

MICHAEL B. MUSHLIN
Pace University School of Law
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Professor of Law, Pace University School of Law (1984 to the Present)

Visiting Professor of Law, Brooklyn Law School (2012-2013 Academic Year)

Associate Dean for Academic Affairs, Pace University School of Law (1994-2001)

James D. Hopkins Professor of Law, Pace University School of Law (2005-2007)

Charles A. Frueauff Research Professor of Law (1991-1992).

Outstanding Professor of the Year Award (1994)

Courses:

Civil Procedure I and II, Criminal Procedure Adjudication, Evidence, Federal Courts, Prisoners' Rights

Committee Assignments:

Co- Chair, Dean Search Committee (2013-2014);
Chair of the following committee during my tenure at Pace Law:: Self-Study Committee; Curriculum Committee, Faculty Development Committee, Appointments Committee; Clinical Committee; Equal Opportunity Committee; Elected by my colleagues to Nominating Committee (1984- 2007, 2009/10, 2010/11, 2013/2014 Elected to Dean Search Committee (2003-2004, 2013-2014)); Member, Provost Search Committee (2007).

PUBLICATIONS

BOOKS

RIGHTS OF PRISONERS (4th ed West 2009/2010) (four volume comprehensive treatise on the law regarding prisoners' rights) (Annual Supplement 2010-2011 published in December 2010) (Annual Supplement 2014-2015 forthcoming October 2014)

NEW YORK EVIDENCE WITH OBJECTIONS (4th ed National Institute of Trial Advocacy 2013) (with Jo Ann Harris)

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BOOK CHAPTERS

“Correctional Health Care and Special Populations: Legal Considerations and Context,” in **MANAGING SPECIAL POPULATIONS IN PRISONS AND JAILS**, (Stan Stojkovic, ed., Civic Research Institute (2010)

“Legal Rights of Prisoners” in **ENCYCLOPEDIA OF CRIME AND JUSTICE** (2d Ed Macmillan 2001).

“Practice Commentaries,” Revision Author, Volume 1, Article 1, Weinstein, Korn and Miller, **NEW YORK CIVIL PRACTICE** (2005)

ARTICLES

“The Professor and the Judge: Introducing First- Year Students to the Law in Context, (with Hon. Lisa M. Smith) 63 J. Legal Educ. 460 (2014)

“Unlocking the Courthouse Door: Removing the Barrier of the PLRA’s Physical Injury Requirement to Permit Meaningful Judicial Oversight of Abuses in Supermax Prisons and Isolation Units,” 24 Federal Sentencing Reporter 268 (2012)

Williams v. Hobbs: A Welcome Deviation, 23 Correctional Law Reporter 92 (April/May 2012).

“Let the Sunshine In: The ABA and Prison Oversight” (with Michele Deitch) 2011 American Bar Association: The State Of Criminal Justice 242 (The American Bar Association, Criminal Justice Section 2011).

Foreword: Opening a Closed World: What Constitutes Effective Prison Oversight, 30 Pace L. Rev. 1383 (2010) (with Michele Deitch),

From White Plains to Austin: The Road from the Prison Reform Revisited Conference to the Opening Up A Closed World Conference, 30 Pace L. Rev.1430 (2010),

Getting Real About Race and Prisoner Rights, 6_Fordham Urb. L. J. 27 (2009) (with Naomi Roslyn Galtz)

Bound and Gagged: the Peculiar Predicament of Professional Jurors, 25 Yale Law & Pol’y Rev. 239 (Spring 2007)

Prison Reform Revisited: The Unfinished Agenda, 24 Pace L. Rev. 395 (2004)

The Surge of Immigration Appeals and Its Impact on the Second Circuit Court of Appeals 60 The Record 243 (2005) (with David J.B. Arroyo, Lynn Mary Kelly and Ellen B. Unger)

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Dying Once: The Implications of Dying Twice for the Use of Supermaximum Security Prisons, 32 Capital University L. Rev. 877 (2003)

Dying Twice: Conditions on New York's Death Row 22 Pace L. Rev. 347 (2002) (with David Hammer, Art Cody, Risa Gerson, Norman Green, and Richard Wolf).

"*Foreword, Gideon v. Wainwright Revisited: What Does the Right to Counsel Guarantee Today?*" 10 Pace L Rev 327 (1990)

"*The New Quasi in Rem Jurisdiction: New York's Revival of a Doctrine Whose Time Has Past.*" 55 Brooklyn L Rev 1059 (1990)

"*History Comes Calling: Dean Griswold Offers New Evidence About the Jurisdictional Debate Surrounding the Enactment of the Declaratory Judgment Act,*" 37 UCLA L Rev 139 (1989) (with D. Doernberg).

"*The Trojan Horse: How The Declaratory Judgment Act Created A Cause of Action And Expanded Federal Jurisdiction While The Supreme Court Wasn't Looking,*" 36 UCLA L Rev 529 (1989) (with D. Doernberg.)

"*Unsafe Havens: The Case for Constitutional Protection of Foster Children From Abuse and Neglect,*" 23 Harv CR-CL L Rev 199 (1988). This article was selected to be republished in a condensed form as a chapter in a book to be published by the University of Pennsylvania Law Review entitled: *Child, Parent and State: Law and Policy Reader* (1994).

"*Rhodes v. Chapman Analyzed for Effect on Prison Overcrowding,*" 14 Journal of the National Prison Project 4 (Winter 1987).

"*Court Ordered Foster Care Reform: A Case Study,*" with Louis Levitt, D.P.A., Professor of Social Work, Yeshiva University and Lauren Anderson, J.D., 52 Child Welfare 141 (1986).

"*Court Acts to Guarantee Rights of Foster Kids,*" Permanency, Reports (Fall 1983).

Op Ed/Opinion Pieces

Reform Prison Isolation, Albany Times Union (October 29, 2013) (with Martin F. Horn)

"*Solitary Confinement: New York's Hidden Problem,*" Perspective, New York Law Journal (September 5, 2012)

"*The Correctional Law Reporter at 20,*" 20 Correctional Law Reporter 1 (June/July 2008)

Michael B. Mushlin

"Tribute to Judge Morris E. Lasker," 20 Correctional Law Reporter 21 (August/September 2008)

"Independent Oversight of New York City Jails", New York Law Journal, (May 17, 2007) (with John Horan, David Lenefsky, Clay Hiles and John Brickman)

"Breeding Psychotics," New York Times (March 27, 2005)

"Reviewing New York's Speaking Agent Rule," (New York Law Journal October 15, 2001, p.1) (with Diane Bucci)

"Broken Promises" Perspective, (New York Law Journal, February 25, 1998).

CONFERENCES

Conference, Co-Organizer, **Opening Up a Closed World: What Constitutes Effective Prison Oversight** (held in Austin, Texas, April 22-26, 2006) (This conference brought together some of the leading figures in the field of prison reform including academics, judges, lawyers advocates, including 20% of the nation's corrections commissioners and international prison reformers to present papers and to discuss the future of prison reform. The papers from this conference are published in a special issue of the Pace Law Review entitled *Opening Up a Closed World: What Constitutes Effective Prison Oversight*, 30 Pace L. Rev. 1383-1930 (2010)).

Conference Organizer, **Prison Reform Revisited: The Unfinished Agenda** held at Pace Law School and the New York Judicial Institute (October 2003) (This conference brought together some of the leading figures in the field of prison reform including academics, judges, lawyers advocates and international prison reformers to present papers and to discuss the future of prison reform. The papers from this conference are published in a special issue of the Pace Law Review entitled *Prison Reform Revisited: The Unfinished Agenda*, 24 Pace Law Review 395-855 (2004)).

LECTURES AND PRESENTATIONS:

Written Statement of Martin F. Horn and Michael B. Mushlin, Before the United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, Hearing on Reassessing Solitary Confinement II: The Human Rights, Fiscal, and Public Safety Consequences (February 25, 2014)

"Thinking Outside the Box: Solitary Confinement in New York State Prisons, Pace Law School (April 1, 2014)

Solitary Confinement: Prospectives from Inside and Out, Federal Bar Council (February 7, 2013) (moderator)

"The Professor and the Judge: Introducing First Year Students to Law in Context"

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Faculty Brown Bag Colloquium, Brooklyn Law School (October 2012); Pace Law School (July 2012)

"Prisoner Civil Rights" presented at Federal Judicial Center's 2012 National Conference for Appellate Staff Attorneys. (May 9, 2012)

Written Testimony of Michael B. Mushlin, "Reassessing Solitary Confinement: The Human Rights, Fiscal and Public Safety Consequences," Hearing Before the Senate Judiciary Subcommittee on the Constitution Civil Rights, and Human Rights (June 19, 2012)

"Looking Forward: Prison Reform in an Era of Mass Incarceration and Fiscal Crisis," presented at *40 Years After the Attica Uprising: Looking Back, Moving Forward*" (University at Buffalo Law School, The Baldy Center for Law & Social Policy September 13 2011)

Testimony *"Regarding House Bill 1559 to Establish a Massachusetts Corrections Commissions,"* before 187th General Court of the Commonwealth of Massachusetts Joint Committee on Public Safety and Homeland Security of the Massachusetts Legislature (June 23, 2011)

"Capturing the Interest of Civil Procedure Students Through Real World Exercises" 2011, Summer Conference of the Institute for Law Teaching and Learning (June 3, 2011) (with Judge Lisa Margaret Smith, Southern District of New York)

"The Road to Success In Litigation: A Conversation With Philip Halpern: Master Trial Lawyer" Pace Law School's Center for Continuing Legal Education, (April 5, 2011)

"Model Systems of External Oversight" "Symposium on Oversight of the Juvenile Justice System in New York State organized by the Institute for Juvenile Justice Reform and Alternatives (April 1, 2011) (Moderator)

"Let the Sunshine In: the Case for Prison Oversight", Fordham Law School, Lecture, co-sponsored by Prisoners' Rights Advocates and Amnesty International at Fordham Law School (March 30, 2011)

"Solitary Confinement," New York City Bar, International Human Rights Committee (December 14, 2010)

"Rights of Prisoners," Problems in Contemporary Corrections Class, John Jay College of Criminal Justice (November 15, 2010)

"Crime, but Why Punishment?: An Examination of Modern Justice," Justice Speaks Luncheon New York Law School (November 18, 2010).

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“In Memory of Judge Morris E. Lasker,” Memorial Service for The Honorable Morris E. Lasker, before the Judges of the United States District Court, Southern District Of New York (July 9, 2010)

“Enlisting the Judiciary: Teaching Civil Procedure with a Federal Judge,” American Association of Law Schools, Workshop on Civil Procedure (June 11, 2010) (with Judge Lisa Margaret Smith, Southern District of New York)

“The Prison Crucible: Rethinking Race and Prisoners’ Rights” Presentation to Faculty CUNY School of Law (April 2010).

“Segregation and Solitary Confinement: Cruel and Unusual Punishment” New York University Robert F. Wagner School of Public Service and New York University School of Law (March 23, 2010) (Panel)

“The Prison Crucible: Rethinking Race and Prisoners’ Rights,” The Road to Prison Reform Symposium, University of Connecticut Law School (February 6, 2009) (panel)

“America’s Prison System: Is Criminal Justice Just?” Westchester Arts Council (March 2009)

“Getting Real about Race and Prisoner Rights,” Fordham Law School, Colloquium: Conditions of Confinement (October 24, 2008) (with Naomi Roslyn Galtz)

“On Opening And Closing Arguments: A Conversation With Henry Miller” Pace Law School’s Center for Continuing Legal Education, (December 6, 2011)

“The Prison Crucible: Race and the American Prison System,” Canada Research Chair in International Human Rights Lecture, Wilfrid Laurier University, North American Studies Program, Ontario Canada (November 2007) (series of lectures)

“Learning from Each Other: Sharing Lessons from the Experiences of Practitioners Involved in Oversight of Prisons and Civilian Oversight of Law Enforcement” 13th Annual Convention of the National Association of Civilian Oversight of Law Enforcement, San Jose California (September 2007) (with Michele Deitch)

Bound and Gagged: the Peculiar Predicament of Professional Jurors, Touro Law School, Faculty Colloquia Series, (November, 2007)

“Testimony Regarding Proposed Amendments to the Minimum Standards for the New York City Correctional Facilities” Hearing on Board of Correction Proposed Amendments to the Minimum Standards for New York City Correctional Facilities, The Council of the City of New York Committee on Fire and Criminal Justice Services Public (June 6, 2007)

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“The Prison Crucible: Race and the American Prison System,” James D. Hopkins Lecture, Pace Law School (March 2007)

“Current and Emerging Issues in Prison Law” Association of State Correctional Administrators (Dallas, Texas November 2005)

“Civil Rights and Civil Liberties during the Clinton Administration,” Hofstra University, William Jefferson Clinton Conference, (November 2005) (moderator)

Testimony, New York City Board of Correction Public Hearing on Proposed Amendments to the Minimum Standards for New York City Correctional Facilities, (April 17, 2007)

“Testimony Regarding Conditions on New York’s Death Row,” New York State Assembly Joint Hearing to Consider New York’s Death Penalty, *Testimony* (January 2006)

“A Shadow World: Prisoners’ Rights in 2003,” 1844 Council Reception of the Correctional Association of New York at the Yale Club in New York City, (November 2003)

“Dying Once: The Implications of Dying Twice for the Use of Super maximum Security Prisons”, Colloquium on Dying Twice: Incarceration on Death Row. Association of the Bar of the City of New York, (June 17, 2002)

“Testimony Regarding Proposed Legislation to Establish Oversight in Massachusetts, ,” Joint Committee on Public Safety of the Massachusetts General Court (The Massachusetts State Legislature) on a Bill to create a Department of Correction Advisory Board for that State Testimony, (March 15, 2001).

Evidence Refresher for Administrative Law Judges, (September 2006 and January 2007)

Judicial Training Seminars of the Office of Court Administration of the New York, 1997-2004:

In this capacity I have presented lectures at the New York State Judicial Institute in Westchester, Rochester, Saratoga Springs, Suffolk, Nassau, and Brooklyn to New York state judges and court attorneys on *Fundamental of Evidence Law* and *Updates on Developments in Evidence Law*

“New York and the Modern Death Penalty,” Pace American Constitutional Society, (With Professor Bennett Gershman and Kevin Doyle)

“Prisoners Rights Law in the Rehnquist Court, Corrections Committee of the Association of the Bar of the City of New York (May 7, 2003)

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Evidence for Surrogate Judges, Spring Conference of Surrogates Judges Association of New York, (Bolton Landing, New York, May 2002).

Expert Witness Testimony, American Civil Liberties Union, Continuing Legal Education Program, (March 2002)

Mushlin on Evidence Pace Center For Continuing Legal Education, (Annual lecture most years since 1999)

"*It's about Time: Bringing Justice to Vermont's Prisons*" Conference on Prison Reform entitled on "*Models of Independent Oversight.*" (Burlington Vermont, February 16, 2002).

"*The Imprisonment Epidemic: The Impact of the Rockefeller Drug Laws,*" David E. Rogers, M.D. Health Policy Colloquium at Cornell Medical College, New York, New York, (December 6, 2000)

Westchester League of Women Voters, Annual Meeting Speaker, *The Impact of the Rockefeller Drug Laws* (May 2001)

Lecturer, National Council of Juvenile and Family Court Judges, Charleston, South Carolina, 1982

Lecturer, The Bella Schick Seminar on Advances in Pediatrics, The Brookdale Hospital, New York, *Establishing the Constitutional Rights of Foster Children* 1981.

Lecturer, Government Law Center Conference on Judicial Intervention in Corrections, Mental Health and Social Service Programs, Albany, New York, 1980.

Faculty member, Practicing Law Institute, Course on Prisoners' Rights, New York City, 1979.

PROFESSIONAL MEMBERSHIPS AND ACTIVITIES

Member, Advisory Committee on Criminal Law and Procedure to the Chief Administrative Judge of the State of New York (Appointed by the Chief Judge in March 2010).

Member, Executive Committee of the New York City Bar Association (Elected May 2007 to 2011)

Secretary, Executive Committee of the New York City Bar Association (Elected in May 2008)

Member, The Subcommittee to Evaluate United States Supreme Court Nominee Elena Kagan (2010)

Chair, Subcommittee on Committees (2010/11)

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Co-chair, American Bar Association, Subcommittee on Implementation of the ABA Resolution on Prison Oversight.

Vice Chair, Correctional Association (current); Chairperson, Board of Directors, The Correctional Association of New York and the Osborne Association (1992-1996); Vice Chairperson and Chair of the Program Committee (1983-1996); Board Member, Osborne Association (1983-1999)

The Correctional Association and the Osborne Associations are not-for-profit organizations dedicated to reforming the criminal justice and correctional systems through research, advocacy and the development of model programs that address the causes of crime and enable offenders and ex-offenders to change themselves. The Correctional Association was founded in 1844 by leading citizens of New York State; Thomas Mott Osborne, a leading prison reformer, created the Osborne Association in 1932 in the early 1900s.

Member, Editorial Board of the *Correctional Law Reporter*

Member, Advisory Board Solitary Watch

Member, Task Force on the Legal Status of Prisoners, American Bar Association (2004 to 2007)

Member, Committee on Federal Courts of the Association of the Bar of the City of New York (2001-2004)

Chair, Committee on Corrections of the Association of the Bar of the City (May 1998-2001)

Board of Directors, Children's Rights Inc. (1997-2000)

Member, Due Process Committee, The American Civil Liberties Union, 1989-1993)

Reporter, proceedings of conference to commemorate the 25th Anniversary of *Gideon v. Wainwright* sponsored by the Legal Aid Society, 1988.

The Association of the Bar of the City of New York appointed to the Committee to plan the commemoration of the Twenty Fifth Anniversary of the Family Court, 1987.

The Association of the Bar of the City of New York appointed to The Committee on Corrections, Chairperson of the Subcommittee on Prisons, 1981. Reappointed to the Committee on Corrections, 1984.

Director, Board of Directors, The Legal Aid Society Alumni Association, 1984 - 1988.

Director, Board of Directors, Civil Liberties Union of Westchester County, 1991-1992

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Director, Board of Directors, John Jay Legal Services, 1987-1989

Graduate, National Institute for Trial Advocacy: Training Session for Instructors in Trial Advocacy, Berkeley, California 1989

Graduate, National Institute for Trial Advocacy, Boulder, Colorado, 1975.

Guest discussant and lecturer at the Law Schools of Columbia, Harvard, New York Law School, New York University and Yale.

HONORS

Resolution, The 79th Texas Legislature (2006) (in honor of Professor Michele Deitch and me for our work in organizing a conference that focused on the oversight of U.S. prisons and jails. The resolution commended us for stimulating dialogue and debate that would “lead to significant reforms within the U.S. criminal justice system.”).

PAST PROFESSIONAL EXPERIENCE

1981 - 1984 American Civil Liberties Union Foundation
Associate Director - Children's Rights Project

Summer 1990 Acting Project Director, American Civil Liberties Union
Foundation, Children's Rights Project

The Children's Rights Project, a special project of the American Civil Liberties Union, engaged in a nationwide program of litigation that focuses on the protection of the constitutional rights of homeless minors. As Associate Director, I shared responsibility for litigation, fund raising, public speaking and general supervision of the legal staff. I was directly responsible for hiring, training and supervising law students and legal assistants.

1977 - 1980 The Legal Aid Society
Project Director, Prisoners' Rights Project

1973 - 1977 The Legal Aid Society
Staff Attorney - Prisoners' Rights Project

The Prisoners' Rights Project is a test case unit of the Legal Aid Society that seeks to protect the constitutional rights of prisoners and pre-trial detainees. I had extensive litigation experience in this position both at the trial and appellate

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levels, primarily in federal court. As Project Director, I was responsible for the operation of the office, the supervision of ten attorneys, and a support staff of secretaries, paralegal workers and law students.

1970 - 1973 Harlem Assertion of Rights, Inc.
Staff Attorney

As staff attorney in a neighborhood law office, I represented inner city, poor clients with a wide variety of legal problems and engaged in an extensive court litigation practice.

1966 - 1967 VISTA Volunteer
Milwaukee, Wisconsin

EDUCATION

Northwestern University School of Law

J.D. 1970 - *Cum Laude*

Honors:

Dean's List each semester

American Jurisprudence Awards for Excellence in civil procedure and welfare litigation

Adlai E. Stevenson Award for best brief in

Justice H. Minor Moot Court Competition

Finalist in Moot Court oral argument

Ernest U. Schroeder Honors Scholarship

Vanderbilt University

B.A. 1966

BAR MEMBERSHIPS

State of New York

Federal Courts

Supreme Court of the United States

Second Circuit Court of Appeals

Eastern District of New York

Northern District of New York

Southern District of New York

Western District of New York

American Bar Association

Association of the Bar of the City of New York