

CHAPTER 3: THEORIES OF LAW

	NATURALIST	POSITIVIST	SOCIOLOGIST
THEORY	<ul style="list-style-type: none"> • a legal theory that recognises law of nature/ moral law • believes that laws must be good and just to govern human relation. • It's the nature of every human being to know from his conscience what is righteous and therefore lawful. • They believe that human laws are defined by morality, and not by an authority figure like a government king. • NATURALIST: OVERLAP THESIS • all forms of natural law theory supports the necessary relation between the concepts of law and morality. 	<ul style="list-style-type: none"> • Positivists believe that only positive law is law. Positive laws are laws that have been established by the authority of the state (sovereign). • Positivists are blind to values. • Positive law has nothing to do with ideal or just law, it has no regard to goodness or badness or the law. • Recognize only positive facts and excludes considerations towards concepts of jurisprudence. • POSITIVIST: SEPARABILITY THESIS • Positivism is not concerned with whether law is moral, just or unfair. 	<ul style="list-style-type: none"> • Law is wholly concerned with its effect and results on society rather than treating law as will of god or command of the sovereign as law exists for the needs of the society. • Main concern of socialist is interpreting the law in the social context, to bring good to the society. • Law regulates all kinds of relationships in a society and controls the behavior of its members. Hence, it is considered as a form of social control. • Law is not only about legality and punishment.
JURIST	<p>→ BLACKSTONE</p> <ul style="list-style-type: none"> ◆ Laws of nature dictated by god himself that are superior to any other 	<p>→ JOHN AUSTIN</p> <ul style="list-style-type: none"> ◆ Law is a command made by a political sovereign. ◆ Rule is only legally valid 	<p>→ ROSCOE POUND</p> <ul style="list-style-type: none"> ◆ Law is an instrument of social engineering. Its

Competence In The Law From Legal Theory To Clinical Application

JA Banks



Competence In The Law From Legal Theory To Clinical Application:

Competence in the Law Michael L. Perlin, Pamela R. Champine, Henry A. Dlugacz, Mary Connell, 2008-07-10 The best source for a comprehensive overview of mental competency in criminal mental disability and civil law Competence in the Law prepares mental health professionals to assess questions of both civil and criminal competence and to counsel lawyers and judges in cases in which these issues are germane A landmark contribution to forensic practice this book equips you to expertly address critical issues faced in conducting assessments within the legal system **Assessing Trauma in Forensic**

Contexts Rafael Art. Javier, Elizabeth A. Owen, Jemour A. Maddux, 2020-02-29 This book examines the different ways that trauma is involved in the lives of those who interact with the justice system and how trauma can be exacerbated in legal settings It includes both victims and perpetrators in providing a perspective on trauma in general and a framework that will guide those who evaluate and treat individuals in forensic settings Comprehensive in scope it covers key areas such as developmental issues emotions linguistic and communication difficulties and special populations such as veterans immigrants abused women incarcerated individuals and children The main objective of this book is to bring trauma to the fore in conducting forensic evaluations in order to understand these cases in greater depth and to provide appropriate interventions for a range of problems This masterful book edited by Rafael Art Javier Elizabeth Owen and Jemour A Maddux is a refreshing original and thoughtful response to these needs demonstrating beyond any doubt why lawyers and forensic mental health professionals must be trauma informed in all of their relevant work Michael L Perlin Esq New York Law School

Handbook of Forensic Assessment Eric Y. Drogin, Frank M. Dattilio, Robert L. Sadoff, Thomas G. Gutheil, 2011-06-24 The first handbook to explore forensic assessment from psychiatric and psychological perspectives The editors have assembled a magnificent collaboration between psychiatrists and psychologists to bring forth critical knowledge and insight to the core competency of forensic assessment This handbook is essential reading and a comprehensive resource for both newly minted and seasoned forensic practitioners Robert I Simon MD Director Program in Psychiatry and Law Georgetown University School of Medicine This long awaited resource blows the dust off traditional standards shakes the cobwebs out of our old ways of thinking and shows the practical steps in producing work that will make sense to juries and withstand the most skillful cross examination T here is no better resource Kenneth S Pope PhD ABPP Diplomate in Clinical Psychology coauthor Ethics in Psychotherapy and Counseling Fourth Edition From preparation to collection to interpretation to communication of the results this excellent comprehensive treasure shows how to conduct forensic assessments Each splendid evidence based chapter is presented from the collaboration between psychologists and psychiatrists It is a must have resource for forensic experts as well as general practitioners or anyone wishing to understand standard of care in forensic assessment Melba Vasquez PhD ABPP 2011 American Psychological Association President The practitioner oriented coverage in the Handbook of Forensic Assessment examines The current state of psychology and psychiatry including

requisite clinical competencies ethical guidelines and considerations of multidisciplinary collaboration Various approaches to assessments in criminal and civil matters The principles of effective preparation data collection and interpretation as well as communication for each special situation Topics including competence to stand trial sexual offender evaluations addictions child abuse and education Overarching practice issues such as practice development retention compensation consultation and forensic treatment Includes sample reports that demonstrate the integrative potential of both psychology and psychiatry Incorporating a wealth of current and multidisciplinary research the Handbook of Forensic Assessment is destined to become every mental health professional s most valuable one stop reference for their forensic work Mental Disability and the Death Penalty Michael L. Perlin, 2013-01-17 There is no question that the death penalty is disproportionately imposed in cases involving defendants with mental disabilities There is clear systemic bias at all stages of the prosecution and the sentencing process in determining who is competent to be executed in the assessment of mitigation evidence in the ways that counsel is assigned in the ways that jury determinations are often contaminated by stereotyped preconceptions of persons with mental disabilities in the ways that cynical expert testimony reflects a propensity on the part of some experts to purposely distort their testimony in order to achieve desired ends These questions are shockingly ignored at all levels of the criminal justice system and by society in general Here Michael Perlin explores the relationship between mental disabilities and the death penalty and explains why and how this state of affairs has come to be to explore why it is necessary to identify the factors that have contributed to this scandalous and shameful policy morass to highlight the series of policy choices that need immediate remediation and to offer some suggestions that might meaningfully ameliorate the situation Using real cases to illustrate the ways in which the persons with mental disabilities are unable to receive fair treatment during death penalty trials he demonstrates the depth of the problem and the way it s been institutionalized so as to be an accepted part of our system He calls for a new approach and greater attention to the issues that have gone overlooked for so long A Handbook of Geriatric Neuropsychology Shane S. Bush, Brian P. Yochim, 2022-07-12 A Handbook of Geriatric Neuropsychology Practice Essentials Second Edition brings together experts in the field to integrate the knowledge and skills needed to understand and treat older adults who are experiencing problems with memory and other thinking skills With three new sections including coverage of other conditions beyond neuropsychological disorders special assessment contexts and more on interventions and ethics as well as multiple new chapters and significant updates from the first edition this book provides a strong foundation for clinicians educators and researchers invested in the wellbeing of older adults The impact and experience of aging like the practice of neuropsychology evolves over time Similarly through advances in science and professional techniques neuropsychological practice has continued to evolve Neuropsychological evaluation remains the most effective method of diagnosing age related cognitive decline cognitive difficulties that result from psychological factors and other related disorders as well as determining how the various disorders impact functioning and quality of life This book explores

these areas and offers state of the art assessment techniques to assess changes in cognition and behavior and to distinguish normal changes from neuropathology This book is a go to resource and key reference for psychologists who serve older adults with known or suspected cognitive problems as well as those who are invested in promoting brain wellness It provides much of the information needed to establish and improve foundational and functional competencies in geriatric neuropsychology and establish practices that are personally and professionally rewarding all aimed at promoting the understanding and wellbeing of older adults

Introduction to Forensic Psychology Stacey L. Shipley, Bruce A. Arrigo, 2012-07-10 This edition of Introduction to Forensic Psychology has been completely restructured to map to how courses on forensic psychology are taught and features more figures tables and text boxes textbook pedagogy Uniquely this book offers equal representation of criminal behavior the court systems and law enforcement prisons It also has equal representation of criminal and civic forensics and of issues pertaining to adults and children new coverage of emerging issues in forensic psychology expanded case illustrations and vignettes practice and ethics updates and international trends new key issue overviews boldface terms and concepts and chapter reviews expanded coverage of corrections for juveniles

Capacity Assessment and the Law Kelly Purser, 2017-05-22 This book discusses theoretical issues standards and professional considerations arising when legal and health practitioners undertake legal capacity assessments in the context of wills enduring powers of attorney and advance health directives The potential loss of cognition can erode autonomy as individuals lose the ability to make their own legally recognised decisions This is an inescapable problem with significant legal social health and policy repercussions This work synthesises and critically analyses the existing literature including some of the best assessment models and guiding principles internationally to generate a new methodology and understanding of what capacity assessment best practice means This includes the impact of assessments on individual autonomy the ideal method building upon respect for both autonomy as well as fundamental human rights The triggers to assess capacity who to involve in the assessment process as well as how to conduct that assessment process are discussed The crucial relationship between the legal and health professionals involved in assessments including growing concerns around practitioner liability is also explored This analysis is undertaken through the innovative use of a therapeutic jurisprudence lens the effect of which is to contribute new knowledge to this complex field

Legal Knowledge and Information Systems Enrico Francesconi, Giovanni Sartor, Daniela Tiscornia, 2008 From its very beginning legal informatics was mostly limited to the study of legal databases but very early on the Institute of Legal Information Theory and Techniques ITTIG started being involved with the specific topic of the Jurix conference namely knowledge based systems This book includes programmatic papers with precise accounts of applications and prototypes In many domains the focus has changed For instance research in retrieval has moved from classical Boolean systems into the management of documents in the Web It addresses in particular standards and methods for embedding machine readable information into such documents and search

methods that deal with heterogeneous information Similarly with regard to legal concepts the focus has moved from thesauri to ontologies or to techniques for the automatic extraction of concepts from natural language texts In the domain of legal reasoning merely deductive inferences have been expanded with models of legal argumentation dialogue and mediation The conference Logica informatica e diritto 1981 and Jurix 2008 share the connection between theoretical models and the development of applications and prototypes However while in 1981 one could mostly see a juxtaposition of papers in legal theory and papers in computer applications in 2008 we can see how discussions of issues in legal theory are embedded within contributions to legal informatics This shows how research in legal informatics is increasingly becoming an autonomous domain of scientific inquiry by creatively incorporating and developing knowledge and methods from the two disciplines from which it originates legal theory and computer science while preserving links with them **Sexuality,**

Disability, and the Law M. Perlin,A. Lynch,2016-04-08 Sexuality Disability and the Law approaches issues of sexual autonomy and disability from multiple perspectives including constitutional law international human rights therapeutic jurisprudence history cognitive psychology dignity studies and theories and findings on gender constructs and societal norms Perlin and Lynch determine that if our society continues to assert that persons with mental disabilities possess a primitive morality we allow ourselves to censor their feelings and their actions By denying their ability and desires to show love and affection we justify this disparate treatment Our reliance on stereotypes has warped our attitudes and our policies and has allowed us to avoid important issues of humanity and of dignity that should be at the basis of any policies that affect this population *Detecting Malinger and Deception* Harold V. Hall,Joseph Poirier,2020-06-03 Detecting Malinger and

Deception Forensic Distortion Analysis FDA 5 Third Edition maintains the tradition of the prior two editions following the Forensic Distortion Analysis FDA model Fully updated since the last edition nearly 20 years ago the book continues to serve as a comprehensive volume on deception and distortion in forensic clinical and several specialized contexts As with the previous editions the book presents a model of deception intended to be utilized and applied by the qualified evaluator The proposed model covers targets of the faker response styles shown and methods to detect the deception The goal is to summarize the historical and latest information on distortion detection to present guidelines for detecting deception that include variable accuracy rates based on different detection techniques and to stimulate further research of effective methods of deception detection Recommendations and guidelines for the practicing clinician are offered throughout the book including real world cases to inform and enlighten particularly in unique cases or those in which the certain outcomes are unexpected Key Features Outlines the role of the forensic professional in applying and integrating methods assessment in deception and distortion Provides base rates for deception related behavior and events especially useful in report writing or courtroom testimony as an expert witness Presents the latest advances in methodology and technology to assist in the search for ground truth in applied settings and situations Applies forensic distortion analysis to evaluate the deception related

findings and statements of other professionals involved in a particular case New coverage includes sections on deception analysis for collectivities including media groups contemporary politics cross national corporations conflict and terrorism Detecting Malingering and Deception incorporates the latest research providing practical application to utilize information and evaluative methods as they pertain to deception related settings and situations Sample reports and extensive graphs tables charts and histograms are provided and every chapter has been updated with new studies and investigations The Third Edition boasts several new chapters and updated working appendices of coverage to expand the exploration of deception addressing advances in the field and our current understanding of the phenomenon

A Prescription for Dignity Michael L. Perlin, 2016-03-16 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

Psychiatry of Intellectual Disability Julie P. Gentile, Paulette Marie Gillig, 2012-03-22 Patients with intellectual disability ID can benefit from the full range of mental health services To ensure that psychiatric assessment diagnosis and treatment interventions are relevant and effective individuals with ID should be evaluated and treated within the context of their developmental framework Behavior should be viewed as a form of communication Individuals with ID often present with behavioral symptoms complicated by limited expressive language skills and undiagnosed medical conditions Many training programs do not include focused study of individuals with ID despite the fact that patients with ID will be seen by virtually every mental health practitioner In this book the authors present a framework for competent assessment and treatment of psychiatric disorders in individuals with ID Psychiatry of Intellectual Disability is a resource guide for psychiatrists nurse practitioners and other prescribers treating patients with ID It is a supplemental text for psychiatry residents medical students psychology graduate students psychotherapists counselors social workers behavior support specialists and nurses To assist the practicing clinician the book includes Clinical vignettes Clinical pearls Charts for quick reference Issues concerning medications and poly pharmacy Altered diagnostic criteria specific for use with individuals with ID There are no

evidence based principles dedicated to psychotropic medication use in ID but consensus guidelines address the high prevalence of poly pharmacy Altered diagnostic criteria have been published which accommodate less self report and incorporate collateral information this book reviews the literature on psychotropic medications consensus guidelines and population specific diagnostic criteria sets Psychiatry of Intellectual Disability also includes Interviewing techniques and assessment tips for all levels of communicative ability as well as for nonverbal individuals Assessment of aggression to determine etiology and formulate a treatment plan Overview of types of psychotherapy and suggested alterations for each to increase efficacy Relevant legal issues for caregivers and treatment providers The detective work involved in mental health assessment of individuals with ID is challenging yet rewarding The highest quality mental health treatment limits hospital days improves quality of life and often allows individuals to live in the least restrictive environments Psychiatry of Intellectual Disability is a must have resource for clinicians treating the ID population **Studyguide for Competence in the Law**

Cram101 Textbook Reviews,2013-05 Never HIGHLIGHT a Book Again Includes all testable terms concepts persons places and events Cram101 Just the FACTS101 studyguides gives all of the outlines highlights and quizzes for your textbook with optional online comprehensive practice tests Only Cram101 is Textbook Specific Accompanies 9780872893795 This item is printed on demand *The Corsini Encyclopedia of Psychology, Volume 1* Irving B. Weiner,W. Edward Craighead,2010-01-19 Psychologists researchers teachers and students need complete and comprehensive information in the fields of psychology and behavioral science The Corsini Encyclopedia of Psychology Volume One has been the reference of choice for almost three decades This indispensable resource is updated and expanded to include much new material It uniquely and effectively blends psychology and behavioral science The Fourth Edition features over 1 200 entries complete coverage of DSM disorders and a bibliography of over 10 000 citations Readers will benefit from up to date and authoritative coverage of every major area of psychology **U.C. Davis Law Review** University of California, Davis. School of Law,2009-11 **Journal of Education for Social Work** ,2008 **Clinical Forensic Psychology and Law** Kaitlyn McLachlan,2019-01-15 Clinical Forensic Psychology and Law is a compilation of recent and classic articles providing comprehensive coverage of the field of clinical forensic psychology and law Selected articles sample the major areas of the discipline including criminal and civil forensic assessment forensic treatment youth assessment and intervention and professional and ethical issues in forensic practice The volume is designed for use by scholars graduates and undergraduates in psychology and law schools

Competence and Vulnerability in Biomedical Research Philip Bielby,2008-09-16 Enhanced knowledge of the nature and causes of mental disorder have led increasingly to a need for the recruitment of cognitively vulnerable participants in biomedical research These individuals often fall into the grey area between obvious decisional competence and obvious decisional incompetence and as a result may not be recognised as having the legal capacity to make such decisions themselves At the core of the ethical debate surrounding the participation of cognitively vulnerable individuals in research is

when if at all we should judge them decisionally and legally competent to consent to or refuse research participation on their own behalf and when they should be judged incompetent in this respect In this book the author develops a novel justificatory framework for making judgments of decisional competence to consent to biomedical research with reference to five groups of cognitively vulnerable individuals older children and adolescents adults with intellectual disabilities adults with depression adults with schizophrenia and adults with dementia including Alzheimer s disease Using this framework the author argues that we can make morally defensible judgments about the competence or incompetence of a potential participant to give contemporaneous consent to research by having regard to whether a judgment of competence would be more harmful to the generic rights of the potential participant than a judgment of incompetence The argument is also used to justify an account of supported decision making in research and applied to evaluate the extent to which this approach is evident in existing ethical guidelines and legal provisions The book will be of interest to bioethicists as well as psychiatrists and academic medical lawyers interested in normative questions raised by the concepts of competence and capacity

Evaluating Competencies

Thomas Grisso,2006-01-27 As in its first edition this book offers a conceptual model for understanding the nature of legal competencies The model is interpreted to assist mental health professionals in designing and performing assessments for legal competencies defined in criminal and civil law and to guide research that will improve the practice of evaluations for legal competencies A special feature is the book s evaluative review of specialized forensic assessment instruments for each of several legal competencies Three fourths of the 37 instruments reviewed in the second edition are new and thus were not reviewed in the first edition Application of the assessment model and reviews of instruments are provided for six areas of legal competence Competence to Stand Trial Waiver of Rights to Silence and Legal Counsel Not Guilty by Reason of Insanity Parenting Capacity Determination of Child Custody Guardianship and Conservatorship and Competence to Consent to Treatment

Clinical Neurology of Aging Martin Albert, MD, PhD, FAAN,Janice Knoefel, MD, MPH,2011-01-11 *Clinical Neurology of Aging* Third Edition continues the tradition of the First 1984 and Second 1994 editions with 60 chapters written by the world s elite clinicians from neurology geriatrics and research on all aspects of geriatric neurology Aging does not automatically imply decline Many older people find joy in their friendships and their willingness to look at the world with a calmer view than they may have had in youth This clinically focused book is designed to help clinicians help older persons maintain that joy Now divided into 9 comprehensive sections the Third Edition contains subjects ranging from geriatric assessment to pain management and palliative care Specific sections include Introduction to Geriatric Neurology Neurological Assessment in Aging Cognitive Disorders in Aging Motor Disorders in Aging Neuropsychiatric Illness in Aging Sensory Disturbance in Aging Peripheral Neurology of Aging Disease States in Elderly and Neurological Therapeutics With a deft touch the editors Drs Martin Albert and Janice Knoefel have incorporated the geriatric care perspective and a quality oriented approach to health care throughout the volume The result the definitive reference useful for all clinicians caring for

older people and informative to those who set policies that affect research and clinical practice

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