Editor:

The article by Drs. Joan B. Gerbasi and Charles L. Scott[1] thoroughly analyzes the current state of affairs with regard to the question of involuntary treatment of nondangerous defendants who are found to be "incompetent to stand trial." The authors conclude, sadly, that the answer to the question of whether the government can forcibly medicate a defendant solely for purposes of competency must await further interpretation and implementation of the *Sell* decision to be followed by legal challenge. Nevertheless, at least one element of the Supreme Court's *Sell* ruling is crystal clear: the Court established such a very high standard for forced medication (requiring medical appropriateness, ensuring that side effects do not interfere with trial fairness, employment of less intrusive measures, and proof of governmental necessity) as to guarantee that such forced treatment will be a rare occurrence indeed. Thus, it is inevitable that "incompetent" mentally ill defendants (including defendants who are actually innocent of the crime charged against them) who refuse medication will languish, untreated, in a psychiatric hospital, most likely a maximum security forensic hospital.

Two decades ago Dr. Alan A. Stone wisely proclaimed: "After all, we as psychiatrists need to confront policy questions first and constitutional questions second. If we don't, who will?" (Stone AA: personal communication, January 19, 1983). Some 30 years ago I[2] called for the abolition of the competency issue in criminal cases. It is in the spirit of Dr. Stone's cogent comment that I would like to revive my proposal. I would be happy to send a reprint of my article to any reader interested in bringing about a rational and morally sound system of dealing with allegedly incompetent mentally disordered criminal defendants.

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References

1. Gerbasi JB, Scott CL: *Sell v. U.S.*: Involuntary medication to restore trial competency—a workable standard? J Am Acad Psychiatry Law 32:83–90, 2004
2. Halpern AL: Use and misuse of psychiatry in the competency examination of criminal defendants. Psychiatr Ann 3:4:123–50, 1975

Editor:

Concerning the recent article of Sreenivasan *et al.* on "Expert Testimony in Sexually Violent Predator Commitments: Conceptualizing Legal Standards of 'Mental Disorder' and 'Likely to Reoffend' " (Volume 31, Number 4, 2003, page 472), I believe "2,107 cases" should be changed to "3,107 cases" and "45 percent" should be amended as "30.5 percent" or "31 percent."

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Reply

Editor:

With respect to our recently published article, "Expert Testimony in Sexually Violent Predator Commitments: Conceptualizing Legal Standards of 'Mental Disorder' and 'Likely to Reoffend' " (Volume 31, Number 4, pp. 471–85, 2003), a reader noticed a numeric error. The error appears on page 472 within the full paragraph on the right side of the page.

The reader believed that the figure 2,107 cases should be changed to 3,107 and that the 45 percent figure should be changed to 30.5 percent or 31 percent. We reviewed the original source document. The figures 2,107 and 45 percent as reported in our published article are accurate. However, the error we made is in the number of cases that were rejected by the Department of Mental Health as not meeting the criteria after their record review. That number is 1,669 and not 669 as published.

Therefore, the correction should read:

Of these, 1,669 were rejected as not meeting the criteria after a record review conducted by the Department of Mental Health.

We realize that we committed a typographical error on our manuscript that was not caught during our proof reading of the galleys. We apologize for this and are greatly appreciative of the reader's bringing this to our attention.

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