



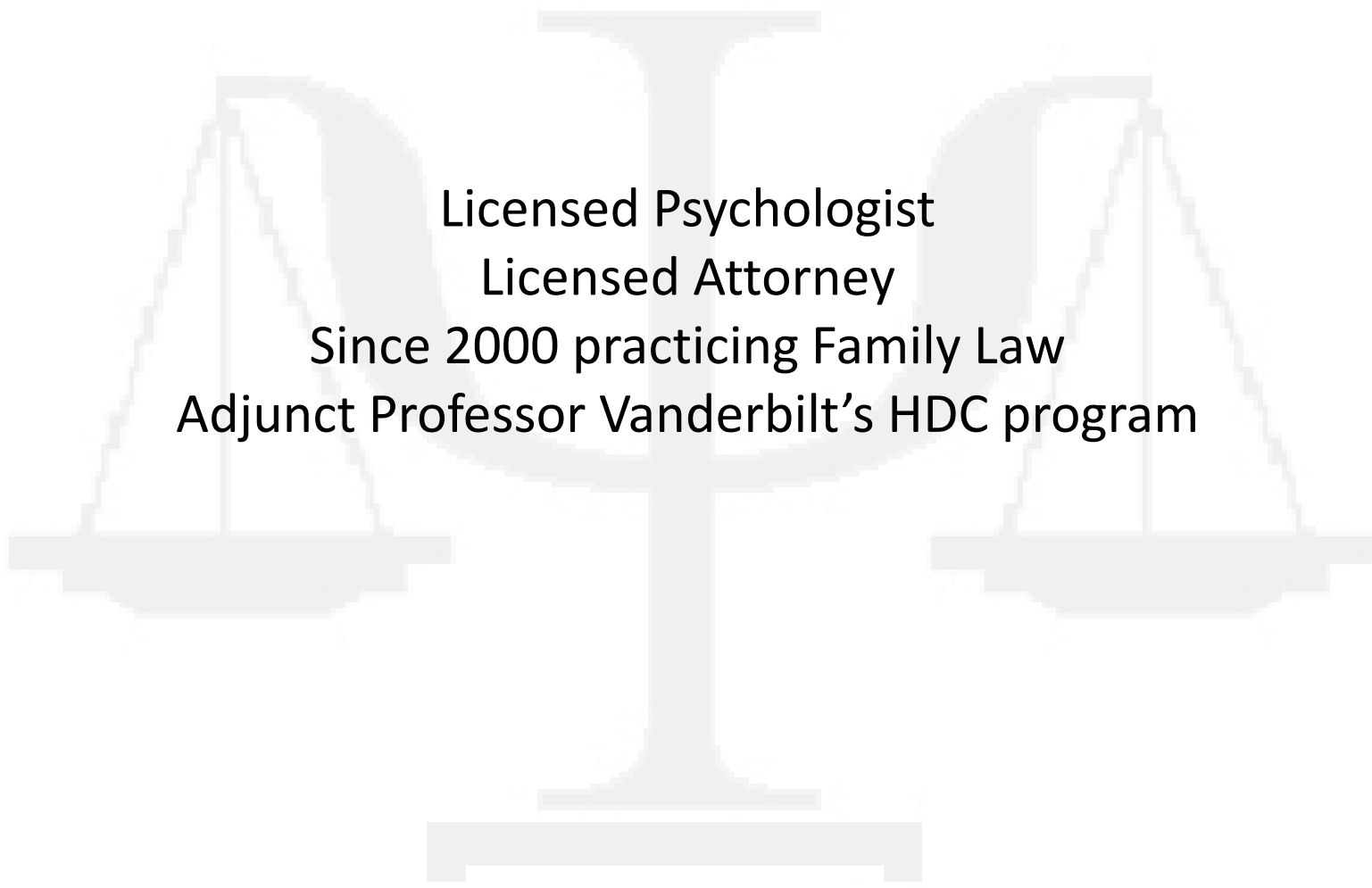
Social, Legal and Ethical Issues

HDC 3600-02

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www.tennlegal.com

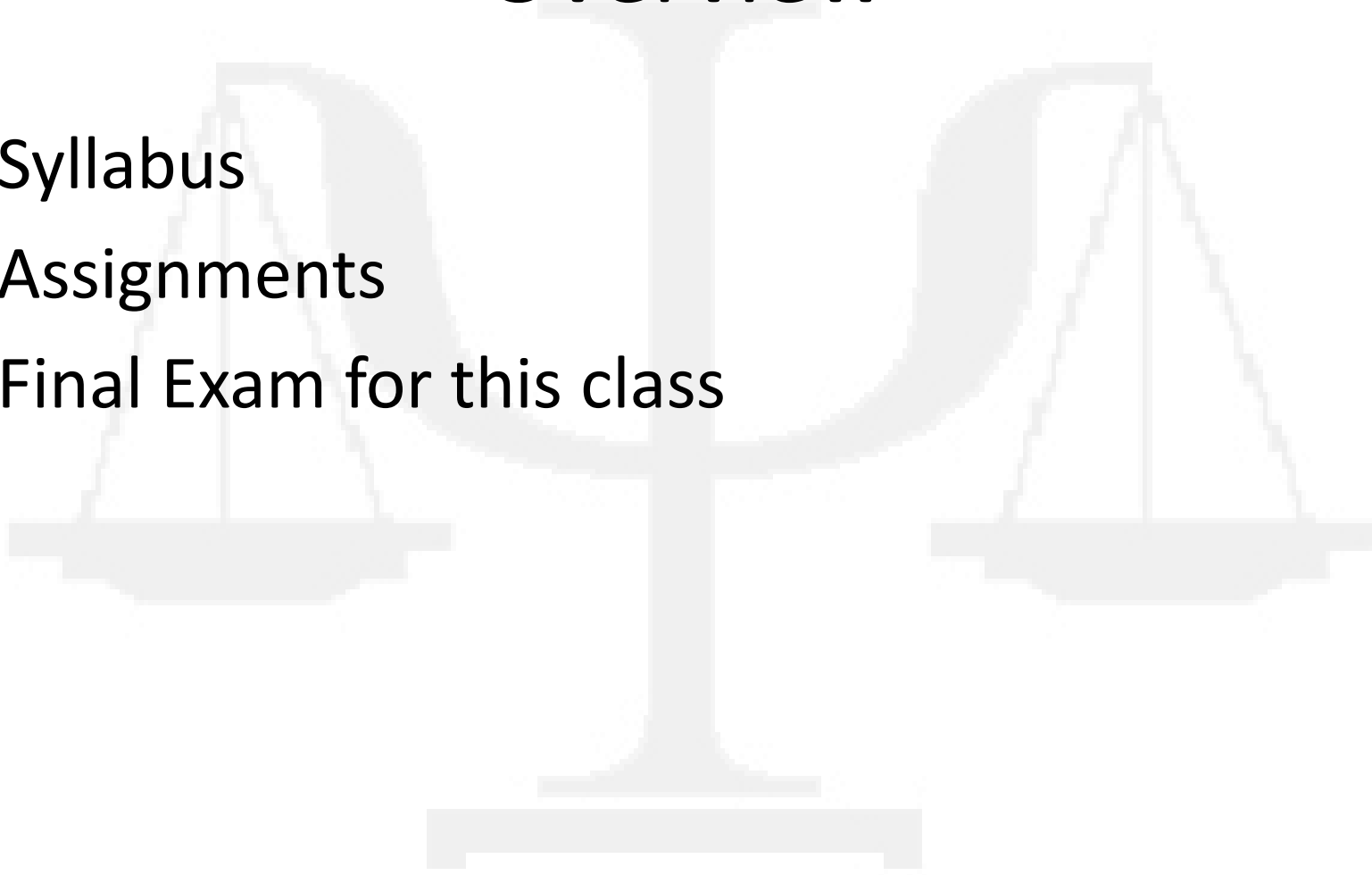
615-498-1014



Licensed Psychologist
Licensed Attorney
Since 2000 practicing Family Law
Adjunct Professor Vanderbilt's HDC program

Overview

- Syllabus
- Assignments
- Final Exam for this class



Overview

1. Sources of law and Conflicts of Law, Ethical decision schema
2. Statistical violations, (Jefferson)
3. Dangerous Clients (Tarasoff, Turner v Jordan)
4. HIPPA (HIPPA)
5. Informed consent; Disclosure papers
6. TBD
7. Confidentiality (Jaffee)

Overview: Week 2

8. Minor's records (Shaw, Releasing Adolescent Records)
9. Minors: custody and parental alienation (PAS, Custody reports)
10. Suicide; risk factors (Suicide, Suicide prevention)
11. Duty to Warn (Turner v Jordan)
12. Child Sexual Abuse (Minor Sexuality, Decision Tree)
13. Boundaries (TBD)
14. Subpoena Response

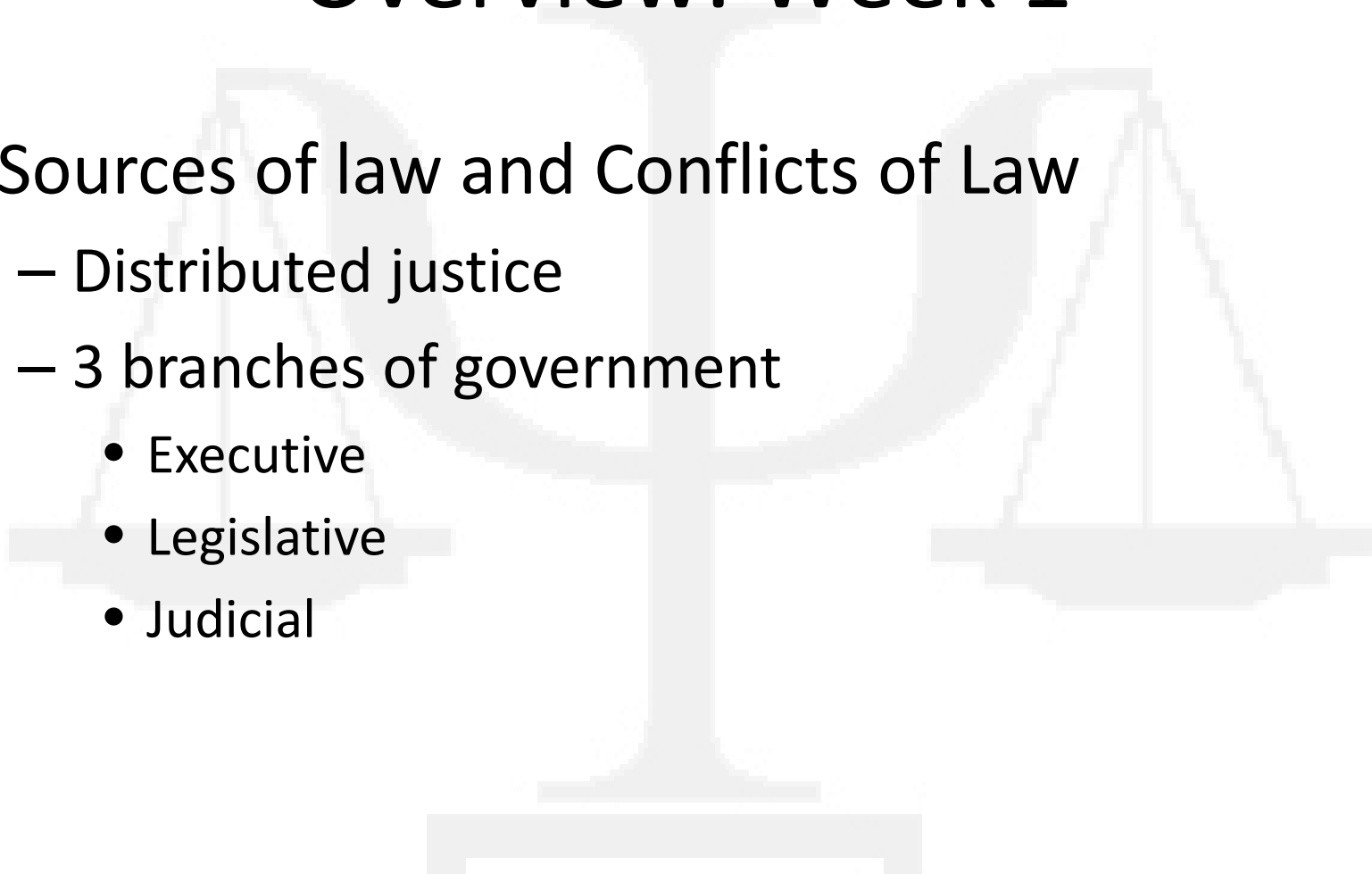
Overview: Week 1

- Sources of law and Conflicts of Law
 - Distributed justice



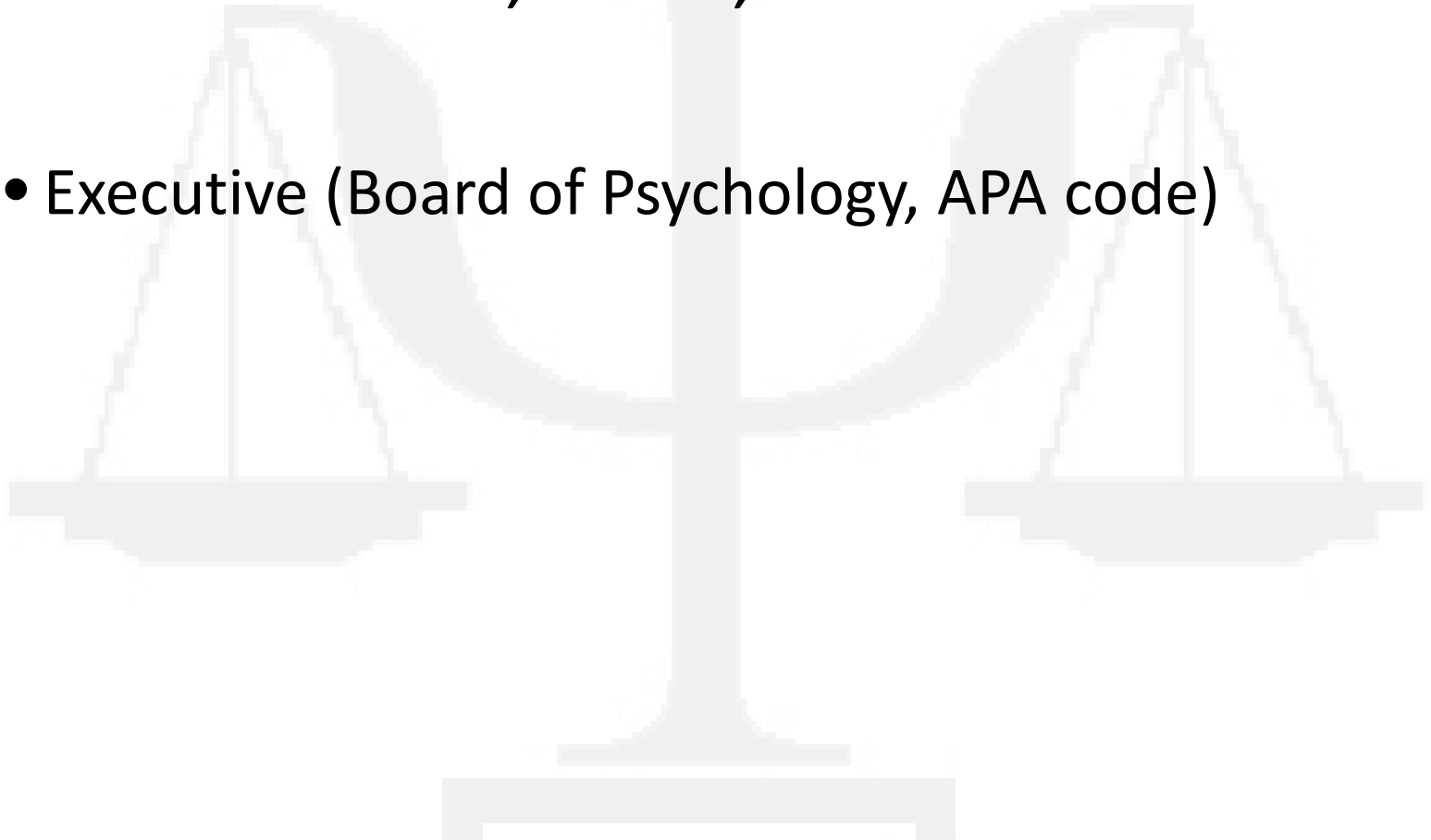
Overview: Week 1

- Sources of law and Conflicts of Law
 - Distributed justice
 - 3 branches of government
 - Executive
 - Legislative
 - Judicial



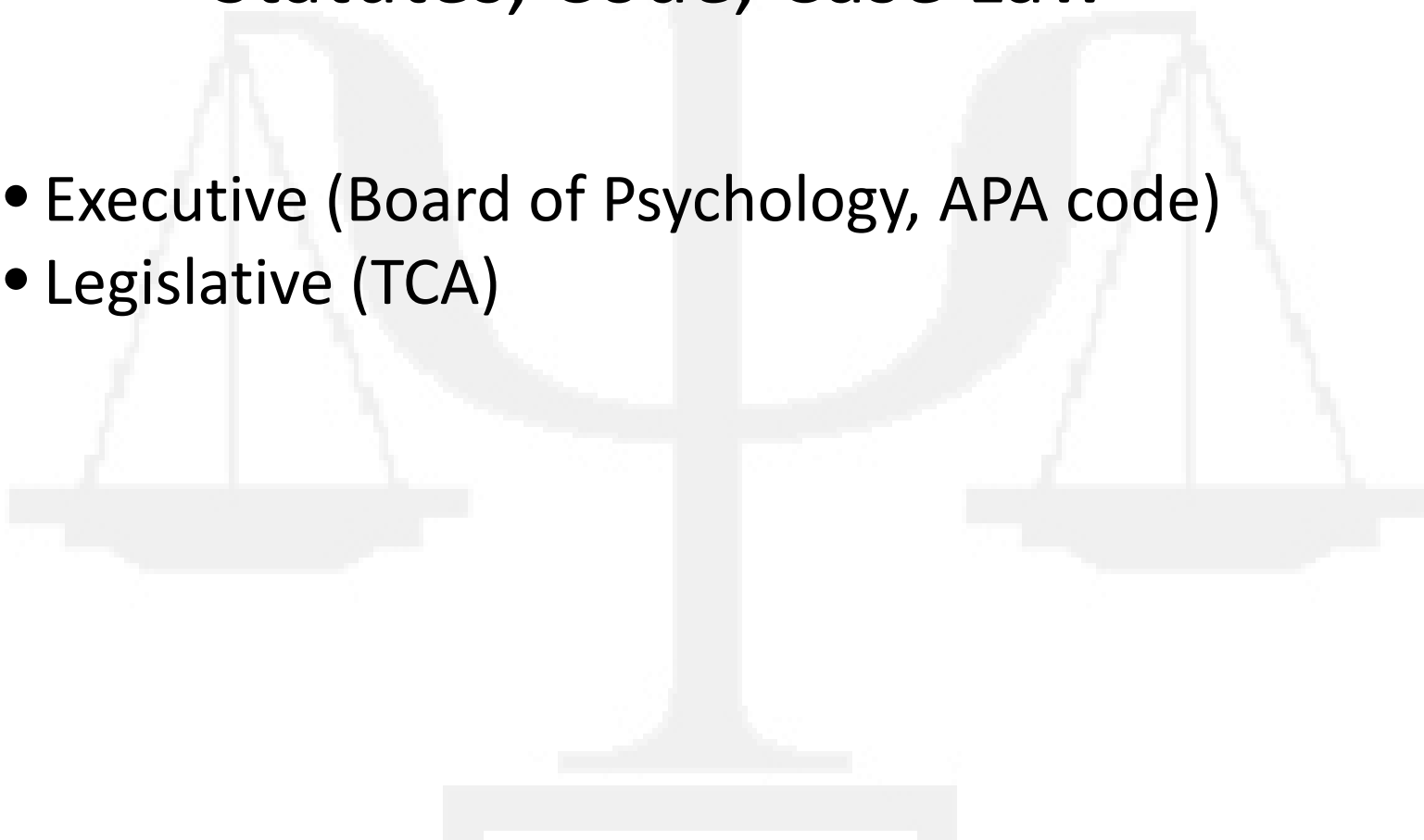
Statutes, Code, Case Law

- Executive (Board of Psychology, APA code)



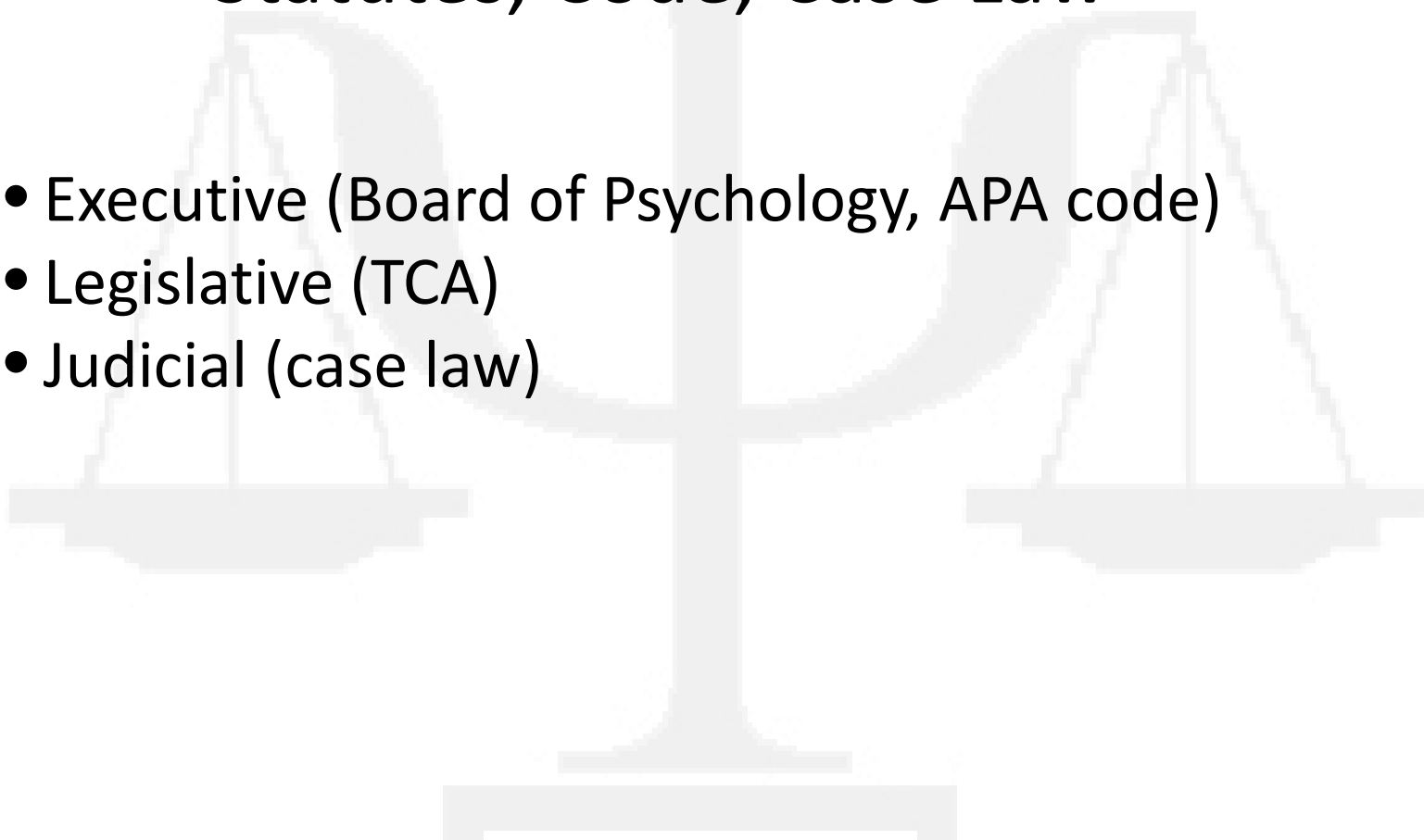
Statutes, Code, Case Law

- Executive (Board of Psychology, APA code)
- Legislative (TCA)



Statutes, Code, Case Law

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- Judicial (case law)



Statutes, Code, Case Law



- Executive (Board of Psychology, APA code)
- Legislative (TCA)
- Judicial (case law)

Which one applies??? Who trumps who???

33-3-206. Duty to predict, warn or take precautions to provide protection — Liability. —

IF AND ONLY IF

(1) a service recipient has communicated **to** a qualified mental health professional or behavior analyst an actual threat of bodily harm **against a clearly identified victim**, AND

(2) the professional, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by the professional's specialty under similar circumstances, has determined or reasonably should have determined that the service recipient has the apparent ability **to** commit such an act and is likely **to** carry out the threat unless prevented from doing so,

THEN

(3) the professional shall take reasonable care to predict, warn of, or take precautions to protect the identified victim from the service recipient's violent behavior.



“Non-Tarasoff State”???



Turner v Jordan: 1997 TN Supreme Court case

TCA states we owe a duty to an “identified third party”

Turner v Jordan holds that we owe a duty to “foreseeable (unidentified) third party” and duty is to “warn or protect”



33-3-201. Liability of counselor for suicide or attempted suicide of person counseled.

A counselor, while acting within the scope of responsibilities assigned by a counseling center, is not liable civilly or criminally for the suicide or attempted suicide of any person consulting the counselor.

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(a) As used in this section, unless the context otherwise requires:

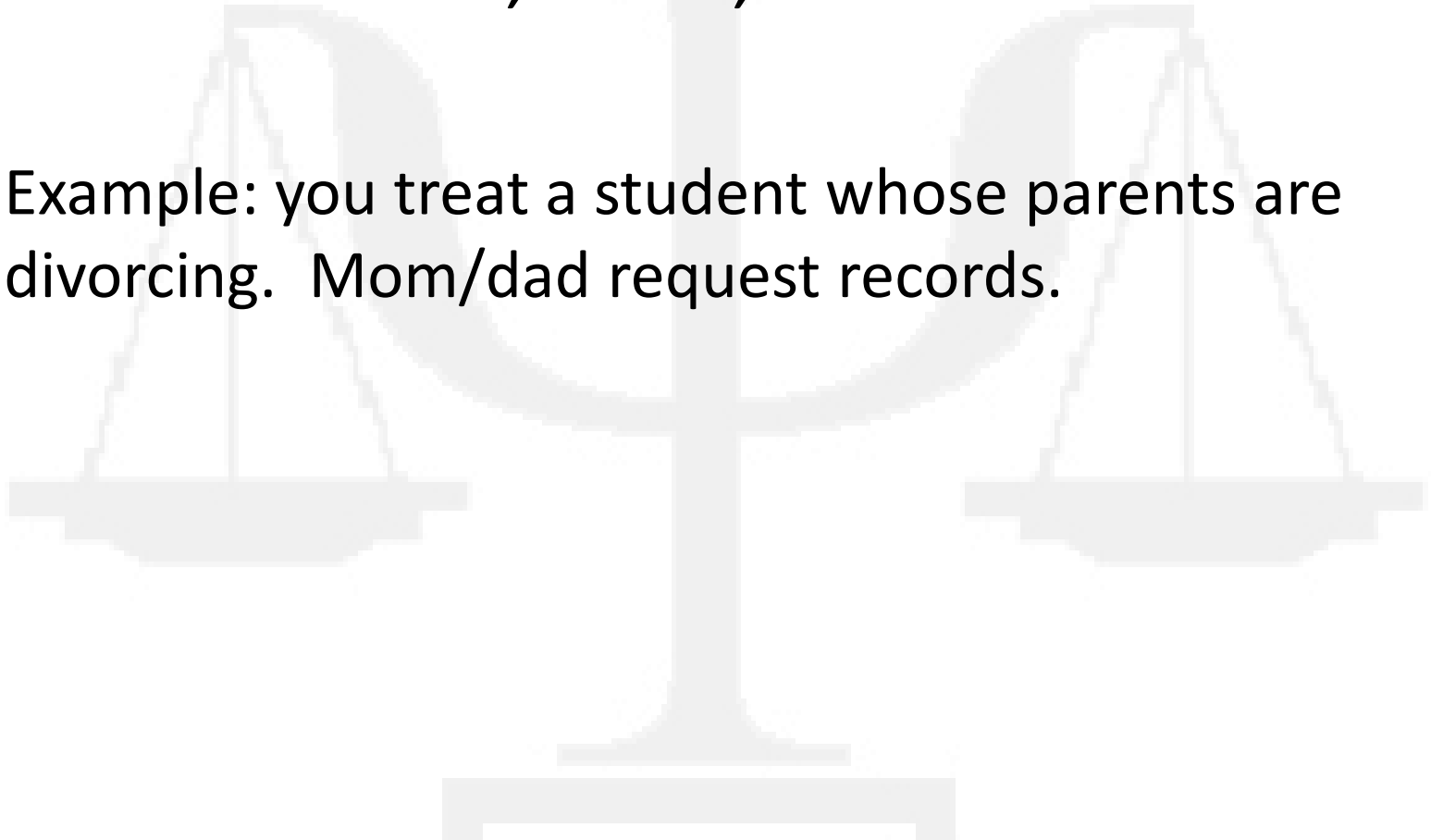
(1) “Counseling center” means any nonprofit service operated at least partially with volunteer assistance that provides counseling, assistance or guidance, either in person or by telephone, to persons with mental illness or serious emotional disturbance; and

(2) “Counselor” means any psychiatrist, psychologist, licensed psychologist with health service provider designation, certified or licensed marital and family therapist, certified or licensed professional counselor, certified or licensed social worker, or other professional trained in the field of psychiatry or psychology or any nonprofessional person acting under the guidance or supervision of the professionals.

(b) A counselor, while acting within the scope of responsibilities assigned by a counseling center, is not liable civilly or criminally for the suicide or attempted suicide of any person consulting the counselor.

Statutes, Code, Case Law

Example: you treat a student whose parents are divorcing. Mom/dad request records.



Statutes, Code, Case Law



Example: you treat a student whose parents are divorcing. Mom/dad request records.

- FERPA (Family Educational Rights Privacy Act)
- HIPPA
- School rules
- ACA guidelines
- Court orders from the divorcing court

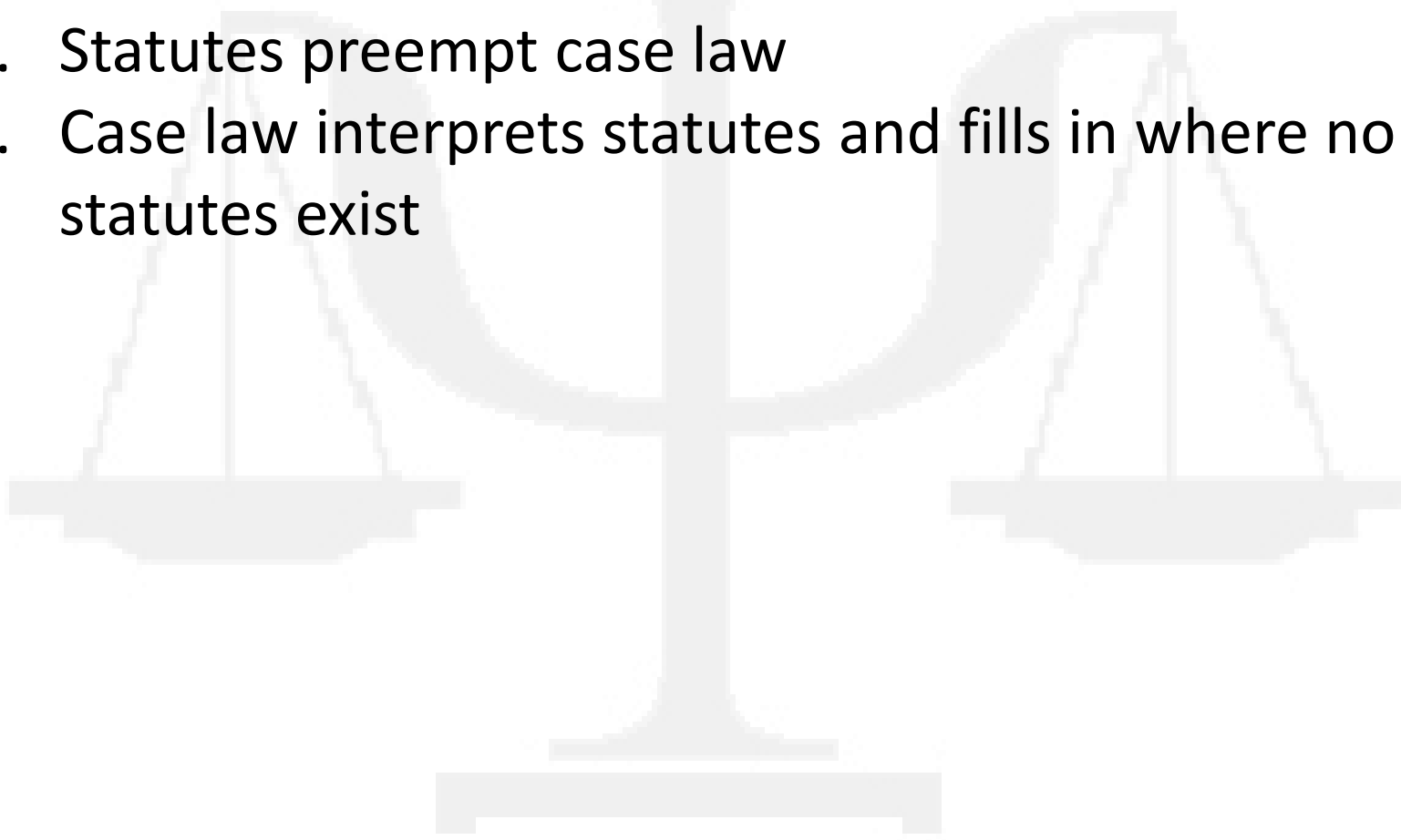
Conflicts of Law

1. Statutes preempt case law



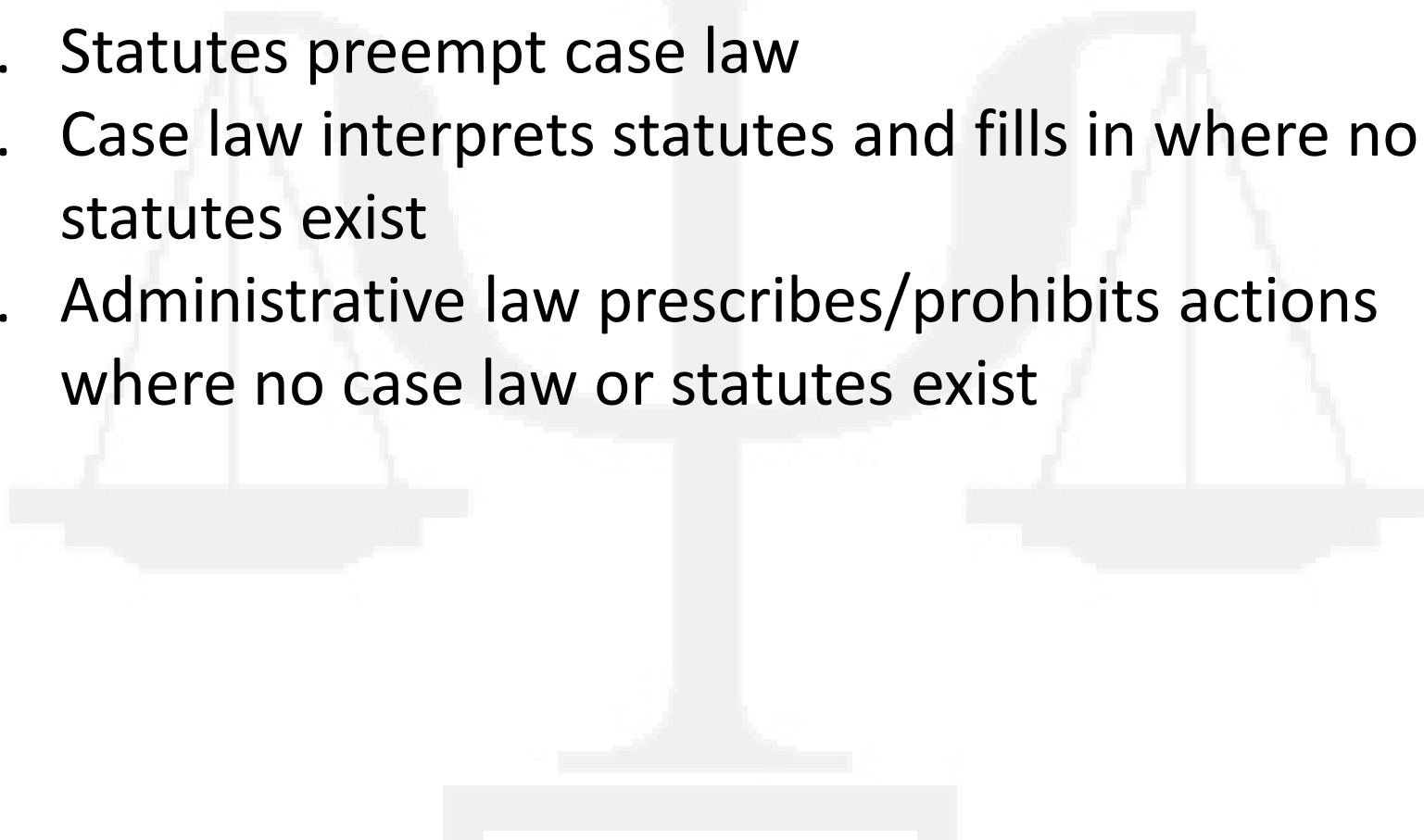
Conflicts of Law

1. Statutes preempt case law
2. Case law interprets statutes and fills in where no statutes exist



Conflicts of Law

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9. Most recent decision

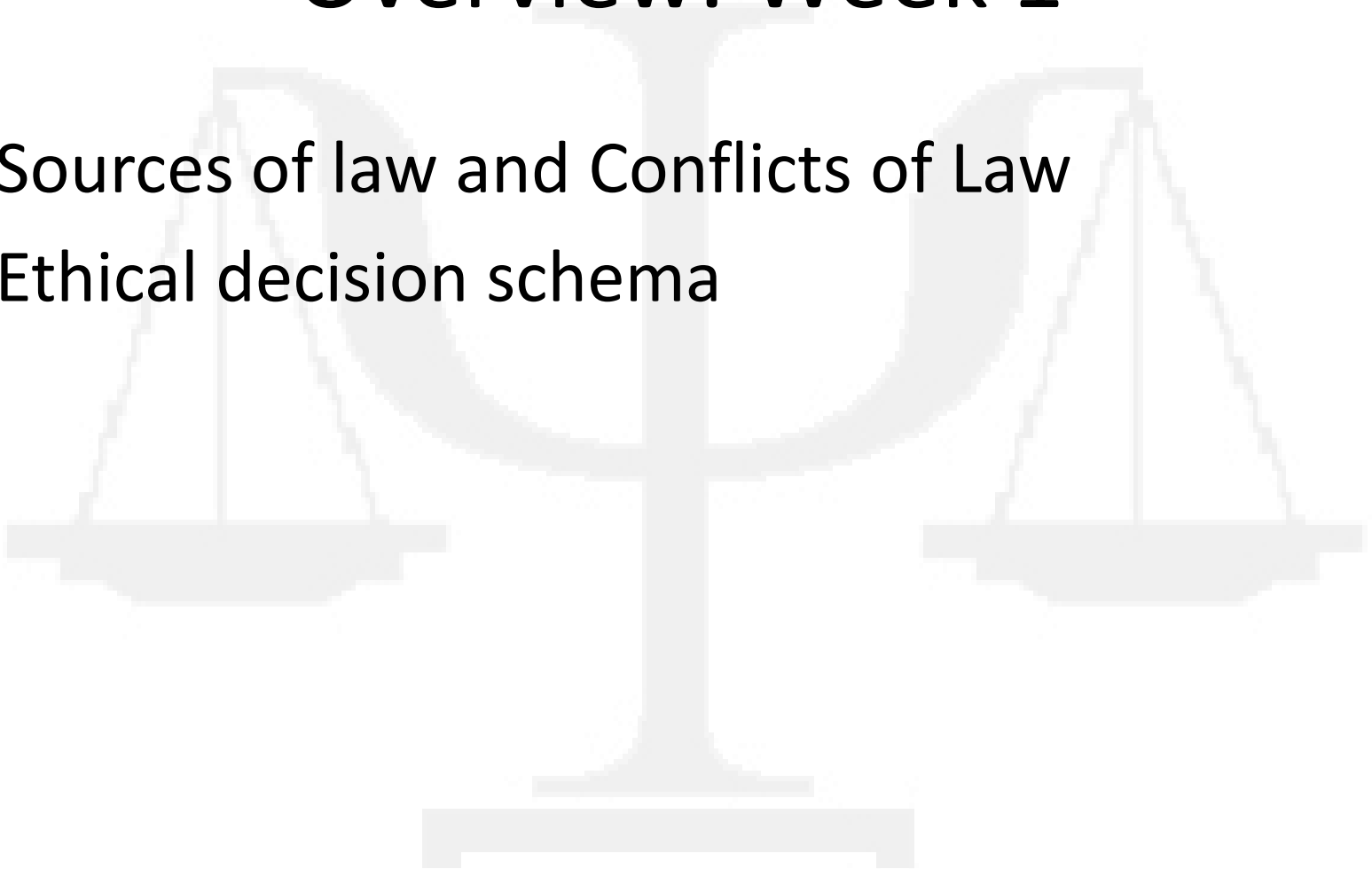
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9. Most recent decision
10. Jurisdiction/venue

Overview: Week 1

- Sources of law and Conflicts of Law
- Ethical decision schema



Ethical Decision Schema



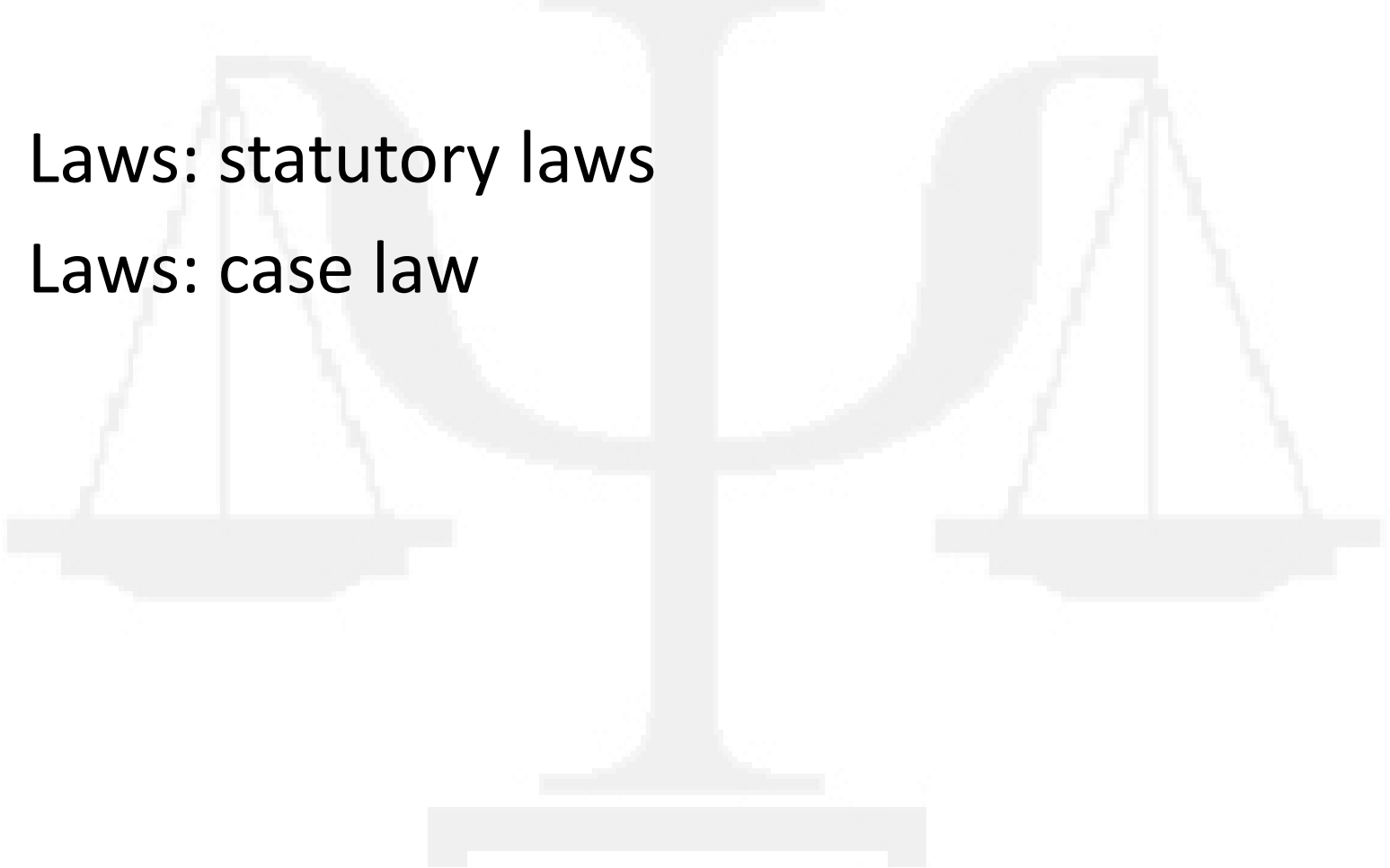
Ethical Decision Schema

A. Laws: statutory laws



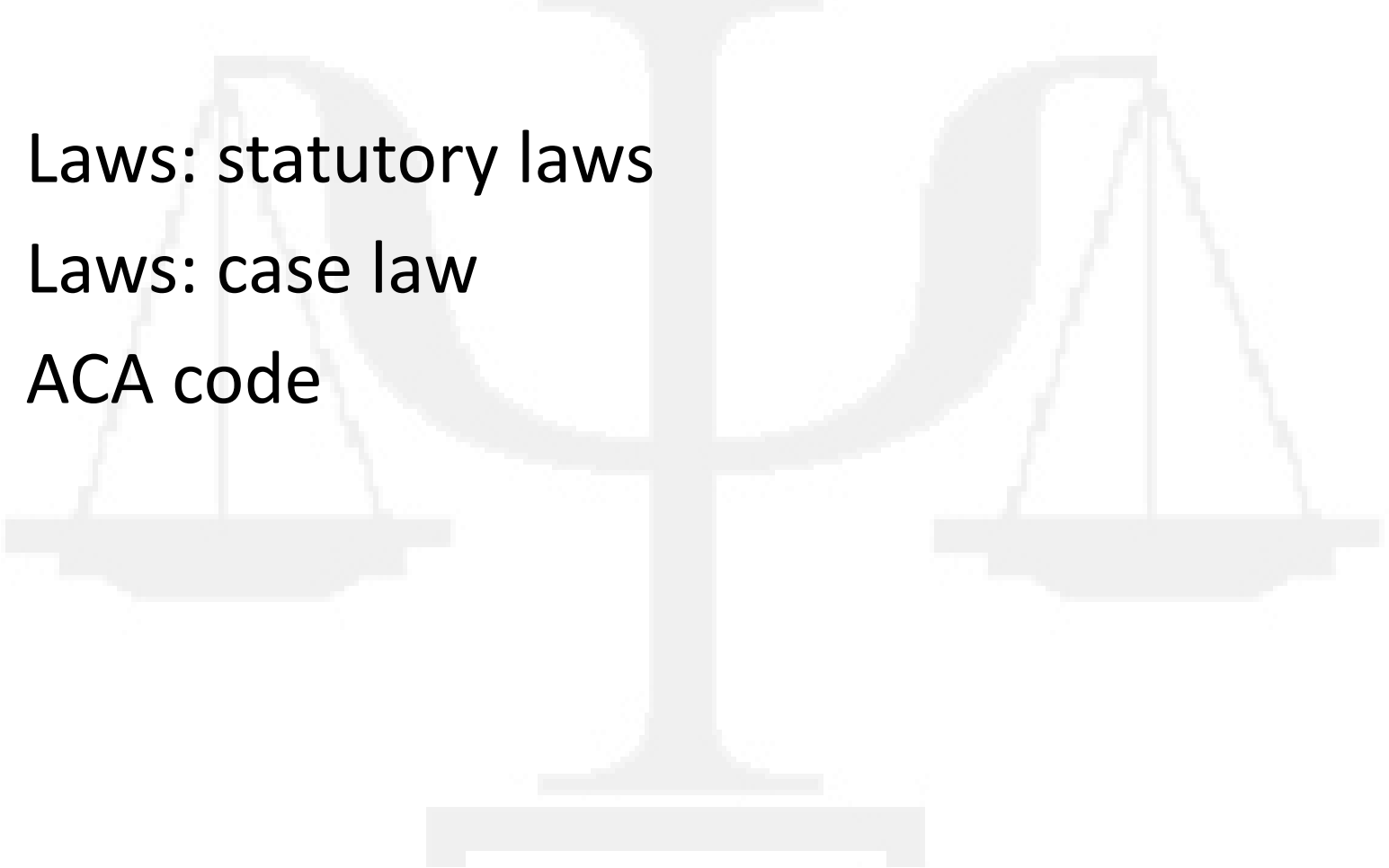
Ethical Decision Schema

- A. Laws: statutory laws
- B. Laws: case law



Ethical Decision Schema

- A. Laws: statutory laws
- B. Laws: case law
- C. ACA code



Ethical Decision Schema



- A. Laws: statutory laws
- B. Laws: case law
- C. ACA code
- D. Duty to client as a therapist

Ethical Decision Schema



- A. Laws: statutory laws
- B. Laws: case law
- C. ACA code
- D. Duty to client as a therapist
- E. Duty to client as a person

Ethical Decision Schema



- A. Laws: statutory laws
- B. Laws: case law
- C. ACA code
- D. Duty to client as a therapist
- E. Duty to client as a person
- F. Greater good