

Department of Justice, Law and Society  
School of Public Affairs  
The American University

Fall 2005

**ILS-687-001 – Law, Deviance and Mental Health Systems**

Tuesday, 5:30PM to 8:00PM

WARD 105

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**Course Description**

From the catalog: “Examines the interpersonal relationship between law and the mental health systems, including areas of conflict and close working relationships. Areas covered include standards for involuntary hospitalization, the role of the insanity defense, psychiatric liability, and the rights of the mentally ill, including the right to treatment and the right to require treatment. Offered irregularly.”

While psychiatrists and other members of the mental health profession assert that mental illness is a bona fide brain disease like cancer, tuberculosis, and syphilis, and mentally ill patients are like any other patient with organic disease, people who are diagnosed with mental illness are often deprived of the right to refuse psychiatric treatment. People with cancer and heart disease, for example, may refuse treatment. Treatment for those and other organic diseases must proceed on the basis of consent. Mentally ill persons are said to lack insight into their disease. Because of this lack of insight, treatment must be forced on them, against their will. The idea of mental illness is used to deprive innocent persons of liberty in the name of compassion and medicine.

The idea of mental illness is also used to remove responsibility where it belongs. When a person who has committed a criminal act is diagnosed by a psychiatrist and pronounced “mentally ill” at the time of a criminal act—even though the diagnosis may be months if not years after the crime has actually been committed—insanity (a legal, not a medical term) is said to have prevented or annulled *mens rea* and thereby culpability. Guilty persons are set free in the name of insanity (though often they are committed to mental hospitals where their sentence continues for perpetuity, without any chance of parole). They are moved from prisons as a means of social control to mental hospitals as a means of social control.

Persons accused of a crime are similarly deprived of the right to stand trial based on a psychiatric diagnosis, despite the fact that they may meet the legal criteria for competence to stand trial: They understand the charges brought against them, they are able to assist counsel with their defense, and they understand the proceedings of the court. Again, this action is taken by the state in the name of compassion and medicine.

The Supreme Court has upheld the constitutionality of involuntary commitment. Psychiatrists are granted power by the state in ways never imagined by the founding fathers. Mental health professionals are empowered by the state in ways that priests were empowered by the state in

theocracies: It is as if an amendment to the Bill of Rights exists that reads “For mentally healthy persons only.”

Whether mental illness actually exists, or can exist, is not the necessarily the point here: Mental illness has become a new form of legal fiction. The courts will not allow the idea of mental illness to be disproved, in order, perhaps, to maintain the institution of psychiatry, and thereby, involuntary commitment and all the variations of an insanity defense.

The power of psychiatry sanctioned by the state serves another social interest: People who are diagnosed with mental illness—and drug addiction is a type of mental illness—are a special class of deviants. They are subject to formal social controls that do not concern mentally healthy persons. As targets of therapeutic compassion, they are marginalized and stigmatized, labeled and exiled. A problem here is this: Who is mentally ill and who is mentally healthy? What are socially-acceptable delusions, for example, and socially-unacceptable ones? Does psychiatric diagnosis have more to do with politics and religion than real medicine?

In this course we examine the idea of mental illness and its relation to freedom, justice, and the fields of medicine, law, and social policy. In the second half of the course, we examine the social structure and function of deviance and scapegoating. Lecture and discussion format.

### **Course Objectives**

1. To improve the student's legal and policy-oriented thinking about the meaning of mental illness, deviance, and the social institutions that sustain these ways of viewing and controlling people in a free society.
2. To evaluate the evidence supporting and contesting the idea that mental illness exists, that it is characterized by lack of insight, and that it is treatable.
3. To understand what happens in involuntary commitment to mental hospitals and treatment for mental illness generally.
4. To understand the nature of scapegoating and how it is used to expel evil and affirm the dominant ethic in society.
6. To understand the relationship between psychiatry, medicine, and the state, that is, the therapeutic state, its structure and function.
7. To deepen our understanding of the interactionist perspective on deviance.
7. To develop intellectual skill in debating these and related controversial issues in legal and public policy settings.

### **Required Texts**

- Szasz, T.S. (1987). *Insanity: The idea and its consequences*. New York: Wiley
- Szasz, T.S. (1994). *Cruel compassion: Psychiatric control of society's unwanted*. New York: Wiley
- Rubington, E. and Weinberg, M.S. (2002). *Deviance: The interactionist perspective 8<sup>th</sup> edition*. Boston: Allyn & Bacon.

Various articles and handouts distributed during the course.

### **Course Requirements and Grades**

Paper	25%
Mid-term examination	25%
Final examination	35%
<u>Class participation</u>	<u>15%</u>
Total =	100%

### **Description of course requirements**

**Position paper:**

Pick a topic you are interested in concerning a deviant population and their interaction with psychiatrists, psychologists, social workers, or any other member of the mental health profession. Address whether the population concerns a social, medical, or legal problem subject to informal or social controls. Maximum length of paper is 10 pages. Use at least five references, which are to be listed separately at the end of your paper. Use American Psychological Association format. Be prepared to discuss your paper briefly the day the papers are due. Meet with Professor Schaler to discuss your topic. Send an email to set up an appointment.

**Mid-term examination:** The mid-term examination will consist of multiple choice and/or essay questions focused on all readings, lectures and discussion in class.

**Final examination:** The final examination will consist of multiple choice and/or essay questions focused on all of the material covered in this course. You will be given the opportunity to express your own point of view on the many controversial issues we addressed.

Many readings and notices regarding class will be sent to you by the professor via email. Make sure you are receiving the emails and reading them.

You will be randomly assigned to groups with other students occasionally to present summaries of readings. This will contribute to your grade for participation.

--> Clear and accurate writing will be taken into account in assigning grades, as well as participation in class discussions. Material discussed in class, or in films, and not in any of the readings, may form the basis for questions on the examinations. **One grade reduction for over three class absences.** Students are responsible for anything covered in class during their absence. Readings must be completed by the session to which they are assigned. Additional readings may be assigned during the course. Students are encouraged to form study groups on their own. The examinations must be taken on the dates assigned. Grades: A-=90, B+=89, B-=80, C+=79, C-=70, etc. If you're having trouble with this course please make an appointment to talk with me about it.

**Academic Integrity Code**

"Standards of academic conduct are set forth in the University's Academic Integrity Code. It is expected that all examinations, tests, written papers, and other assignments will be completed according to the standards set forth in this code. By registering, you have acknowledged your awareness of the Academic Integrity Code, and you are obliged to become familiar with your rights and responsibilities as defined by the Code. Violations of the Academic Integrity Code will not be treated lightly, and disciplinary action will be taken should such violations occur. Please see me if you have any questions about the academic violations described in the Code in general or as they relate to particular requirements for this course."

## CLASS SCHEDULE

Date	Topic	Reading
August 31	Intro; the therapeutic state; Defining illness, being a patient	Szasz Part I
September 7	Defining mental illness, Being a mental patient	Part II
September 14	Mental illness as metaphor; and The problem of imitation; intentionality responsibility	Part III
September 21	Mental illness as strategy Justification, legal fiction, explanation	Part IV
September 28	Storing the unwanted; the indigent; The debtor; the epileptic; the child; The homeless	CC Part I
October 5	The political economy of psychiatry The origin of psychiatry; economics Of psychiatry; adult dependency; The new psychiatric deal; re-storing The mental patient; the futility of Psychiatric reform	CC Part II
October 12	Lecture, film, handout	
October 19	Review	
<b>October 26</b>	<b>Mid-term examination</b>	
November 2	The process of social typing “Outsiders”; The role of third parties “Paranoia and the Dynamics of Exclusion”; “The Moral Career of the Mental Patient”	Deviance: Chapter 1 Chapter 4
November 9	The effects of contact with control Agents “The Positive Consequences of Stigma”	Chapter 7
November 16	Getting into deviant groups; “Getting Into Porn”	Chapter 9

November 23	Learning the norms “Cruising for Sex in Public Places”; “Lesbians’ Resistance to Culturally Defined Attractiveness”	Chapter 10
November 30	Acquiring a deviant identity “Getting a Tattoo”; Managing a Deviant identity “Stutterers’ Practices” “Stripteasers’ Management of Their Deviant Identity”	Chapter 12 Chapter 13
December 7	<b>Papers due and presented</b>	
December 14	Review	
December 21	<b>Final exam</b>	<b>11:20AM to 1:50PM</b>
<b>Note: You must take the final exam on the date assigned. No exceptions.</b>		