

## **E. LEA JOHNSTON**

University of Florida Levin College of Law · JohnstonL@law.ufl.edu · (352) 273-0794

### **ACADEMIC APPOINTMENTS**

#### **UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW**

<i>Clarence J. TeSelle Professor</i>	2023-present
<i>University of Florida Research Foundation Professor</i>	2020-2023
<i>University Term Professor</i>	2017-2020
<i>Professor of Law</i>	8/2015-present
<i>Associate Professor of Law</i>	8/2012-8/2015
<i>Assistant Professor of Law</i>	1/2009-8/2012

#### **RACE & CRIME CENTER FOR JUSTICE**

#### **UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW**

<i>Associate Director</i>	2021-present
---------------------------	--------------

#### **CRIMINAL JUSTICE CENTER**

#### **UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW**

<i>Associate Director</i>	2011-2020
---------------------------	-----------

### **LAW REVIEW ARTICLES**

*The Constitutionality of Assisted Outpatient Treatment*, 86 OHIO ST. L. J. \_\_\_ (forthcoming 2025)

*Assisted Outpatient Treatment: A State-by-State Comparative Review*, 73 CLEVELAND ST. L.R. \_\_\_ (forthcoming 2025) (with Autumn Klein)

*Imperfect Insanity and Diminished Responsibility*, 76 FLA. L. R. 553 (2024)

*Psychosis, Heat of Passion, and Diminished Responsibility*, 63 B.C. L.R. 1227 (2022) (with Vincent T. Leahey)

*Delusions, Moral Incapacity, and the Case for Moral Wrongfulness*, 97 IND. L.J. 297 (2022)

*The Status and Legitimacy of M'Naghten's Insane Delusion Rule*, 54 UC DAVIS L. REV. 1777 (2021) (with Vincent T. Leahey)

*Reconceptualizing Criminal Justice Reform for Offenders with Serious Mental Illness*, 71 FLA. L. R. 515 (2019)

*Mental Health Courts and Sentencing Disparities*, 62 VILLANOVA L. R. 685 (2017) (with Conor Flynn)

*Communication and Competence for Self-Representation*, 84 FORDHAM L. R. 2121 (2016)

*Modifying Unjust Sentences*, 49 GA. L. REV. 433 (2015)

*Smoke and Mirrors: Model Penal Code § 305.7 and Compassionate Release*, 4 WAKE FOREST J. L. & POL'Y 49 (2014) (for symposium on Finality in Sentencing)

*Conditions of Confinement at Sentencing: The Case of Seriously Disordered Offenders*, 63 CATH. U. L. REV. 625 (2014)

*Vulnerability and Desert: A Theory of Sentencing and Mental Illness*, 103 J. CRIM. L. & CRIMINOLOGY 147 (2013)

*Theorizing Mental Health Courts*, 89 WASH. U. L. REV. 519 (2012)

*Representational Competence: Defining the Limits of the Right to Self-Representation at Trial*, 86 NOTRE DAME L. REV. 523 (2011)

*Setting the Standard: A Critique of Bonnie's Competency Standard and the Potential of Problem-Solving Theory for Self-Representation at Trial*, 43 UC DAVIS L. REV. 1605 (2010)

*An Administrative "Death Sentence" for Asylum Seekers: Deprivation of Due Process Under 8 U.S.C. § 1158(d)(6)'s Frivolousness Standard*, 82 WASH. L. REV. 831 (2007)

### **INTERDISCIPLINARY, PEER-REVIEWED ARTICLES**

*Diminished Criminal Responsibility: A Multinational Comparative Review*, 91 INT'L J. L. & PSYCHIATRY 101919 (2023) (with Kendall D. Runyan, Fernando José Silva, and Francisco Maldonado Fuentes)

*Extreme Emotional Disturbance: Legal Frameworks and Considerations for Forensic Evaluation*, 40 BEHAV. SCI. & L. 733 (2022) (with Christina L. Gliser, Jonathon Haney, Dana Formon, Naoko Hashimoto, and Nadia Rossbach)

Christina L. Patton, E. Lea Johnston et al., *Legal and Clinical Issues Regarding the Pro Se Defendant: Guidance for Practitioners and Policy Makers*, 25 PSYCHOLOGY, PUBLIC POLICY, & LAW 196 (2019) (with Christina L. Patton, Colleen M. Lillard, and Michael J. Vitacco)

*Retributive Theories Justifying Jail Diversion for Offenders with Mental Illness*, 35 BEHAV. SCI. & L. 1 (2017) (invited submission for Special issue on Jail Diversion: Collaboration across the Justice Continuum)

### **BOOK REVIEWS**

*Review of The Insanity Defence: International and Comparative Perspectives (Ronnie Mackay & Warren Brookbanks eds., 2022)*, CRIM. L. CRIM. JUST. BOOKS (May 2023) (solicited)

### **WORKS IN PROGRESS**

*Coercive Compassion: Theorizing Assisted Outpatient Treatment*

*The Violence of Coercion in Mental Health Law*

**RECENT NATIONAL AND INTERNATIONAL MEDIA COVERAGE**

Caolan Magee, *How the US Is Cracking Down on Parents of School Shooters*, i News (Sept. 6, 2024) (London)

Alex Mann, *Inmates Are Left to ‘Languish:’ Jailed Marylanders Needing Psychiatric Treatment May Have to Wait for Months*, Baltimore Sun (July 28, 2024) (Sunday edition)

*Well-intentioned Mental Health Courts Can Struggle to Live Up to Their Goals*, NPR Morning Edition (Dec. 27, 2023)

- Also ran on KFF Health News

Terry Spencer, *Judge to Decide on Florida Face-biter Insanity Plea*, Associated Press (Nov. 26, 2022)

- Ran on a number of major news outlets, including The Washington Post, NBC News, CBS News, and ABC News

**ACADEMIC PRESENTATIONS**

2024

Presenter, *Coercive Compassion: The Constitutionality of and Justification for Assisted Outpatient Treatment*, Law & Society Association 2024 Annual Meeting, Denver, Colorado (June 6, 2024)

Presenter, *The Constitutionality of Assisted Outpatient Treatment*, May Scholarship Roundtable, University of Florida Levin College of Law (May 16, 2024)

2023

Presenter, *Coercive Compassion: Theorizing Assisted Outpatient Treatment*, 2023 Annual CrimProf Conference (July 17, 2023)

Presenter, *Coerced Compassion and the “Thank You” Theory*, April Scholarship Roundtable, University of Florida Levin College of Law (April 27, 2023)

Presenter, *Imperfect Insanity and Diminished Responsibility*, Scholarship Colloquium, Sandra Day O’Connor College of Law, Arizona State University, Phoenix, AZ (April 10, 2023)

2022

Presenter, *Imperfect Insanity and Diminished Responsibility*, ABA-AALS-Academy for Justice Workshop for Research on the Criminal Legal System (Dec. 2, 2022)

Panelist, *Criminal Justice Next: Solutions to Move Equity and Fairness Forward*, American Bar

Association Criminal Justice Section 15<sup>th</sup> Annual Fall Institute, Washington, DC (Nov. 18, 2022)

Presenter, *Mental Disability as Partial Excuse*, April Scholarship Roundtable, University of Florida Levin College of Law (April 26, 2022)

Presenter, *Imperfect Insanity and Diminished Responsibility*, 2022 American Psychology-Law Society Conference, Denver, Colorado (March 19, 2022)

Moderator, *Section on Criminal Justice Informal Conversation*, American Association of Law Schools 2022 Annual Meeting (January 6, 2022)

### 2021

Presenter, *Delusions and Partial Responsibility*, Annual CrimProf Conference (July 19, 2021)

Presenter, *Delusions and Criminal Irresponsibility*, Fordham Law School's Speaker Series on Criminal Law, New York, New York (March 8, 2021)

Moderator, *Insanity, Reconsidered*, American Association of Law Schools 2021 Annual Meeting, San Francisco, California (January 4, 2021)

### 2020

Presenter, *Delusions and Criminal Irresponsibility*, Workshopping Roundtable, ABA Criminal Justice Section Fall Institute, Washington, D.C. (Nov. 12, 2020)

Panelist, *Symposium: Prison Brake: Rethinking the Sentencing Status Quo*, American Criminal Law Review (ACLR) and the National Association of Criminal Defense Lawyers (NACDL), Georgetown Law School, Washington, D.C. (Oct. 22, 2020)

Moderator, *Rethinking Crime and Punishment: Criminal Justice Reform in the '20s*, University of Florida Levin College of Law, Gainesville, Florida (Mar. 20, 2020) (to be rescheduled due to coronavirus)

Panelist, *Sentencing, The Future of Florida Summit: Criminal Justice Reform*, Bob Graham Center at University of Florida, Gainesville, Florida (Feb. 22, 2020)

### 2019

Presenter, *Squaring Delusions with Insanity*, Works-in-Progress Academic Roundtable, ABA Criminal Justice Section Fall Institute, Washington, D.C. (Nov. 7, 2019)

Panelist, Hearing on the D.C. Mental Health Court System, D.C. State Advisory Committee of the U.S. Commission on Civil Rights, Washington, D.C. (Nov. 7, 2019)

Presenter, *Squaring Delusions with Insanity*, Eleventh Annual CrimProf Conference, Brooklyn Law School, New York, New York (July 15, 2019)

Moderator, *2019 Marshall M. Criser Distinguished Lecture Series Symposium on Gun Violence, Law, and Public Health*, University of Florida Levin College of Law (April 8, 2019)

Presenter, *Criminal Law & Current Research on Mental Health Courts*, Introduction to Law @ Levin, University of Florida (Feb. 21, 2019)

## 2018

Commentator, University of Florida Levin College of Law (April 18, 2018) (commenting on the judicial temperament paper of Terry Maroney of Vanderbilt Law School)

Panelist, *Gun Policy in Florida*, University of Florida Levin College of Law (March 19, 2018)

Presenter, *Criminal Law & Current Research on Mental Health Courts*, Introduction to Law @ Levin, University of Florida (Feb. 21, 2018)

Panelist, *Searching for Justice: Modern Issues in Criminal Justice Reform*, Texas A&M University School of Law and the Texas A&M Law Review Spring 2018 Symposium, Fort Worth, Texas (Feb. 9, 2018)

## 2017

Presenter, *Criminalization, Criminality, and Criminal Justice Reform for Offenders with Mental Illnesses* (coauthored with Conor Flynn), ABA-AALS Criminal Justice Section Work-in-Progress Academic Roundtables, Washington, District of Columbia (Nov. 2, 2017)

Panelist and Organizer, *Mental Health Courts and Proportionate Punishment*, International Academy of Law and Mental Health, XXXVth International Congress on Law and Mental Health, Prague, Czech Republic (July 11, 2017)

Panelist, *What Conditional Release Programs Can Learn from Mental Health Courts*, International Academy of Law and Mental Health, XXXVth International Congress on Law and Mental Health, Prague, Czech Republic (July 13, 2017)

Presenter, *Criminalization, Criminality, and Criminal Justice Reform for Offenders with Mental Illnesses* (coauthored with Conor Flynn), 2017 AALS Criminal Justice Section Midyear Meeting, Washington, District of Columbia (June 11, 2017)

Commentator, Culp Colloquium, Duke University School of Law (May 18, 2017) (commenting on disability and criminal procedure papers)

Presenter, *Criminalization, Criminality, and Criminal Justice Reform for Offenders with Mental Illnesses* (coauthored with Conor Flynn), Workshop, University of Florida Levin College of Law (April 18, 2017)

Presenter, *Criminalization, Criminality, and Criminal Justice Reform for Offenders with Mental Illnesses* (coauthored with Conor Flynn), 2017 Criminal Justice Reform Conference, Penn State Law (February 10, 2017)

Panelist and Organizer, *Competence Revisited: The Changing Role of Mental Capacity in Criminal and Immigration Proceedings*, American Association of Law Schools 2017 Annual Meeting, San Francisco, California (January 6, 2017)

#### 2016

Presenter, *Mental Health Courts and Proportionate Punishment*, Eighth Annual CrimProf Conference, Cardozo Law School, New York, New York (July 11, 2016)

Panelist, *Problem-Solving Courts*, Conference on Criminal Justice Reform, Concordia University School of Law, in partnership with the U.S. Attorney for the District of Idaho and the Federal Defender Services of Idaho (June 6, 2016)

Presenter, *Communication and Competence for Self-Representation*, 2016 American Psychology-Law Society Annual Conference, Atlanta, Georgia (March 12, 2016)

Panelist, *Problem Solving Courts: A Promising Reform or a New Problem?*, American Association of Law Schools 2016 Annual Meeting, New York, New York (Jan. 6, 2016)

#### 2015

Presenter, *Mental Health Courts and Proportionate Punishment*, Southeastern Association of Law Schools 2015 Annual Meeting (July 29, 2015)

Panelist, *Innocence Roundtable*, Southeastern Association of Law Schools 2015 Annual Meeting (July 28, 2015)

Presenter, *Mental Health Courts and Proportionate Punishment*, 2015 CrimProf Conference (July 20, 2015)

#### 2014

Presenter, *Excising Performance from Representational Competence*, American Bar Association Criminal Justice Section's Seventh Annual Fall Institute (Oct. 23, 2014)

Panelist and Organizer, *Mercy in the Administration of Criminal Justice Roundtable*, Southeastern Association of Law Schools 2014 Annual Meeting (August 4, 2014)

Presenter, *A Right to Hybrid Counsel at Criminal Trials*, 2014 CrimProf Conference (July 22, 2014)

Presenter, *Curing Disproportionate Punishment*, 2014 American Psychology-Law Society Annual Conference (March 7, 2014)

#### 2013

Presenter, *Curing Disproportionate Punishment*, Southeast Law School 2013 Junior/Senior Faculty Workshop, Emory Law School (Nov. 15-16, 2013)

Panelist, *Reassessing the Criminal Offender*, American Bar Association Criminal Justice Section's Sixth Annual Fall Institute (Nov. 1, 2013)

Presenter, *Curing Disproportionate Punishment*, American Bar Association Criminal Justice Section's Sixth Annual Fall Institute (Oct. 31, 2013)

Presenter, *Judicial Control over Conditions of Confinement: The Case of Seriously Disordered Offenders*, Faculty Workshop, University of Alabama School of Law (Oct. 10, 2013)

Panelist and Organizer, *Vulnerability and the Criminal Justice System Roundtable*, Southeastern Association of Law Schools 2013 Annual Meeting (August 7, 2013)

Presenter, *Humane Punishment for Seriously Disordered Offenders: Sentencing Departures and Judicial Control over Conditions of Confinement*, Law and Society 2013 Annual Meeting (May 30, 2013)

Presenter, *Resentencing Prisoners with Serious Mental Illnesses*, Finality in Sentencing Symposium, Wake Forest University School of Law (April 5, 2013)

Presenter and Organizer, *Humane Punishment for Seriously Disordered Offenders: Sentencing Departures and Judicial Control over Conditions of Confinement*, University of Florida Criminal Justice Center's Junior Scholars' Conference (March 22, 2013)

#### 2012

Panelist and Organizer, *How Should Punishment Institutions Address Vulnerability and Adaptation?*, Southeastern Association of Law Schools 2012 Annual Meeting (August 3, 2012)

Presenter, *Vulnerability and Desert: A Theory of Sentencing the Mentally Ill*, Faculty Workshop, University of Florida Levin College of Law (March 28, 2012)

Presenter, *Mental Illness, Suffering, and the Distribution of Deserved Punishment*, Arizona State University Legal Scholars Conference (March 17, 2012)

Presenter, *Mental Illness, Suffering, and the Distribution of Deserved Punishment*, Faculty Workshop, University of Georgia School of Law (February 27, 2012)

#### 2011

Presenter (Poster), *Theorizing Mental Health Courts*, 2011 American Psychology-Law Society Conference / Fourth International Congress of Psychology and Law (March 4, 2011)

#### 2010

Presenter, *Mental Health Courts: Theoretical and Empirical Deficiencies*, Faculty Workshop, Florida State University College of Law (October 7, 2010)

Presenter, *Mental Health Courts: Theoretical and Empirical Deficiencies*, New Scholars Workshop, Southeastern Association of Law Schools 21010 Annual Conference (August 3,

2010)

Presenter, *Wrestling with the Problem: Exploring the Promise of Social Problem-Solving Theory for Representational Competence*, American Psychology-Law Society Annual Conference (March 18, 2010)

Presenter, *Wrestling with the Problem: Exploring the Promise of Social Problem-Solving Theory for Representational Competence*, Young Scholars Criminal Justice Roundtable, Vanderbilt Law School (January 29, 2010)

2009

Presenter, *Desert Mirage: The Elusive Protection of the Fourth Amendment for Undocumented Immigrants*, The Constitution and the Undocumented Program, University of Florida (Sept. 17, 2009)

### PRESENTATIONS TO THE BAR

Panelist, *Criminal Justice Next: Solutions to Move Equity and Fairness Forward*, American Bar Association Criminal Justice Section 15<sup>th</sup> Annual Fall Institute, Washington, DC (Nov. 18, 2022)

Panelist, *Breaking the Glass Ceiling: Women in Law*, Student Bar Association, University of Florida, Gainesville, Florida (March 22, 2022)

Presenter, *Ethical Issues Concerning the Representation of Defendants with Mental Illnesses*, Florida Public Defender Association 2017 Seminar, Bonita Springs, Florida (June 24, 2017)

### EDUCATION

**HARVARD LAW SCHOOL**, J.D., *cum laude*, Cambridge, MA 6/2003

Additional Honors: Board of Student Advisors (Honor Society)

Law Review: *Women's Law Journal*

Executive Editor

Article Selection Committee

Third-Year Paper: *Effecting the Intent of Gideon: A Strategic Analysis of Methodology and Remedies Employed in Successful Prospective Ineffectiveness Cases*

**PRINCETON UNIVERSITY**, A.B., Princeton, NJ 6/1996

Honors: *Sigma Xi* Honor Society

Major: Ecology & Evolutionary Biology

Certificate: Women and Gender Studies

### CLERKSHIP

**U.S. Court of Appeals for the Ninth Circuit**, Seattle, WA 8/2006-8/2007  
*Law Clerk to the Honorable Richard C. Tallman*



## **LEGAL WORK**

**Arnold & Porter LLP**, Washington, D.C. 9/2003-7/2006,  
*Litigation Associate.* 12/2007-11/2008

- Defended corporations in nationwide products liability, antitrust, and government contracts civil and criminal litigation.
- Developed trial strategies and themes for 20+ cases.
- Supervised four Georgia law firms in discovery and motions practice.
- Served as a member of four trial teams: argued pretrial motions, deposed witnesses, drafted examination outlines, prepared expert and fact witnesses, drafted evidentiary and dispositive motions, and prepared objections to trial exhibits and deposition designations.
- *Pro Bono*: represented indigent defendants in criminal matters, litigated Establishment Clause cases in federal court, and worked to reform Mississippi's indigent defense system.

**U.S. Department of Justice, Environment & Natural Resources  
Division, Wildlife Section**, Washington, D.C. 7/2002-8/2002  
*Honors Intern*

**Kilpatrick Stockton LLP**, Atlanta, GA 5/2001-8/2001  
*Summer Associate*

**Southern Center for Human Rights**, Atlanta, GA 5/2001-8/2001  
*Intern*

## **PUBLIC INTEREST WORK**

**Maryland Public Interest Research Group**, Baltimore, MD 1998-2000  
*Deputy Director*, 1999-2000.

- Supervised four advocates.
- Oversaw and administered \$235,000 budget.
- Increased grant money awarded by 25%.
- Developed environmental and consumer program.

*Environmental Advocate*, 1998-1999.

- Directed campaigns to preserve open space and reduce toxic emissions.
- Co-drafted and successfully lobbied to pass Senate Bill 149, *Integrated Pest Management in Public Schools*.
- Testified on 13 environmental and consumer bills before the Massachusetts General Assembly.
- Drafted reports and was featured on over 15 media outlets.

**Massachusetts Public Interest Research Group**, Boston, MA 1996-1998  
*Environmental Associate.*

- Directed campaign to reduce use of pesticides in schools.
- Co-drafted and successfully lobbied to pass Senate Bill 1886, *Pesticide Disclosure Act*.

- Coordinated work of 30+ staff.
- Drafted report and coordinated over 60 press conferences.
- Built coalition of over 300 community groups.
- Raised over \$90,000 in foundation support.

### **LAW SCHOOL COURSES & SERVICE**

#### Courses:

- Criminal Law
- Criminal Procedure – Adversary System
- Mental Health Law
- Sentencing Law & Policy
- Law & Psychiatry
- Immigration & Nationality Law

#### Law School Committees:

- Faculty Council (2023-2025; elected)
- Promotion and Tenure (2015, 2016-2017, 2018-2019, fall 2023, 2024-25; Chair, 2019-2020; all elected terms)
- Judicial Clerkships & Student Placement (Chair, fall 2022, 2012-2014)
- Appointments (2015, 2021-2022; Co-chair, 2015)
- Social Justice and AI Reading Group (2021)
- Academic Standards (2020-2021; 2009-2010)
- 1L Experience Workgroup (2020)
- Chair, Wellness Committee (2016)
- Dean Search (2014-2015)
- Dean Search Faculty Advisory Committee (2014-2015)
- Curriculum Committee (2014-2015)
- Ad Hoc Committee on Pre-law Legal Writing (2015)
- Faculty Development (2012-2015)
- UF Law Trustees Committee for the Enhancement of Clerkship Opportunities (2013-2014)
- Search Committee for Assistant Dean of Career Development (2013)
- Judicial Clerkship (2009-2012; Chair, 2009-2010)
- Mentoring Committee (2011-2012)

#### Additional Service Responsibilities:

- Assistant Director of Race and Crime Center for Justice (2021 – present)
- Assistant Director of Criminal Justice Center (2011 - 2020)
- Faculty Sponsor for Mental Health Law Society (2016 – present)
- Faculty Sponsor for Immigration Law Society (2009 – present)
- Faculty Sponsor for Disability Law Association (2019 – present)
- Mentor for Visiting Assistant Professor (2011-2013)
- Judicial Clerkship Advisor (2009-2011)

## **OTHER LAW-RELATED ACTIVITIES**

### **American Law Institute.**

- *Elected member*, 2020 – current.

### **Criminal Law & Criminal Justice Books, Rutgers-Newark Advisory Board**

- 2023 – current.

### **American Association of Law Schools.**

#### Criminal Justice Section

- *Chair*, 2021-2022.
- *Chair-Elect*, 2020-2021.
- *Secretary*, 2019-2020.
- *Board Member*, 2018-2019.

#### Section on Law & Mental Disability

- *Chair*, 2017-2018.
- *Chair-Elect*, 2016-2017.

### **American Psychology-Law Society.**

- *Legal Scholars Committee*, 2017-2020.

### **Peer Reviewer**

Harvard Law Review

Stanford Law Review

International Journal of Law and Psychiatry

### **Scholarship Review for Tenure/Promotion**

University of California at Davis School of Law

Southern Illinois School of Law

## **BAR MEMBERSHIPS**

- Mississippi (inactive)
- District of Columbia (inactive)
- U.S. District Courts for the District of Mississippi
- U.S. Courts of Appeals for the Fifth and Ninth Circuits