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Jamelia N. Morgan's teaching and current scholarship focuses on issues at the intersections of race, gender, disability, and criminal law and punishment. Her research examines the development of disability as a legal category in American law, disability and policing, overcriminalization and the regulation of physical social disorder, and the constitutional dimensions of the criminalization of status. Morgan's prior research projects have explored the ways in which political discourse over race-conscious remedies influence claims and remedies are conceptualized in court opinions involving voter discrimination and disability discrimination. Prior to joining the faculty at UConn, Professor Morgan was a civil rights litigator at the Abolitionist Law Center and worked to improve prison conditions and end the use of solitary confinement in Pennsylvania state prison.

From Policing Disabilities to Managing Access Needs through Criminal Law: The Americans with Disabilities Act, Arrests, and the Limits of the Medical Model of Disability in Policing

Public entities rely on criminal law to accommodate the needs of people with disabilities by closely regulating the behaviors of all patrons accessing public buildings, like hospitals, veteran’s affairs buildings, and public benefits offices. These public entities prohibit conduct likely to disturb patrons and regulate those prohibitions using criminal law, arresting violators for disorderly conduct, loud noise, and aggressive or threatening behaviors. In this article, I submit that where a public entity uses criminal law to regulate the behavior of patrons in spaces where the government expects to serve individuals with disabilities, it is using criminal law as a type of modification or accommodation.

This article is the first to explore extensively the intersections between criminal law and disability law. First, the article examines the use of criminal law as a type of accommodation—what I refer to as “criminal law as accommodation”—in criminal cases where defendants were charged with criminal offenses for disturbances that occurred in government buildings and where one of the stated purposes of enforcement is to protect the needs and interests of people with disabilities by minimizing disturbances and disorder. Next, the article explores the advantages and disadvantages of managing accessibility issues through criminal law. The article then shows how the use of criminal law as an accommodation creates an irreconcilable conflict in that by accommodating one group of patrons, these public entities may fail to provide a reasonable accommodation for another group. That is to say, the article demonstrates how public entities use criminal law to accommodate the needs of some patrons with disabilities, while at the same time criminalizing the disabilities of other patrons with disabilities. The article concludes with a discussion on the implications of criminal law as accommodation for ongoing legal disputes and debates on whether public entities and police officers are required to provide accommodations to individuals labeled as dangerous or criminal.