

The PHI BETA KAPPA Society

VISITING



SCHOLAR
PROGRAM

**MARGO
SCHLANGER**

**UNIVERSITY OF MICHIGAN LAW
SCHOOL**

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**PUBLIC LECTURE
OFFERINGS**

**AMERICAN SOLITARY CONFINEMENT: ORIGINS, DEVELOPMENTS,
AND POTENTIAL PATHS FORWARD**

During the early Republic, the United States invented modern imprisonment and pioneered mass solitary confinement. After a long hiatus, however, the federal government reinvented mass solitary in the 1980s. This lecture examines solitary confinement as currently practiced in American jails and prisons, canvassing its origins and explosive growth, its effects on prisoners, and recent reforms narrowing the path into solitary.

**DISABILITY AND EQUALITY: LESSONS FROM AND FOR
AMERICAN PRISONS**

A very large portion—maybe a majority—of people incarcerated in the United States have a disability. This lecture makes two claims. First, disability law, and equality for people with disabilities, require a different approach than business as usual. What's needed is individualization and accommodation, where individual needs of people with disabilities are incorporated into official decisionmaking, and are outweighed only when there's a really muscular justification, such as serious safety risks. Second, the insight that equality sometimes requires individualization, accommodation, is actually a broader insight, helpful for people without disabilities as well.

MARGO SCHLANGER

“OFFICES OF GOODNESS”: INFLUENCE WITHOUT AUTHORITY IN FEDERAL AGENCIES

Inducing governmental organizations to do the right thing is the central problem of public administration. Especially sharp challenges arise when “the right thing” means executing not only a primary mission but also constraints on that mission. In a classic example, police are asked to prevent and respond to crime and maintain public order, but to do so without infringing anyone’s civil rights. In the federal government, if Congress or another principal wants an executive agency to pay attention not only to its mission, but also to some other constraining or even conflicting value—I will call that additional value, generically, “Goodness”—that principal has several choices. Congress can somehow impel the agency to try to seed the constraining value widely throughout its ranks—for example, by using supervision tools or incentives to get many agency employees to pay attention to Goodness. Or Congress can empower some other federal organization more closely aligned with Goodness to play an augmented role in the agency’s affairs. This Lecture explores an important third approach: furthering Goodness by giving it an institutional home, a subsidiary agency office I call an “Office of Goodness.” The Trump Administration is demonstrating both the strengths and weaknesses of this approach.

CLASSROOM DISCUSSION TOPICS

A “REASONABLE WOMAN” STANDARD?

American law often imposes liability on actors who injure someone by acting unreasonably—driving unreasonably fast, failing to take reasonable precautions, maintaining premises so they

1. are unreasonably unsafe, and so on. Traditionally, this idea of reasonable care was personified as the “reasonable man” standard. What if it were a “reasonable woman” standard instead, or sometimes? The answer is not always good for women litigants. The topic allows exploration of the ways in which gender-conscious standards can free or constrain women.

FEDERAL CIVIL RIGHTS CASES AND THE TRUMP ADMINISTRATION

2. Administration using the levers of executive power to rewrite the meaning of “civil rights” and how they are enforced? How are its opponents leveraging federal court authority to challenge the Administration?

THE RELATIONSHIP BETWEEN CRIMINAL JUSTICE REFORM AND ABOLITION

3. The American left has proposed numerous abolitionist goals (“Abolish the Police,” “Abolish ICE,” “Stop Solitary,” “Abolish Prisons”). Simultaneously, some urge more moderate reforms. How do these two approaches to changing the criminal legal system interact? Is reform a step towards or an obstacle to abolition? Do abolitionist movements make reform more or less likely?

4. ANY OF THE ABOVE LECTURES CAN ALSO BE USED AS DISCUSSION TOPICS