The collateral consequences of criminal legal association during jury selection

Matthew Clair and Alix S. Winter

Forthcoming at Law & Society Review
June 28, 2022

Abstract: How does a potential juror’s association with the criminal legal system matter during jury selection? Growing scholarship examines statutory exclusions of people with felony convictions, sometimes characterizing felon-juror exclusion as a collateral consequence of mass incarceration. Less research has considered whether court officials seek to exclude potential jurors based on lower-level forms of contact or perceived association. We draw on interviews with 103 lawyers and judges in a Northeastern state to examine how court officials think about juror bias in relation to criminal legal association beyond felon status. We find that court officials often seek to remove people perceived to be offenders with lower-level forms of system association as well as people perceived to be crime victims. These exclusionary efforts extend to also exclude perceived offenders’ and victims’ social networks. These practices are racialized and gendered, likely contributing to the systematic exclusion of marginalized racial/ethnic groups and women. This article expands the collateral consequences literature in two ways: first, by revealing how collateral consequences can be conceptualized not just in relation to people criminalized by the law but also in relation to those whom the law constructs as victims; and second, by underscoring how collateral consequences feed back into the system to reproduce its unequal administration.

Authors’ Note: This research was supported by grants from the National Science Foundation (Grant no. DGE1144152), the Center for American Political Studies (Harvard University), the Program in Criminal Justice Policy and Management (Harvard Kennedy School), and the Harvard University Department of African and African American Studies. The authors are grateful for helpful feedback on earlier versions of this article from Asad L. Asad, Peter Francis Harvey, Hyejeong Jo, Annette Lareau, Nancy Marder, the editor, and three anonymous reviewers. Please direct all correspondence to Matthew Clair, Department of Sociology, Stanford University, 450 Jane Stanford Way, Stanford, CA 94305; e-mail: mclair@stanford.edu.