

News Roundup

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There were several major criminal law stories this week, none of them especially cheery. Boston Marathon bomber Dzhokhar Tsarnaev had his sentencing hearing. The result was not in doubt, as a jury had already returned a death verdict. But the judge spoke, several victims spoke – and the defendant spoke, offering an apology that seemed sincere to some and rang hollow to others. CNN's extensive coverage of the story is [here](#). Obviously, apologies are better suited for things like hurting another person's feelings than for things like killing and maiming innocent victims, but I for one am glad that Tsarnaev showed the decency and humanity to express regret.

In other news:

Speaking of apologies, can a judge require one as part of a criminal sentence? Or does that violate the defendant's First Amendment rights? UCLA law professor Eugene Volokh discusses the issue and a recent case on point [here](#).

South Carolina has no hate crime statute. Considerable attention remains focused on Charleston, South Carolina, where a white supremacist gunned down nine black churchgoers. In most states, the shooting would likely qualify as a hate crime, but South Carolina is one of only a few states that have no hate crime laws. The *Huffington Post* reports on efforts to change that [here](#), while the *New York Times* reports that the shooter is likely to face federal hate crime charges [here](#).

New report on capital cases that were dismissed or that resulted in acquittals. The Center for Death Penalty Litigation in Durham, which generally represents death row inmates in post-conviction proceedings, found 56 North Carolina cases from 1989 to 2015 in which a defendant was charged capitally but not convicted of any crime. The report is [here](#). The thrust of it is that the death penalty is not being reserved for cases in which guilt is clear, with a variety of attendant costs. (I'm not aware of a formal response from the Conference of District Attorneys or any similar organization, but would be happy to post a link to any such document if one exists.)

Finally, prison conditions at home and abroad. At Sentencing Law & Policy, Professor Doug Berman [notes](#) that Justice Kennedy – the critical swing vote in so many of the Court's decisions in recent years – has essentially asked for litigation over the constitutionality of the long-term use of solitary confinement. Meanwhile, the Marshall Project has [an interesting series](#) up about prisons in Germany, which take a totally different approach to incarceration than our prisons do.