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CLBB News

A newsletter from the Center for Law, Brain & Behavior

March 8, 2022

CLBB Highlights



[Legal and Medical Experts Discuss Alternative Approaches for Aiding Families Struggling With Substance Abuse](#)

The Harvard Crimson | February 23, 2022

In a Tuesday virtual panel jointly hosted by the **Center for Law, Brain and Behavior** and Harvard Law School's Petrie-Flom Center, legal and medical experts discussed how to support families struggling with substance abuse.

Highlight: "It was very clear to me that these parents who came into our program with substance use disorder had long trauma histories like Julie did." "I just would always say to myself, how lucky I was, I could have very easily been in that same situation. And how would I want to be treated in that situation?"



[An Ethics Checklist for Digital Health Research in Psychiatry: Viewpoint](#)

Journal of Medical Internet Research | 2022

CLBB Faculty Members Francis Shen and Justin T. Baker, Benjamin Silverman, and other thought leaders convened an interdisciplinary expert stakeholder workshop in May 2020. From that discussion emerged an Ethics Checklist to promote careful design and execution of research with a particular focus on deep phenotyping psychiatric research.

Highlight: "The goal of the Ethics Checklist is to promote careful design and execution of research. It is not meant to mandate particular research designs; indeed, at this early stage and without consensus guidance, there are a range of reasonable choices researchers may make. However, the checklist is meant to make those ethical choices explicit, and to require researchers to give reasons for their decisions related to ELS issues. The Ethics Checklist is primarily focused on procedural safeguards, such as consulting with experts outside the research group and documenting standard operating procedures for clearly actionable data (eg, expressed suicidality) within written research protocols."

[Can Judges Do More Than Punish?](#)

The Crime Report | January 11, 2022

In this article, **CLBB Managing Director Judge Nancy Gertner** critiques the "tough on crime" approach to sentencing. In her view, "[p]ersuading judges to wean themselves from the 'habit



of mass incarceration' is a critical step in transforming the American justice system."

Highlight: "The goal is to invite judges to reimagine what community safety really looks like, not with police, prosecutors, and exorbitant mandatory minimums—and the role that judges can play in facilitating it."



[Why Breyer Had "No Choice but to Retire at This Point"](#)

SLATE | February 01, 2022

On January 27, Justice Stephen Breyer announced that he would retire from the Supreme Court of the United States at the end of the term after 27 years of service. Retired US District Judge for the US District Court in Massachusetts and longtime friend of Breyer, **CLBB Managing Director Judge Nancy Gertner**, comments on his retirement in this article.

Highlight: "The way we were hearing in *Dobbs* that in a sense he was fighting this two-front war where he really does feel that the nine justices are the sole guardians of the reputation, the integrity, the independence of the court."

Advisory Board Member News



[Governor Hochul Announces 400 Years of African-American History Commission Appointments](#)

New York State | February 23, 2022

Governor Kathy Hochul of New York announced appointments to the 400 Years of African-American History Commission, which serves to highlight contributions by Africans and African-Americans to our country and to New York State. Among the seven leaders who were appointed and given plaques was the CEO of the Federation of Protestant Welfare Agencies, **Atty. Jennifer Jones Austin**.

Highlight: "The leaders we appoint today to the 400 Years of African-American History Commission are some of the sharpest, most dedicated public servants this country has ever seen. They are the best people to help decide how New York can best recognize the history of racism in America—and to envision how to celebrate Black history as we march forward into a more inclusive future. I thank Governor Hochul for making these appointments a priority of her Administration."



[Culture Friday - Time to Settle the Question](#)

World | February 25, 2022

Professor Paul Butler leads a discussion with John Stonestreet about an upcoming Supreme Court case which will examine whether a law that requires an artist to speak a particular message—or stay silent—violates the free speech clause of the First Amendment.

Highlight: "It's not clear what the Supreme Court will do. They have shown themselves to be very, very hesitant to do any sort of settling of these big cultural debates."

[Rep. Katherine Clark Shares the Story of Her Miscarriage Amid Threats to *Roe v. Wade*](#)

GBH News | February 15, 2022

"January marked the 49th anniversary of *Roe v. Wade*— and many don't expect the case's precedent to survive to 50 as the Supreme



Court weighs a case that could overturn the landmark ruling on the right to legal abortion. **Rep. Katherine Clark**, assistant House speaker and Mass. Fifth District representative, recently spoke out in support of *Roe v. Wade*, not just on a matter of policy, but from personal experience."

Highlight: "Years ago, during a regular prenatal visit, doctors found that Clark's pregnancy was no longer viable. While many people in this situation miscarry at home, some — including Clark — require procedures to remove the fetal tissue, to avoid a potentially fatal infection. 'It was quick, it was professional, it was done compassionately,' she said."



[Opinion: Did Ketanji Brown Jackson Rule Against Black Workers? It's Not So Simple.](#)

The Washington Post | February 21, 2022

In response to criticism that Ketanji Brown Jackson rules against black workers and that if she is appointed to the Supreme Court, simple justice and equality in the workplace will be sacrificed, former judge on the U. S. Court of Appeals for the 4th Circuit, **Judge (Ret.) Andre Davis**, warns against making sweeping declarations.

Highlight: "The history of African American federal judges, and of worries that they might be biased in discrimination cases, should lead one to be humble about drawing such broad conclusions, based on limited proof, about what a Black female justice is likely to do on the court."



[Black Leaders, Civil Rights Groups Cheer Biden Court Pick](#)

The Hill | February 15, 2022

Black leaders and civil rights groups including vice-chair of the National Action Network civil rights group, **Atty. Jennifer Jones Austin**, celebrate Biden's choice of Judge Brown Jackson to fill the Supreme Court seat vacated by Justice Breyer.

Highlight: "Not only does Judge Brown Jackson have the legal background that makes her more than qualified to perform the duties of a Supreme Court Justice, but she would bring the Court a distinct and increasingly indispensable perspective on how the laws of this land affect a vital and all too often neglected segment of our population," Jones Austin said in a statement.



[Ameresco Announces Participation in the Guidehouse Clean Hydrogen Economy Consortium Pilot Project Launch](#)

Businesswire | February 25, 2022

"Utilizing clean hydrogen production from existing and future RNG facilities, the hydrogen pilot project will aim to provide a low-carbon, scalable fuel source for heavy transportation along the I-10 corridor between Los Angeles and Phoenix. The company joined the Guidehouse Clean Hydrogen Economy Consortium in September 2021 to work with other members and explore ways to advance the hydrogen economy."

Highlight: "The development of the clean hydrogen market is an area of need that our consortium fully understands," said **Lisa Frantzis**, Partner, Guidehouse. "Through these pilot programs, we hope to decarbonize some of our country's most challenging industries and collaborate with top minds from global and regional organizations to drive clean energy measures in communities across the country and unlock hydrogen's full potential."

[Anne-Marie Slaughter Says More...](#)

Project Syndicate | February 15, 2022

Dr. Anne-Marie Slaughter discusses her leadership style, Biden's Build Back Better Act, and Russia, among other things, in an interview with Project Syndicate.



Highlight: "As I describe in the book, I learned to lead 'like a man.' All my role models were male, and I was encouraged, including by my husband, to be assertive and even forceful in the way I engaged others as a leader. But I have now come around to leading more 'like a woman,' reveling in collaboration. I use quotation marks here, because of course we perceive these traits through the lens of deeply embedded social conventions and expectations. Our goal should be to encourage and embrace a range of leadership styles that human beings can adopt or adapt, depending on their personalities, intuition, role, objectives, and circumstances."

Faculty News



[Turns Out Smarter Kids Are Made, Not Born](#)

The Harvard Gazette | January 06, 2022

A new study lead by **CLBB Faculty Member Dr. Charles Nelson** shows that parental mindset toward growth and education can make a great impact starting at a very young age.

Highlight: "What's exciting about this study is that it shows that mindsets are related to outcomes as early as infancy...It does suggest some initial evidence that there are really biological underpinnings for how mindsets become embedded in kids, or how maternal mindsets might become embedded within kids at a very young age."



[Annual Research Ethics Day Conference - Deepening Engagement and Equity in Research: Next Steps in Research Ethics](#)

University of Minnesota | March 02, 2022

CLBB Faculty Member Dr. Jonathan Jackson, Dr. Judy Illes, along with moderator and **CLBB Faculty Member Dr. Francis Shen** presented on "Ensuring Engagement & Equity in Brain & Neuroscience Research."

In this University of Minnesota consortium, interdisciplinary experts discussed how engagement and equity will shape the future of research ethics. National leaders discussed the challenges and benefits of enhanced engagement with historically underserved communities and how engagement can advance more equitable outcomes in precision medicine, environmental and global health, and neuroscience research.



[Cumulative Risk of Immigration Prison Conditions on Health Outcomes Among Detained Immigrants in California](#)

NIH National Library of Medicine | November 29, 2021

In this study, **CLBB Faculty Member Dr. Altaf Saadi** examines the mechanisms by which the U.S immigration detention system serves as a catalyst for worsening health.

Highlight: "We found that each condition increased the likelihood of one or more negative health conditions, but there was also a cumulative effect: for each additional confinement condition, the odds of worsening general health rose by 39% and reporting good health decreased by 24%."

[Everyday People Fear They Have CTE. A Dubious Market Has Sprung up to Treat Them](#)

NPR | December 23, 2022

Chronic traumatic encephalopathy (CTE) is untreatable and undiagnosable, often leading people to seek controversial treatments from doctors and healthcare providers who have financial stakes in the products they recommend. Some



psychiatrists are promoting the use of imaging to detect CTE. Companies such as Amen Clinics have begun to advertise and provide pricey non-traditional treatment methods. **CLBB Faculty Member Dr. Steven Hyman** points out that such methods lack sufficient evidence of effectiveness.

Highlight: "People who are desperate are vulnerable to snake oil," he said, "and this has all of the look and feel of a clinic that's preying on people's desperation." What the Amen Clinics does may not be illegal, Hyman said, but it exploits frightened, vulnerable people and regulatory loopholes, including that dietary supplements, unlike drugs, are not reviewed or approved by the FDA based on their safety and effectiveness.

Future Events

[The Criminalization of Addiction: Law, Medicine, and Future Directions: Is Compassion Consistent with Accountability?](#)

CLBB & the Petrie-Flom Center at Harvard Law School
March 31, 2022 at 12:00 PM EST

Register for the panel [here!](#)



In *Commonwealth v. Eldred*, the Massachusetts Supreme Judicial Court held that a court may order a defendant who is addicted to substances to remain drug free as a condition of probation and that if a defendant tests positive for an illegal substance, the defendant may be found in violation of his or her probation. Join us for a discussion of this important case. **Attorney Lisa Newman-Polk**, who litigated *Eldred*, will discuss the legal landscape regarding criminalization of addiction. **Dr. Alexander Walley** will contextualize substance use disorder as a medical illness. **Dr. Stephanie Tabashneck** will then lead a discussion on the implications of criminalizing substance use disorder.

Panelists

Introduction: [Carmel Shachar](#), Executive Director, Petrie-Flom Center

[Lisa Newman-Polk](#), lawyer and licensed certified social worker

[Alexander Walley](#), Professor of Medicine, Boston University School of Medicine; Director, Addiction Medicine Fellowship Program; Co-Director, Fellow Immersion Training Program in Addiction Medicine; Associate Director, Faster Paths to Treatment Addiction Urgent Care Clinic; and Medical Director, Opioid Overdose Prevention Pilot Program, Massachusetts Department of Public Health

[Stephanie Tabashneck](#), PsyD, JD, Senior Fellow in Law and Applied Neuroscience, CLBB and the Petrie-Flom Center

This event was part of the Project on Law and Applied Neuroscience, a collaboration between the Center for Law, Brain and Behavior at Massachusetts General Hospital and the Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics at Harvard Law School.

[Elder Justice Decision-Making Capacity Symposium](#)

The Department of Justice
Tuesday, April 19, 2022 - Thursday, April 21, 2022

Register [here!](#)



Every day the lives of older adults are profoundly and negatively impacted in both the criminal and civil justice systems based on mistaken assumptions and inadequate assessments of their capacity to make decisions for themselves. In order to raise greater awareness of these issues and improve how elder justice professionals approach these issues, the Department of Justice will be hosting the Elder Justice Decision-Making Capacity Symposium, a free three-day virtual conference on April 19-21.

Past Events

Neuroscience and Criminal Law: The Post-Jones Landscape for Late Adolescents and Emerging Adults

CLBB & the Petrie-Flom Center at Harvard Law School
February 09, 2022



Click [here](#) to see the recording.

The U.S. Supreme Court landmark case of *Roper v. Simmons* (2005) barring execution for crimes committed prior to age 18 launched a line of cases extending Eighth Amendment protections for juveniles. These cases clearly established that children are not little adults. The April 2021 SCOTUS decision in *Jones v. Mississippi* appears to signal a shift from federal constitutional cases to litigation and legislation among the states. This has prompted vigorous debate about how science should inform criminal law and policy regarding late teens and emerging adults and sharpens ongoing controversy about how developmental science is or should be applied to those under 18.

This panel surveys the current landscape of cases and legislation focused on crafting developmentally aligned frameworks for responding to misconduct by younger adolescents, late adolescents (ages 18 – 20) and emerging adults (21 – 25), including “raising the age” of full criminal culpability past age 18. The contributions of neuroscience to informing a developmentally aligned jurisprudence for late adolescents and emerging adults will be reviewed.

Panelists

Introduction: [Carmel Shachar](#), Executive Director, Petrie-Flom Center

[Honorable Jay Blitzman \(ret.\)](#), CLBB Affiliated Faculty and Lecturer, Harvard Law School, Northeastern Law School, and Boston College Law School

[Lael Chester, JD](#), Director of the Emerging Adult Justice Project at Columbia University’s Justice Lab

[Stephanie Tabashneck, PsyD, JD](#), Senior Fellow in Law and Applied Neuroscience, CLBB and the Petrie-Flom Center

This event was part of the Project on Law and Applied Neuroscience, a collaboration between the Center for Law, Brain and Behavior at Massachusetts General Hospital and the Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics at Harvard Law School.

Families, Substance Use Disorder, and the Courts: Is Compassion Consistent with Accountability?

CLBB & the Petrie-Flom Center at Harvard Law School
February 22, 2022



Click [here](#) to see the recording.

How can family law support parents and their children when a parent has a substance use disorder?

One in eight children live in a home with a parent with a substance use disorder. Most of these children are under the age of five.

This discussion examined innovations in family law contexts, such as divorce, child custody, and care and dependency cases, that promote safety and recovery while emphasizing compassion and support for parents. Topics of discussion included family drug court interventions, interventions for mothers with opioid use disorder, integrated family medical and behavioral care, and implications for policy.

Panelists

Introduction: [Carmel Shachar](#), Executive Director, Petrie-Flom Center

[Hon. Beth A. Crawford \(Ret.\)](#), First Justice, Franklin County Probate and Family Court, Massachusetts (Former)

[Davida Schiff](#), MD, Director, Perinatal and Family-based SUDs Care at Massachusetts General Hospital and Assistant Professor of Pediatrics, Harvard Medical School

[Stephanie Tabashneck](#), PsyD, JD, Senior Fellow in Law and Applied Neuroscience, CLBB and the Petrie-Flom Center

This event was part of the Project on Law and Applied Neuroscience, a collaboration between the Center for Law, Brain and Behavior at Massachusetts General Hospital and the Petrie-Flom Center for Health

[Reimagining Justice Reform: A Conversation With Former Mayor Keisha Lance Bottoms](#)

The Atlantic
February 03, 2021



Click [here](#) to see the recording.

What steps should policy makers, law-enforcement officials, and activists pursue to make our public-safety institutions less punitive and more equitable? Former Atlanta Mayor Keisha Lance Bottoms discussed reimagining reform with The Atlantic's Ron Brownstein.

This plenary is part of the Safety and Justice Challenge Network Meeting, supported by the MacArthur Foundation.

[Should Alexa Diagnose Alzheimer's?: A Health Policy and Bioethics Consortium](#)

Petrie-Flom Center at Harvard Law School
February 11, 2022



THE PETRIE-FLOM CENTER
FOR HEALTH LAW POLICY, BIOTECHNOLOGY,
AND BIOETHICS AT HARVARD LAW SCHOOL

Click [here](#) to view the entire event.

Technology is now part of our lives in ways that were not possible only 10-20 years ago. Smart devices, like watches, phones, and speakers, can gather vast amounts of information about their users, often without the user's knowledge or consent. As technology continues to improve, many of these devices may also be leveraged to serve diagnostic functions. Technologies such as Amazon's Alexa and Google's Assistant can ambiently and continually monitor a variety of information about an individual's location, voice, and movement. As this technology merges with wearables, such as the Apple Watch or FitBit, it may become possible to diagnose a wide range of diseases, including Alzheimer's. But should it?

To help answer that question, **Dr. Barbara Evans** and **Dr. Jason Karlawish** discussed the medical, legal, and ethical implications of using such technology to diagnose diseases, such as Alzheimer's.

Panelists

Introduction: [Carmel Shachar](#), Executive Director, Petrie-Flom Center

[Barbara Evans](#), Professor of Law and Stephen C. O'Connell Chair, Fredric G. Levin College of Law and Professor of Engineering, Herbert Wertheim College of Engineering, University of Florida

[Jason Karlawish](#), Professor of Medicine, Perelman School of Medicine at the University of Pennsylvania

Moderator: [David A. Simon](#), Research Fellow, Digital Home Health, Petrie-Flom Center

Opportunities

[YLS Solomon Center Opportunities](#)

The Solomon Center for Health Law and Policy at Yale Law School is the first of its kind to focus on the intersection of law and the governance, practice, and business of health care. The Center brings together leading experts and practitioners from the public and private sectors to address cutting-edge questions of health law and policy, and to train the next generation of top health lawyers, industry leaders, policymakers, and academics.



Click [here](#) to view application criteria and details!

Open Positions:

Solomon Center Deputy Director
Solomon Center Research Director
Solomon Center Senior Research Fellow
Solomon Center International COVID Litigation Fellow
Solomon Center Medical Legal Partnership Research Associate

Call for Submissions: 2nd Annual Health Law and Anti-Racism Graduate Student Writing Competition, American Society of Law, Medicine, and Ethics (ASLME)

Deadline: June 01, 2022

The American Society of Law, Medicine, and Ethics (ASLME) is pleased to announce its 2nd Annual Health Law and Anti-Racism Graduate Student Writing Competition with the goal of encouraging students to develop scholarly papers focused on issues at the intersection of race, law, and health.

Click [here](#) for more details and submission info!



In the News

General

[A World of Choices](#)

Harvard Law Today | January 31, 2022

[Neurodegeneration Linked to Repetitive Head Injury Found in Brains of Former Australian Sports Players](#)

ABC Health and Wellbeing | February 27, 2022

[Reassessing Psychedelics](#)

Harvard Law Today | January 31, 2022

[MGH Claims Breakthrough in Detecting Marijuana Impairment](#)

The Boston Globe | February 04, 2022

Juvenile Justice

[Kids of Color are Disproportionately Punished in the Harris County Juvenile Justice System, a Study Shows](#)

Houston Public Media | February 01, 2022

Elder Justice

[Managing Cognitive Decline Concerns in the Workplace](#)

Petrie-Flom Center | February 03, 2022

[Governor Mills Releases Historic Elder Justice Roadmap](#)

The State of Maine | February 04, 2022

[United States Files False Claims Act Lawsuit Against Tuscaloosa Psychiatrist for Improper Prescribing of Nuedexta to Nursing Home Residents](#)

United States Department of Justice | February 04, 2022

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