

The University of Texas  
presents

# Opening Up a Closed World: What Constitutes Effective Prison Oversight?

Sunday, April 23 - Wednesday, April 26, 2006

**Sponsoring Partners: Lyndon B. Johnson School of Public Affairs (UT)  
Pace Law School (NY)**

**Co-Sponsors: UT Law School, the William Wayne Justice Center for Public Interest Law (UT),  
the Institute for Domestic Violence and Sexual Assault (UT School of Social Work),  
the Swedish Studies Endowment Fund (UT), and Penal Reform International—The Americas**

**Supporters: Audre and Bernard Rapoport, Harold Simmons Foundation,  
Sandy and Paul Rogge, Fred Cohen**

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## Agenda

All events will be held in the Thompson Conference Center on the University of Texas campus unless otherwise noted. Conference sessions will be open to a limited number of faculty, staff, and students from the UT community who wish to observe the proceedings on a space-available basis, except for those events restricted to registered participants.

**Sunday, April 23**                      **5:30 – 7:30 p.m.**  
**Opening Reception**  
**Venue: Texas Capitol—Lieutenant Governor's Reception Room**  
*Hosted by Texas Senator John Whitmire*  
(registered participants only)

*Welcoming Comments:*  
**Senator John Whitmire**, Chair, Texas Senate Criminal Justice Committee  
**Representative Jerry Madden**, Chair, House Corrections Committee

## **Day One: Monday, April 24**

7:30 – 8:30 a.m.                      *Continental Breakfast*                                              *Registration Desk opens*

8:30 a.m.      *Welcome and Conference Overview:*  
**Michele Deitch**, Conference Chair  
 Adjunct Professor, LBJ School of Public Affairs

### **PART 1: What is Oversight? Why is it Necessary?**

8:45 - 9:30 a.m.

#### **Session I. Introduction and Exploration of the Various Functions of Prison Oversight**

*Presentations:*

“Introduction: U.S. Prisons in the 21st Century and Renewed Calls for Oversight  
**Michael Mushlin**, Professor, Pace Law School

“Independent Inspections as an Alternative to Court-Based Oversight”  
**Al Bronstein**, Director Emeritus, ACLU National Prison Project,  
 and Board President, Penal Reform International—The Americas

“Distinguishing the Various Functions of Prison Oversight”  
**Michele Deitch**, Adjunct Professor, LBJ School of Public Affairs,  
 and Soros Senior Justice Fellow

9:30 - 11:00 a.m.

#### **Session II. “Professionalism in Corrections and the Need for External Scrutiny” Roundtable discussion**

*Does professionalism in corrections demand an openness to outside scrutiny? Why should corrections professionals welcome the concept of external oversight and how can such oversight benefit administrators? Does increased transparency and accountability lead to increased liability or can it reduce the risk of lawsuits?*

*Moderator:* **A.T. Wall**, Director, Rhode Island Department of Corrections  
**Martin Horn**, Commissioner, New York City Department of Corrections  
**Kathleen Dennehy**, Commissioner, Massachusetts Department of Corrections  
**Andrew Coyle**, Founding Director, International Centre for Prison Studies, Kings College, London, and former executive-level prison administrator, British Prison Service

**Bill Collins**, former Assistant Attorney General, Washington State, and author of “Jail and Prison Legal Issues: An Administrator’s Guide”

*Moderated Audience Discussion*

11:00 – 11:15 a.m.                      *Break*

11:15 a.m. – 12:00 p.m.

**Session III. What Might External Oversight Look Like? Brief Overviews of a Sampling of Inspection Models**

*Moderator*—**Michael Mushlin**, Professor, Pace Law School

*Presentations:*

**Anne Owers**, Chief Inspector, British Prison Inspectorate

**Cecilia Nordenfelt**, Swedish Parliamentary Ombudsman for penal matters

**Matthew Cate**, California Inspector General

**Richard Wolf**, Executive Director, New York City Board of Correction

12:15 – 1:30      **Lunch**      10<sup>TH</sup> Floor Atrium, LBJ Library and Museum  
*Hosted by Dr. Betty Sue Flowers and the Lyndon Baines Johnson Library and Museum*  
 (registered participants only)

*Official UT Welcome, Comments, and Introduction of Luncheon Speaker—*  
**UT Provost Sheldon Ekland-Olson**

*Luncheon Address:*

**“The Importance of Dialogue and Collaboration in the Oversight Process”**

**Silvia Casale**, President, Council of Europe’s Committee for the Prevention of  
 Torture and Inhuman and Degrading Treatment of Prisoners  
 (CPT)

**PART 2: The Essential Elements of External Oversight:  
 A Closer Look**

1:45 – 3:15 p.m.

**Session IV. “Independence: What does it mean and why is it critical?”**

*What does it mean for an oversight entity to be “independent”? Of what must the entity be independent? Does an oversight entity need to be outside of government entirely in order to be free of constraint or bias? Are there downside risks to being “too” independent? Who should fund an independent oversight mechanism? Is independence based on structural factors or is it a state of mind?*

*Moderator:* **Michele Deitch**, Adjunct Professor, LBJ School and  
Soros Senior Justice Fellow

*Presentation--***Anne Owers**, Chief Inspector, British Prison Inspectorate

*Discussants:*

**Matthew Cate**, California Inspector General

**Cecilia Nordenfelt**, Swedish Parliamentary Ombudsman for penal matters

**Bob Gangi**, Executive Director, Correctional Association of New York

*Moderated Audience Discussion*

3:15 – 3:30 p.m. *Break*

3:30 – 5:00 p.m.

### **Session V. Politics and Oversight**

#### **A. Case Study of Independence, Politics, and Oversight: Ohio's Correctional Institutions Inspection Committee**

*Roundtable Discussion*

*Ohio's legislatively-based prison oversight entity has a staff and a mandate to inspect and report on prison conditions. Does the placement of this mechanism within the legislature create any special political challenges? How independent can it be, given this structural arrangement? How effective has it been in improving prison conditions and how has its work been perceived by the correctional agency it monitors?*

*Moderator--***Fred Cohen**, Court Monitor for Ohio's correctional medical services  
**Shirley Pope**, Executive Director, Correctional Institutions Inspection Committee  
**Terry Collins**, Acting Director, Ohio Dept. of Rehabilitation and Corrections

#### **B. Reflections on Politics and Oversight**

*What is or should be the role of legislators in providing oversight of prisons? Is all oversight necessarily politicized, and how can such dynamics be avoided or minimized? Do policymakers have obligations to ensure that prisons are respecting the human rights of prisoners, even if the general public remains unconcerned? To what degree do special interest group politics affect the success of external oversight and how can that challenge be addressed?*

*Moderator--***Max Williams**, Director, Oregon Department of Corrections, and former Oregon state legislator

*Presentations:*

**Assemblyman Jeffrion Aubry**, Chair, Committee on Corrections, NY State Assembly

**Roderick Hickman**, former Secretary, California Dept. of Corrections

*Moderated Audience Discussion*

## 5:00 p.m.--End of Day Reactions

5:15 – 6:30 **Reception**

**Venue:** Jamail Pavilion, UT Law School

*Hosted by UT Law School and the William Wayne Justice Center for Public Interest Law (registered participants only)*

*Welcome—Interim UT Law School Dean Steve Goode*

*Dinner on your own*

## **Day Two: Tuesday, April 25**

7:30 – 8:30 a.m. *Continental Breakfast*

8:30 *Overview of Day's Activities* --**Michele Deitch**, Conference Chair

### **PART 2: The Essential Elements of External Oversight: A Closer Look (cont'd)**

8:35 – 10:00 a.m.

#### **Session VI. Standards**

*What standards, if any, should apply during an inspection by a monitoring body? Are standards necessary if the body is inspecting for human rights violations rather than for compliance with rules and regulations? If standards are necessary, who would set and enforce those standards, and should they be identical to established standards in the corrections profession? Should standards be national or local in application? Should they be mandatory or voluntary? Should standards be drafted so that they establish minimum rules, or should they be aspirational and provide guidance to the agency? Is there a need for uniformity among all the standards with which an agency must comply, even if they are promulgated by different entities?*

*Moderator:* **Silvia Casale**, President, Council of Europe's CPT

*Presentation:* **Andrew Coyle**, Founding Director, International Centre for Prison Studies, Kings College, London, and author of "A Human Rights Approach to Prison Management—Handbook for Prison Staff"

*Panelists:*

**Al Bronstein**, Chair, American Bar Association's Task Force on prison legal standards

**David Bogard**, Commissioner, ACA Commission on Accreditation

**Anne Owers**, British Prison Inspector and author of "Expectations"

**Jeff Beard**, Secretary, Pennsylvania Department of Corrections

*Moderated Audience Discussion*

10:00 – 10:15 a.m.

*Break*

### **PART 3: The Role of Civil Society**

10:15-11:45 a.m.

#### **Session VII. The Role of Citizens and Non-Profit Advocacy Organizations in Providing Oversight**

*Should oversight necessarily be the responsibility of government agencies or can NGOs and citizen groups also provide meaningful and effective oversight of correctional institutions? What difference does the right of access to prisons make in the quality of an NGO's reports about prison conditions? What role should we expect lay citizens to play and how can they be appropriately trained for this responsibility? Are citizen groups too easily subject to "capture" by the agency they are monitoring? Is there a role for formerly incarcerated persons to play in the oversight process? Is there a legitimate fear on the part of corrections officials that non-governmental monitoring groups are agenda-driven, and if so, how can distrust on the part of corrections officials be addressed? What lessons can we learn from civilian police oversight boards and review panels?*

*Moderator—***Michael Mushlin**, Professor, Pace Law School

*Presentation:* **Vivien Stern**, Senior Research Fellow, International Centre for Prison Studies; and Member, British House of Lords -  
*Independent Monitoring Boards and the role of lay citizens within a governmental structure*

*Panelists:*

**John Brickman**, Chair, Correctional Association of New York -  
*The role of an NGO with prison access rights and the role of citizen members*

**Jamie Fellner**, Director of US Programs, Human Rights Watch -  
*The role of an NGO without formal prison access rights*

**Merrick Bobb**, Monitor, Los Angeles County Sheriff's Office, and President, Police Assessment Resource Center -  
*Learning from civilian oversight of the police*

**Kathleen Dennehy**, Commissioner, Massachusetts Dept. of Corrections -  
*Can corrections agencies work effectively with NGOs and citizen boards with oversight responsibilities?*

*Moderated Audience Discussion*

12:00 – 1:00 p.m. **Lunch** 10<sup>th</sup> Floor Atrium Hosted by the LBJ Library and Museum

(registered participants only)

*Welcome and Introduction--LBJ School Dean James Steinberg*

*Luncheon Address:*

**“Reflections on 40 years of outside scrutiny of prisons and prison policy in the U.S.”**

**Hon. Nicholas de B. Katzenbach**, Co-Chair, Commission on Safety and Abuse in America’s Prisons; Chair, 1967 Commission on Crime in the United States; and former U.S. Attorney General

1:15 – 2:15 p.m.

### **Session VIII. The Role of the Media in Opening Up a Closed World**

*Roundtable Discussion*

*What role does the media play in helping to keep prisons and jails transparent and accountable? How much access should the media have to correctional institutions and to prisoners? What restrictions on that access are appropriate? Should some facilities and some information about prisons remain unavailable to the media? What should count as “media” and should there be differences between local media and national media? What constitutes responsible reporting about prison conditions? What does/should the public have the right to know about prison conditions and operations?*

**Moderator--Ted Gest**, President, Criminal Justice Journalists, and Senior Fellow, Program on Crime and the News Media, Jerry Lee Center for Criminology, University of Pennsylvania

**Paul von Zielbauer**, Investigative Reporter, New York Times

**Mike Ward**, Investigative Reporter, Austin American-Statesman

**Dora Schriro**, Director, Arizona Department of Corrections

**Bill DiMascio**, Executive Director, Pennsylvania Prison Society

## **PART 4: The Future of External Scrutiny of Prisons and Jails**

2:15 - 3:30 p.m.

### **Session IX. Oversight of Jails and Private Prisons**

*What are the unique challenges present by oversight of county jails in the United States? Should jails be monitored and inspected by state-level or local-level entities? Should such oversight be funded by the state or by localities? Should the form that the oversight entity takes vary according to the size of the facility and whether it is urban or rural? What entity should provide oversight of the jails when state prisoners are housed at numerous county jails throughout the state as an overflow measure?*

*What should oversight of private facilities look like? To what degree can contract monitoring be effective at preventing poor conditions and human rights abuses in private prison facilities? Is there a need to include human rights provisions in privatization contracts? Is contract monitoring also feasible when it comes to private jails and to private facilities holding out-of-state or federal prisoners?*

**Moderator:** **Bill Collins**, Co-Editor, Correctional Law Reporter, and author of “Jail and Prison Legal Issues: An Administrator’s Guide”

*Presentations:*

**Merrick Bobb**, Monitor, Los Angeles County Jail

*Independent inspection of jails*

**Doug Dretke**, Director, Texas Department of Criminal Justice—  
Correctional Institutions Division

*Contract monitoring of private prisons*

*Moderated Audience Discussion*

3:30- 3:45 p.m.            *Break*

3:45 – 5:00 p.m.

**Session X. Thinking about the Future of Non-Judicial Oversight of Prisons and Jails in the US**

*Audience discussion facilitated by Prof. Michele Deitch and Prof. Michael Mushlin*

Topics to be covered:

(1) **Targeted Oversight**

*Is it feasible or appropriate to design oversight mechanisms that target selected issues such as prison rape, health care, supermax placement decisions, and care of mentally ill prisoners?*

*Preliminary responses from selected audience members:*

**Hon. Reggie Walton**, Chair, National Prison Rape Elimination Commission, and Judge,  
U.S. Court of Appeals for D.C. Cir  
*Prison rape*

**Fred Cohen**, Author, “The Mentally Disordered Offender and the Law”  
*Correctional health care*

**Prof. Michael Jackson**, University of British Columbia School of Law  
*Placement in supermax*

**Beth Mitchell**, Senior Attorney, Advocacy, Inc.  
*Mentally ill prisoners*

## (2) **Structural Considerations**

*Are oversight mechanisms best conceived as national, state, or local in scope and what are the advantages and disadvantages of each approach? If oversight bodies should exist at the state or local level, should federal legislation be sought to require or provide incentives for the development of such state-level bodies? Would it be preferable to have oversight bodies that are governmental or non-governmental in nature?*

## (3) **Overcoming the Obstacles to Effective External Oversight**

*What are the most challenging obstacles to implementing effective external prison oversight measures? Are the obstacles primarily matters of attitude and perception (and if so, on whose part?), or are there concrete changes that need to take place? How can these obstacles best be addressed?*

5:00 p.m.     **Final Remarks**

Adjourn formal conference

## ***Day Three: Wednesday, April 26***

9:00 a.m. – 4:00 p.m.

### ***Work Session***

*(Executive Session—limited to registered participants)*

*Venue: 10th Floor Atrium, Lyndon Baines Johnson Presidential Library and Museum*

*Lunch will be served with a break to visit the Museum*