Foreword

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FOREWORD

America has long been known as a melting pot, where individuals from every corner of the world come, seeking a better life for themselves and their families. Unfortunately, for thousands of immigrants, collateral consequences have forced their deportation, literally tearing families apart. The harsh reality of the collateral consequences doctrine has plagued everyone who has ever been a part of criminal proceedings, and its effects can be felt far beyond immigration. Criminal charges often have lasting effects on employment, housing, and access to other opportunities that most in society take for granted.

For decades, the Supreme Court has ruled that such “collateral” consequences were civil in nature, and were separate from the criminal sanctions resulting from a guilty plea. Therefore, counsel was not required to apprise defendants of any, often harsh, collateral consequences that would accompany their plea. This changed on March 31, 2010 with the Supreme Court’s ruling in Padilla v. Kentucky that counsel has a duty to inform a defendant that deportation is possible as a result of a guilty plea. This ruling has heightened the duty of counsel, and inevitably leads to more just results. Additionally, there has been recent litigation and extensive scholarly debate on how far Padilla extends to collateral consequences beyond deportation. This issue captures some of the cutting edge arguments that will be made and highlights the new requirements that defense counsel must follow when advising clients about pleas.

This issue also contains two student selections that further enrich the coverage of criminal law. Margaret Eveker’s Note provides a detailed analysis of United States v. Maynard, a case from the D.C. Circuit Court of Appeals, and Fourth Amendment jurisprudence on technologically-enhanced surveillance. The Supreme Court recently decided the appeal, United States v. Jones, with the majority relying on traditional trespass grounds to rule the surveillance in Jones violated the Fourth Amendment, meanwhile evading the question of whether or not GPS tracking violates a reasonable expectation of privacy. Her article provides a detailed and thought provoking analysis of the approaches used by the Seventh, Eighth, Ninth, and D.C. Circuits in cases involving GPS tracking. Emma Schuering’s Note addresses the substantial changes to Miranda jurisprudence, including the Supreme Court’s ruling in Berghuis v. Thompkins. Her Note walks through the history of the Miranda framework, provides a critical analysis of the Thompkins ruling in light of
Supreme Court precedent, and addresses the new realities that the accused face when invoking their right to remain silent in post-*Thomkins* world.

On behalf of the *Public Law Review*, we would like to thank Professor Lynn Branham for her help in setting up the *Padilla* Symposium. This issue could not have happened without her dedication to the law and assistance in recruiting speakers and authors for the Symposium. We would also like to thank our authors for the time and energy they invested in their articles and presentations at our Symposium. All are greatly respected in their fields, and it has been a privilege to work with them in publishing this issue. We are extremely thankful for our wonderful editors and staff at the *Public Law Review* who spent countless hours working on this issue to ensure that every article is the best that it can be. We are also very grateful for the generous assistance we received from the staff and research librarians of the Saint Louis University law library in preparing this issue. Thank you to Professor Matt Bodie for the invaluable advice and guidance that he has given to us throughout the year. And finally, a very special thank you to Susie and Will for all of their hard work behind the scenes—we could not have done it without you.

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