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FOREWORD

The *Denver Law Review* devotes its third issue each year to the Tenth Circuit. The purpose of the Tenth Circuit issue is to provide a forum for scholarship by professors, practitioners, and students on topics that have particular importance to the Tenth Circuit and its constituent states—Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming. This year’s practitioner’s pieces focus on an event of profound national, as well as regional, significance—the death penalty trial of the Aurora theater shooter James Holmes.

On July 20, 2012, James Holmes walked into a crowded movie theater in Aurora, Colorado, and began shooting. Twelve people were killed and seventy others were wounded, making the Aurora theater shooting one of the worst mass shooting events in United States history. After a three-month trial, Mr. Holmes’s insanity defense was rejected, and he was convicted on all 165 counts, including numerous counts of first-degree murder and attempted murder. Although Mr. Holmes was eligible for the death penalty, the jury sentenced him instead to life in prison without the possibility of parole.

Issue 93.3 features three articles related to the Holmes trial and the death penalty. Each of these articles is written from the unique perspective of practitioners who participated directly in the trial. Judge Carlos A. Samour, Jr. of Colorado’s 18th Judicial District, who presided over the trial, contributes an article describing the process of capital sentencing hearings in Colorado and the structure of James Holmes’s sentencing hearing. Tamara Brady, Daniel King, and Kristen Nelson of the Colorado Public Defenders Office—who defended Mr. Holmes together with Rebekka Higgs—contribute a piece about whether the death penalty has a place in our criminal justice system. District Attorney George Brauchler and Rich Orman—who prosecuted the case together with Karen Pearson, Jacob Edson, and Lisa Teesch-Maguire—contribute an article defending the Colorado death penalty in response to recent calls for its abolition. The article by Brauchler and Orman engages with an empirical study of the Colorado death penalty statute that was conducted by Professor Sam Kamin and Professor Justin Marceau. In this issue, these scholars provide a short summary of their response to Brauchler and Orman’s critique of their study. You can read their full response, which will be published in Volume 94 of the *Denver Law Review*, at 94 DENV. L. REV. 1 (2016) (forthcoming).

Issue 93.3 also includes three student comments written by members of the *Denver Law Review*. Two of the comments discuss recent Tenth Circuit decisions, and one discusses a recent Colorado statute. Haley DiRenzo’s comment addresses the Claire Davis School Safety

Act, critiquing new efforts to keep schools safe. Specifically, the comment highlights the danger that threat assessments in schools could pose to certain students and suggests turning the focus toward building positive school climates and placing a greater responsibility on the gun industry as an alternative to harmful threat assessments. Nicole Jones's comment on *Citizens United v. Gessler* discusses the current campaign finance disclosure landscape and argues that the Tenth Circuit's decision poses a significant risk of expanding the set of existing loopholes to an uncontrollable level. Kate Stevenson commented on *Andrew v. Douglas County School District*, demonstrating how courts applying the some educational benefit standard fail to properly evaluate the substantive adequacy of an individualized education plan in light of a child's unique needs, abilities, and circumstances and arguing for implementation of measures that encourage courts to recognize that appropriate educations vary according to the particular needs of different children.

This issue would not have been possible without the assistance of a number of terrific people. First, I would like to thank all of the authors for dedicating a significant amount of time to writing these excellent articles and comments. Next, I would like to thank Colleen Wort and Naomi Baez Amos for helping me liaise with the authors. After that, I would like to thank Professor Ian Farrell for his gracious assistance with this issue. Finally, I would like to thank all of the members of the *Denver Law Review* for their hard work editing these pieces and assisting with a variety of other tasks that made this issue possible.

The *Denver Law Review* is grateful for the rare privilege of publishing the observations of those at the heart of the James Holmes trial. I hope this issue highlights some of the key legal issues arising from this tragic event and provides some insight into the arguments for both retention and abolition of the death penalty.

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Tenth Circuit Comments Editor