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THE DEATH PENALTY AND THE MENTALLY RETARDED

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In 2002 the United States Supreme Court held that executing the mentally retarded violates the Eighth Amendment prohibition on cruel and unusual punishment. In theory, the Supreme Court's decision means that no mentally retarded defendant will ever again face execution. However, the Court left it to the states and to juries to decide who is mentally retarded. Prejudices shared by judges, prosecutors, jurors and even some forensic experts may mean that retarded defendants who do not fit common stereotypes about mental retardation may still be subjected to capital punishment, making administration of the death penalty more arbitrary and capricious than before.

Sexually Violent Predator Assessment Issues

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This article discusses problems and issues associated with sexually violent predator (SVP) evaluations. A brief history of sex offender public policy leading up to the passage of SVP legislation is presented, and the common legal elements required for civil commitment by most SVP statutes are delineated. Difficulties in determining the presence of a mental disorder, defining "volitional impairment," and predicting future dangerousness are discussed. Controversies surrounding the use of current actuarial instruments and the inclusion of "dynamic factors" are explored.