Committee on Philosophy and Law

2012-2013 Membership

Melinda Roberts, chair (2015)
Kenneth Ehrenberg (2013)
David Gray (2015)
Matthew Lister (2014)
Gabriel Mendlow (2014)
David Plunkett (2015)
Kevin Toh (2013)

Christopher Griffin, newsletter editor (2013)
Steven Scalet, newsletter editor (2013)
MEMBERS OF COMMITTEE (7/1/2012-7/1/2013):

Melinda A. Roberts    Chair    7/1/2012 6/30/2015    robertsm@tcnj.edu
Gabriel S. Mendlow    Member  7/1/2011 6/30/2014    gmendlow@gmail.com
David C. Gray         Member  7/1/2012 6/30/2015    dgray@law.umd.edu
David J. Plunkett     Member  7/1/2012 6/30/2015    plunkett@post.harvard.edu
Matthew J. Lister     Member  7/1/2011 6/30/2014    mlister@law.du.edu
Kevin G. Toh          Member  7/1/2010 6/30/2013    ktoh@sfsu.edu
Kenneth M. Ehrenberg  Member  7/1/2010 6/30/2013    kmehrenberg@ua.edu
Steven P. Scalet*     ex officio 7/1/2012 6/30/2013    sscalet@ubalt.edu
Christopher G. Griffin* ex officio 7/1/2012 6/30/2013    christopher.griffin@nau.edu

*Editors of Philosophy and Law Newsletter

CHANGE IN MEMBERSHIP AS OF JULY 1, 2013:

Kevin Toh and Kenneth Ehrenberg, to whom we owe enormous gratitude, rotate off the committee; we welcome Alex Guerrero and Maria A. Sanders:

Alex Guerrero    Member  7/1/2013-6/30/16    aguerr@mail.med.upenn.edu
Maria A. Sanders Member  7/1/2013-6/30/16    maria.a.sanders@lonestar.edu

NEW LISTSERV ADDRESS: law-com@apaonline.org

BERGER PRIZE COMPETITION

A subcommittee of the CPL consisting of David Plunkett, Kevin Toh and Melinda Roberts reviewed the seven submissions for the Berger Prize during late summer and early fall of 2012. The prize was awarded to Kimberly Kessler Ferzan for her paper "Beyond Crime and Commitment: Justifying Liberty Deprivations of the Dangerous and Responsible." The paper was published in 96 Minnesota Law Review 141 (2011). A session devoted to Ferzan’s paper
was held at the Pacific Division Meetings (2013). A description of that session is included below.

**COMPLETED EVENTS**

**Eastern Division Meetings December 2012**

1. Organized by Matthew Lister

   **Title:** *Problems in International Criminal Law*

   **Chair:** Matthew Lister (Villanova University School of Law)

   **Speakers:**
   - Andrew Altman (Georgia State University)
   - Larry May (Vanderbilt University)
   - Zachary Hoskins (University of Minnesota)

**Central Division Meetings February 2013**

1. Organized by Matthew Lister

   **Title:** *Law Across Borders*

   **Chair:** Matthew Lister (University of Denver, Sturm College of Law)

   **Speakers:**
   - Kristen Hessler (University at Albany, SUNY, Department of Philosophy), "Political Legitimacy and Women's Human Rights"
   - Gerardo Vildostegui (Rutgers-Camden School of Law), "On the Puerto Rican 'Status Question'"
   - Jens David Ohlin (Cornell Law School), “The Duty to Capture”

2. Organized by Committee on Inclusiveness; co-sponsored with the Committee on Philosophy and Law

   **Title:** *Disability: New Perspectives on Justice, Well-being and Virtue*


Adam Cureton (University of Tennessee), “Some Virtues of Disability”

Mark Moller (Denison University), “Welfare Theory and the Disability Paradox”

Anita Silvers (San Francisco State University), “Inclusive Justice, Affirmative Action and Moral/Legal Standing”

Pacific Division Meetings March 2013

Organized by David Plunkett and Melinda A. Roberts

Title: Berger Prize Session

Chair: Melinda A. Roberts (The College of New Jersey)

Speaker and winner of Berger Prize: Kimberly Kessler Ferzan (Rutgers – Camden), “Beyond Crime and Commitment: Justifying Liberty Deprivations of the Dangerous and Responsible”

Commentators: Louis-Philippe Hodgson (York University)

Douglas Husak (Rutgers University)

Gideon Yaffe (Yale University)

PLANNED EVENTS

Eastern Division Meetings – December 27-30, 2013 – Baltimore

1. Organized by Matthew Lister (U.S. Court of Appeals for the 3rd Circuit)

   Title: Mala Prohibita and the Reach of the Criminal Law

   III-H/11:15 a.m.-1:15 p.m.
Abstract: Legal theorists have traditionally distinguished between *mala in se*, crimes that are wrong in themselves, independently of the criminal law, and *mala prohibita*, crimes that are not wrongs prior to their criminalization (though this phrasing is oversimplified). Whereas justification of *mala in se* is fairly straightforward for most plausible accounts of criminal law and punishment, justifying *mala prohibita* has proven to be more difficult. For those who subscribe to legal moralism, the notion that the criminal law should be concerned with moral wrongdoing, it is not clear what justifies criminalizing behavior that is not, independently of its criminalization, wrong. Similarly, rights forfeiture theorists of punishment may struggle to explain what justifies criminalizing behavior that apparently does not violate anyone’s moral rights (i.e., is not pre-legally wrong). This panel will explore questions regarding how best to conceptualize *mala prohibita* and its relationship to *mala in se* — as well as whether, and when, *mala prohibita* are justified.

Chair: Zachary Hoskins (University of Minnesota)

Speakers: Susan Dimock (York University, Toronto), "Reconciling Mala Prohibita Offenses with the Wrongfulness Constraint on Criminalization"

Chad Flanders (St. Louis University School of Law), "Are All Crimes Really Mala Prohibita?"

Stuart Green (Rutgers School of Law – Newark), "Three Modes of Mala Prohibita"

2. Organized by Kenneth Ehrenberg

Title: *Jurisprudential Methodology: Conceptual Analysis Versus Naturalized Jurisprudence*

Session VII-J/9:00-11:00 a.m.

Abstract: What is the right method for understanding the nature of law? What is the proper role for scientific investigations about legal practices and practitioners and how should those inform legal theories (if at all)? Is there still room for conceptual analysis and is it really in opposition to scientifically informed approaches? Some have recently called for a turn to scientific methodology for the investigation of the nature of law. But what would that scientific method look like when asking questions about the nature of law? Is "armchair" legal theorizing really devoid of empirical data? We will conduct a discussion on these and related topics looking particularly to discover how different these methodologies really are and what strengths and weaknesses each has.

Chair: Kenneth Ehrenberg (University of Alabama)

Speakers: Michael Giudice (York University – Ontario)
Kenneth Himma (Seattle Pacific University)
Dennis Patterson (Rutgers University and European University Institute)
Georgios Pavlakos (University of Antwerp)
Dan Priel (York University – Ontario)
Veronica Rodriguez-Blanco (University of Birmingham – UK)

Central Division Meetings – February 26-March 3, 2014 – Chicago

1. Organized by: Zachary Goldberg¹

Title: *The Work of Peter A. French*²

Abstract: This session will explore the philosophical work of Peter A. French and its continuing influence on contemporary issues in moral and political philosophy.

Chair: Zachary J. Goldberg (Universität Regensburg)

Speakers: Toni Erskine (Aberystwyth University and UNSW – Canberra)
Laurence Thomas (Syracuse University)
Deborah Tollefson (University of Memphis)

Commentator: Peter A French

2. Organized by Matthew Lister

Title: *History of Philosophy as Philosophy of Law*³

Abstract: This session will explore uses of figures from the history of philosophy for contemporary issues in legal philosophy. That is, it will look at how we can learn important morals or gain important insights into contemporary issues for legal philosophy and jurisprudence by looking at the history of philosophy. Rather than

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¹ Zachary Goldberg is not a member of the committee but was invited by the committee to organize this session.
² Paper titles to come for October 1, 2013.
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primarily addressing the proper exposition of the thought of historical figures, this panel will address how these figures can help us with our current problems.

Chair: Maria A. Sanders (Plymouth State University)

Speakers: David Brink (University of California, San Diego), “A Closer Look at Mill’s Harm Principle”

Brian Leiter (University of Chicago School of Law), “Marx, Law, Ideology”

Ekow Yankah (Cardozo Law School), "Franchise: Ancient and Modern"

Pacific Division Meetings – April 16-20, 2014 – San Diego

1. Organized by Kevin Toh

Title: *Law and Language*

Abstract: Recently, there has been some interest among philosophers of language in the legal language, and it seems like an opportune time to encourage this interest. We want more good philosophers of language becoming interested in the philosophy of law, so that we can learn from them, and to liven up and to bring greater discipline to debates happening in the philosophy of law. Andrei Marmor and Scott Soames recently edited a book *Philosophical Foundations of Language in Law*. Contributors to that volume include Richard Holton, John Perry, Gideon Rosen, and Scott Soames. At a conference on constitutional originalism at Fordham Law School a couple of weeks ago, Soames and Stephen Neale gave papers.

Chair: Kevin Toh (San Francisco State University)

Speakers: Scott Soames (University of Southern California), “Originalism, New Originalism, and Deferentialism”

Jack Balkin (Yale Law School), “Must We Be Faithful to Original Meaning?”

Commentators: Mark Greenberg (UCLA)

Mitchell Berman (University of Texas School of Law)