

Seventeenth Annual Liman Colloquium

April 3-4, 2014

YALE LAW SCHOOL

Co-sponsored by the Arthur Liman Public Interest Program, the Oscar M. Ruebhausen Fund, and Yale Law School

## ISOLATION AND REINTEGRATION: PUNISHMENT CIRCA 2014

This colloquium explores how to reduce the isolation of prisoners, in terms of the manner and the degree to which correctional facilities rely upon separation of prisoners to maintain order, and the distances separating prisoners from their communities of origin and from society at large.

*“As punishments become more cruel, so the minds of men, like fluids that always adjust their level according to the objects around them. . . . This is because one punishment obtains sufficient effect when its severity just exceeds the benefit the offender receives from the crime, and the degree of excess must be calculated precisely according to the damage to public good caused by the crime. Any additional punishment is superfluous and therefore a tyranny.”*

Cesare Beccaria, ON CRIMES AND PUNISHMENTS 69-70 (XXVII, The Mildness of Punishment) (5th ed. Trans. Graeme R. Newman & Pietro Marongui, 2009, republishing 1754 edition).

*“The general object which all laws have, or ought to have, in common, is to augment the total happiness of the community; and therefore, in the first place, to exclude, as far as may be, every thing that tends to subtract from that happiness: in other words, to exclude mischief. But all punishment is mischief: all punishment in itself is evil. Upon the principle of utility, if it ought at all to be admitted, it ought only to be admitted in as far as it promises to exclude some greater evil.”*

Jeremy Bentham, AN INTRODUCTION TO THE PRINCIPLES OF MORALS AND LEGISLATION, paras.1-2 (VII, Cases Unmeet for Punishment) (1822).

In centuries past, reformers such as Cesare Beccaria and Jeremy Bentham offered what were then radically new conceptions of punishment. Today’s conditions invite comparably ambitious aspirations to reframe the practices of punishment in the twenty-first century, even as Bentham’s proposed Panopticon stands as a reminder that one generation’s efforts at improvements may come to be challenged by the next.

## Thursday, April 3

3-4 pm Registration Faculty Dining Room

4:10-6 pm **The State of Corrections and Its Alternatives** **Room 127**

This panel brings together individuals, all focused on sentencing and corrections and coming from different sectors, to address how to change current patterns of incarceration.

Harold Clarke, Director, Virginia Department of Corrections

Rick Raemisch, Director, Colorado Department of Corrections

The Honorable Patti Saris, Chair, U.S. Sentencing Commission, and Chief Judge, U.S. District Court, District of Massachusetts

The Honorable Myron Thompson, District Judge, U.S. District Court, District of Alabama

Nicholas Turner, President, Vera Institute of Justice

Moderator: Judith Resnik, Arthur Liman Professor of Law, Yale Law School

6:15-7:15 pm **Visiting Prisons: A Symposium of the Yale Law and Policy Review**

This session explores the regulation, operation, and impact of prison visits. Panelists will draw on and respond to the fifty-state survey of visiting policies that the Liman Program undertook with the assistance of the Association of State Correctional Administrators (ASCA); their essays will be published in a special issue of the Yale Law and Policy Review.

David Fathi, Director, ACLU National Prison Project

Aaron Littman, Yale Law School, Class of 2014

Giovanna Shay, Professor of Law, Western New England School of Law

A.T. Wall, II, Director, Rhode Island Department of Corrections, and  
President, Association of State Corrections Administrators

Paul Wright, President and Founder, Prison Legal News

Moderator: Andrea Armstrong, Associate Professor, Loyola Law School

7:30-10 pm Dinner, President's Room, Woolsey Hall

**Friday, April 4**

Room 120, Yale Law School

8:30-9:30 am Breakfast

9:30-11:30 am **Isolation by Place and by Rule: Mapping Prison Placements, the Impact of Gender, and the Challenges of Distance**

The roundtable begins by exploring the roles that prison placement, classification systems, and communication rules play in shaping the experiences of incarceration. Questions for discussion include whether classification, placement, and visiting decisions ought to vary to take into account the demographic characteristics of the populations. For example, should “gender-responsive” programming be put into place? Do other characteristics merit similar consideration? To what extent should the demographics of the staff reflect the population incarcerated? What roles do legal regulations play in such decisions?

Opening Comments:

Kathy Boudin, Director, Criminal Justice Initiative: Supporting Children, Families and Communities, Columbia University School of Social Work

Andie Moss, Principal, The Moss Group, Inc., Washington, D.C.

Nkechi Taifa, Senior Policy Analyst, Open Society Institute

Bernie Warner, Secretary, Washington Department of Corrections

11:30 - 12 Lunch (boxes will be available in room 122)

12-1 pm **Living Together or Apart: Isolation in Place**

Isolation has become a facet of all prison systems. This segment is devoted to considering the organization of space inside facilities, the opportunities for exchanges among inmates and staff, methods of building communities, and the role played by deliberate isolation in punitive, protective, and administrative housing designations.

A 50-State Overview of Isolation Policies

Hope Metcalf and Judith Resnik, Yale Law School

Legitimacy and Incarceration

Tom Tyler, Macklin Fleming Professor of Law and Professor of Psychology, Yale Law School

Revisiting Isolation

Gary Mohr, Director, Ohio Department of Corrections

Amy Fettig, Staff Attorney, ACLU National Prison Project

1:15 - 2:45 pm

## **Reflections on Reforming Isolation**

The issues to be discussed include whether and why to segregate; how to segregate; how to reorganize segregation to diminish the degrees of isolation imposed; how much to use segregation (or whether to “stop solitary”), and what role law plays in regulating the forms and degrees of isolation.

3:00 – 5:00 pm

## **The Political Economies of Change: Setting Agendas**

Having examined isolation by rule, by place, and in place, we turn to consider various vectors that can produce change – federal and state legislation, courts, translocal organizations (such as the Association of State Correctional Administrators and the ACLU), targeted funding, media campaigns, and political mobilization. Questions to be considered are the possible bases for optimism about producing significant changes, the role played by federalism in affecting the options, and what incremental shifts and more profound reforms are on the horizon.

### Opening Comments:

Chris Innes, Chief of Information and Research Services,  
National Institute for Corrections

Nicole Porter, Director of Advocacy, Sentencing Project

Noah Bookbinder, Director of the Office of Legislative and Public Affairs, U.S.  
Sentencing Commission, and former Chief Counsel for Criminal Justice for the  
U.S. Senate Judiciary Committee

Brett L. Tolman, Shareholder, Ray, Quinney and Nebeker LLP, and former U.S.  
Attorney for Utah and Legal Counsel for the U.S. Senate Judiciary Committee

6-8 pm

Dinner at Resnik-Curtis Home

403 St. Ronan Street, New Haven CT

[Shuttle bus pick up and drop off: Yale Law School, 127 Wall Street]

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