cross the line from being legally innocent to criminal? The stakes in this cognitive process are high, yet the legal system is largely in the dark about how lay decision makers weigh legally relevant and irrelevant information in their constructions of criminality. To shine an empirical light into this arena, I will present data from a series of experiments exploring the roles of law, crime severity, and bias in determinations of criminal attempt—an inchoate offense governed by legal standards that are open to interpretation and vary across jurisdictions. My results thus far reveal that jury instructions on the law either make no difference to lay constructions of attempt liability or, under some circumstances, the defendant is surprisingly worse off under the theoretically more defense-friendly “Proximity” standard (as compared to the “Substantial Step” standard that explicitly seeks to expand the criminality of attempts). Furthermore, the Proximity standard seems to be more vulnerable to bias based on the signaled religion of the defendant. These findings throw into question the legal community's general understandings of attempt law, highlighting a critical disconnect between legal expectations and the cognitive realities of lay decision making.

PLACE Selznick Seminar Room, 2240 Piedmont Ave.
TIME **12:45 – 2:00pm.** Coffee and water provided. Bag lunches welcome.
INFO <https://www.law.berkeley.edu/centers/center-for-the-study-of-law-society/>
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