

# The Gavel



## Greetings from the Criminal Justice Section Leadership Team!

By Katy Haynes Owen, Ph.D.

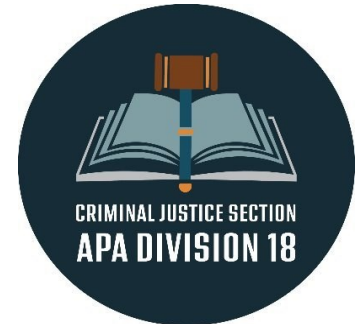
At the conclusion of the APA Convention in August 2022, I began my two-year term as Chair of the Criminal Justice section. Professionally, I work as a psychologist in the Bureau of Prisons in Forrest City, AR. Personally, I am a bibliophile with two young children and an affinity for coffee.



This year the Criminal Justice Section leadership team is focusing on addressing burnout and increasing enjoyment of professional engagement. I take no credit for identifying the problem of burnout, nor do I crown myself as The Burnout Queen who is over-extended and more fatigued than everyone else. I do, however, empathize with the nearly ubiquitous experience of increased workloads, minimal increase in compensation, and pizza party congratulations.

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Winter, 2024



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### Special points of interest

- New featured case law section on page 2. Look for this column to appear in each edition of the Gavel; it's a great way to keep up-to-date on what's happening in the legal landscape within the criminal justice section.
- Check out the request from the editors on page 6 for newsletter content.

Submissions can include;

- 1) case law briefs related to issues in the criminal justice system,
- 2) reviews of books/articles,
- 3) training perspectives and developments (e.g., graduate, internship, and fellowship programs), and
- 4) case studies/conceptualizations.



**2024 APA Convention  
August 8 - 10  
Seattle, Washington**

For more information check out the APA Convention page at:

[Future American Psychological Association Conventions \(apa.org\)](https://www.apa.org/convention)

## Case Law Brief: Appropriate Care, Treatment, and Housing

By Brandi Diaz, Ph.D.

*Disability Rights Montana (DMR), a nonprofit agency that advocates for the rights of mentally ill individuals, finalized a settlement agreement with the Montana Department of Adult Correction on March 10, 2022.*



In 2015, DRM filed a suit against several members of the Montana Department of Corrections (MDOC) alleging that the MDOC violated the Eighth Amendment rights of all inmates with serious mental illness who were detained at the Montana State Prison. DRM claimed MDOC policies created a system of inappropriate and excessive use of solitary confinement for prisoners with serious mental illness, failure to consider psychiatric diagnoses when determining housing placements, failure to properly diagnose and treat prisoners with serious mental illnesses, and failure to identify and remedy problems with available mental health treatment. DRM described the cases of nine prisoners who were placed in “solitary confinement”\* and diagnosed with a serious mental illness. DRM outlined

evidence these inmates received insufficient mental health treatment resulting in psychiatric decompensation and death by suicide in three cases. Finally, DMR indicated that the MDOC was aware of such concerns and failed to remedy their policies and procedures. The MDOC filed a motion to dismiss the aforementioned suit, which the district court granted. DRM appealed this finding.

The U.S. Court of Appeals in the Ninth Circuit reversed the district court’s ruling on July 19, 2019 and remanded the case to an alternative circuit court judge to hear the case. The court of appeals reiterated that there is well-established precedence, based on *Brown v. Plata* (2011), asserting that a prisoner’s right to mental health treatment is a

## Case Law Brief, continued from page 2

“minimal constitutional requirement.” As such, it was determined that enough plausible facts were alleged in the complaint that the district court should not have dismissed the case without further process. In making their decision, the court relied on a two-prong test for cruel and unusual punishment (i.e. deliberate indifference) as detailed by the US Supreme Court (*Farmer v. Brennan*, 1994). The objective prong outlines that there must be evidence that the prison conditions created a “substantial risk of serious harm,” while the second, and subjective prong, indicates that the plaintiff must show deliberate indifference on behalf of the defendant. The court of appeals found that both prongs could have been met by the allegations, suggesting the possibility of cruel and unusual punishment.

McCabe and Frierson (2021) discussed the implications of this finding for mental health practitioners working in correction settings. First, restrictive housing needs to be appropriately used and monitored

for those with a serious mental health condition; this includes access to mental health treatment while placed in restrictive housing.

A second consideration is the appropriate and accurate diagnosing of serious mental illness in prisoners. Providers should ensure they are correctly diagnosing psychiatric illnesses, as well as properly responding to claims of suicidal ideation (McCabe & Frierson, 2021). Those working in settings where the likelihood of malingering is increased should seek to improve their understanding of malingering. This could include improving their own clinical skills to assess atypical response styles that may occur concurrently with symptoms of mental illness, as well as how to implement intervention strategies to assist prisoners in getting their needs met in a more effective manner. Notably, the latter would necessitate buy-in and support from a correctional facility administration to ensure mental health providers have the tools necessary to properly implement intervention techniques.

### **References:**

*Brown, et al. v. Plata, et al.*, 563 U.S. 493 (2011).

*Disability Rights Montana v. Batista*, No. 15-35770 (9th Cir. 2019)

*Farmer v. Brennan*, 511 U.S. 825 (1994).

McCabe, L. & Frierson, R. (2021). Lack of adequate mental health treatment for prisoners constitutes cruel and unusual punishment. *The Journal of the American Academy of Psychiatry and Law*, 2(49), 257-260. <https://doi.org/g/10.29158/JAAPL.210040-21>

**To read the full settlement agreement, go to the ACLU Montana website or click here:**

[https://www.aclumontana.org/sites/default/files/field\\_documents/drm-msp-doc\\_-\\_settlement\\_agreement\\_executed.pdf](https://www.aclumontana.org/sites/default/files/field_documents/drm-msp-doc_-_settlement_agreement_executed.pdf)

## Criminal Justice Section Leadership Team, continued from page 1

As we move into 2024, the topics of professional engagement and professional burnout remain relevant. Feeling professionally drained begs the question, why stay engaged in professional organizations that are elective? Here are some thoughts from our CJ Section Leadership Team:

*Katy Owen, Ph.D. (Section Chair) answered by saying, "Amid looming deadlines and superfluous administrative tasks at work, I stay involved because I enjoy the freedom to engage psychologists outside of the chaotic tempo of the prison environment. I also find purpose in furthering the field of correctional psychology beyond my institution. There is a wide world outside of Forrest City, AR that I endeavor to connect with."*

*For Jade Horton, B.A. (Student Section Chair Elect), being on the Student Section "allows me to connect and network with others in the field, both students and professionals! I plan to stay connected as I transition from the student to professional role to continue to connect my work as a clinician and researcher. I most value the support and opportunities to connect with others while growing into the role of a future professional!"*

*Brandi Diaz, Psy.D. (The Gavel Co-Editor) recounts, "as an early career psychologist, involvement in professional organizations allows me to continue building my professional network, while staying current on best practices, trends in the field, and research that are imperative for my professional and clinical development."*

### **The CJ Section Leadership Team Update for 2024**

The leadership team has two foci to further the reach of the Criminal Justice section and benefit our members: the Correctional Psychology Training Recommendations Task Force and The Gavel Award.

The Correctional Psychology Training Recommendations Task Force was created to address gaps in correctional psychology training by creating a usable guide of the field for trainees and (non-correctional) supervisors. (Read more about it on page 5!)

The Gavel Award is a research and/or training award that aims to support endeavors for psychologists or psychologists-in-training engaged in work with individuals involved in the legal system. Plainly stated, The Gavel Award aims to assist folks in the realm of correctional psychology with achieving training or research endeavors that may otherwise be financially prohibitive.

As the year progresses, be on the lookout for more information about the progress of the task force and application information for The Gavel Award. If you have the professional/mental/emotional capacity to be involved in the section, we would love to hear from you ([cj@publicservicepsych.org](mailto:cj@publicservicepsych.org)).

## Quick Tips on Researching Case Law from Brandi Diaz, Ph.D.

It is not uncommon for mental health providers within the broad criminal justice system to identify, discuss, and apply case law to their clinical work. Researching case law can present challenges for those who are less familiar with how to engage in such legal research, including where to find necessary information.

There are countless legal databases that can be accessed by clinicians.

- LexisNexis ([www.lexisnexis.com](http://www.lexisnexis.com)),
- Westlaw ([www.westlaw.com](http://www.westlaw.com)),
- The Center for Research Libraries (<https://www.crl.edu/collections/topics/legal-databases-comparative-analysis>),
- The Law Library of Congress (<https://www.loc.gov/research-centers/law-library-of-congress/about-this-research-center>).

*The Journal of the American Academy of Psychiatry and Law* (<https://jaapl.org>) is intended for use by professionals in the behavioral sciences field and offers a variety of scholarly works. The “Legal Digest” section includes case law briefs of recent cases, as well as its application to the fields of psychiatry and psychology.

Similarly, individuals may find it helpful to review amicus briefs prepared by the American Psychological Association (APA; <https://apa.org/about/offices/ogc/amicus/index-issues>), in which APA expands findings of case law to relevant psychological issues and practice.

The aforementioned legal databases are great resources for those interested in improving their ability to read and effectively discuss case law. When preparing case law or amicus briefs, it is suggested that authors consult with a legal professional to ensure their interpretation of the case facts, holding, ruling, and reasoning are correct.

## Correctional Psychology Training Recommendations Task Force

In August of 2022, the Correctional Psychology Training Recommendations Task Force was formed by Dr. Ashley Batastini, the 2022 President of Division 18. The task force was created to provide training guidance for students, trainees, and supervisors regarding the practice of correctional psychology. The sub-discipline of correctional psychology differs significantly from forensic psychology. The application of screening, assessment, intervention, supervision, and research in correctional settings face particular challenges. Furthermore, correctional psychologists encounter significant ethical and legal issues in their daily practice in jails and prisons. However, most psychologists and psychologists-in-training do not receive formal training on the practice and research of correctional psychology.

Dr. Virginia Barber Rioja and Dr. Katy Owen were named as Co-Chairs of the task force in Fall, 2022. Other task force members include psychological researchers, practitioners, and administrators in correctional settings. The task force aims to create a concise, easily consumable guide for trainees and supervisors. For trainees, the guide will explain the correctional psychology field and identify key training experiences and competencies. For supervisors, the recommendations will guide them on how to best train students in correctional settings (particularly if they lack prior experience in correctional psychology). For all correctional psychologists, the recommendations will further define correctional psychology and distinguish the field as a distinct and imperative sub-specialty of psychology-law.

The editors of *The Gavel* are accepting ongoing submissions for bi-annual publications of *The Gavel*.

Submissions can include;

- 1) case law briefs related to issues in the criminal justice system,
- 2) reviews of books/articles,
- 3) training perspectives and developments (e.g., graduate, internship, and fellowship programs), and
- 4) case studies/conceptualizations.

Authors should highlight implications on clinical practice in the pieces they write.

Please send submissions, as Microsoft Word documents to:

[drbrandidiaz@gmail.com](mailto:drbrandidiaz@gmail.com)  
[lewis.peiper@dac.nc.gov](mailto:lewis.peiper@dac.nc.gov)

## Meet Brandi and Jon, the New Co-Editors



Hi, fellow D18 members! My name is Brandi Diaz, and I am thrilled to serve as a co-editor for *The Gavel*. I graduated from Nova Southeastern University with a doctorate in clinical psychology and a concentration in forensic psychology. I am currently a forensic psychology postdoctoral fellow at the Minnesota Department of Human Service, Direct Care and Treatment – Forensic Services. My clinical duties include pre-trial, civil commitment, risk assessment, juvenile, and sex offender evaluations. I have also published several book chapters and articles discussing best practices in civil and criminal forensic evaluations related to intimate partner and sexual violence. I am looking forward to serving the D18 criminal justice section members by promoting the dissemination of research. My hope as a co-editor is to encourage and support professionals and students to share their knowledge and expertise with the CJ section through *The Gavel*.



My name is Lewis "Jon" Peiper and I earned my Ph.D. in Counseling Psychology from the University of Georgia. I'm a Correctional Psychologist and the Director of Behavioral Health for the North Carolina Prisons. In my role as Director, I oversee all clinical behavioral health and substance use disorder services within the NC state prison system. I serve as chair of the Psychologists in Public Service Committee with the NC Psychological Association (NCPA), am a member of the American Psychological Association's (APA) Division 18 Taskforce on Correctional Psychology Training, serve on the Behavioral Health Committee within the American Correctional Association (ACA), and recently became co-editor for *The Gavel*.

We encourage all readers to contribute to *The Gavel* and to offer suggestions for future topics of focus. We assure you it is a relatively painless process, and we are here to support you in your contribution. Thank you to everyone who has contributed thus far, and to all future contributors.

### CJ Section Leadership Team:

- Katy Hayes Owen, Ph.D., Section Chair (2022-2024)
- Morgan Hill, Ph.D., Secretary/Treasurer (2023-2025)
- Kaylee Cook, B.A., Student Section Chair (2023-2024)
- Jade Horton, B.A., Student Section Chair Elect (2023-2024)
- Brandi Diaz, Psy.D., The Gavel Co-Editor (2023-2024)
- Lewis J. Peiper, Ph.D., The Gavel Co-Editor (2023-2024)

