



Issue 42  
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# AMICUS JOURNAL

Fighting for Justice on Death Row

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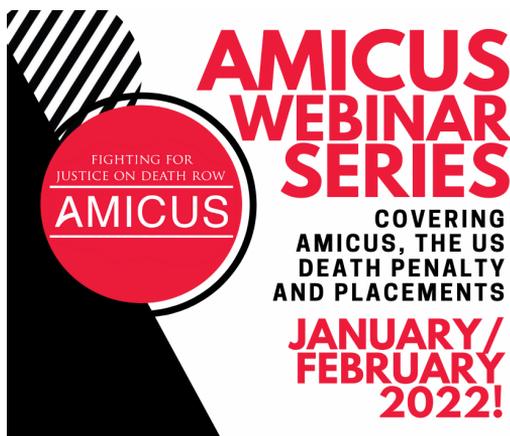
The Amicus Journal is published twice a year in summer and winter. Contributions are not merely welcomed but positively encouraged. See the Notes for Contributors in this issue.

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## FRONT COVER

Cover Art by kind permission of Danielle Richards\*

*I painted in india ink on gesso of Travis Runnels, who was executed in December 2019. While awaiting execution, Travis was housed in what is considered one of the worst prisons in the United States, the Polunsky Unit in Texas. Inmates are kept in solitary confinement for at least twenty-three hours a day. They are taken out only for visitation (behind a plexiglass window), the intermittent shower, and often sparse rec time in what amounts to another concrete cage where they can hope to maybe feel the occasional sunlight if they are lucky. For as long as they are on this unit, they will never touch another human being who isn't a guard.*

*Travis never denied his guilt in the murder for which he was sentenced. Despite a troubled upbringing and horrific death row conditions, he managed to turn his life around. I haven't met a single person who knew him during this time who didn't speak so highly and so fondly of him. And after his death, many have expressed a deep, gnawing grief in the loss of a truly kind and thoughtful man. His own attorney wrote at length in a blog post praising the man Travis came to be. I painted this to depict the beauty humans are capable of creating and becoming, despite a system built to break them, built to strip away their humanity.*

(Danielle Richards)

\*Social Media Manager for [freerobwill.org](http://freerobwill.org).

# NOTES FOR CONTRIBUTORS

We welcome articles concerning legal issues relating to the death penalty in all jurisdictions around the world. The occasional Critical Approaches to the Death Penalty section also provides contributors with the opportunity to scrutinise death penalty issues theoretically and from the standpoint of disciplines other than law. Accordingly, we welcome submissions engaging in the disciplines of philosophy, sociology, psychology, economics, politics, religion, feminism, anthropology, and literature.

We also welcome case reports, volunteer reports from death penalty offices, reviews of books which concern the death penalty (both academic and literature), and opinion pieces on specific aspects of capital punishment. We encourage contributors to engage in a dialogue with all aspects of the death penalty, and also to comment on the Amicus Journal and our Amicus charity. Furthermore, we welcome short entrants for our Worldwide Overview and contributors are welcome to submit jurisdictional developments to be included as well.

Please refer to the articles published in the Journal for our house style. All points of law and fact are to be supported through endnote citation to authorities. Citations are to comply with the Blue Book citations. The title is to appear in normal case bold and the chapter headings are to appear in normal case bold. Sub-headings should appear in bold italics. The

author's name should appear in regular type with an asterisk (\*) footnote symbol, detailing professional position or affiliation.

## Main Articles

Between 5,000-8,000 words.

## Shorter Articles and Case Commentaries

Between 2,000-3,000 words.

## Book Reviews

Up to 1,000 words per book.

## Editorials

Up to 1,000 words.

## Letters to the Editor

Up to 800 words.

## Worldwide Overview

Up to 100 words.

The Amicus Journal is to be cited as (Issue Number) Amicus Journal (Page) (Year). For example, Stephen Hellman, What Happens When the "Right" Principle of Interpretation Produces the "Wrong" Result, 11 *Amicus Journal* 16 (2005).

Please send letters or other contributions to one of the Editors at [admin@amicus-alj.org](mailto:admin@amicus-alj.org).



## COMING SOON...

***The moving account of the correspondence between death row inmate Andrew Lee Jones and his penpal, Jane Officer. Their friendship inspired the foundation of Amicus.***

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to audiobook format!***



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# BOOK REVIEW: "CRIMINALITY IN CONTEXT: THE PSYCHOLOGICAL FOUNDATIONS OF CRIMINAL JUSTICE REFORM"

*American Psychological Association, 2020*

By Craig Haney

Reviewed by Arielle Baskin-Sommers\*

Under the Trump Administration, the United States witnessed a staggering increase in the number of executions that were carried out by the federal government. That number was more than the previous fifty-six years combined. In a powerful dissent, Supreme Court Justice Sonia Sotomayor simply stated that "[t]his is not justice." She highlighted issues related to the cruelty inflicted during the administration of lethal cocktails and the circumvention of standard appeal processes. However, concern over the death penalty extend to other issues, including the biases found in death penalty convictions. For instance, individuals from low-income backgrounds are more likely to receive the death penalty than those with higher incomes. Black individuals who have a white victim are more likely to receive the death penalty than white individuals with a Black victim. And, the majority of Black individuals who have been exonerated are victims of official police misconduct.<sup>1</sup> Thus, it is clear that this punishment is not being applied fairly, regardless of one's views on the morality and legitimacy of the death penalty. Factors such as poverty, race, and geography should not control who is sentenced to death. The fact that they are raises serious questions about the appropriateness of this sanction. Instead, if justice is to be provided to all, then understanding the contextual factors that contribute to criminal behavior and criminal justice system contact is important so that changes can be made and justice served.

Craig Haney's book, *"Criminality in Context: The Psychological Foundations of Criminal Justice Reform,"* is a comprehensive review of important contextual factors that influence behavior and justice system involvement. Haney starts with a historical overview of the United States' justice system's focus on individual responsibility (the "crime master narrative"). He then examines the science behind the way context influences crime, from social history to situational context to structural influences (e.g., racism). Finally, Haney ends the book by suggesting ways to move towards a more scientifically-informed justice system by chang-

ing community-based and correctional system practices. This survey of important sociological and psychological research on the initiation and maintenance of criminal behavior can provide undergraduates, emerging psychologists, and legal professionals with a solid understanding of how individuals operate within important ecological systems. Notably, it also demonstrates how the criminal justice system must consider the influence of these ecological systems. Though this book is not focused on the death penalty *per se*, Haney has testified as an expert in death penalty cases over the past four decades to foster an understanding of the importance of contextual variables in the sentencing decisions jurors are called upon to make.

The core thesis of Haney's book is that, to understand criminality, we must take into account the environments that an individual traverses over the course of their life, as well as the risk factors associated with these environments. The early chapters in the book (Chapters Two to Three) focus on the experience of trauma as an important risk factor for criminality. For example, Abram et al. (2013) found that 92.5% of justice-involved youth reported exposure to at least one type of trauma, 84% had exposure to multiple traumas, and 56.8% experienced trauma repeatedly.<sup>2</sup> Not all traumas are necessarily related to involvement in criminality, but one general domain of trauma, exposure to violence, is one of the most robust predictors of such involvement. In the United States, approximately 30% of youth report exposure to violence.<sup>3</sup> However, as Haney very importantly notes, exposure to violence is not equally distributed across individuals. In the United States, these exposures are predominantly clustered in lower socioeconomic communities. Between 80% and 100% of residents in poor, urban neighborhoods report being exposed to violence.<sup>4</sup> And, unfortunately, Black and Latinx individuals disproportionately incur the impact of violence exposure and economic disadvantage.

In Chapters Five to Seven, Haney highlights how pov-

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\* PhD, Yale University.

erty and structural racism can place shackles on people even before the cuffs of the criminal justice system are introduced. In Chapter Five, Haney comments that "... disadvantaged neighborhoods can produce criminogenic effects in part because they maximize the pressures to engage in crime, in part because they increase people's proximity to illegal activities, and in part because there are fewer resources and stable institutions to serve as countervailing pressures to refrain".<sup>5</sup>

Further, numerous scholars have documented that every aspect of the lives of minoritized groups in the United States can be imbued with racism. Banking, housing, and voting practices that discriminate against lower-income individuals and racial minorities make it difficult to achieve upward mobility and to have a voice in civic practices. Inequities based on income and race occur at every stage of the justice system, from policing to case processing to incarceration, and even in the laws themselves. Therefore, Haney's focus on the larger structural influences of poverty and racism on criminality is especially timely.

Haney ends the book (Chapters Eight to Ten) by discussing how the science of context can help dismantle unjust policies and practices within communities, the police, the law, and corrections. He highlights the importance of improving the infrastructure of communities by increasing access to community resources and jobs as essential tools for combating crime. Additionally, a focus on context has important implications for how we think about legal responsibility. For instance, psychological research shows that adolescents display heightened sensitivity to the influence of peers.<sup>6</sup> Numerous studies show that adolescents, compared to adults, make riskier decisions when with peers than when by themselves.<sup>7</sup> This type of work influenced the Supreme Court's decision in *Miller v. Alabama*, 567 U.S. 460 (2012) (barring mandatory life without parole sentences for crimes committed prior to age eighteen). However, as Haney notes, with respect to federal guidelines, contextual factors tend to be "de-emphasized" and even "prohibited" when determining criminal justice responses to criminal behavior.<sup>8</sup> Thus, Haney calls for the reform of sentencing guidelines based on the evidence that context strongly influences behavior. Finally, Haney comments on the role of prisons in perpetuating criminality. Prisons in the United States are ecological contexts that deny individuals the potential for healthy development and replicate the structural inequalities that contribute to criminality, making it harder for individuals to leave prison and become prosocial members of the larger society. Consequently, reforming the physical and psychological

ecology of prisons is a necessary step.<sup>9</sup>

A focus on the contextual factors that promote criminality is certainly important. However, one cannot dismiss the role of individual differences, and I would stress these differences more than Haney does. Perhaps Haney is attempting to counteract the harmful misrepresentations of individual responsibility that have been promoted by politicians, the media, and even some scholars. However, a failure to consider the intersection between the person and the environment will necessarily limit our ability to explain why some individuals engage in criminal behavior and how best to intervene. Haney does acknowledge individual differences, albeit without fully developing the argument to the same extent as he does with regard to contextual factors. In Chapter Eight, Haney states that "... the capacity to perceive and take advantage of viable options can be significantly limited by a person's troubled and traumatic past history".<sup>10</sup> That is exactly right. For example, perception, attention, learning, and memory vary across individuals and understanding their part in the development of criminal behavior helps identify people most at risk. In a recent study, my lab found that individuals with high rates of exposure to violence and who did not physiologically habituate to the presentation of repeated information (i.e., learn) were most at risk for engaging in violent behavior.<sup>11</sup> Thus, while exposure to violence is a strong predictor of criminality and should be addressed broadly, it is equally important to know who such exposure is most likely to affect, and how it does so, in order to develop the most efficacious prevention and intervention efforts.

A main emphasis of Haney's is a denial of the "but not everyone" argument. Often, when context is raised, people will argue that "not everyone in a poor neighborhood or who has been traumatized, commits crimes." Haney contends that noting the different reactions to similar conditions perpetuates the narrative that actions are fully an individual choice. He thinks that the only way to combat this narrative is to shift away from considering the individual and focus only on the overall environment. However, putting forth an incomplete science weakens the important stance that context matters for understanding criminality. Decades of well-validated, rigorous, and thoughtful research has shown that familial (e.g., ineffective discipline, low parental warmth), peer (e.g., deviant peers), neighborhood (e.g., high levels of exposure to violence), cognitive (e.g., deficits in executive functioning, abnormalities in attention), emotional (e.g., poor emotional regulation, blunted emotions), personality

(e.g., impulsivity, disinhibition), and biological (e.g., neurochemical, autonomic, and brain-based irregularities) factors put someone at risk for criminal behavior. This research clearly demonstrates that causal models cannot focus on single risk factors (e.g., neighborhood disadvantage) or single domains of risk factors (e.g., biological abnormalities) if they are to adequately explain criminality across individuals.

Haney goes on to argue that considering individual differences, such as cognitive-affective factors that are subserved by biological systems, is unnecessary because “[t]here are as yet no practical, positive applications for this kind of knowledge”.<sup>12</sup> Recent studies, including my own work with incarcerated people, suggests the importance of incorporating cognitive-affective dysfunction into the study of criminality, and reveals the ways in which individual context interacts with the community and social context in the production of anti-social behavior. The most successful interventions for criminality in juveniles are multisystemic, targeting environmental and individual factors.<sup>13</sup> Further, for individuals who exhibit severe and persistent engagement in criminal behavior, directly addressing cognitive-affective dysfunction is essential for promoting personalized behavioral change.<sup>14</sup>

Ultimately, understanding contexts as well as individual differences at cognitive-affective and biological levels is critical for changing the policies and practices of the justice system. Some of the most progressive Supreme Court decisions have cited psychological and neuroscientific evidence of neurodevelopmental differences between juveniles and adults. Some prisons in Connecticut opened up specialized units for incarcerated individuals aged eighteen to twenty-five, based on the evidence that brains are still developing and that providing life skills training is important for re-entry.<sup>15</sup> And, some of the most effective interventions for addressing criminal behavior consider the individual and the environment. Haney’s book provides a valuable review of the contextual factors that contribute to criminality. Situating individuals within that context to understand the biopsychosocial factors that contribute to behavior is the next essential step in understanding criminality and in serving justice.

## Endnotes

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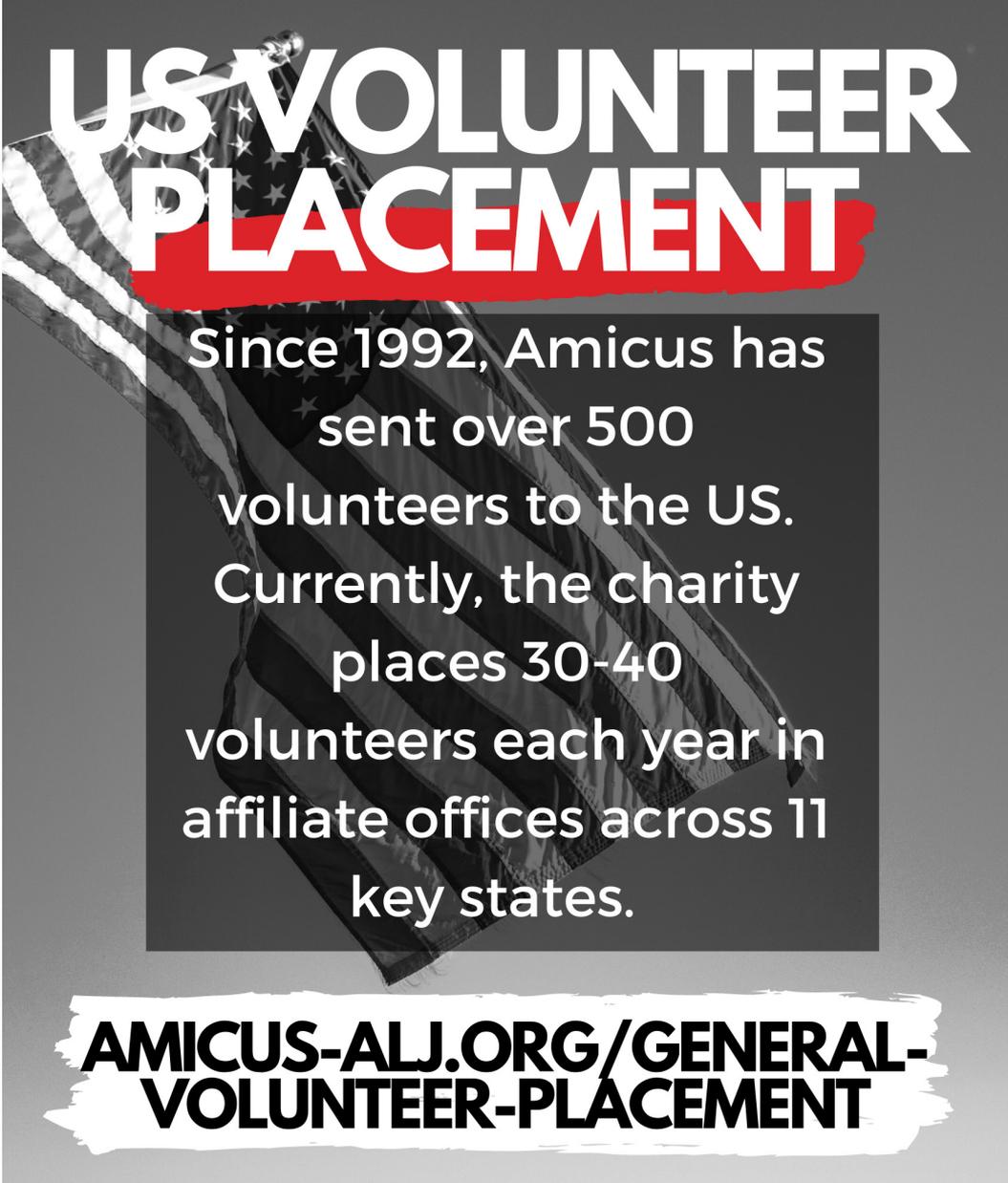
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# US VOLUNTEER PLACEMENT

Since 1992, Amicus has sent over 500 volunteers to the US. Currently, the charity places 30-40 volunteers each year in affiliate offices across 11 key states.

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A woman in a dark dress is standing in a room, gesturing towards a screen. The screen displays the text 'OUR ORIGINS' and a small image. The room has a whiteboard and other people are visible in the background. The entire scene is overlaid with a large, semi-transparent red circle.

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