AFFIDAVIT OF JOHN F. EDENS, PH.D.

I, John F. Edens, swear under penalties of perjury that the information in this affidavit is true and correct:

I. Background and Qualifications

1.   I have personal knowledge of the facts stated in this affidavit. I am signing this affidavit knowingly, voluntarily, and freely. I fully understand the contents of this affidavit. I read, write, and speak English.

2.   I am a Full Professor in the Department of Psychological and Brain Sciences at Texas A&M University (TAMU). I am also formerly the Director of Clinical Training (2012-2016) of the doctoral training program in Clinical Psychology at TAMU, as well as a licensed psychologist for 20 years in the state of Texas until I retired my license (in good standing) in 2019. Over the years, I have been actively involved in education and training in the areas of psychological and personality assessment, violence risk assessment, forensic psychology, abnormal psychology, research methodology, and professional ethics. I have taught scores of courses within these areas to hundreds of doctoral students and thousands of undergraduate students. I also have been invited to conduct numerous advanced training workshops in these and related areas for mental health, legal, and criminal justice professionals throughout North America, Europe, Asia, and Australia.

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3.   I have conducted research on psychological assessment and diagnosis and the prediction of human behavior since the 1990s and have published approximately 200 peer-reviewed journal articles, book chapters, and professional manuals related to these topics. Most of my research has focused on forensic and correctional mental health assessment issues, such as the scientific reliability and validity of psychological testing and diagnosis among criminal offender populations and the potential for criminal offenders to engage in future violence and other forms of socially deviant behavior inside and outside institutional settings.[i] For example, I was a co-investigator on a $1.3 million multi-site federal research grant from the *National Institute of Mental Health* that examined the role of psychopathic personality disorder (psychopathy) and antisocial personality disorder (ASPD) in the adjustment and future conduct of criminal offenders.

4.   I believe it is fair to say that my research in the area of forensic and clinical psychology has been highly influential in the scientific and professional community. For example, I am in the top 1% of cited researchers in the fields of Psychology and Psychiatry (as documented by *Essential Science Indicators*) and I have received national awards and honors from various professional and scientific organizations over the course of my career (e.g., the *Saleem Shah Award for Early Career Contributions to Law and Psychology*, jointly awarded by the American Psychology-Law Society and the American Academy of Forensic Psychology

[2001], the *Theodore Millon Award in Personality Psychology*, jointly awarded by the American Psychological Foundation and the Society of Clinical Psychology [2015]). I have also been awarded Fellow status by the two largest professional organizations in psychology in the United States: the American Psychological Association and the Association for Psychological Science.

5.   I am the lead author of the *Personality Assessment Inventory Interpretive Report for Correctional Settings* (PAI-CS).[ii] The PAI-CS is an empirically derived, actuarial interpretative system designed to aid in the identification of inmates who have mental health problems and/or are likely to have difficulties adjusting to prison. This interpretive report is used in numerous state prison systems as part of their mental health screening and assessment procedures for newly incarcerated inmates.

6.   I have published extensively on controversies concerning various psychiatric diagnoses, psychological tests, and assessment instruments and procedures used in forensic and correctional settings, particularly those intended to assess psychopathy, such as the Hare Psychopathy Checklist-Revised (PCL-R), as well as antisocial personality disorder (ASPD).[iii] I also have consulted with numerous prosecution offices, defense counsel, and state agencies (e.g., probation departments) on issues related to forensic mental health assessment, particularly in

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terms of the scientific reliability and validity of various tests, psychiatric

diagnoses, and assessment methodologies.

7.   Because of my background and expertise in forensic and correctional

psychology, I am frequently called on to evaluate the work of other social

scientists and mental health professionals. For example, I am formerly an

Associate Editor of the peer-reviewed scientific journals *Psychological*

Assessment, the *Journal of Personality Assessment,* and *Assessment*. In these

editorial roles, I have been responsible for judging the scientific merit of research

manuscripts submitted for publication and making editorial decisions, with input

from peer reviewers, regarding whether these research reports are scientifically

rigorous and warrant publication. At these journals, I have been primarily

responsible for evaluating submissions that focus on forensic mental health topics

(e.g., psychopathic and antisocial personality disorder, malingered mental illness,

violence risk assessment, adjudicative competence). I also have served on the

editorial boards of multiple peer-reviewed psychology-law journals (e.g., *Law and*

Human Behavior, *Behavioral Science and the Law, International Journal of*

Forensic Mental Health), where I provide peer reviews for research manuscripts

submitted for publication. In this capacity, I provide the Editor or Associate Editor

with a review of the methodological rigor of the research and a recommendation

concerning its overall contribution to the scientific literature. Over the course of

my career, I have been asked to serve as an editor or reviewer for hundreds of scientific research reports from a multitude of social science and medical journals.

8.   As I noted above, I have contributed extensively to and am very familiar with the research literature on the Hare PCL-R, psychopathy, ASPD, and other personality disorders. Because of my expertise in this area, I have been asked to submit affidavits and declarations (similar in content to this document) that have expressed my grave reservations about the use of the PCL-R, labels such as "psychopath," and diagnoses of ASPD in numerous state and federal capital murder cases.

II. Referral Question

9.   I was asked by defense counsel for Quintin P. Jones to review evidence presented by mental health experts who testified at his sentencing hearing in February 2001 and comment on the potential implications of the introduction of the PCL-R in Mr. Jones's capital murder trial. The PCL-R is a 20-item checklist/rating scale that is intended to be used by trained professionals to measure the personality disorder of psychopathy. The 20 items consist of prototypically psychopathic traits (e.g., remorselessness, grandiosity, superficial charm) but also include items that focus on a history of antisocial and criminal acts (e.g., juvenile delinquency, past revocation of conditional release). The PCL-R typically is scored based on a semi-structured interview and review of available

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collateral information (e.g., institutional files, past mental health evaluations). Examinees can be given a score ranging from 0 (zero) to 40, with higher scores indicating that they are being rated by an examiner as more psychopathic.

10. I should highlight that I have not conducted a PCL-R evaluation of Mr. Jones and I have no opinion as to what would have been an accurate score on the PCL-R at the time of his sentencing hearing. That I have not evaluated Mr. Jones myself has no bearing on the points of concern that I raise about PCL-R evidence in this affidavit. In fact, one of the primary criticisms of this checklist in the scientific literature is that the scores derived from it in adversarial legal cases are so unreliable across different examiners that they lack any substantive probative value. Additionally, this general problem with the unreliability of PCL-R scores is evident in the competing forensic evaluations performed on Mr. Jones at the time of his original trial.

11. In his testimony describing his forensic mental health evaluation of Mr. Jones during his sentencing hearing, Dr. Randall Price provided a PCL-R total score of 31, which would place Mr. Jones at approximately the 88th percentile compared to the PCL-R's male prisoner normative sample. During the punishment phase Dr. Price diagnosed Mr. Jones as a "psychopath," stating to the jury, "A psychopath is a personality disorder that is characterized by a set of traits and behaviors that are, in a nutshell, the person doesn't have a conscious or has little

conscience." (*See* Record, Volume 36, page 58). Dr. Price also related psychopathy to a propensity for future dangerousness within the context of the first special issue. (*See* Record, Volume 36, page 74). However, another forensic mental health expert, Dr. Raymond Finn, testified during this sentencing hearing that his scoring of Mr. Jones on the PCL-R was only 9.5, which would place Mr. Jones between the 8th and 9th percentile when compared to the PCL-R's normative sample, essentially concluding that Mr. Jones would be one of the least psychopathic individuals housed in a prison environment. It is self-evident that two scores ranging from the 8th or 9th to the 88th percentile in a given case clearly reflect extreme disagreement on exactly how psychopathic Mr. Jones actually was at that time.

12.   The extreme scoring discrepancies on the PCL-R that are evident in the competing evaluations of Mr. Jones unfortunately are not unique to his particular case. Although I am unfamiliar with any prior PCL-R testimony provided by Dr. Finn in other cases, I was retained as an expert witness in a recent Texas capital murder trial in which Dr. Price had administered the PCL-R to the defendant. In this case Dr. Price's score was vastly higher (placing the defendant at the 91st percentile) than a score that a TDCJ-employed mental health professional provided for the same defendant (18th percentile).

III. Relevant Scientific Literature

13.   The extent to which separate mental health examiners will produce approximately similar scores for the same defendant (which in the diagnostic and testing literature is described by the term "inter-rater reliability") is not a question that appears to be commonly raised in adversarial legal settings in which PCL-R scores have been introduced.[iv] This is unfortunate because the extant scientific research indicates that PCL-R scores are highly *unreliable* in real world legal cases (as opposed to controlled scientific research studies). Several "field studies" of the PCL-R have reported that in adversarial settings, mental health experts disagree considerably on the scoring of this rating scale and, not surprisingly, results also suggest that prosecution-retained experts tend to give higher scores than do defense-retained experts.[v] It is unclear whether prosecution witnesses overestimate psychopathy, defense witnesses underestimate psychopathy, or both, but the key point is that how psychopathic defendants are described to be at trial is to some extent contingent on which side is retaining the expert witness.

14.   That being said, even examiners who are employed or retained by the same "side" of a case (and examiners who are independently appointed) may give markedly different scores on the PCL-R, indicating that the scores themselves are to some extent a function of the expert conducting the assessment rather than simply being an objective assessment of the "true" level of psychopathic traits

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exhibited by the defendant. More specifically, it has been estimated that over 30%

of the variability in PCL-R scoring across contested legal cases is explained by the

individual examiners who are conducting the evaluation rather than a reflection of

genuine differences in the defendants who are being assessed. Put somewhat more

simply, approximately a third of any given PCL-R score in these cases does not

represent his or her actual level of psychopathic traits but instead reflects the

idiosyncratic scoring approach of the person performing the evaluation—

regardless of whether the expert examiner was retained by the prosecution or the

defense.[vi]

15.   Also of particular concern is that since the publication of the first

PCL-R professional manual in 1991, it has been known that the "personality" items

contained within the PCL-R (e.g., lack of remorse, inflated self-worth,

conning/manipulative) have lower levels of inter-rater reliability than do the more

criminogenic items (e.g., juvenile delinquency, revocation of conditional release).

The more recent field studies cited above also demonstrate that personality

characteristics appear to be extremely difficult to assess reliably in adversarial

legal settings—which is particularly troubling given that they seem to have the

most pronounced prejudicial effect on jurors[vii] (an issue to which I return in

subsequent paragraphs below). Levels of inter-rater agreement in the published

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field studies have been well below accepted standards of what would constitute minimal reliability for forensic mental health practice.[viii]

16.   The reasons for the unreliability of psychopathy evaluations across examiners have not been fully articulated in the literature, but there is recent evidence that even those trained by the instrument developer, Robert Hare (through his Darkstone Research Group workshops), struggle to assess reliably the personality traits included in the PCL-R. Blais, Forth, and Hare (2017)[ix] summarized reliability statistics for 280 participants in this training program who went on to score a series of practice cases that were then evaluated for accuracy. The interpretation of what constitutes minimally acceptable reliability is open to some degree of interpretation, but the effects of this formalized training program on inter-rater reliability were disappointing regardless of the standard. In particular, the inter-rater reliability of the 'personality' items on the PCL-R was quite poor, indicating a large degree of variability in rating traits such as remorselessness, superficial charm, and lack of empathy. Again, it should be stressed that this unacceptable level of inter-rater reliability in assessing these personality traits was produced by professionals who had *just completed a formalized training program conducted by the developer of the instrument*, leading the authors to conclude that those raters' PCL-R scores "did not meet the standard recommended for criminal cases" (p. 762).

17.   Even if PCL-R scores could be reliably produced in adversarial legal cases, there are additional reasons to question their relevance and probative value in capital murder trials. For example, mock jury research has shown that individuals who believe a defendant is highly psychopathic also believe that such a defendant will be highly dangerous in the future.[x] Despite this intuitive association between psychopathy and violence, at present there is little evidence to support the assertion that psychopathy diagnoses have any bearing on a convicted capital defendant's potential for future violent acts. That is, the available scientific studies suggest that psychopathy diagnoses are *at best very weakly related to violent behavior in U.S. prisons*. This assertion is based on the results of a published meta-analysis[xi] in which my colleagues and I statistically aggregated the results of all available individual research studies examining the relationship between the most widely used assessment of psychopathy in forensic settings, the PCL-R, and violence in U.S. prisons, which consisted of an aggregated sample size of over 800 inmates across five individual research studies.

18.   Although I am very familiar with the professional literature concerning psychopathy, I am unaware of any published studies of the PCL-R that have examined whether they can reliably predict the violent behavior specifically of capital defendants, life sentenced offenders, or those offenders who are placed in administrative segregation—but the fact that PCL-R scores have not performed

well in the existing prison studies of non-capital prison inmates suggests that their very poor accuracy would be similar or worse among capital defendants serving life sentences.[xii]

19.   As such, although well-controlled research studies suggest that PCL-R scores may be modestly to moderately related to future criminal behavior among individuals if they are *released back into the community*,[xiii] the available scientific findings do not support the argument that this instrument can identify prisoners who are likely to engage in serious violence while spending the rest of their lives incarcerated. Therefore, claims that an inmate is more likely to be violent in the future if serving out a life sentence because that inmate has been judged by a mental health professional to be "psychopathic" are based on almost no scientific support and actually ignore what are known to be legitimate correlates of violence in prison settings (e.g., young age, limited education, prison gang membership).

20.   To the extent that PCL-R scores have a modest to moderate predictive relationship with violence if prisoners are released back into the community, it should be noted that extant research findings indicate that it is *not* the personality traits (e.g., remorselessness, conning/manipulative) related to this diagnosis that are relevant to identifying those most at risk for future violent crime. Rather, it is the more criminalistic characteristics measured by the PCL-R (e.g., juvenile delinquency, past failure on conditional release, poor behavioral controls) that are

most important to predicting criminal recidivism. Knowing whether a soon-to-be released inmate appears to lack remorse and is grandiose and unempathic is much less informative about his or her potential for future community violence than knowing whether he or she has an extensive history of irresponsible, impulsive, and criminal behavior. As such, the PCL-R items that are likely to be the *most* influential on jurors' decisions concerning a death sentence are the ones that are the *least* relevant to predicting future crime in the community.[xiv]

21.   To summarize, in the context of a capital murder trial, testimony that a defendant is "a psychopath" based on a high PCL-R score is unreliable, unscientific, and misleading in relation to the likelihood of a defendant being a future danger to society if serving a life sentence in prison. Given our concerns about misuses and abuses of psychopathy evidence in capital cases, several other forensic mental health experts and I have recently detailed several of the limitations of this checklist for this specific purpose in a *Statement of Concerned Experts on the Use of the Hare Psychopathy Checklist—Revised in Capital Sentencing to Assess Risk for Institutional Violence.*[xv]

22.   In addition to having very limited probative value due to poor inter-rater reliability and almost no predictive validity for prison violence, the introduction of the PCL-R into capital proceedings has a strong likelihood of unduly prejudicing jurors against a defendant. Among venirepersons, the

psychopath label evokes images of real-world serial killers such as Ted Bundy, as well as fictional villains such as Hannibal Lecter.[xvi] In fact, among a sample of over 400 venirepersons participating in a survey in Dallas County, Texas, Charles Manson was the most common response (20%) when participants were asked to spontaneously identify the person they first thought of when hearing the term "psychopath" (followed by Jeffrey Dahmer [14%], Adolf Hitler [12%], and Ted Bundy [11%]). [xvii] In a recent meta-analysis[xviii] published by my research laboratory that examined how perceptions of psychopathic traits are related to attitudes about criminal defendants, we found that mock jurors who believe a defendant to be highly psychopathic are more likely to support death verdicts (in capital murder trial simulations) and more likely to recommend longer criminal sentences (in non-capital trial simulations) than are participants who believe a defendant to be less psychopathic. Additionally, they are more likely to rate a defendant as more dangerous and more "evil" than are participants who believe a defendant to be less psychopathic.

23. Research summarized in the preceding paragraph indicates that mock jurors who perceive a defendant to be highly psychopathic also have more punitive attitudes about their case dispositions. Such findings do not directly examine, however, the extent to which expert testimony concerning psychopathy may influence case outcomes (e.g., jury verdicts). In a series of research studies,[xix] my

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colleagues and I have experimentally manipulated the presence of psychopathy

evidence in capital case vignettes presented to mock jurors. The results of these

studies indicate that defendants who were described as psychopaths were viewed

as considerably more dangerous than defendants who were not described as

psychopaths, even though all other facts of the cases other than diagnoses were

described identically. In these studies, support for executing a psychopathic

defendant was considerably higher than support for executing him when not

described as psychopathic. For example, in one of these studies,[xx] 60% of the

participants learning that the defendant was described as psychopathic indicated

they would support a death sentence for the defendant, whereas only 38% did so

when he was described as non-mentally disordered, and only 30% did so when he

was described as psychotic (e.g., experiencing delusions and hallucinations). (In

the lone study my research lab has published in which psychopathy evidence did

not predict greater support for death verdicts,[xxi] post-testing of the research

participants indicated that many did not understand the complicated sentencing

instructions we provided them, such as the definition of mitigating evidence.) A

recent meta-analysis[xxii] of this area of scientific literature confirmed that the

introduction of evidence that a defendant is psychopathic in mock jury trials results

in more punitive outcomes when compared to cases in which this diagnosis is not

introduced.

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24.   I should note that some experimental research[xxiii] has suggested that expert testimony that a defendant is psychopathic may not *always* have a significant impact on mock jurors. These types of findings only seem to occur, however, when mock jurors *already* believe a defendant is highly psychopathic *prior* to reviewing any mental health evidence about his diagnostic status. In replicating some of this earlier research, my research lab[xxiv] recently demonstrated that when jurors are informed that a defendant has a history of being remorseless, manipulative, and superficial, they tend believe that he is highly psychopathic – regardless of whatever subsequent diagnostic label an expert witness provides (e.g., "psychopathic," "schizophrenic"). The results of this research suggest that, once a juror believes that a defendant is highly psychopathic, the introduction of the label "psychopath" by an expert witness may in fact have little *additional* prejudicial impact. It does *not*, however, support the conclusion that testimony about psychopathy will have little or no prejudicial impact on jurors who have yet to form an opinion about a defendant's mental health status.
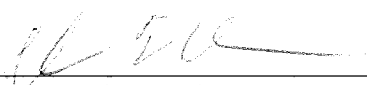
25.   Although mock jury studies in isolation are not dispositive in terms of establishing the stigmatizing effects of a psychopathy diagnosis, field research also has demonstrated that perceived psychopathic traits have a strong relationship with juror attitudes about criminal defendants. For example, Sundby (1998) published research from the Capital Jury Project indicating that actual jurors in capital

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murder trials described defendants whom they had sentenced to death with phrases such as "blasé," "cocky," "very unremorseful," "cocksure," "nonchalant," "no remorse—almost a cocky attitude," and "clever, smart, [and] calculating."[xxv]

IV. Opinion

26. PCL-R psychopathy evidence provided by examiners in adversarial legal settings is highly unreliable, has little or no probative value concerning prison violence risk, and has the strong potential to stigmatize capital defendants with an irrelevant and pejorative label and associated set of personality traits (e.g., remorselessness, conning/manipulative). As such, it is very difficult if not impossible to argue that labeling a defendant as psychopathic has any demonstrated probative value in capital cases. As was highlighted in earlier sections of this affidavit, the general unreliability of PCL-R scores is in fact evident in this particular case, with Dr. Finn and Dr. Price providing extremely divergent scores (8th or 9th percentile vs 88th percentile). In sum, testimony based on the PCL-R that a defendant is "a psychopath" is unreliable, unscientific, and misleading in relation to the likelihood of a defendant being a future danger to society if serving a life sentence in prison.

End of testimony.
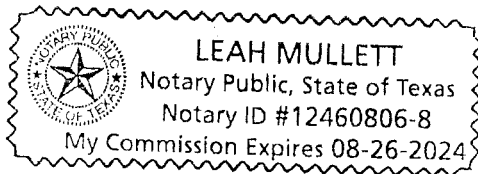
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John F. Edens, Ph.D.
Professor
Department of Psychological and Brain
Sciences
Texas A&M University

    On this day, ___April 19, 2021___ (date), appeared before me, the undersigned authority, the affiant, who being duly sworn stated under oath that the above affidavit signed by the affiant is true and correct and within his or her personal knowledge.

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                              Notary Public

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End Notes

[i] See, e.g: Buffington-Vollum, J. K., Edens, J. F., Johnson, D. W., & Johnson, J. (2002). Psychopathy as a predictor of institutional misbehavior among sex offenders: A prospective replication. *Criminal Justice and Behavior, 29,* 497-511.

Douglas, K. S., Vincent, G., & Edens, J. F. (2006). Risk for criminal recidivism: The role of psychopathy. In C. Patrick (Ed.), *Handbook of psychopathy* (pp. 533-554). New York: Guilford.

Edens, J. F., Buffington-Vollum, J. K., Colwell, K. W., Johnson, D. W., & Johnson, J. (2002). Psychopathy and institutional misbehavior among incarcerated sex offenders: A comparison of the Psychopathy Checklist-Revised and the Personality Assessment Inventory. *International Journal of Forensic Mental Health, 1,* 49-58.

Edens, J. F., & Campbell, J. S. (2007). Identifying youths at risk for institutional misconduct: A meta-analytic investigation of the Psychopathy Checklist measures. *Psychological Services, 4,* 13-27.

Edens, J. F., Campbell, J. S., & Weir, J. M. (2007). Youth psychopathy and criminal recidivism: A meta-analysis of the Psychopathy Checklist measures. *Law and Human Behavior, 31,* 53-75.

Edens, J. F., & Cahill, M. A. (2007). Psychopathy in adolescence and criminal recidivism in young adulthood: Longitudinal results from a multi-ethnic sample of youthful offenders. *Assessment, 14,* 57-64.

Edens, J. F., Poythress, N. G., & Lilienfeld, S. O. (1999). Identifying inmates at risk for disciplinary infractions: A comparison of two measures of psychopathy. *Behavioral Sciences and the Law, 17,* 435-443.

Edens, J. F., & Ruiz, M. A. (2006). On the validity of validity scales: The importance of defensive responding in the prediction of institutional misconduct. *Psychological Assessment, 18,* 220-224.

Edens, J. F., Skeem, J. L., & Douglas, K. S. (2006). Incremental validity analyses of the Violence Risk Appraisal Guide and the Psychopathy Checklist: Screening Version in a civil psychiatric sample. *Assessment, 13,* 368-374.

[ii] Edens, J. F., Ruiz, M. A., & PAR Staff. (2005). *Personality Assessment Inventory Interpretive Report for Correctional Settings (PAI-CS).* Odessa, FL: Psychological Assessment Resources, Inc.

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[iii] See, e.g: Amenta, A. E., Guy, L. S., & Edens, J. F. (2003). Sex offender risk assessment: A cautionary note regarding measures attempting to quantify violence risk. *Journal of Forensic Psychology Practice, 3*, 39-50.

DeMatteo, D., Hart, S. D., Heilbrun, K., Boccaccini, M. T., Cunningham, M. D., Douglas, K. S...Reidy, T. J. (2020). Statement of concerned experts on the use of the Hare Psychopathy Checklist-Revised in capital sentencing to assess risk for institutional violence. *Psychology, Public Policy, and Law, 26*, 133-144.

DeMatteo, D., Hart, S. D., Heilbrun, K., Boccaccini, M. T., Cunningham, M. D., Douglas, K. S...Reidy, T. J. (2020). Death is different: Reply to Olver et al. (2020). *Psychology, Public Policy, and Law, 26*, 511-518.

Edens, J. F. (2006). Unresolved controversies concerning psychopathy: Implications for clinical and forensic decision-making. *Professional Psychology: Research and Practice, 37,* 59-65.

Edens, J. F., & Boccaccini, M. T. (2017). Taking forensic mental health assessment 'out of the lab' and into 'the real world': Introduction to the special issue on the field utility of forensic assessment instruments and procedures. *Psychological Assessment, 29,* 710-719.

Edens, J. F., Buffington-Vollum, J. K., Keilen, A., Roskamp, P., & Anthony, C. (2005). Predictions of future dangerousness in capital murder trials: Is it time to "disinvent the wheel?" *Law and Human Behavior, 29,* 55-86.

Edens, J. F., & Douglas, K. S. (2006). Assessment of interpersonal aggression and violence: Introduction to the special issue. *Assessment, 13,* 1-6.

Edens, J. F., Magyar, M. S., & Cox, J. (2013). Taking psychopathy measures "out of the lab" and into the legal system: Some practical concerns. In K. Kiehl & W. Sinnott-Armstrong (Eds.), *Handbook on psychopathy and law* (pp. 250-272). New York: Oxford University Press.

Edens, J. F., & Otto, R. K. (2001). Release decision making and planning. In J. B. Ashford, B. D. Sales, & W. H. Reid (Eds.), *Treating adult and juvenile offenders with special needs* (pp. 335-371). Washington, DC: American Psychological Association.

Edens, J. F., Petrila, J., & Kelley, S.E. (2018). Legal and ethical issues in the assessment and treatment of psychopathy. In C. Patrick (Ed.), *Handbook of psychopathy* (2nd ed.). New York: Guilford.

Edens, J. F., Petrila, J., & Buffington-Vollum, J. K. (2001). Psychopathy and the death penalty: Can the Psychopathy Checklist-Revised identify offenders who represent "a continuing threat to society?" *Journal of Psychiatry and Law, 29,* 433-481.

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Edens, J. F., Skeem, J. L., Cruise, K. R., & Cauffman, E. (2001). Assessment of 'juvenile psychopathy' and its association with violence: A critical review. *Behavioral Sciences and the Law, 19,* 53-80.

Kelley, S. E., Edens, J. F., Mowle, E. N., Rulseh, A., & Penson, B. N. (2019). Dangerous, depraved, and death-worthy: A meta-analysis of the correlates of perceived psychopathy in jury simulation studies. *Journal of Clinical Psychology, 75,* 627-643.

Truong, T. N., Kelley, S. E., & Edens, J. F. (2021). Does psychopathy influence juror decision-making in capital murder trials? "The devil is in the (methodological) details." *Criminal Justice and Behavior, 48,* 690-707.

[iv] DeMatteo, D., Edens, J. F., Galloway, M., Cox, J., Smith, S. T., & Formon, D. (2014). The role and reliability of the Psychopathy Checklist-Revised in U.S. sexually violent predator evaluations: A case law survey. *Law and Human Behavior, 38,* 248-255.

DeMatteo, D., Edens, J. F., Galloway, M., Cox, J., Smith, S. T., Koller, J. P., & Bersoff, B. (2014). Investigating the role of the Psychopathy Checklist-Revised in United States case law. *Psychology, Public Policy, and Law, 20,* 96-107.

Edens, J. F., Cox, J., Smith, S. T., DeMatteo, D., & Sörman, K. (2015). How reliable are Psychopathy Checklist-Revised scores in Canadian criminal trials? A case law review. *Psychological Assessment, 27,* 447-456.

Edens, J. F., Petrila, J., & Kelley, S. E. (2018). Legal and ethical issues in the assessment and treatment of psychopathy. In C. Patrick (Ed.), *Handbook of psychopathy* (2nd Ed.) (pp. 732-751). New York: Guilford.

[v] Boccaccini, M.T., Turner, D.T. & Murrie, D.C. (2008). Do some evaluators report consistently higher or lower scores on the PCL-R?: Findings from a statewide sample of sexually violent predator evaluations. *Psychology, Public Policy, and Law, 14,* 262–283.

DeMatteo, D., Edens, J. F., Galloway, M., Cox, J., Smith, S. T., & Formon, D. (2014). The role and reliability of the Psychopathy Checklist-Revised in U.S. sexually violent predator evaluations: A case law survey. *Law and Human Behavior, 38,* 248-255.

Edens, J.F., Boccaccini, M.T., & Johnson, D.W. (2010). Inter-rater reliability of the PCL-R total and factor scores among psychopathic sex offenders: Are personality features more prone to disagreement than behavioral features? *Behavioral Sciences and the Law, 28,* 106-119.

Edens, J. F., Cox, J., Smith, S. T., DeMatteo, D., & Sörman, K. (2015). How reliable are Psychopathy Checklist-Revised scores in Canadian criminal trials? A case law review. *Psychological Assessment, 27,* 447-456.

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Jeandarme, I., Edens, J. F., Habets, P., Bruckers, L., Oei, K., & Bogaerts, S. (2017). Psychopathy Checklist— Revised field validity in prison and hospital settings. *Law and Human Behavior, 41*, 29–43.

Lloyd, C.D., Clark, H.J., & Forth, A.E. (2010). Psychopathy, expert testimony and indeterminate sentences: Exploring the relationship between Psychopathy Checklist-Revised testimony and trial outcome in Canada. *Legal and Criminological Psychology, 15,* 323-339.

Miller, C. S., Kimonis, E. R., Otto, R. K., Kline, S. M., & Wasserman, A. L. (2012). Reliability of risk assessment measures used in sexually violent predator proceedings. *Psychological Assessment, 24,* 944–953.

Murrie, D.C., Boccaccini, M., Johnson, J. & Janke, C. (2008). Does interrater (dis)agreement on Psychopathy Checklist scores in sexually violent predator trials suggest partisan allegiance in forensic evaluations? *Law and Human Behavior,* 32, 352–362.

Murrie, D.C., Boccaccini, M., Turner, D., Meeks, M., Woods, C., & Tussey, C. (2009). Rater (dis)agreement on risk assessment measures in sexually violent predator proceedings: Evidence of adversarial allegiance in forensic evaluation? *Psychology, Public Policy, and Law, 15,* 19-53.

[vi] Boccaccini, M.T., Turner, D.T. & Murrie, D.C. (2008). Do some evaluators report consistently higher or lower scores on the PCL-R?: Findings from a statewide sample of sexually violent predator evaluations. *Psychology, Public Policy, and Law, 14,* 262–283.

Sturup, J., Edens, J. F., Sörman, K., Karlberg, D., Fredriksson, B., & Kristiansson, M. (2014). Field reliability of the Psychopathy Checklist-Revised among life sentenced prisoners in Sweden. *Law and Human Behavior, 38,* 315-324.

[vii] Edens, J.F., Boccaccini, M.T., & Johnson, D.W. (2010). Inter-rater reliability of the PCL-R total and factor scores among psychopathic sex offenders: Are personality features more prone to disagreement than behavioral features? *Behavioral Sciences and the Law, 28,* 106-119.

Miller, C. S., Kimonis, E. R., Otto, R. K., Kline, S. M., & Wasserman, A. L. (2012). Reliability of risk assessment measures used in sexually violent predator proceedings. *Psychological Assessment, 24,* 944–953.

Sturup, J., Edens, J. F., Sörman, K., Karlberg, D., Fredriksson, B., & Kristiansson, M. (2014). Field reliability of the Psychopathy Checklist-Revised among life sentenced prisoners in Sweden. *Law and Human Behavior, 38,* 315-324.

[viii] Heilbrun, K. (1992). The role of psychological testing in forensic assessment. *Law and Human Behavior, 16,* 257-272.

Nunnally, J., & Bernstein, I. (1994). *Psychometric theory* (3rd ed.). New York, NY: McGraw-Hill.

[ix] Blais, J., Forth, A., & Hare, R. (2017). Examining the interrater reliability of the Hare Psychopathy Checklist-Revised across a large sample of trained raters. *Psychological Assessment, 29*(6), 762-775.

[x] Kelley, S. E., Edens, J. F., Mowle, E. N., Rulseh, A., & Penson, B. N. (2019). Dangerous, depraved, and death-worthy: A meta-analysis of the correlates of perceived psychopathy in jury simulation studies. *Journal of Clinical Psychology, 75,* 627-643.

[xi] Guy, L. S., Edens, J. F., Anthony, C., & Douglas, K. S. (2005). Does psychopathy predict institutional misconduct among adults? A meta-analytic investigation. *Journal of Consulting and Clinical Psychology, 73,* 1056-1064.

[xii] Cunningham, M. D., & Sorensen, J. R. (2006). Actuarial models for assessing prison violence risk: Revisions and extensions of the Risk Assessment Scale for Prison (RASP). *Assessment, 13,* 253-265.

Cunningham, M. D., Sorensen, J. R., & Reidy, T. J. (2005). An actuarial model for assessment of prison violence risk among maximum security inmates. *Assessment, 12,* 40-49.

Edens, J. F., Buffington-Vollum, J. K., Keilen, A., Roskamp, P., & Anthony, C. (2005). Predictions of future dangerousness in capital murder trials: Is it time to "disinvent the wheel?" *Law and Human Behavior, 29,* 55-86.

Edens, J. F., Petrila, J., & Buffington-Vollum, J. K. (2001). Psychopathy and the death penalty: Can the Psychopathy Checklist-Revised identify offenders who represent "a continuing threat to society?" *Journal of Psychiatry and Law, 29,* 433-481.

Marquart, J. W., Ekland-Olson, S., & Sorensen, J. (1989). Gazing into the crystal ball: Can jurors accurately predict future dangerousness in capital cases? *Law and Society Review, 23,* 449-468.

Marquart, J. W., Ekland-Olson, S., & Sorensen, J. (1994). *The rope, the chair, and the needle: Capital punishment in Texas, 1923-1990.* Austin, TX: University of Texas Press.

Marquart, J. W., & Sorensen, J. (1988). Institutional and postrelease behavior of Furman-commuted inmates in Texas. *Criminology, 26,* 677-693.

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App.032

Marquart, J. W., & Sorensen, J. (1989). A national study of the Furman-commuted inmates: Assessing the threat to society from capital offenders. *Loyola of Los Angeles Law Review, 23,* 5-28.

Sorensen, J. R., & Pilgrim, R. L. (2000). An actuarial risk assessment of violence posed by capital murder defendants. *Journal of Criminal Law & Criminology, 90,* 1251-1270.

Sorensen, J. R., & Wrinkle, R.D. (1996). No hope for parole: Disciplinary infractions among death-sentenced and life-without-parole inmates. *Criminal Justice and Behavior, 23,* 542-552.

Zamble, E. (1992). Behavior and adaptation in long-term prison inmates: Descriptive longitudinal results. *Criminal Justice and Behavior, 19,* 409-425.

[xiii] Kennealy, P., Skeem, J., Walters, G., & Camp, J. (2010). Do core interpersonal and affective traits of PCL-R psychopathy interact with antisocial behavior and disinhibition to predict violence? *Psychological Assessment, 22,* 569-580.

Singh, J., Grann, M., & Fazel, S. (2011). A comparative study of violence risk assessment tools: A systematic review and metaregression analysis of 68 studies involving 25,980 participants. *Clinical Psychology Review, 31,* 499-513.

Yang, M., Wong, S., & Coid, J. (2010). The efficacy of violence prediction: A meta-analytic comparison of nine risk assessment tools. *Psychological Bulletin, 136,* 740-767.

[xiv] Kennealy, P., Skeem, J., Walters, G., & Camp, J. (2010). Do core interpersonal and affective traits of PCL-R psychopathy interact with antisocial behavior and disinhibition to predict violence? *Psychological Assessment, 22,* 569-580.

See also:
Edens, J. F., Kelley, S. E., Lilienfeld, S. O., Skeem, J. L., & Douglas, K. S. (2015). DSM-5 antisocial personality disorder: Predictive validity in a prison sample. *Law and Human Behavior, 39,* 123-129.

Walters, G. D., & Knight, R. A. (2010). Antisocial personality disorder with and without antecedent childhood conduct disorder: Does it make a difference? *Journal of Personality Disorders, 24,* 258–271.

[xv] DeMatteo, D., Hart, S. D., Heilbrun, K., Boccaccini, M. T., Cunningham, M. D., Douglas, K. S...Reidy, T. J. (2020). Statement of concerned experts on the use of the Hare Psychopathy Checklist-Revised in capital sentencing to assess risk for institutional violence. *Psychology, Public Policy, and Law, 26,* 133-144.

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See also:

DeMatteo, D., Hart, S. D., Heilbrun, K., Boccaccini, M. T., Cunningham, M. D., Douglas, K. S...Reidy, T. J. (2020). Death is different: Reply to Olver et al. (2020). *Psychology, Public Policy, and Law, 26*, 511-518.

For commentaries on this position statement, see:

Hare, R. D., Olver, M. E., Stockdale, K. C., Neumann, C. S., Mokros, A., Baskin-Sommers, A., Brand, E., Folino, J., Gacono, C., Gray, N. S., Kiehl, K., Knight, R., Leon-Mayer, E., Logan, M., Meloy, J. R., Roy, S., Salekin, R. T., Snowden, R. J., Thomson, N., ... Yoon, D. (2020). The PCL–R and capital sentencing: A commentary on "Death is different" DeMatteo et al (2020a). *Psychology, Public Policy, and Law, 26*, 519–522.

Olver, M. E., Stockdale, K. C., Neumann, C. S., Hare, R. D., Mokros, A.,Baskin-Sommers, A.,...Yoon, D. (2020). Reliability and validity of the Psychopathy Checklist-Revised in the assessment of risk for institutional violence: A cautionary note on DeMatteo et al. (2020). *Psychology, Public Policy, and Law, 26*, 490–510.

[xvi] Helfgott, J. B. (1997, March). *The popular conception of the psychopath: Implications for criminal justice policy and practice.* Paper presented at the 34th Annual Meeting of the Academy of Criminal Justice Sciences, Louisville, KY.

Rogers, R., Dion, K. L., & Lynett, E. (1992). Diagnostic validity of antisocial personality disorder: A prototypical analysis. *Law and Human Behavior, 16*, 677–689.

Smith, S. T., Edens, J. F., Clark, J., & Rulseh, A. (2014). "So, what *is* a psychopath?" Venireperson perceptions, beliefs and attitudes about psychopathic personality. *Law and Human Behavior, 38*, 490-500.

[xvii] Edens, J. F., Clark, J., Smith, S. T., Cox, J., & Kelley, S. (2013). Bold, smart, dangerous and evil: Perceived correlates of core psychopathic traits among jury panel members. *Personality and Mental Health, 7*, 143-153.

[xviii] Kelley, S. E., Edens, J. F., Mowle, E. N., Rulseh, A., & Penson, B. N. (2019). Dangerous, depraved, and death-worthy: A meta-analysis of the correlates of perceived psychopathy in jury simulation studies. *Journal of Clinical Psychology, 75*, 627-643.

See, also: Truong, T. N., Kelley, S. E., & Edens, J. F. (2021). Does psychopathy influence juror decision-making in capital murder trials? "The devil is in the (methodological) details." *Criminal Justice and Behavior, 48*, 690-707.

[xix] Edens, J. F., Desforges, D. M., Fernandez, K., & Palac, C. A. (2004). Effects of psychopathy

App.034

and violence risk testimony on mock juror perceptions of dangerousness in a capital murder trial. *Psychology, Crime, and Law, 10,* 393-412.

Edens, J. F., Davis, K. M., Fernandez Smith, K., & Guy, L. S. (2013). No sympathy for the devil: Attributing psychopathic traits to capital murderers also predicts support for executing them. *Personality Disorders: Theory, Research, and Treatment, 4,* 175-181.

Edens, J. F., Guy, L. S., & Fernandez, K. (2003). Psychopathic traits predict attitudes toward a juvenile capital murderer. *Behavioral Sciences and the Law, 21,* 807-828.

[xx] Edens, J. F., Colwell, L. H., Desforges, D. M., & Fernandez, K. (2005). The impact of mental health evidence on support for capital punishment: Are defendants labeled psychopathic considered more deserving of death? *Behavioral Sciences and the Law, 23,* 603-625.

[xxi] Edens, J. F., Desforges, D. M., Fernandez, K., & Palac, C. A. (2004). Effects of psychopathy and violence risk testimony on mock juror perceptions of dangerousness in a capital murder trial. *Psychology, Crime, and Law, 10,* 393-412.

[xxii] Berryessa, C. M., & Wohlstetter, B. (2019). The psychopathic "label" and effects on punishment outcomes: A meta-analysis. *Law and Human Behavior, 43*(1), 9–25.

[xxiii] Saks, M. J., Schweitzer, N. J., Aharoni, E. and Kiehl, K. A. (2014). The impact of neuroimages in the sentencing phase of capital trials. *Journal of Empirical Legal Studies, 11,* 105–131.

[xxiv] Truong, T. N., Kelley, S. E., & Edens, J. F. (2021). Does psychopathy influence juror decision-making in capital murder trials? "The devil is in the (methodological) details." *Criminal Justice and Behavior, 48,* 690-707.

[xxv] Sundby, S.E. (1998). The capital jury and absolution: The intersection of trial strategy, remorse, and the death penalty. *Cornell Law Review, 83,* 1557-1598.

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