Civil Commitment, Isolation, and Quarantine

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Syllabus

• Updated syllabus online is SUBJECT TO CHANGE!
  • Class 4 slides now posted (titles are hyperlinked)
  • Final Paper proposal due today!
  • First draft of Public Comment due next week!


Final Paper

• 16-18 pages in length, BlueBook footnotes. (50% of grade)
• A proposal outlining the topic significance, key questions, expected outcomes and preliminary sources will be due before class TODAY
• The final paper will be due by 3pm on Tuesday, August 24, 2021

Public Comment Brief

• Topic: “Phased Approach to the Resumption of Cruise Ship Passenger Operations 2021-09094” (Centers for Disease Control and Prevention)
• Review the docket announcement and related materials for a Proposed Rule. Consult relevant legal, regulatory, and public health material to educate yourself about the context and implications for the proposed action.
• A structured “public comment” brief (6-8 pages) will be submitted to the agency by midnight on Wednesday, June 30, 2021 (25% of grade)
• A draft is due to me in Word format by June 16th so I can provide feedback before submission!
• Instructions are now posted on the syllabus page

Feedback from Spring 2021

• Too much reading and many duplicative readings
• Issues with voluntary participation

• Feedback so far?
  • Readings/Casebook?
  • Breakout sessions?
  • Polls?
Obstacles related to social and structural determinants of health (including racism) **before** law school:

Obstacles related to social and structural determinants of health (including racism) **during** law school:

Obstacles related to social and structural determinants of health (including racism) **after** law school:
Identify the underlying forces that shape those disparities:

Propose strategies for mitigating or eliminating those disparities:

Antiracist Policies
Involuntary Commitment

Background and Holding
What are similarities and differences between confining someone for public health purposes vs. criminal purposes?

City of Newark v. J.S.
Background and Holding
What is the main difference between Greene v. Edwards and City of Newark v. J.S.?
• Procedural vs. Substantive Due Process

City of Milwaukee v. Washington
(Wis. 2007)
Background and Holding
How might you distinguish containment for TB, Ebola, and COVID-19 based on the characteristics of the diseases?

Background and Holding
Do you agree with the Court’s interpretation of the Necessary and Proper Clause here?
Involuntary Commitment and Section 35

The CARE Act:

- Combatting Addiction
  - Commission to study MAT (methadone, buprenorphine, injectable naltrexone)
- Accessing Treatment
  - Increased treatment in jails, prisons, and emergency rooms
- Reducing Prescriptions
  - Partial fills for first-time opioid prescriptions
- Enhancing Prevention
  - Standing order for opioid antagonists (e.g., Narcan)

Section 35 and MMS Advocacy

- The CARE Act (ironically) sought to expand authority to involuntarily commit individuals with alcohol or substance use disorder for up to 90 days
- Section 35 facilities in Massachusetts often do not offer behavioral counseling or evidence-based treatment
- Mandated “treatment” is antithetical to patient autonomy, especially when such civil commitment comes at the behest of family, who claim that the emergency department physician “has to do something to help their [son, daughter, father, mother]"

Breakout Groups

Review the Massachusetts Section 35 process Q&A here:
https://www.mass.gov/service-details/section-35-the-process

- Imagine you are a Committee reviewing the effectiveness of Section 35 and offering alternative approaches for the state.
- What do you recommend to the Massachusetts legislature?
- When crafting your reply, consider how substance use disorders might differ from suicidality or highly contagious infectious diseases.

What other policies would you want to advance through the Massachusetts Medical Society?
10 Minute Break

#PHLaw on Twitter

- Engage with course materials and current topics in patent law and policy by joining the conversation on Twitter!
- Counts toward participation!
- Be sure to tag the following in your tweets:
  - @DrSinhaEsq
  - #PHLaw
- Optional additional tags: @PHLawWatch, @PHLR_Temple, @NetworkforPHL, #PublicHealthLaw, #LawTwitter
- Student tweets will be highlighted at the beginning of each class
- If you want help getting started on Twitter, schedule time during office hours

From near my home town, the @palesp hosted a workshop on fighting fake news and incentivizing vaccination was suggested as a viable means of combating vaccine hesitancy. Maybe now we try education? #PHLaw

New study in @JHPPL finds that poor health depresses voter turnout— but only for low-income people.

The author suspects high-income people in poor health can purchase a ride to the polls and get time off to vote— i.e., circumvent barriers using resources.

Shout out to @DrSinhaEsq for promoting work-from-home "early" in the pandemic! Do the public health benefits still exist post-pandemic? #PHLaw

"Workers should be allowed to tele-commute wherever it’s feasible to do so."

nejm
NEW CERTIFICATE from the #PublicHealthLaw Academy

Understanding law & policy is essential for advancing #healthliteracy. Our free, on-demand trainings provide tools every public health practitioner needs to further their career. #phlaw

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Payers and providers agreeing to just pass costs to patients after negotiating prices for months

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Last week, we released a new report on police violence and the need for alternative dispatch programs. (A thread.)

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So proud of our @YaleSPH & @YaleLawSch students in our @YaleGHUP clinic who put out this provocative, new report on public health funding. 1/

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Dear Idaho Legislature,

I tweet to inform you that I will continue to teach with an emphasis on the historic and current disenfranchising role and isolation where appropriate. Also, thank you for the incentive to add critical race theory to my scholarly agenda!

#Idaho #Idpol

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#PHLaw
The pandemic showed that Big Tech isn’t a public health sector. It is a public good coming from private companies.

Michael S. Slesin, MD JD MPH (@DrSlesinMD) Jan 4

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The eviction moratorium case also has implications for CDC's role in other disease control strategies, including mask requirements & business restrictions. And it depends on how it's resolved, there could be implications for other agencies' regulatory authority.

Brian C. Conner (@bconner) Jan 3

Good morning. I have a bit of a rant on public health. I'm COVID98, blame and failure. Over the past day, @Driman_eph & @ProMedInfo have started conversations about public health. These are good conversations and the replies equally informative and heartbreaking. 1/18

Brian C. Conner, DMD (@bconner) Jan 3

Maya Leggart (@mayaleggart) Jan 3

“Responding to criticism the United States has handed over 100 million COVID-19 vaccines to the WHO for distribution to low- and middle-income countries, the Biden administration on Thursday announced a plan to share 30 million doses globally by the end of June...”

@DrKlobuchar

Dan Diamond (@ddiamond) Jan 3

"Biden's intel chief says U.S. vaccine strategy with more than 40 nations, ranging from allies like Brazil and Germany to international aid providers like the World Bank and Gavi. Looking closer at today's announcement with @JimLobash & @laurengeggeg at washingtonpost.com/special/..."
Isolation and Quarantine

NEJM, online March 18, 2020

Covid-19 — The Law and Limits of Quarantine

Wendy E. Parmet, J.D., and Michael S. Siska, M.D., J.D., M.P.H.
Quarantine/Isolation and COVID-19

“With community transmission occurring in several parts of the United States, it is time to recognize that travel bans and mandatory quarantines alone cannot end the outbreak.”

US COVID-19 cases as of March 21, 2020

US COVID-19 cases as of Today