

Mentally Ill Prisoners on Death Row

POSITION STATEMENT

Approved by the Board of Trustees, December 2005

Approved by the Assembly, November 2005

"Policy documents are approved by the APA Assembly and Board of Trustees...These are ... position statements that define APA official policy on specific subjects..." -- *APA Operations Manual*.

Preface

Like their fellow citizens, psychiatrists are not of one mind about the moral legitimacy and social utility of the death penalty. However, psychiatrists are uniformly troubled by the prospect of executing people whose offenses were linked to serious mental disorders or whose mental disorders prevent a fair adjudication. In a previous position statement, the American Psychiatric Association identified circumstances under which severe mental disorder at the time of the offense should preclude a death sentence.¹ The following position statement addresses three different circumstances under which concerns about a prisoner's mental competence and suitability for execution arise after the prisoner has been sentenced to death. The first paragraph states that execution should be precluded when a prisoner lacks the capacity (i) to make a rational decision regarding whether to pursue post-conviction proceedings, (ii) to assist counsel in post-conviction adjudication, or (iii) to appreciate the meaning or purpose of an impending execution. The succeeding paragraphs elaborate on these three situations.

1. American Psychiatric Association. Diminished responsibility in capital sentencing: Position Statement. Arlington, VA: The Association, 2004. <http://www.psych.org/library> (see: Position Statements)

Position Statement

(a) Grounds for Precluding Execution. A sentence of death should not be carried out if the prisoner has a mental disorder or disability that significantly impairs his or her capacity (i) to make a rational decision to forego or terminate post-conviction proceedings available to challenge the validity of the conviction or sentence; (ii) to understand or communicate pertinent information, or otherwise assist counsel, in relation to specific claims bearing on the validity of the conviction or sentence that cannot be fairly resolved without the prisoner's participation; or (iii) to understand the nature and purpose of the punishment, or to appreciate the reason for its imposition in the prisoner's own case. Procedures to be followed in each of these categories of cases are specified in (b) through (d) below.

(b) Procedure in Cases Involving Prisoners Seeking to Forego or Terminate Post-Conviction Proceedings. If a court finds that a prisoner under sentence of death who wishes to forego or terminate post-conviction proceedings has a mental disorder or disability that significantly impairs his or her capacity to make a rational decision, the court should permit a next friend acting on the prisoner's behalf to initiate or pursue available remedies to set aside the conviction or death sentence.

(c) Procedure in Cases Involving Prisoners Unable to Assist Counsel in Post-Conviction Proceedings. If a court finds at any time that a prisoner under sentence of death has a mental disorder or disability that significantly impairs his or her capacity to understand or communicate pertinent information, or otherwise to assist counsel, in connection with post-conviction proceedings, and that the prisoner's participation is necessary for a fair resolution of specific claims bearing on the validity of the conviction or death sentence, the court should suspend the proceedings. If the court finds that there is no significant likelihood of restoring the prisoner's capacity to participate in post-conviction proceedings in the foreseeable future, it should reduce the prisoner's sentence to a lesser punishment.

(d) Procedure in Cases Involving Prisoners Unable to Understand the Punishment or its Purpose. If, after challenges to the validity of the conviction and death sentence have been exhausted and execution has been scheduled, a court finds that a prisoner has a mental disorder or disability that significantly impairs his or her capacity to understand the nature and purpose of the punishment, or to appreciate the reason for its imposition in the prisoner's own case, the sentence of death should be reduced to a lesser punishment.