

Psychology and Criminal Law

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This course is designed to provide an overview to the interaction between psychology and the criminal law. We will focus primarily on the three major aspects in which psychologists are involved in the criminal justice system: competence to stand trial evaluations, mental state at the time of the offense (mens rea and the insanity defense), and the assessment of risk/prediction of future dangerousness. One of the guiding principals in forensic psychology, which will be reflected in this course, is the need to understand legal standards in order to tailor psychological knowledge and practice to the courts. As such, the content of the course will be evenly divided between understanding the legal issues involved and the practical application of psychological principals and knowledge. Likewise, readings and class time will be divided reviewing legal standards and case law and the psychological research, theories and techniques related to these issues. In additional, specific topics such as forensic psychological assessment, report writing, and expert testimony will be discussed.

Grading will be based on three factors:

- 60% - Term paper
- 20% - Mock trial
- 20% - Class Participation

Final papers will be due in class, on April 29.

Textbook:

Melton, G., Petrilla, J., Poythress, N., & Slobogin, C. (1998) Psychological evaluations for the courts, 2nd Ed. New York: Guilford

Recommended:

Wulach, J. (1994) Law and mental health professionals: New York. Washington DC: APA

Rogers, R. (1998) Clinical assessment of malingering and deception, 2nd Ed. New York: Guilford

Tentative Schedule

Week	Topic	Chapter
1/7	Introduction (Law School students only)	1,3 (pp 41-44)
1/14	Principals of Forensic Assessment	2
1/21	Competence to Stand Trial	6 (pp 119-139), 19 (pp 548-555)
1/28	Competence to Stand Trial	6 (pp 139-155)
2/4	Other Competence Issues	7, 19 (pp 555-558)
2/11	Criminal Responsibility	8 (pp 186-202, 215-234)
2/18	No class	
2/25	Criminal Responsibility	8 (pp 202-215, 234-248), 19 (pp 558-567)
3/4	Risk Assessment: Dangerousness	9 (pp 277-293)
3/11	No class - spring break	
3/18	Risk Assessment: Sex Offenders	
3/25	The Death Penalty	9 (pp 264-267)
4/1	Other Sentencing Issues	9 (pp 249-277), 19 (pp 567-576)
4/8	Malingering/Defensiveness	3 (pp 53-58)
4/15	Report Writing	
4/22	Expert testimony	18 (pp 519-546)
4/29	Mock Trial	
5/6	Specialized psychological testing	3 (pp 45-52)

Readings

1/7

Introduction

1. Committee on Ethical Guidelines for Forensic Psychologists (1991). Specialty guidelines for forensic psychologists. Law and Human Behavior, 15(6), 655-666.
2. Fersch, E. A. (1980). Ethical issues for psychologists in court settings. In J. Monahan (Ed.) Who is the Client ? (pp. 43-62). Washington DC: American Bar Association.

1/14

Forensic Assessment

1. Heilbrun, K. (1992). The role of psychological testing in forensic assessment. Law and Human Behavior, 16, 257-272.
2. Cohen, J. A. (1998). The attorney-client privilege, ethical rules, and the impaired criminal defendant. University of Miami Law Review, 52, 529-586.

1/21-1/28

Competence to Stand Trial

Case Law:

1. Dusky v. U.S., 362 U.S. 402 (1960)
2. Jackson v. Indiana, 406 U.S. 715 (1972)
3. State v. Valentino, 356 N.Y.S. 2d 862 (1974)
4. Drope v. Missouri, 420 U.S. 162 (1975)

Research:

1. Nicholson, R. A. & Kugler, K. E. (1991). Competent and incompetent criminal defendants: A quantitative review of comparative research. Psychological Bulletin, 109, 355-370.
2. Nicholson, R. A., Robertson, H. C., Johnson, W. G., & Jensen, G. (1988). A comparison of instruments for assessing competency to stand trial. Law and Human Behavior, 12, 313-321.
1. Rosenfeld, B. & Ritchie, K. (1998). Competence to stand trial: Clinician reliability and the role of offense severity. Journal of Forensic Sciences, 43, 151-157.
2. Rosenfeld, B. and Wall, A. (1998). Psychopathology and competence to stand trial. Criminal Justice and Behavior, 25, 444-462.

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Other Competence Issues

Case Law:

1. North Carolina v. Alford, 400 U.S. 25 (1970)
2. Colorado v. Connelly, 479 U.S. 157 (1986)
3. Godinez v. Moran, 113 S.Ct. 2572 (1993)
4. Ford v. Wainwright, 477 U.S. 399 (1986)

Research/Clinical Literature:

1. Litwack, T. (in press). Manuscript in press.

2/11-2/25

Criminal Responsibility

Case Law:

1. McNaughton's Rule, 8 Eng. Rep. 718 (1843)
2. Durham v. U.S., 214 F. 2d 862 (D.C. Cir 1954)
3. Insanity Defense Reform Act, 18 U.S.C. 17 (1988)
4. Ake v. Oklahoma, 470 U.S. 68 (1985)

Research/Clinical Literature:

1. Slater, D. & Hans, V. P. (1984). Public opinion of forensic psychiatry following the Hinkley verdict. American Journal of Psychiatry, 141, 675-678.
2. Steadman, H. J., McGreevy, M. A., Morrissey, J. P., Callahan, L. A., Robbins, P. C., and Cirincione, C. (1993). Before and After Hinkley: Evaluating Insanity Defense Reform. New York: Guilford, pp. 1-31.
3. Borum, R. and Fulero, S. (1999). Empirical research on the insanity defense and attempted reforms: Evidence toward informed policy. Law and Human Behavior, 23(3), 375-394.

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Risk Assessment - Dangerousness

Case Law:

1. Barefoot v. Estelle, 463 U.S. 880 (1983)

Research/Clinical Literature:

1. Webster, C. D., Harris, G.T., Rice, M. E., Cormier, C., & Quinsey, V. L. (1994). The Violence Prediction Scheme. Toronto: University Press, pp. 1-16.
2. Grisso, T. & Appelbaum, P. S. (1992). Is it unethical to offer predictions of future violence? Law and Human Behavior, 16, 621-633
3. Litwack, T. R. (1993). On the ethics of dangerous assessments. Behavioral Sciences and the Law, 17, 479-
4. Quinsey, V. L., Harris, G. T., Rice, M. E., and Cormier, C. A. (1998). pp. 141-169.

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Risk Assessment - Sex Offenders

Case Law:

1. Kansas v. Hendricks, 119 S. Ct. 2072 (1997)
2. Kansas v. Crane, 122 S. Ct. 867 (2002)

Research/Clinical Literature:

1. Hanson, R. K., & Thornton, D. (2000). Improving risk assessments for sex offenders: a comparison of three actuarial scales. Law and Human Behavior, 24, 119-136
2. Janus, E. S. (2000). Sexual predator commitment laws: Lessons for law and the behavioral sciences. Behavioral Sciences and the Law, 18, 5-21.
3. Campbell, T. W. (2000). Sexual predator evaluations and phrenology: Considering issues of evidentiary reliability. Behavioral Sciences and the Law, 18, 111-130.

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Death Penalty

Case Law:

1. Furman v. Georgia, 408 U.S. 238 (1972)
2. Gregg v. Georgia, 416 U.S. (1976)
3. Atkins v. Virginia, _____ U.S. ____ (2002)

Research/Clinical Literature:

1. Cunningham, M. D. & Vigen, M. P. (2002). Death row inmate characteristics, adjustment, and confinement: A critical review of the literature. Behavioral Sciences and the Law, 20, 191-210.
2. Deichtman, M. A., Kennedy, W. A. & Beckham, J. C. (1991). Self-selection factors in the participation of mental health professionals in competency for execution evaluations. Law and Human Behavior, 15, 287-303.
3. Dekleva, K. B. (2001). Psychiatric expertise in the sentencing phase of capital murder cases. Journal of the American Academy of Psychiatry and Law, 29, 58-67.

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Sentencing Issues

Research/Clinical Literature:

1. Campbell, R. (1972). Sentencing: The use of psychiatric information and presentence reports. Kentucky Law Journal, 60, 285-
2. Dershowitz, A. (1978). The role of psychiatry in the sentencing process. International Journal of Law and Psychiatry, 1, 63-78.
3. Psychological evaluation of Mike Tyson

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Malingering

1. Rogers, R. (1998). Introduction. In R. Rogers (Ed.). Clinical assessment of malingering and deception, 2nd Ed. (pp. 1-22). New York: Guilford Press.
2. Rogers, R. (1998). Current status of clinical methods. In R. Rogers (Ed.). Clinical assessment of malingering and deception, 2nd Ed. (pp. 373-397). New York: Guilford Press.
3. Resnick, P. (1998). Malingered psychosis. In R. Rogers (Ed.). Clinical assessment of malingering and deception, 2nd Ed. (pp. 47-67). New York: Guilford Press.
4. Mossman, D. & Hart, K. J. (1996). Presenting evidence of malingering to courts: insights from decision theory. Behavioral Sciences and the Law, 14, 271-291.

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Forensic Reports

1. Nicholson, R. A., and Norwood, S. (2000). The quality of forensic psychological assessments, reports, and testimony: Acknowledging the gap between promise and practice. Law and Human Behavior, 24, 9-44.
- 2.

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Expert Testimony

Case Law:

1. Frye v. U.S., 295 F. 1013 (D.C. Cir, 1923)
2. Daubert v. Merrell Dow Pharmaceuticals, 113 S.Ct. 2786 (1993)
3. Kumho Tire Co. Ltd. et al., v. Carmichael et al. ____ S. Ct. ____ (1999)

Research/Clinical Literature:

1. Meloy, J. R. (1991). Rorschach testimony. Journal of Psychiatry and Law, 19, 221-235
2. Ogloff, J. R. (1990). The admissibility of expert testimony regarding malingering and deception. Behavioral Sciences and the Law, 8, 27-43
3. Rogers, R., Salekin, R. T., & Sewell, K.W. (1999). Validation of the Millon Clinical Multiaxial Inventory for Axis II disorders: does it meet the *Daubert* standard ? Law and Human Behavior, 23, 425-443.
4. Cooper, J. and Neuhaus, I. M. The Hired Gun Effect: Assessing the effect of pay, frequency of testifying, and credentials on the perception of expert testimony. Law and Human Behavior, 24, 149-172.

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Specialized Psychological Testing

Research/Clinical Literature

1. Grisso, T. (2002). *Evaluating Competencies*. New York: Kluwer Academic/Plenum Press, pp.21-67
2. Greene, R.L. (1998). Assessment of malingering and defensiveness by multiscale inventories. In R. Rogers (Ed.). Clinical assessment of malingering and deception, 2nd Ed. (pp. 169-207). New York: Guilford Press.

3. Schretlen, D.J. (1998). Dissimulation on the Rorschach other projective measures. In R. Rogers (Ed.). Clinical assessment of malingering and deception, 2nd Ed. (pp. 208-222). New York: Guilford Press.