For more than 10 years Professor Margo Schlanger has explored civil rights violations within the nation’s prison and jail systems—first as an attorney with the United States Department of Justice Civil Rights Division and then as a professor. One of the nation’s leading experts on prisons and prison reform, she connects academic study of prison litigation and reform with actual policy change.

In her policy work, she has one overriding concern: “The issue I care most about in prison reform is the humane treatment of people who are held behind bars, cut off from the ability to take care of their own needs. I understand disagreement in many areas of criminal justice policy, but, on this topic, I just don’t see any room for debate.”

To that end, Schlanger is serving on a blue-ribbon panel charged with developing recommendations to stem violence and abuse in the nation’s correctional facilities. The 21-member panel will conduct research, hold four public hearings around the country, and issue a policy report. The Vera Institute of Justice, a nonprofit group supporting research into the nation’s justice system and programs that create equity within the system, commissioned the panel.

While Schlanger is familiar with the difficult conditions many inmates face every day, many Americans—including policymakers—don’t realize the extent of the problem. Over the past two decades, the nation’s prison population has quadrupled in size to more than two million. “The U.S. incarcerates at rates that are unmatched in the developed world,” she reports.

Backed by research and trial work that has given her entrée into the nation’s correctional facilities, Schlanger wonders why policymakers think tougher sentencing is more effective than the many alternatives. “More time isn’t always the answer. But it is definitely the approach we’re taking in the U.S.”

Moreover, as correctional systems have become crammed with prisoners, they have often stopped trying to “correct” anything, she says. “We’ve shifted from a goal—even if it’s not always achieved—of rehabilitation to the more limited aim of simple warehousing. Prison time has gotten more idle, and idle time is hard time.”

Another challenge the commission will explore is health needs. For Schlanger, medical and mental health concerns represent the most serious problems in the nation’s correctional facilities. AIDS and hepatitis, the aging of the prison population that inevitably accompanies longer sentences, and mental health concerns strain the correctional system. But, more importantly, inmates who struggle with these diseases and disorders aren’t getting their needs met.

“One over the past several decades, jails in particular have become substitutes for mental health facilities,” says...
Schlanger. “But the folks who run jails don’t have the expertise and haven’t been given the resources they need to deal with the problems this raises.”

Schlanger’s work on jails and prisons evolved from her broader interest in civil rights work. While African Americans and Latinos comprise less than 25 percent of the nation’s population, they make up more than half of the incarcerated population.

“I care a lot about issues of poverty and racial justice,” says Schlanger. “And jails and prisons function, unfortunately, as institutions for poor people and minorities, so it’s been a natural progression.”

Schlanger’s work at the department focused on civil investigations and lawsuits against police and correctional systems that were the sites of widespread civil rights violations against inmates. For example, her investigation of one 600-bed jail in the South found that inmates had no way to contact prison staff in emergencies: no intercom, no sight or sound contact, no direct supervision.

“If there was a medical problem or a fight or any other issue, there was no way for the inmate to get help. People died in that facility as a result,” says Schlanger. “That was a systemic violation of those inmates’ civil rights. And it doesn’t have to be that way. By marshaling expertise, resources, and concern for inmates, other facilities run more safely and humanely.”

Moving to academia, Schlanger began teaching at Harvard Law School in 1998, joining Washington University’s School of Law in 2004. In her classes, students investigate the civil rights of inmates. In one writing seminar, Prisons & Prison Reform, they research some aspect of a prison that was involved in litigation, assessing whether and how reform happened. Her course titled The Constitutional Law of Incarceration examines the legal system’s regulation of the condition of inmates’ confinement—an area of constitutional law that sees development in two or three Supreme Court cases each year.

Meanwhile, Schlanger’s own writing often investigates similar issues. She’s working on “Civil Rights Injunctions over Time: A Case Study of Jail and Prison Court Orders,” which looks at how class-action cases against jails and prisons have changed over the last 30 years.

Schlanger is also making sure students have the opportunity to connect with her work on the Commission on Safety and Abuse in America’s Prisons. The commission’s third hearing will take place November 1–2 in Anheuser-Busch Hall. And an issue of the Washington University Journal of Law & Policy will be dedicated to recommendations on prison reform that stem from the commission.

“I hope that the opportunity to see this panel discuss our nation’s prison system will be a rewarding experience for students and the Washington University community,” Schlanger says. “I’m thrilled that the law school and the commission have been able to make that experience happen.”