

## FEATURES

### **4 Mental Health and Criminal Justice**

#### An Overview

**By Andrew E. Taslitz**

Prof. Taslitz, special issue editor, introduces the magazine's symposium topic on mental illness and the justice system, including highlights of each article.

### **8 The Supreme Court's Recent Criminal Mental Health Cases**

#### Rulings of Questionable Competence

**By Christopher Slobogin**

For decades the subject of mental illness and criminal law languished in the legal "backwaters" at the U.S. Supreme Court. That changed in 2003 when the Court accepted the case of *Sell v. United States* (a defendant's right to refuse medication), followed quickly by two more seminal decisions in *Clark v. Arizona* (2006) (the scope of psychiatric defenses) and *Panetti v. Quarterman* (2007) (the definition of competency to be executed). But has this sudden interest in mental illness issues resulted in good law? The author argues to the contrary and details where and how the Court has erred.

### **18 Prosecutor as "Nurse Ratched"?**

#### Misusing Criminal Justice as Alternative Medicine

**By Gerald E. Nora**

Traditionally, prosecutors approach claims of mental impairment by criminal defendants with skepticism, contesting competency defenses and sentencing mitigation. More recently, though, they find themselves as "diversionary gatekeepers"—seeking alternatives to trials and prison for those who more aptly belong in the medical arena. The author, a Cook County (Illinois) state's attorney, finds neither role satisfactory and argues for reforms that will limit a prosecutor's responsibility for addressing a defendant's mental health needs through the justice system.

### **24 The Promise of Mental Health Courts**

#### Brooklyn Criminal Justice System Experiments with Treatment as an Alternative to Prison

**By Matthew J. D'Emic**

Judge D'Emic tracks the establishment of one of the country's first courts to use diversionary treatment in dealing with mentally ill criminal defendants. He maps the defendant's journey from intake through assessment and treatment to "graduation" from the program.

### **30 Executing the Mentally Ill:**

#### When Is Someone Sane Enough to Die?

**By Michael Mello**

An opponent of the death penalty, Prof. Mello presents this personal account of advocating for mentally ill death row inmates. While detailing his clients' descent into madness and the tortured disconnect between the fantasy world of the insane and a justice system bent on accountability, the author looks at the impact of three high-profile cases.

## **42 Mental Health Status and Vulnerability to Police Interrogation Tactics**

**By William C. Follette, Deborah Davis, and Richard A. Leo**

The authors offers a psychological explanation of how police interrogation methods affect the “average” person’s ability to understand and exert his or her *Miranda* rights and what makes the mentally ill so much more susceptible to police coercion and likely to falsely confess.

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