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Editor's Preface

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SYMPOSIUM: THE DEATH PENALTY AND MENTAL ILLNESS

EDITOR'S PREFACE

This year's Symposium, *The Death Penalty and Mental Illness*, focused on the unsettled area of law surrounding the execution of persons with mental illness. It is estimated that five to ten percent of people on death row have a serious mental illness. Although the issues surrounding the execution of legally insane or mentally retarded people have received increased attention, questions about the propriety of executing persons with mental illness have been left largely unanswered.

Despite the serious nature of this topic, there is no clear consensus on how to handle the complexity of mental illness and its effect on people who have been sentenced to death. For example, state legislatures have been reluctant to discuss mental illness and the death penalty. Some policy makers, however, have theorized that positive predictions of "future dangerousness" justify the execution of mentally ill death row inmates. Still others believe that a perceived link between mental illness and violence is erroneous. Through this Symposium, we sought to discuss these positions and add to the ongoing discussion of this issue.

Several of our distinguished speakers are members of the Task Force on Mental Disability and the Death Penalty, which was created by the American Bar Association Section of Individual Rights and Responsibilities. This Task Force was formed to address the question of whether and under what circumstances mentally ill individuals should be exempt from execution. The Task Force developed a proposal outlining recommended measures to protect persons with mental illness from the death penalty. The National Alliance for the Mentally Ill and the American Psychological Association both have adopted versions of this proposal as policy. In addition, the American Psychiatric Association adopted the second prong of the proposal. The latest version of the proposal is set forth in this issue.

The Task Force is also crafting a commentary designed to discuss in greater depth each prong of their proposal. Portions of this commentary, as approved by the Task Force at the date of publication, may be found in this issue as part of Professor Christopher Slobogin's article, *Mental Disorder as an Exemption from the Death Penalty: The ABA-IRR Task Force Recommendations* and Professor Richard J. Bonnie's article, *Mentally Ill Prisoners on Death Row: Unsolved Puzzles for Courts and Legislatures*.

