



Mental Health Issues in Jails and Prisons (Carolina Academic Press Law Casebook Series)

Henry A. Dlugacz, Michael L. Perlin

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The unprecedented explosion of the number of persons with mental illness and mental retardation in jails and prisons, the statutory limitations on lawsuits by prisoners, the diminution of legal services available to prisoners, the increase in litigation on behalf of persons institutionalized because of mental illness in civil and forensic settings, and the blurring of the borderlines between criminal and civil mental disability law have led the authors to conclude that (1) the time was right for a course dedicated solely to the topic of mental health issues in jails and prisons, and (2) there was also a need for a casebook devoted to these issues. This book flows from these conclusions.

This casebook covers, among other topics, the historical development of the constitutional right to health care and mental health care within institutions; the law of detainee status; issues surrounding the use of mental status defenses, and the role, in the criminal trial process, of the competency to stand trial determination and the insanity defense; mental status issues in sentencing and in disciplinary charges within prison; the special issues raised when the inmate is female, a juvenile, a person with mental retardation, or a person whose immigration status is in question; the right to treatment, with special attention paid to the development of the deliberate indifference standard and its application to mental health issues; and issues related to screening, treatment, access to care, and recordkeeping. The authors address the major relevant statutes, including Title II of the Americans with Disabilities Act, the Prison Litigation Reform Act, and the Civil Rights of Institutionalized Persons Act (CRIPA).

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