

APA Official Actions

Position Statement on Issues Pertaining to Capital Sentencing and the Death Penalty

Approved by the Board of Trustees, July 2020

Approved by the Assembly, April 2020

“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*

Issue:

In their work in courts and prisons psychiatrists have become increasingly aware of deficiencies of the capital sentencing process and the administration of the death penalty in cases involving persons with mental disorders and disabilities, including neurocognitive disorders and intellectual disabilities. Major concerns include insufficient attention to mitigating evidence of diminished responsibility of offenders who were suffering from mental disorder or disability at the time of their offenses, unfairness in post-conviction adjudication, and inhumane treatment of persons on death row.

APA Position:

The American Psychiatric Association endorses the following positions regarding capital sentencing and the death penalty:

- 1. There should be a moratorium on capital punishment in the United States until jurisdictions seeking to reform the death penalty implement policies and procedures to assure that capital punishment, if used at all, is administered fairly and impartially in accord with the basic requirements of due process. To the extent that capital punishment continues:**
- 2. Defendants charged with capital crimes should not be sentenced to death or executed if, at the time of the offense, they had:**
 - a. a mental disorder or disability¹ that significantly impaired their capacity (a) to appreciate the nature, consequences or wrongfulness of their conduct, (b) to exercise rational judgment in relation to their conduct, or (c) to conform their conduct to the requirements of the law, or**
 - b. significant limitations in both their intellectual functioning and adaptive behavior, as expressed in conceptual, social, and practical adaptive skills, resulting from intellectual disability (intellectual developmental disorder) or neurocognitive disorder.¹**
- 3. The rights of people who have been sentenced to death should be protected in accord with the following principles and procedures:**
 - 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**

¹ A disorder or disability manifested primarily by repeated criminal conduct or attributable solely to the acute effects of voluntary use of alcohol or other drugs does not, standing alone, constitute a mental disorder or disability for purposes of this provision.

capacity (i) to make a rational decision to forego or terminate post-conviction proceedings available to challenge the validity of the conviction or sentence; or (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 on this, 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.