

Mental Health Law – Law 403 – Spring 2023

Note: the course text is required – see below!

See you in 2023!

Units: 4

Term—Day—Time: Spring 2023, Tuesdays, 3:30pm-6:50pm

Location: in-person; assigned classroom TBD

Instructor: Gregory Pleasants, J.D., M.S.W. (he / him / él)

Grader: none

Office: in-person (location TBD) or remote / via Zoom **Office Hours:** weekly and as needed by student request

Contact Info: gpleasants@law.usc.edu (please do not use my gpleasan@usc.edu email)

Course Description

The course explores foundational legal and practice concepts through three intersecting systems: the mental health system, the criminal system, and the immigration system, with principal emphasis on the mental health system. Areas of focus include:

- Basic features of the mental health, criminal, and immigration systems, and the operation and impact of the connecting "pipeline" between them.
- Core mental health legal concepts through review of seminal legal cases, including mental competence, reasonable accommodations, the right to mental health treatment and to refuse such treatment, and the State's power to order involuntary commitment.
- The protection (or lack of protection) for fundamental legal rights in institutional and / or coercive settings, including the involuntary commitment, jail and prison, and immigration detention settings.
- The roles of social determinants of health including systemic racism, stigma against people with mental health conditions, and the overuse of policing and incarceration, and lack of access to mental health care for people without insurance in compounding the inequities and mental health disparities of these systems.
- Established and emergent accommodations and safeguards to protect fundamental legal rights, including the emergent right to legal defense for people with mental health conditions in immigration court.
- Selected ethics issues, including the dueling roles of autonomy and paternalism, challenges to informed consent, the allocation of authority between the lawyer and the client with impaired capacity, the role of zealousness in the legal defense of a person with a serious mental health condition, the ongoing harm of solitary confinement, and the benefits of an integrated law + social work approach.

- The core values of the Recovery Model (empathy, authenticity, and respect) and person-centered practice skills, including active listening, avoidance of common clinical pitfalls, and client work in a shared decision-making framework based on mutual trust.
- The lived experience of people impacted by mental health systems (as described directly by such people). In this vein, this class is a space in which students are always welcomed but are never required to share their own mental health experiences and perspectives.

Learning Objectives: by the end of this course, students will be able to:

- 1. Apply knowledge of the basic features of the mental health, criminal, and immigration systems.
- 2. Identify, analyze, apply, and critique core mental health legal and policy concepts in class discussion throughout the course.
- 3. Identify and explain the connecting "pipeline" between the mental health, criminal, and immigration systems by the end of the course.
- 4. Understand and explain basics of the role of race, class, immigration status, and other identities / positionalities in driving mental health disparities (particularly those rooted in carceral settings).
- 5. Analyze, critique, postulate, and defend answers to ethics hypotheticals involving people with mental health conditions by the mid-point of the course.
- 6. Describe, explain, and apply in hypothetical client scenarios core Recovery Model values and person-centered practice skills by the end of the course.

Prerequisite(s); co-requisite(s), or recommended preparation: None.

Required Course Text – Important

Law and the Mental Health System: Civil and Criminal Aspects Slobogin, Hafemeister, Mossman, Reisner (7th Ed.).

The text is available through USC Bookstore or via West Academic at https://www.westacademic.com/Law-and-the-Mental-Health-System-Civil-and-Criminal-Aspects

Note: the text is required – it is not optional. Please rent or purchase the text before classes begin.

Readings from the text are required and will form the basis of a significant part of class discussion. Students will be tested on the reading (see Assignments, below). More fundamentally, review of a "case book"-style text is an essential preparatory skill for those who may wish to pursue legal education.

Please closely consider these requirements and expectations as you consider whether to take this course.

Note: apart from purchasing the required text new, students may also consider purchasing a used copy, renting a copy, consulting a library copy (copies have been placed on hold at the undergraduate USC Leavey Library), or

pursuing other means of text access. The Instructor encourages students to explore lower-cost options as possible, as long as the assigned readings are sufficiently accessible.

Other Reading Materials

Additional readings will be distributed by the Instructor (via Blackboard) throughout the course. Selected additional readings include (but are not limited to) the following:

- Aber, S., Pleasants, G., A Federal Defender Service for Immigrants: Why We Need a Universal, Zealous, and Person-Centered Model (2021).
- Cartwright, H., Hope, M., Pleasants, G., Self-Care in an Interprofessional Setting Providing Services to Detained Immigrants with Serious Mental Health Conditions (2020).
- Alina Das, Inclusive Immigrant Justice: Racial Animus and the Origins of Crime-Based Deportation (2018)
- John D. King, Candor, Zeal, and the Substitution of Judgment: Ethics and the Mentally Ill Criminal Defendant, 58 Am. U. L. Rev. 207 (2008)
- Ragins, M., Road to Recovery (2010)
- Ragins, Mark, M.D. Journeys Beyond the Frontier: A Rebellious Guide to Psychosis and Other Extraordinary Experiences. 2021. (ISBN-13: 979-8714629495)
- Saks, Elyn R. The Center Cannot Hold: My Journey Through Madness. 2008. (ISBN-13: 978-1401309442)

Assignments

There are four graded assignments, as set forth below, and one optional Extra Credit assignment. Additional instructions on the assignments will be provided during the course. The Mid-Term and Final Exams, as well as the Extra Credit, are "take home," while the Hearing Voices and Reading Pop Quiz assignments are in-class.

Note: the Mid-Term and Final Exam are "open book" – that is, the use and consultation of course materials (though not other sources such as the Internet) are highly encouraged. More guidelines will be given on this at the time of the exams. Please note, the Final Exam is <u>comprehensive</u> – that is, it covers all course material, form the beginning to the end of the course.

Grading Breakdown

Assignment	% of Grade
Mid-Term Exam	40
"Hearing Voices" Activity	5
Reading Pop Quiz	5
Final Exam	50
Total	100

Grading Scale

Course final grades will be determined using the following scale (updated 11 10 2022):

Letter Grade	Corresponding Numerical Point Range
A	93-100
A-	90-92
B+	87-89
В	83-86
B-	80-82
C+	77-79
С	73-76
C-	70-72
D+	67-69
D	63-66
D-	60-62
F	59 and below

Extra Credit

Any student may, by giving notice to the Instructor, elect to write a 5-7 page paper, APA-style and with appropriate citations, on a topic pre-approved by the Instructor, **OR** perform a comparable extra credit assignment in the discretion and with the prior permission of the Instructor. The extra credit is worth <u>up to</u> 5 points (or up to 5% of the final grade), but mere performance of the assignment is not a guarantee of the full 5 points. All extra credit assignments <u>must</u> be completed **on or before the end of the course.**

Course Policies

Attendance

The Instructor encourages, in the strongest terms, in-person attendance at all class periods. The Instructor can offer the best possible educational experience to those students who attend, in-person, each class. Each student will get out of the course what each puts into it; in-person attendance at all class periods is key to getting the most out of the course. Students who do not attend all class periods are very likely find it more difficult to learn and apply the course material and thus to attain the desired grade. Attendance, however, does not directly form part of the course grade (except for as part of the "Hearing Voices" exercise; see immediately below under *Participation*).

Participation

Participation is expected but does not form part of the course grade except as part of the "Hearing Voices" assignment, for which attendance and participation are required for the activity to work. (Students not participating in the Hearing Voices assigning risk receiving a "0" for that assignment). Even so, all students will be called on in class and expected to give responses that reflect having completed the in-class and reading assignments. Responding to oral questions and thinking on one's feet are key lawyering skills, and we will practice these skills in this course.

Preparation

Being prepared is an essential habit of effective legal practice. Students will be called on in class and expected to give responses that reflecting having completed the reading assignments.

Professionalism and Respect

Students are required to treat this class and one another with professionalism and respect. That never requires agreement on the merits for the topics we will discuss, but it does require listening, consideration of others' views, and thoughtful, respectful, and empathetic engagement. The Instructor will follow this standard and expects and requires students to do so as well.

Use of Computers, Cellphones, and Like Devices

Use of such devices to take notes and to engage in coursework is encouraged. Use of such devices for other reasons during course hours is generally not permitted. If a student anticipates attending to an important communication during class, prior notice to the Instructor is appropriate and appreciated.

Course Schedule: A Weekly Breakdown

The course calendar follows. Please note:

- "Text" refers to the Required Text, above. Readings may be reduced during the course depending on the pace of the course.
- Instructor may add supplementary readings in lieu of Text readings or as optional readings.
- Items in red are the overarching sections of the course; items in bold denote important topics.
- Depending on the pace of the course, some items in italics will be covered very briefly or omitted.

	Topics/Daily Activities	Readings / Deliverables
Week 1 Tuesday, January 10, 2023	 Course Introduction Personal introductions Review syllabus Review of Student Support Services and Student Accommodations Review slides, including "The Stakes" Personal learning goals – breakout discussion and report back The Mental Health <> Criminal <> Immigration Pipeline Hypo review 	Ragins, M., Road to Recovery (2010), pp. 1-8 Cartwright, H., Hope, M., Pleasants, G., Self-Care in an Interprofessional Setting Providing Services to Detained Immigrants with Serious Mental Health Conditions (2020) Alina Das, Inclusive Immigrant Justice: Racial Animus and the Origins of Crime-Based Deportation (2018)
Week 2 Tuesday, January 17, 2023	I. The Mental Health System Brief Introduction to the Mental Health System Context: history, scale, shape, actors, selected data, and issues Payment and parity De-institutionalization Trans-institutionalization: jails and prisons as new "hospitals" Homelessness, substance abuse, and mental health CA: Mental Health Services Act Mental Health System <> Criminal System Pipeline Introduction to Mental Health Conditions Definition of mental health condition Impairment, functioning, competence Models: biomedical; social determinants of health / person in the environment Labels, stigma, and race Professions DSM-V / review of selected mental health conditions Recovery, Rogerian Triad, peoplefirst language, trust	7th edition Text, pp. 1-31 (until B., Biological Therapies) 7th edition Text, pp. 1501-1511

Week 3 Tuesday, January 24, 2023	Competence in the Mental Health System Introduction to "competence:" conceptual predicates; competent to do what? Race, gender, and labeling as "incompetent" Competence for other tasks	7 th edition Text, pp. 1045-1061
Week 4 Tuesday, January 31, 2023	Competence in the Mental Health System Informed consent Right to Refuse and Consent to Psychiatric Treatment	Informed Consent 7 th edition Text, pp. 307-315 (stopping at Section II) Right / competence to refuse treatment: 7 th edition Text, pp. 1089 (starting with "The Right to Refuse") – 1120 (includes Washington v. Harper, 494 U.S. 210) (1990))
Week 5 Tuesday, February 7, 2023	Conditions of Confinement in the Mental Health System Involuntary commitment – police power basis Dangerousness CA: Lanterman-Petris-Short Act and patients' rights (short introduction) Harm of "no treatment"	7 th edition Text, pp. 811-857 7 th edition Text, 930-940 (<i>Addington v. Texas</i> , 441 U.S. 418 (1979), and commentary) (re: standards of proof)
Week 6 Tuesday, February 14, 2023	Conditions of Confinement in the Mental Health System Involuntary Commitment – parens patriae basis Harm of "no treatment"	7 th edition Text, pp. 861-896 7 th edition Text, 1159 (starting at 3.) – 1168 Jackson v. Indiana, 406 U.S. 715 (1972)

Week 7 Tuesday, February 21, 2023	Right to Treatment in the Involuntary Commitment Setting • Youngberg v. Romeo Least Restrictive Alternative Doctrine	Right to Treatment in Commitment Setting 7th edition Text, pp. 1241 – 1276 (very top, stopping at III) -Skim 1242, Nocera – 1254, Fisher et. alRead 1260-1276, Youngberg v. Romeo Least Restrictive Alternative Doctrine 7th edition Text, pp. 896-912 (skim)
Week 8 Tuesday, February 28, 2023	 Americans with Disabilities Act, Rehabilitation Act of 1973 Discrimination – cognizable Reasonable accommodations and safeguards Undue burden / hardship 	ADA and Rehab Act 7 th edition Text, pp. 1407-1422 (read closely); Instructor to provide additional materials as well via Blackboard.
Week 9 Tuesday, March 7, 2023	Mid-Term Exam Covers "Course Introduction" and "The Mental Health System."	Study for Mid-Term.
Week 10 Tuesday March 14, 2023	Spring Recess March 12-19 – NO CLASS	Rest and Enjoy Your Time Off

Week 11 Tuesday, March 21	II. The Criminal System	Aber, S., Pleasants, G., A Federal
Tuesday, March 21, 2023	Brief Introduction to the Criminal System • Context: history, scale, shape, actors, selected data, and issues • Pre-trial detention and bond; pleas (overwhelming prevalence); sentencing and incarceration • Prevalence of mental health conditions in jails and prisons; right to treatment? • Impact of mental health and race • Mental Health System > Criminal System Pipeline	Defender Service for Immigrants: Why We Need a Universal, Zealous, and Person-Centered Model (2021). John D. King, Candor, Zeal, and the Substitution of Judgment: Ethics and the Mentally Ill Criminal Defendant, 58 Am. U. L. Rev. 207 (2008) (read closely).
	 Ethics: Allocation of Authority Allocation of authority in the lawyer-client relationship Relevant Model Rules; Restatement (3rd) rules Protective action and scope Substitution of judgment, expressed interest, hybrid 	
Week 12 Tuesday, March 28, 2023	 Competence in the Criminal System Review – competence to do what? Competence to stand criminal trial (Dusky, Edwards) 	7 th edition Text, 1134 (starting at V) - 1149 7 th edition Text, 1188-1206 (until note 4) Dusky v. United States, 362 U.S. 402 (1960) Indiana v. Edwards, 554 U.S. 164 (2008)

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Week 13	Conditions of Confinement in the	Davis v. Ayala, 576 U.S. (2015)
Tuesday, April 4,	Criminal System	(Kennedy concurrence only)
2023	• Solitary confinement / segregation	
	 Pre-trial detention and bond 	American Psychological Association,
	Kalief Browder	Alone, in 'the hole', May 2012
	Haney Browner	Psychology Today, The Effects of
	Hearing Voices Assignment (in class)	Solitary Confinement on the Brain, February 2019
		Vera Institute of Justice, Solitary Confinement: Common Misperceptions and Emerging Safe Alternatives, May 2015 (p.3; pp. 17- 18 (Misconception #5))
		The New Yorker, <i>Before the Law</i> , September 2014
		The New York Times, Kalief Browder, Held at Rikers Island for 3 Years Without Trial, Commits Suicide, June 2015
Week 14	III. The Immigration Court and	Review instructor-provided slides on
Tuesday, April 11, 2023	Detention System	a) immigration court and detention basics and b) criminalization of drug
2023	Brief Introduction to the	use.
	Immigration Court and Detention	use.
	System	Alina Das, <i>Inclusive Immigrant</i>
	• Context: history, scale, shape,	Justice: Racial Animus and the
	actors, selected data, and issues	Origins of Crime-Based Deportation
		(2018)
	• Immigration detention;	(2010)
	immigration court; bond	(Note: read the Prof. Das article
	 Immigration Judge: racial and mental health bias; lack of judicial independence 	closely – this is a synthesis piece that draws together many of the critical themes of the course. The article is
	Right to counsel? Representation rates and the effect of no representation on due process and outcomes	complex and will require re-reading. Students should be prepared to discuss this article and its thesis in detail.).
	• Criminal System > Immigration	
	Enforcement System Pipeline	

Week 15

Tuesday, April 18, 2023

Competence in the Immigration Enforcement System

 Competence to represent self in immigration proceedings – Matter of M-A-M; Franco Pro Se Competence Standard

Americans with Disabilities Act, Rehabilitation Act of 1973 – Revisited

• Franco-Gonzalez v. Holder (and background)

Conditions of Confinement in the Immigration Enforcement System

- What is the applicability if any to the law and concepts we have reviewed to immigration detention? Is there any?
- Least restrictive alternative?
- Right to safety, freedom from restraints and segregation, and treatment in immigration detention?
- Right to treatment in the community?
- Deliberate indifference to unsafe conditions?
- Solitary confinement / segregation / self-harm?

Franco Gonzalez v. Holder (third amended complaint) (read closely)

Matter of M-A-M (read closely)

OIG Adelanto Report (2018) (skim)

July 24 2009 Holder Letter (skim)

Ochoa, Pleasants, et al, *Disparities in Justice and Care* (2010) (skim)

Week 16
Tuesday, April 25,
2023

Classes End: Fri, April 28, 2023

Study Days: Sat-Tue, April 29 – May 2, 2023

Exams: Wed-Wed, May 3-10, 2023

Right to Treatment in the Community – Discharge Planning Upon Release from Immigration Detention

• Right to discharge planning (Charles vs. Orange County)

Course Evaluations

Discussion / review for Final Exam. We will spend at least 1/3 of class discussing the final exam, which will be the same format as the Mid-Term exam.

Discharge Planning Charles v. County of Orange (to be distributed on Blackboard by Instructor)

Prepare for Final Exam.

Statement on Academic Conduct and Support Systems

The current **Statement on Academic Conduct and Support Systems** is a required component of all USC syllabi.

Academic Integrity:

The University of Southern California is a learning community committed to developing successful scholars and researchers dedicated to the pursuit of knowledge and the dissemination of ideas. Academic misconduct, which includes any act of dishonesty in the production or submission of academic work, comprises the integrity of the person who commits the act and can impugn the perceived integrity of the entire university community. It stands in opposition to the university's mission to research, educate, and contribute productively to our community and the world.

All students are expected to submit assignments that represent their own original work, and that have been prepared specifically for the course or section for which they have been submitted. You may not submit work written by others or "recycle" work prepared for other courses without obtaining written permission from the instructor(s).

Other violations of academic integrity include, but are not limited to, cheating, plagiarism, fabrication (e.g., falsifying data), collusion, knowingly assisting others in acts of academic dishonesty, and any act that gains or is intended to gain an unfair academic advantage.

The impact of academic dishonesty is far-reaching and is considered a serious offense against the university. All incidences of academic misconduct will be reported to the Office of Academic Integrity and could result in outcomes such as failure on the assignment, failure in the course, suspension, or even expulsion from the university.

For more information about academic integrity see <u>the student handbook</u> or the <u>Office of Academic Integrity's</u> <u>website</u>, and university policies on <u>Research and Scholarship Misconduct</u>.

Please ask your instructor if you are unsure what constitutes unauthorized assistance on an exam or assignment, or what information requires citation and/or attribution.

Students and Disability Accommodations:

USC welcomes students with disabilities into all of the University's educational programs. The Office of Student Accessibility Services (OSAS) is responsible for the determination of appropriate accommodations for students who encounter disability-related barriers. Once a student has completed the OSAS process (registration, initial appointment, and submitted documentation) and accommodations are determined to be reasonable and appropriate, a Letter of Accommodation (LOA) will be available to generate for each course. The LOA must be given to each course instructor by the student and followed up with a discussion. This should be done as early in the semester as possible as accommodations are not retroactive. More information can be found at osas.usc.edu. You may contact OSAS at (213) 740-0776 or via email at osasfrontdesk@usc.edu.

Support Systems:

Counseling and Mental Health - (213) 740-9355 - 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

988 Suicide and Crisis Lifeline - 988 for both calls and text messages – 24/7 on call

The 988 Suicide and Crisis Lifeline (formerly known as the National Suicide Prevention Lifeline) provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week, across the United States. The Lifeline is comprised of a national network of over 200 local crisis centers, combining custom local care and resources with national standards and best practices. The new, shorter phone number makes it easier for people to remember and access mental health crisis services (though the previous 1 (800) 273-8255 number will continue to function indefinitely) and represents a continued commitment to those in crisis.

Relationship and Sexual Violence Prevention Services (RSVP) - (213) 740-9355(WELL) – 24/7 on call Free and confidential therapy services, workshops, and training for situations related to gender- and power-based harm (including sexual assault, intimate partner violence, and stalking).

Office for Equity, Equal Opportunity, and Title IX (EEO-TIX) - (213) 740-5086

Information about how to get help or help someone affected by harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants.

Reporting Incidents of Bias or Harassment - (213) 740-5086 or (213) 821-8298

Avenue to report incidents of bias, hate crimes, and microaggressions to the Office for Equity, Equal Opportunity, and Title for appropriate investigation, supportive measures, and response.

The Office of Student Accessibility Services (OSAS) - (213) 740-0776

OSAS ensures equal access for students with disabilities through providing academic accommodations and auxiliary aids in accordance with federal laws and university policy.

USC Campus Support and Intervention - (213) 740-0411

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

Diversity, Equity and Inclusion - (213) 740-2101

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

<u>USC Emergency</u> - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

<u>USC Department of Public Safety</u> - UPC: (213) 740-6000, HSC: (323) 442-1200 – 24/7 on call Non-emergency assistance or information.

Office of the Ombuds - (213) 821-9556 (UPC) / (323-442-0382 (HSC)

A safe and confidential place to share your USC-related issues with a University Ombuds who will work with you to explore options or paths to manage your concern.

Occupational Therapy Faculty Practice - (323) 442-2850 or otfp@med.usc.edu

Confidential Lifestyle Redesign services for USC students to support health promoting habits and routines that enhance quality of life and academic performance.

// end of syllabus

Syllabus Law 403 Spring 2023 last updated 11 20 2022 (draft) GLP