Minding Justice Laws That Deprive People With Mental Disability Of Life And Liberty By Slobogin Christopher 2006 Hardcover

This book replaces the successful Controversies in Health Law. Under the same editorship and much the same authorship, it is substantially larger (30 chapters instead of 18) and correspondingly more comprehensive. It retains the lively analysis and the focus on controversial and cutting-edge problems. The chapters are broken up into parts covering Litigation and Liability; Reproductive Technologies: The Sequelae of the End of Life; Public Health; Ethical Frameworks and Dilemmas; Regulation; Human Rights and Therapeutic Jurisprudence; Research and Vulnerability and Information, Privacy and Confidentiality. They consider issues raised by new technologies, changing legislation and altering community expectations; by new regulatory processes for medicine and all of the health professions; by the fundamental changes to civil liability for medical negligence; by the fierce debate over the role of coroners. Disputes and Dilemmas in Health Law covers questions on property in human tissue and on the ethical and legal aspects of the genetics revolution; provides a modern take on "old" issues such as reproductive law; takes account of changes relating to expert evidence; and discusses how difficult cases in relation to psychiatric injury and wrongful life are pushing compensability to its edges.

Examining the treatment of persons with mental disabilities in the criminal justice system, this book offers new perspectives that are crucial to an understanding of the ways in which society projects onto criminal defendants prejudices and attitudes about responsibility, free will, autonomy, choice, public safety, and the meaning and purpose of punishment, all with a focus on ways to enhance dignity in the criminal trial process. It is a detailed exploration of issues of adequacy of counsel; the impact of international human rights law, following the ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD); the role of mental health courts; and the influence of therapeutic jurisprudence, procedural justice, and restorative justice on the legal process. It considers all of these perspectives in the context of criminal justice system issues such as competency findings, the insanity defense, and sentencing. Demonstrating how the question of treatment of persons with mental disabilities in the criminal justice system is not only a vital one for both scholars and practitioners, but also a central facet of international human rights law, this book suggests policy development, further scholarly inquiries, and newly invigorated thinking and action to place dignity at the core of the criminal justice system.

Minding Justice

Laws that Deprive People with Mental Disability of Life and Liberty

Harvard University Press

This new edition has many new and enhanced features while it continues to rely heavily on the integration of visuals to elucidate concepts to solidify an understanding of them. Examples throughout show how to use psychology in the workplace and in personal relationships, while demonstrating the role psychology plays in other practical everyday issues. This book helps examine personal studying and learning styles with several new pedagogical aids -- encouraging readers to apply what they are learning to their everyday lives--

Advies over hoe de samenleving zou (kunnen) omgaan met delictplegers met psychi(atri)sche problemen.

This book is written for researchers, scholars, advanced graduate students, and clinicians who work in risk assessment and criminal responsibility. It addresses the question of admitting expert testimony from behavioral health experts in determining matters of culpability and dangerousness by examining a number of factors, including the source of the expert testimony, whether juries need it, and whether it is presented as proven or informed in the court. It argues that the question cannot be understood as a dualistic matter of being for or against expert testimony; rather, its highly nuanced arguments show that determining who should be punished and who should be preventively detained must happen through an interdisciplinary process that looks at the specific circumstances of each case. It offers an analytic framework for making these determinations that treats culpability and dangerousness not as static, ontologically-complete entities, but rather as socially-constructed concepts that cannot be determined solely through the scientific method. The book makes the intriguing argument throughout that although expert testimony cannot be considered scientifically reliable or proven, it should nevertheless be included as long as it can be classified and understood as informed speculation because it makes legal factfinders attend more closely to the matters that the law considers pertinent to past mental states. It seeks to reconcile the tension between the law's demand for accuracy and the inability of behavioral science to provide more than speculative answers for most questions raised by the insanity defense and related doctrines and by sentencing, commitment and sex offender statutes that require determinations of risk.

It is no secret that America's sentencing and corrections systems are in crisis, and neither system can be understood or repaired fully without careful consideration of the other. This handbook examines the intertwined and multi-layered fields of American sentencing and corrections from global and historical viewpoints, from theoretical and policy perspectives, and with close attention to many problem-specific arenas. Editors Joan Petersilia and Kevin R. Reitz, both leaders in their respective fields, bring together a group of preeminent scholars to present state-of-the art research, investigate current practices, and explore the implications of new and varied approaches wherever possible. The handbook's contributors bridge the gap between research and policy across a range of topics including an overview of mass incarceration and its collateral effects, explorations of sentencing theories and their applications, analyses of the full spectrum of correctional options, and first-hand accounts of life inside of and outside of prison. Individual chapters reflect expertise and source materials from multiple fields including criminology, law, sociology, psychology, public policy, economics, political science, and history. Proving that the problems of sentencing and corrections, writ large, cannot be addressed effectively or comprehensively within the confines of any one discipline, The Oxford Handbook of Sentencing and Corrections is a vital reference volume on these two related and central components of America's ongoing experiment in mass incarceration.

This Fifth Edition of TAKING SIDES: ABNORMAL PSYCHOLOGY presents current controversial issues in a debate-style format designed to stimulate student interest and develop critical thinking skills. Each issue is thoughtfully framed with an issue summary, an issue introduction, and a postscript. An online instructor's resource guide with testing material is available. USING TAKING SIDES IN THE CLASSROOM (ISBN 9780073343907) is also an excellent instructor resource with practical suggestions on incorporating this effective approach in the classroom.
Richly interdisciplinary in orientation, this insightful volume in the AP-LS series explores the phenomena of captivity and risk management, guided and informed by the theory, method, and policy of psychological jurisprudence.

Details some of the many "corporate crimes" against society and describes the attempts by individuals and citizen groups to correct these abuses.

[Being and Logos is] a philosophical adventure of rare inspiration. . . . Its power to illuminate the text . . . . its ecumenicy of inspiration, its methodological rigor, its originality, and its philosophical profundity—all together make it one of the few philosophical interpretations that the philosopher will want to re-read along with the dialogues themselves. A superadded gift is the author’s prose, which is a model of lucidity and grace.” —International Philosophical Quarterly John Sallis’s luminous reading of six major Platonic dialogues—Apology, Meno, Phaedrus, Cratylus, Republic, and Sophist—weaves discussion of dramatic and mythical aspects together with basic philosophical issues. Being and Logos fundamentally reorients our reading and understanding of the platonic dialogues. This new edition of this classic of philosophical interpretation augments the Collected Writings of John Sallis, published by Indiana University Press.

“You can’t be convicted of a crime without a guilty act and a guilty mind.” A lawyer might dress the same idea up in Latin: “You cannot be convicted of a crime without actus reus and mens rea.” Things like that are often said, but what do people mean when they say them? Guilty Acts, Guilty Minds proposes an understanding of mens rea and actus reus as limits on the authority of a state, and in particular the authority of a democratic state, to ascribe guilt through positive law to those accused of crime. Actus reus and mens rea are necessary conditions, among others, for the legitimacy, as distinct from the justice, of state punishment. The actus reus requirement disables a democratic state from using its authority, on the one hand, to ascribe guilt to those who didn’t realize they were committing a crime, provided they lacked the capacity to realize they were committing a crime; and on the other, to ascribe guilt to those who realized they were committing a crime, but who lacked the capacity to conform to their conduct to the requirements of law. The mens rea requirement disables a democratic state from using its authority, on the one hand, to ascribe guilt to those who didn’t realize they were committing a crime, provided their ignorance manifested no lack of law-abiding concern for the law and its ends, and on the other, to ascribe guilt to those who realized they were committing a crime, but whose failure to conform to the law nonetheless manifested no lack of law-abiding concern for the law and its ends”...

By examining the highly contested legal debate about the regulation of pornography through an epistemic lens, this book analyzes competing claims about the proper role of speech in our society, pornography's harm, the relationship between speech and equality, and whether law should regulate and, if so, upon what grounds. In maintaining that inequitarian pornography generates discursive effects, the book contends that law cannot simply adopt a libertarian approach to free speech. While inequitarian pornography may not be determinative of gender inequality, it does contribute, reinforce, reflect and help maintain such unfairness. As a result, we can place reasonable gender-based regulations on inequitarian pornography while upholding our most treasured commitments to dissident speech just as other liberal democracies have done. —Stephen Macedo, Princeton University

The Marion Experiment combines academic research with personal accounts by prisoners to investigate solitary confinement and supermax prisons. USP Marion became a model for supermax prisons, with many other prison systems—in the U.S. and abroad—copying the special architectural and program innovations there.

Tens of thousands of readers have relied on this leading text and practitioner reference—now revised and updated—to understand the issues the legal system most commonly asks mental health professionals to address. Highly readable, the volume demystifies the forensic psychological assessment process and provides guidelines for participating effectively and ethically in legal proceedings. Presented are clinical and legal concepts and evidence-based assessment procedures pertaining to criminal and civil competencies, the insanity defense and related doctrines, sentencing, civil commitment, personal injury claims, antidiscrimination laws, child custody, juvenile justice, and other justice-related areas. Case examples, exercises, and a glossary facilitate learning; 19 sample reports illustrate how to conduct and write up thorough, legally admissible evaluations. New to This Edition "Extensively revised to reflect important legal, empirical, and clinical developments. "Increased attention to medical and neuroscientific research. "New protocols relevant to competence, risk assessment, child custody, and mental injury evaluations. "Updates on insanity, sentencing, civil commitment, the Americans with Disabilities Act, Social Security, juvenile and family law, and the admissibility of expert testimony. "Material on immigration law (including a sample report) and international law. "New and revised sample reports.

Conveys the breadth and depth of the social work profession's collective expertise, formulated and written by social workers from many backgrounds and competencies.

The metaphor of the monster or predator—usually a sexual predator, drug dealer in areas frequented by children, or psychopathic murderer—is a powerful framing device in public discourse about how the criminal justice system should respond to serious violent crimes. The cultural history of the monster reveals significant features of the metaphor that raise questions about the extent to which justice can be achieved in both the punishment of what are regarded as "monstrous crimes" and the treatment of those who commit such crimes. This book is the first to address the connections between the history of the monster metaphor, the 19th century idea of the criminal as monster, and the 20th century conception of the psychopath: the new monster. The book addresses, in particular, the ways in which the metaphor is used to scapegoat certain categories of crimes and criminals for anxieties about our own potential for deviant, and, indeed, dangerous interests. These interests have long been found to be associated with the fascination people have for monsters in most cultures, including the West. The book outlines an alternative public health approach to sex offending, and crime in general, that can incorporate what we know about illness prevention while protecting the rights, and humanity, of offenders. The book concludes with an analysis of the role of forensic psychiatrists and psychologists in representing criminal defendants as psychopaths, or persons with certain personality disorders. As psychiatry and psychology have transformed bad behavior into mad behavior, these institutions have taken on the legal role of helping to sort out the most dangerous among us for preventive "treatment" rather than carceral "punishment."

This treatise is a detailed article-by-article examination of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Each article of the CRPD contains a methodical analysis of the preparatory works, followed by an exhaustive examination of the contents of each article based on case law and concluding observations from the CRPD Committee, judgments from national and international courts and tribunals, pertinent UN and other reports, the key literature on the article under review. The volume features commentary from a broad range of scholars across a variety of disciplines in order to provide a comprehensive study of the legal, psychological, education, sociological, and other aspects of the CRPD. This encyclopaedic commentary on the CRPD effectively covers all the issues arising from international disability law and practice, and will be an ideal resource for all working in the field.

Many decisions in law and elsewhere depend on predictions of crimes and mental illnesses. Can biology make these predictions more accurate? Do we want our government to use biology in this way? These questions and more are discussed in this volume by prominent scientists, ethicists, and legal scholars.

In the 1960s and 1970s, a popular diagnosis for America’s problems was that society was becoming a madhouse. In this intellectual and cultural history, Michael E. Staub examines a time when many believed insanity was a sane reaction to obscene social conditions, psychiatrists were agents of repression, asylums were gulag’s for society’s undesirables, and mental illness was...
a concept with no medical basis. Madness Is Civilization explores the general consensus that societal ills—from dysfunctional marriage and family dynamics to the Vietnam War, racism, and sexism—were at the root of mental illness. Staub chronicles the surge in influence of socially attuned psychodynamic theories along with the rise of radical therapy and psychiatric survivors' movements. He shows how the theories of antipsychiatry held unprecedented sway over an enormous range of medical, social, and political debates until a bruising backlash against these theories—part of the reaction to the perceived excesses and self-absorptions of the 1960s—effectively distorted them into caricatures. Throughout, Staub reveals that at stake in these debates of psychiatry and politics was nothing less than how to think about the institution of the family, the nature of the self, and the prospects for, and limits of, social change. The first study to describe how social diagnostic thinking emerged, Madness Is Civilization casts new light on the politics of the postwar era.

This comprehensive examination of the laws governing the punishment, detention, and protection of people with mental disabilities provides innovative solutions to problems associated with criminal responsibility, protection of society from "dangerous" individuals, and the state's authority to act paternalistically.

expands traditional inquiry regarding the significance of psychopathology in the criminal process to include blameworthiness for sentencing, criminal competence at various stages in the process, and dangerousness pairs legal analysis with empirical research in order to promote integration of these two aspects of relevant inquiry addresses a wide range of participants in the legal, clinical, and academic disciplines.

Michael Perlin shows how the administration of the death penalty deprives persons with mental disabilities of their constitutional rights, and how trial courts and prosecutors consciously flout the law. Using real life examples, he brings this often overlooked situation to light and calls for immediate change.

In this book a distinguished philosopher offers a comprehensive interpretation of Plato's most controversial dialogue. Treating the Republic as a unity and focusing on the dramatic form as the presentation of the argument, Stanley Rosen challenges earlier analyses of the Republic (including the ironic reading of Leo Strauss and his disciples) and argues that the key to understanding the dialogue is to grasp the author's intention in composing it, in particular whether Plato believed that the city constructed in the Republic is possible and desirable. Rosen demonstrates that the fundamental principles underlying the just city are theoretically attractive but that the attempt to enact them in practice leads to conceptual incoherence and political disaster. The Republic, says Rosen, is a vivid illustration of the irreconcilability of philosophy and political practice.

 Properly developed algorithms can reduce incarceration and help policymakers adopt more legally sophisticated bail and sentencing practices.

In this remarkable collaboration, one of the nation's leading civil rights lawyers joins forces with one of the world's foremost cultural psychologists to put American constitutional law into an American cultural context. By close readings of key Supreme Court opinions, they show how storytelling tactics and deeply rooted mythic structures shape the Court's decisions about race, family law, and the death penalty. Minding the Law explores crucial psychological processes involved in the work of lawyers and judges: deciding whether particular cases fit within a legal rule ("categorizing"), telling stories to justify one's claims or undercut those of an adversary ("narrative"), and tailoring one's language to be persuasive without appearing partisan ("rhetorics"). Because these processes are not unique to the law, courts' decisions cannot rest solely upon legal logic but must also depend vitally upon the underlying culture's storehouse of familiar tales of heroes and villains. But a culture's stock of stories is not changeless. Amsterdam and Bruner argue that culture itself is a dialectic constantly in progress, a conflict between the established canon and newly imagined "possible worlds." They illustrate the swings of this dialectic by a masterly analysis of the Supreme Court's race-discrimination decisions during the past century. A passionate plea for heightened consciousness about the way law is practiced and made, Minding the Law titre will be welcomed by a new generation concerned with renewing law's commitment to a humane justice. Table of Contents: 1. Invitation to a Journey 2. On Categories 3. Categorizing at the Supreme Court Missouri v. Jenkins and Michael H. v. Gerald D. 4. On Narrative 5. Narratives at Court Prigg v. Pennsylvania and Freeman v. Pitts 6. On Rhetorics 7. The Rhetorics of Death McCleskey v. Kemp 8. On the Dialectic of Culture 9. Race, the Court, and America's Dialectic From Plessy through Brown to Pitts and Jenkins 10. Reflections on a Voyage Appendix: Analysis of Nouns and Verbs in the Prigg, Pitts, and Brown Opinions Table of Cases Index Reviews of this book: Amsterdam, a distinguished Supreme Court litigator, wanted to do more than share the fruits of his practical experience. He also wanted to...get students to think about thinking like a lawyer....To decode what he calls "law-think," he enlisted the aid of the venerable cognitive psychologist Jerome Bruner. Their collaboration has resulted in [this] unusual book. --James Ryerson, Lingua Franca Reviews of this book: It is hard to imagine a better time for the publication of Minding the Law, a brilliant dissection of the court's work by two eminent scholars, law professor Anthony G. Amsterdam and cultural anthropologist Jerome Bruner....Issue by issue, case by case, Amsterdam and Bruner make mincemeat of the court's handling of the most important constitutional issue of the modern era: how to eradicate the American legacy of race discrimination, especially against blacks. --Edward Lazarus, Los Angeles Times Book Review Reviews of this book: This book is a gem...[its thesis] is easily stated but remarkably unrecognized among a shockingly large number of lawyers and law professors: law is a storytelling enterprise thoroughly entrenched in culture....Whereas critical legal theorists have talked among themselves for the past two decades, Amsterdam and Bruner seek to engage all of us in a dialogue. For that, they should be applauded.

--Daniel R. Williams, New York Law Journal Reviews of this book: In Minding the Law, Anthony Amsterdam and Jerome Bruner show us how the Supreme Court creates the magic of inevitability. They are angry at what they see. Their book is premised on the conviction that many of the choices made in Supreme Court opinions 'lack any justification in the text'....Their method is to analyze the text of opinions and to show how the conclusions reached do not always follow from the logic of the argument. They also show how the Court casts its rhetoric like a spell, mesmerizing its audience, and making the highly contingent shine with the light of inevitability. --Mitchell Goodman, News and Observer

(Chicago, North Carolina) Reviews of this book: What do controversial Supreme Court decisions and classic age-old tales of adultery, villainy, and combat have in common? Everything--at least in the eyes of [Amsterdam and Bruner]. In this substantial study, which is equal parts dense and entertaining, the authors use theoretical discussions of literary technique and myths to expose what they see as the secret intentions of Supreme Court opinions...Studying how lawyers and judges employ the various literary devices at their disposal and noting the similarities between legal thinking and classic tactics of storytelling and persuasion, they believe, can have 'astonishing consciousness-retrieving effects'....The agile minds of Amsterdam and Bruner, clearly storehouses of knowledge on a range of subjects, allow an approach that might sound far-fetched occasionally but pays dividends in the form of gained perspective--and amusement. --Elisabeth Lasch-Quinn, Washington Times Reviews of this book: Stories and the way judges-intentionally or not-categorize and spin them, are as responsible for legal rulings as logic and precedent, Mr. Amsterdam and Mr. Bruner said. Their novel attempt to reach into the psyche of...members of the Supreme Court is part of a growing interest in a long-neglected and cryptic subject: the psychology of judicial decision-making. --Patricia Cohen, New York Times Most law professors teach by the 'case method,' or say they do. In this fascinating book, Anthony Amsterdam--a lawyer--and Jerome Bruner--a psychologist--expose how limited most case 'analysis' really is, as they show how much can be learned through the close reading of the phrases, sentences, and paragraphs that constitute an opinion (or other pieces of legal writing). Reading this

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book will undoubtedly make one a better lawyer, and teacher of lawyers. But the book's value and interest goes far beyond the legal profession, as it analyzes the way that rhetoric -- in law, politics, and beyond -- creates pictures and convictions in the minds of readers and listeners. --Sanford Levinson, author of Constitutional Faith Tony Amsterdam, the leader in the legal campaign against the death penalty, and Jerome Bruner, who has struggled for equal justice in education for forty years, have written a guide to demystifying legal reasoning. With clarity, wit, and immense learning, they reveal the semantic tricks lawyers and judges sometimes use -- consciously and unconsciously -- to justify the results they want to reach. --Jack Greenberg, Professor of Law, Columbia Law School

In their latest collaboration, Clinical Manual of Psychiatry and Law, noted forensic psychiatrist Dr. Robert Simon and law professor Daniel Shuman, both recipients of the Guttmacher Award, have created a unique, practical reference to enable psychiatrists to transform the impact of the law on their clinical practices from an adversary to a working partner. In lieu of scare tactics or horror stories, Dr. Simon and Professor Shuman clearly explain not only what the law requires and why but how best to integrate its requirements to enhance clinical practice and reduce the risk of successful tort claims. They have written a clear, comprehensible, and accessible volume that will guide practitioners through the thickets of the law and benefit their clinical practices. This volume covers a wide range of topics, from confidentiality, privilege, informed consent and the right to refuse treatment to treatment boundaries, involuntary hospitalization, seclusion and restraint, management of violent as well as suicidal patients, and the additional requirements which apply to the treatment and evaluation of minors or persons with mental disabilities. It also includes the tort (i.e., negligence, intentional harm) claims that arise from a breach of the law's expectations. The content reflects the latest legal precedents concerning such topics as: Establishment of the doctor-patient relationship and liability for damages caused by its breach, including new rulings governing confidentiality and testimonial privileges Case law regarding informed consent -- especially the issue of competency when dealing with minors or persons with mental disabilities New rules and regulations restricting the use of seclusion and restraint Guides to the most recent laws regarding involuntary hospitalization and emergency commitment Insights into recent state court decisions concerning disclosures by therapists of threats of harm by patients against others, including such issues as conflicts between the duty to maintain confidentiality and the duty to protect Reviews of recent legislation proscribing sexual misconduct or prosecuting sexual sexual exploitation of victims Guides to the most recent laws regarding involuntary hospitalization and emergency commitment.

Criminal Law Conversations provides an authoritative overview of contemporary criminal law debates in the United States. This collection of high caliber scholarly papers was assembled using an innovative and interactive method of nominations and commentary by the nation's top legal scholars. Virtually every leading scholar in the field has participated, resulting in a volume of interest to those both in and outside of the community. Criminal Law Conversations showcases the most captivating of these essays, and provides insight into the most fundamental and provocative questions of modern criminal law.

This is the definitive reference and text for both mental health and legal professionals. The authors offer a uniquely comprehensive discussion of the legal and clinical contexts of forensic assessment, along with best-practice guidelines for participating effectively and ethically in a wide range of criminal and civil proceedings. Presented are findings, instruments, and procedures related to criminal and civil competencies, civil commitment, sentencing, personal injury claims, antidiscrimination laws, child custody, juvenile justice, and more.

Like medicine, law is replete with axioms of prevention. ‘Prevention is better than cure’ has a long pedigree in both fields. 17th century jurist Sir Edward Coke observed that ‘preventing justice excelleth punishing justice’. A century later, Sir William Blackstone similarly stated that ‘preventive justice is ...preferable in all respects to punishing justice’. This book evaluates the feasibility and legitimacy of state attempts to regulate prevention. Though prevention may be desirable as a matter of policy, questions are inevitably raised as to its limits and legitimacy, specifically, how society reconciles the desirability of averting risks of future harm with respect for the rule of law, procedural fairness and human rights. While these are not new questions for legal scholars, they have been brought into sharper relief in policy and academic circles in the wake of the September 11 terrorist attacks. Over the past 15 years, a body of legal scholarship has tracked the intensified preventive focus of anti-terrorism law and policy, observing how this focus has impacted negatively upon traditional legal frameworks. However, preventive law and policy in other contexts, such as environmental protection, mental health, immigration and corruption has not received sustained focus. This book extends that body of scholarship, through use of case studies from these diverse regulatory settings, in order to examine and critique the principles, policies and paradoxes of preventive justice. "Whereas earlier scholars looked upon preventive justice as a source and means of regulation, the powerfully argued contributions to this volume provide forceful reasons to consider whether we would do better talk about regulating preventive justice." Professor Lucia Zedner, Oxford University

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