

Legal Clinic: Mental Illness Seminar (W)

George Mason University School of Law

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Mental Illness Seminar Overview: The Clinic consists of three components. The classroom portion focuses on the history and development of laws affecting the mentally ill, while also preparing the students for court hearings. Students then appear in court on a weekly basis and students with third year practice certificates will represent their own clients in civil mental health commitment hearings. Additionally, students are required to write a research paper on a topic of practical value to the clinic.

Course Materials: Virginia Statute Title 37.2 and handouts from professor.

Grading: Student grades are based on class participation, mental health hearing participation and a paper. All papers are due no later than the last day of the last final for the semester but may be submitted at anytime during the course of the semester. Topics will be selected during the course of semester by each student.

Mental Health Hearings: Hearings are held daily at the Fairfax Inova Hospital. The clinic provides pro bono services to petitioners seeking to commit patients who are at least 18 years of age or older for hearings held on Tuesdays through Fridays.

Location: Inova Fairfax Hospital is located at 3300 Gallows Road in Falls Church, Virginia. Students should use the second entrance the “**Blue Entrance**” (Fairfax Women’s Center) and park in the **Blue** parking lot to the right. Parking is \$5 per day, unless you leave before 8:00 am, then parking is free. Parking passes with discounted rates are also available. Hearings are held on the 4th floor of the Inova Fairfax Hospital Women’s Center. To access the mental health floor, students **must** use the **green** elevator labeled #10. This is the **only** elevator with access to the Mental Health floor.

Expectations:

- Each student is expected to choose a day to attend a hearing each week of the semester. However, I reserve the right to assign days to ensure adequate coverage.
- Hearings begin promptly at 7:00 am each morning and students are expected to arrive promptly at 6:30 am to begin preparations for the hearing. Hearings typically average 2 to 4 per day but can be as many as 8 and as little as 0 on any given day. Students should plan to dedicate 6:30 am – 9:00 am time-frame for hearings, however, this time-frame may be longer or shorter.
- A supervising attorney will be present at each hearing to guide the students through the hearing process and to assist students who represent clients.

Key Players:

Mental Health Floor Attendant: A hospital employee typically monitors the visitors arriving to the mental health floor (4th floor). Students will sign-in and request the paperwork for hearings scheduled for the day. If you are nice to this person, they will typically provide you with the paperwork and alert you as to whether patients are in route from other locations. This person will also, typically inform you when patients arrive and provide you with their paperwork.

The Paperwork:

- **Temporary Detention Order (TDO)** → A TDO is issued by the local magistrate and is a court order that gives the police the authority to take the individual (patient) into custody. The TDO allows the patient to be held temporarily at a mental health facility for a prescreen evaluation.
- **Prescreen Report** → This report is completed by the mental health facility where the patient is held and evaluated.

Mental Health Facilities (Detention Centers): Patients may be held temporarily at any one of the following facilities:

- Woodburn Center
- Mount Vernon Hospital
- Fairfax Hospital (INOVA)
- Dominion Hospital
- Virginia Hospital Center

Petitioners: Petitioners are the individuals listed on the Temporary Detention Orders (TDO) and denoted as the petitioner. This is the person students will offer to represent. Students should clarify the expectations of the petitioner and determine whether the petitioner would oppose if the patient chose to volunteer for commitment.

Witnesses: Witnesses could be family members, citizens, police officers, medical personnel, homeless shelter employees etc. who have come to share first hand accounts concerning the patient. Students do not represent the witnesses.

Independent Evaluator: The independent evaluator is the psychiatrist, psychologist or other mental health professional licensed to make diagnoses of mental illness, who is appointed during the commitment proceeding to give a certification as to whether the respondent meets the criteria for commitment. Students should consult with the independent evaluator to determine if the patient has been certified and if so, under which prong(s) (imminent danger to self, imminent danger to others, or substantially unable to care for themselves). Students should also inquire as to whether the independent evaluator believes the patient is competent to volunteer for treatment. The independent evaluator will typically be **Dr. Jill Milloy, Dr. Morris Hoffman, Dr. Sarah Jane Elpern or Dr. Michael Hendricks.**

Judge/Special Justices Profiles: The special justices make the decision whether or not the patient meets the criteria for commitment.

Special Justice Jose Aunon → *Jose Aunon was a practicing attorney in Cuba prior to the rise of power of Fidel Castro. Mr. Aunon fled Cuba in 1961 and came to the United States. Mr. Aunon enrolled in George Washington University and earned a Masters of Comparative Law. Mr. Aunon went on to enroll in American University and earned a JD in 1974. Prior to becoming a Special Justice, Mr. Aunon participated in more than 1500 mental health hearings as a practicing attorney. Mr. Aunon became a Special Justice in 1980 and is licensed to practice law in both Virginia and Cuba. Mr. Aunon also heads his own general law practice.*

Special Justice Mark Bodner → *Mark Bodner is a graduate of Virginia Tech and received his J.D. from the University of Richmond in 1980. While a law student he developed an interest in mental health law and assisted the Director of the Mental Health Legal Studies Center at the law school. Mr. Bodner was a staff attorney for eight years with the Fairfax Legal Aid Branch of Legal Services of Northern Virginia, Inc. His duties included representing mentally ill persons in a variety of civil matters such as social security and SSI disability claims, housing discrimination and other cases. Since entering into private practice in 1988, Mr. Bodner has represented mentally ill persons in criminal matters, frequently seeking diversion from the criminal process on misdemeanor charges, and in civil commitment cases. He has also represented family members in their efforts to have their mentally ill relatives involuntarily hospitalized. Mr. Bodner served on the Local Human Rights Committee at the Northern Virginia Mental Health Institute from 1992 to 1998. In 2001 he was appointed as one of the three Special Justices for the Fairfax General District Court*

Special Justice James (Jim) Kincheloe → *James Kincheloe received a Bachelor of Arts degree from the University of Richmond, class of 1970 and a Juris Doctor from the University of Arkansas, class of 1973. He was admitted to the Virginia Bar in 1975. Sole practitioner with general practice of law in both state and federal courts in the Commonwealth of Virginia. Mr. Kincheloe is admitted to practice under the State Bar of Virginia and for the Supreme Court of Virginia in 1975. Mr. Kincheloe serves as a Fairfax County Circuit Court Commissioner in Chancery, a Town Attorney for Town of Clifton for 18 years and Fairfax County Special Justice for 18 years and has served 28 years as a Virginia Attorney.*

Court Appointed Attorney: Students should ask the defense attorney whether the patient intends to volunteer. The court appointed attorneys will vary but some of the regulars are **Attorney Sharon Soloway, Attorney Kyle Skopic or Attorney David Jones.**