

ARTHUR GARFIELD HAYS CIVIL LIBERTIES PROGRAM
ANNUAL REPORT

1969-1970 (Re-created)

The Hays Fellows this year were Daniel Pachoda (Robert Marshall Graduate Fellow), Jean Murphy, Susan Deller Ross, and Alan N. Sussman.

Alan Sussman begins his extensive recollection of his year as a Hays Fellow by saying, “Vietnam touched all things. And everything it touched, it tainted. It was impossible to be free from its weight.” These words provide a context for the work of Hays Fellows not only in 1969-1970 but for several years before and after. Alan’s eloquent statement is appended to this year’s report.

Jean Murphy worked with Norman and Sylvia, and at the Center for Social Welfare Policy and Law, on welfare rights litigation. She remembers, “At Norman’s request, I taught a class with T.V. cameras running.” Jean also worked on a number of women’s rights issues. Together with Sue Ross, Jean co-authored the women’s rights section of the book *With Justice for Some: An Indictment of the Law by Young Advocates* (Beacon Press, 1972).

Susan Deller Ross worked on many issues relating to women’s rights and discrimination against women. Based on her work as a Hays Fellow, she co-authored not only the above mentioned piece with Jean Murphy, but an article with Norman, *The Necessity of a Constitutional Amendment (Symposium on Equal Rights for Women)*, 6 Harv. Civ. Rts.-Civ. Lib. L. Rev. 215 (1971).

Daniel Pachoda spent his year working on Vietnam-related matters. In his principal case, Dan was one of the two civilian lawyers for Private Terry Klug, one of the “Fort Dix 38” court-martialed for alleged involvement in a riot at Fort Dix, an army prison, on June 5, 1969. Private Klug had enlisted in the army in 1966 and volunteered for Officer’s Candidate School. Klug quit two weeks prior to graduation because he “didn’t want to order anyone to do anything he did not wish to do himself. Soon after again becoming a private, Klug learned that his unit was to be shipped to Vietnam again, and he decided to catch a plane to Europe and deserted. He spent the next year in Paris working with Resistance Inside the Army (RITA). While doing that work, Klug realized that from the safety of Europe he was encouraging others, at great risk, to defy the U.S. Army. This led him to return to New York, where he was arrested for desertion. Klug was imprisoned at Fort Dix, where he wrote an article on the case, *Khaki Justice: Report from the Fort Dix Court Martials*.

Witnesses at his trial related events in the stockade that may have helped ignite the riot that led to his court-martial. News reports from the time described harsh conditions at the stockade, including regular beatings, often in the presence of the Commandant, solitary confinement and a diet of bread, water, and lettuce for even the most minor infraction, and the singling out of African-American and Puerto Rican prisoners for the most brutal punishments.

At the trial, government witnesses testified that they had implicated Klug under duress. Private Miguel Morales testified, “When I was in my cell, the men from Criminal Investigation Division asked if I wanted to make a statement against Klug. I tell them no. But they came back again. They asked me when I was planning on getting out and I tell them. But they laugh at me and tell me not to count on it. They keep telling me ‘you don’t think you’re going to get out, do you?’ Then they keep putting Klug’s name in my head. It was Klug. It was Klug, wasn’t it?”

On December 8, 1969, Klug was acquitted at general court martial of all charges that he helped incite and participated in the Fort Dix riot. Dan played a major role in the litigation.

Dan worked on several other Vietnam related cases during the year. He also instructed and supervised graduate and undergraduate law students working as “house counsel” to community groups in areas of criminal justice, education, employment, health care, and race and sex discrimination.