

September, 2004

ARTHUR GARFIELD HAYS CIVIL LIBERTIES PROGRAM
ANNUAL REPORT 2003-2004

As always, the heart of the Hays Program is the important work of the Fellows, which is reported more fully below. This year, current events -- from the Patriot Act to the continuing war in Iraq -- dominated the national civil liberties agenda and influenced our Fellows' choice of placement. But their activities also focused on less visible issues involving the separation of church and state and economic rights.

Five of last year's seven Fellows were selected to join the Order of the Coif, the honorary society for graduating law students whose grades earn them a position in the top 7-8% of their class. While all Hays Fellows have excellent records of academic achievement, sometimes their prodigious public interest work results has a negative effect on grades. Not this year.

The Directors prepared a booklet on aspects of civil rights law for use by the Fellows in their work assignments and in the Hays seminars. This is still a work in progress. If you are interested, we would be happy to send you a copy.

Major accomplishments of former Fellows are reported in an Appendix. Once again, we apologize to anyone we may have missed.

1. THE FELLOWS

The Hays Fellows in 2003-2004 were: Z. Gabriel Arkles (Tom Stoddard Fellow), Nicholas G. Arons (Roger Baldwin Fellow), Leslie A. Bailey (Deborah Rachel Linfield Fellow), Kevin David Lapp (Leonard Boudin Fellow), Lynn D. Lu (Harriet Pilpel-Planned Parenthood Fellow), Karuna B. Patel (Robert Marshall Fellow), and Melody Rose Spidell (Palmer Weber Fellow). Fellows are selected on the basis of their demonstrated commitment to civil liberties and their legal abilities. Virtually all are involved in a wide range of public interest work, in addition to their Hays responsibilities and academic commitments.

The Fellows' Hays work is largely driven by their individual interests. As most readers know, each August and January dozens of public interest lawyers submit proposals to us seeking a Hays Fellow to work with them. The demand for committed, talented help in public interest work always outstrips the supply, and regrettably most applications must be denied. The supervising lawyers provide great projects and guidance, and the Fellows contribute valued work. Many Hays supervisors have become regulars. It is a special joy when a former Fellow supervises a current student. We appreciate these ongoing relations, and always welcome the opportunity to add new placements or revive older ones. During the year, at our regular

meetings, each Fellow leads a discussion of a current civil liberties case on which he or she has worked.

We generally insist that each Fellow take on different assignments in the fall and the spring. We also encourage Fellows to work on at least one issue that is new to them. These restrictions on choice reflect our considered view that the Hays Fellowship is a special opportunity for Fellows to be exposed to a range of issues and public interest practice styles, and it is not possible to predict confidently career paths.

A. First Amendment.

In the fall, Nicholas Arons worked at the Center for Constitutional Rights, working under the supervision of Nancy Chang and Rachel Meeropol (Hays Fellow, 2001-2002). Nicholas helped prepare a suit against the New York Police Department to protect the right to demonstrate. In March 2003, New York City police officers arrested anti-war protesters at the building housing the Carlyle Group in midtown, in alleged violation of their Fourth and First Amendment rights. The police "preemptively" arrested the protesters for no apparent reason, without issuing a warning to disperse. The police department conceded that none of those arrested had broken the law, but argued that they "were about to" engage in civil disobedience. In fact, they all planned to go to work or school after the protest. While in custody, detectives subjected some arrestees to "political questioning," asking them questions such as: "What do you think of George Bush?" "What organizations do you belong to?" and "Where did you learn about the protest and who organized it?" Nicholas interviewed potential plaintiffs for the civil action and did legal research to determine what type of relief CCR and the plaintiffs should request. The CRR decided to file a lawsuit to get declaratory relief to ensure that legal protests, for example those planned for the Republican National Convention, would not be disrupted by the New York City police department.

Leslie Bailey interned in the fall at the ACLU National Legal Department, under the supervision of Mark Lopez. She worked on *Utah Gospel Mission v. Salt Lake City Corp.*, a First Amendment challenge to the city's relinquishment to the Mormon Church of a public easement through a block of former Main Street. In an earlier case the ACLU had successfully argued that the church could not control First Amendment activity on the public easement through the church-owned pedestrian plaza. Reversing the district court, the Tenth Circuit held that the property was a public forum. *First Unitarian Church of Salt Lake City v Salt Lake City Corp.*, 308 F 3d 1114 (10th Cir. 2002). After this victory, the city sold the easement to the Mormon Church. In the second round of the litigation, the ACLU argued that any purported "secular purpose" notwithstanding, the sale was actually viewpoint discrimination against their clients and that the city could not avoid its constitutional obligations by transferring ownership of this traditional public forum to a private party. Leslie conducted extensive research in connection with the ACLU's motion for preliminary injunction on both constitutional and procedural issues, and worked with each of the plaintiffs to draft declarations laying out the facts supporting their claims.

In the spring semester, Kevin Lapp worked with the Urban Justice Center and the law firm of Frankfurt, Kurmit, Klein and Seltz on a case involving important First Amendment rights of tenants' organizers. A landlord filed a lawsuit claiming defamation and tortious interference against a group of organizers in the Bronx, in response to the group's efforts to gather support from residents to improve the conditions of several residential buildings. Kevin helped prepare legal papers challenging the issuance of an injunction against the organizers and asserting that the landlord's lawsuit was a SLAPP suit (Strategic Litigation Against Public Participation). The Urban Justice Center persuaded the court to transfer the case from Westchester to the Bronx, and a decision on the motion to vacate the temporary restraining orders against the organizers is expected soon.

B. Rights of Immigrants and Detainees.

In the spring semester Karuna Patel worked with Judy Rabinovitz (Hays 1984-1985) at the ACLU Immigrant Rights Project. She provided legal research for amicus briefs in *Benitez v. Mata*, to be argued before the Supreme Court this fall. The case challenges the indefinite detention of Mariel Cubans, a group of 125,000 Cubans who came to the United States in 1980 with the permission of the U.S. government, but were not legally admitted into the country at that time. When Mr. Benitez was convicted of a crime, the U.S. government sought to deport him. However, Cuba has refused to accept the Mariel Cubans back into the country. Thus, Mr. Benitez remains in detention, with the government arguing that because he was never legally admitted into the country, he is not protected by more recent Supreme Court precedent limiting the government's right to detain non-citizens indefinitely. Karuna investigated the historical basis, both in legislation and legislative history, of the "entry fiction," whereby the government permits people into the country, but does not legally admit them, and then treats those individuals in legal proceedings as if they are still standing at the border seeking entry.

Karuna continued to work with the Immigrant Rights Project on a part-time basis during the spring. She researched and briefed responses to the government's argument that habeas petitions seeking reversals of deportation orders are moot once the non-citizen has been deported. Finally, in connection with a case being argued in the First Circuit, she surveyed decisions around the country regarding the breadth of provisions of the Immigration and Nationality Act that strip district courts of jurisdiction in certain cases.

In the spring, Nick worked on behalf of the legal team for Guantanamo Bay detainee David Hicks. Originally from Australia, Hicks was arrested in Afghanistan during the US military invasion and labeled an "enemy combatant." The government argued that he received training from the Taliban and Al Qaeda terrorist organizations. Shipped to Guantanamo Bay, Cuba, he was denied access to a lawyer, U.S. federal courts, or constitutional protections. He was instead assigned military counsel and told that he would be tried by a military commission, a process considered by many scholars to be illegal under US and international law. Nicholas worked under the supervision of Hicks's civilian and military counsel, receiving most of his assignments from the military lawyer responsible for defending Hicks. Nicholas wrote several memos on

international legal questions and was responsible for drafting a 100-page brief on the threshold issue whether Hicks's detention violates his rights under the Geneva Conventions. Nicholas argued that the Geneva Conventions guaranteed Hicks - at the very least - the opportunity to have his status determined by a "competent tribunal," as promised by Article 5 of the Convention of Prisoners of War, to which the U. S. is a signatory. He also wrote several memos on whether Hicks can have his case heard in a U.S. federal courts. On June 28, 2004, the Supreme Court held that the federal courts have jurisdiction to consider challenges by the foreign Guantanamo Bay detainees.

C. Rights of Criminal Defendants.

In the fall semester, Kevin Lapp worked with Legal Aid's Wrongful Conviction Project. This is a new project, staffed by one lawyer, Sara Bennett, whom Kevin describes as "amazing." The aim of the project is to secure the release from jail of individuals who have been wrongfully convicted. His work involved two components: sifting through the voluminous mail that the project receives from inmates asserting wrongful conviction and requesting assistance with post-conviction legal proceedings, and doing research on particular cases where relief seems possible. In addition to legal research, Kevin also examined trial records and interviewed past attorneys, and past and potential witnesses. Kevin identified several troubling cases that the Project continues to research.

In the spring, Lynn Lu followed Kevin's footsteps, working with the Wrongful Conviction Project. Lynn participated in prison legal visits with current and potential clients, litigation strategy meetings with pro bono counsel, and interviews with trial and appellate counsel to assess the merits and practical concerns of individual cases. She screened requests from state inmates for assistance and did legal research on the legal standards for vacating a conviction. As avenues for post-conviction relief become increasingly narrow, attention has focused on opportunities for parole and clemency that require sensitive political negotiation and attention to each client's particular strengths and needs. While such efforts are not an official focus of the Project's work, they remain a crucial ancillary part of effective client representation. It was particularly rewarding, then, for Lynn to be able to assist a client who was newly eligible for temporary work release by drafting a letter of support and assembling a presentation packet that detailed the client's accomplishments during incarceration and explained the facts of her crime, without minimizing its seriousness, for review by the prison's work-release committee.

In the fall, Rose Spidell worked with a coalition of groups to help improve New York State's public defender system. Forty years ago, the U.S. Supreme Court's seminal decision in *Gideon v. Wainwright* established the right of state criminal defendants to counsel in state courts, but left it to each state to fashion a system for protecting that right. Together with a staff attorney from the New York Civil Liberties Union, Rose made several trips to Albany County to investigate indigent defense services in upstate New York. They prepared a comprehensive report of their courtroom observations and their discussions with indigent defendants, public defenders, judges, and community members. The NYCLU and other organizations are continuing to assess the public defender systems in other counties in upstate New York.

In the spring, Leslie Bailey interned at Koob & Magoolahgan, a four-attorney public interest firm that specializes in gender discrimination and prisoners' rights. Leslie worked under the supervision of Katie Rosenfeld and Alex Reinert. She drafted a complaint on behalf of a state inmate who now suffers permanent blindness against the private hospital whose medical providers negligently caused his blindness. It asserts that the hospital is a cognizable defendant under 42 U.S.C. § 1983. In addition, she conducted research in support of a brief for a client with Hepatitis-C who was denied necessary medical treatment unless he participated in an Alcohol and Substance Abuse Treatment Program. The defendants conceded that the prisoner had no recent history of alcohol or substance abuse. The case argues that the denial of treatment in these circumstances constitutes deliberate indifference to the prisoner's needs.

D. Rights of Working People.

In the fall, Karuna Patel worked at the Staten Island office of The Legal Aid Society with Andrew Elmore, a Skadden Fellow whose focus is employment, on a project to improve access to unemployment insurance benefits for unemployed workers who have limited English proficiency (LEP). Despite the fact that one in four New York City residents speaks a language other than Spanish or English at home, the New York State Unemployment Insurance system provides services only in those languages and so is nearly inaccessible to many people. Those needing benefits must apply and recertify weekly using either an English-only internet site or an automated telephone system that has prompts only in English and Spanish. Critical notices, information materials and administrative decisions are sometimes produced only in English and Spanish and sometimes only in English. People who speak neither English nor Spanish are routinely told to bring their own interpreters to administrative hearings and, when they cannot, they are not provided with interpreters. As a result, tens of thousands of immigrant New Yorkers are denied needed benefits owed them by the state in violation of state and federal laws.

Karuna also worked in collaboration with MFY Legal Services, the National Employment Law Project and the New York Immigration Coalition on a number of fronts involving workers with limited English proficiency. She informed, visited and helped organize community groups from around the five boroughs of the city regarding this issue. Her work culminated in a strategy session among advocates and representatives from about ten community groups. She created an even larger network of community groups to provide advocates advice, information and support. In the process she met with a number of LEP individuals who had been wrongly denied benefits because of their inability to navigate the unemployment insurance system. Karuna documented their narratives to present to the New York Department of Labor as evidence of the failures in the system, as well as substantiate that the individuals needed legal services. In addition, Karuna investigated the way other states deal with LEP clients in their UI systems, looking at both the process by which people access unemployment insurance and at the rights of beneficiaries under state law for related necessities, such as translators at hearings. Her semester culminated in a meeting with officials from the New York Department of Labor, including the NYDOL Chief Counsel and the Chief Judge of the Unemployment Insurance Appeals Board. At that meeting, the team relied upon the information that Karuna had marshalled as a base for demanding improvements in the New York system.

In the spring, Rose Spidell worked at MFY Legal Services with the organization's executive director, Lynn Kelly, in MFY's Workplace Justice Project. The Project is one of the few organizations offering employment law-related legal services to low-wage workers in New York City. Rose helped to staff a telephone hotline and an outreach clinic for clients with a range of problems, including employment discrimination and unpaid wage claims. She worked with Lynn in successfully negotiating a less restrictive severance agreement for a client. She advised clients about their rights in the face of employment discrimination based on inter-racial marriage, disability, prior criminal convictions, and whistle-blowing. She successfully represented a client at an unemployment insurance hearing, and helped to develop a handbook to guide unemployed workers representing themselves at unemployment insurance benefits hearings.

In the spring, Leslie Bailey worked at Koob & Magoolaghan on behalf of a public employee who was sexually harassed and denied equal pay, then demoted in retaliation for exercising her right to protest her employer's sexist policies. Leslie's research and analysis helped to demonstrate that the client's First Amendment retaliation claims could survive summary judgment, and that her expert's report in support of her Equal Pay Act claim was admissible evidence.

E. Reproductive Freedom.

In the spring, Z worked with Anna Schissel and Rebekah Diller (Hays 1996-1997) at the New York Civil Liberties Union Reproductive Rights Project. Z updated and revised a booklet on the rights of pregnant and parenting teens in areas such as education, child care, healthcare, custody, and foster care. He added new materials on issues such as confidentiality of communications about pregnancy to school officials and consent to HIV testing. Also, he assisted in preliminary stages of litigation against the Department of Education for practices that deny pregnant and parenting teens the right to an equal education in New York City public schools. He spoke to potential clients and built connections with community-based organizations.

In the fall, Lynn Lu worked for National Advocates for Pregnant Women (NAPW), an organization devoted to securing the human and civil rights, health, and welfare of pregnant and parenting women who are in need of drug treatment services but are instead increasingly subject to criminal prosecution instead. To fulfill its mission, NAPW engages in public education and litigation support to create "a world where women enjoy full personhood" and where neither pregnancy nor drug use serves as "an excuse to dehumanize and punish select groups of people." Lynn worked closely with Lynn Paltrow, (Hays Fellow, 1982-1983), NAPW executive director, and Rebekah Diller (Hays Fellow, 1996-1997), director of the New York Civil Liberties Union Reproductive Rights Project, in a criminal case involving a woman from upstate New York who allegedly abused alcohol during her pregnancy. The prosecutor based the criminal charges on the theory that the woman, while intoxicated, "knowingly fed her blood" through the umbilical cord to her newborn baby during premature labor. Representing a broad coalition of public health and

child welfare organizations as amici curiae, NAPW and NYCLU filed a brief with the Warren County Criminal Court seeking to have the charges dismissed. Diller appeared alongside local counsel during oral argument to challenge the prosecution's attempt to expand the scope of the child endangerment statute on statutory interpretation, due process, and reproductive autonomy grounds. In January 2004, the charges were dropped and the case was dismissed.

F. Rights of Poor People.

In the fall, Z Arkles worked with Sandhya Reju and Jennifer Levy of the Housing Unit of South Brooklyn Legal Services during his fall placement, developing a new medical-legal collaboration between SBLS and local hospitals. The goal of the collaboration is to identify and address the legal problems linked with health concerns of low-income Brooklyn residents. He attended meetings with social work and medical staff of SUNY Downstate Hospital to strategize screening and referral systems, began legal clinics on-site there and at Lutheran Medical Center, and developed a questionnaire for hospital personnel to use to identify legal issues. He also worked directly on several clients' cases. For example, one client's young child had been hospitalized twice for severe asthma that mold in her apartment had aggravated. Z investigated the case and drafted a contempt motion in a housing action against the landlord for repairs. He also interviewed clients, drafted pleadings in other housing cases involving eviction and/or repairs, and advocated for a client's benefits with the HIV/AIDS Services Administration. Finally, Z researched and wrote a memorandum about a landlord's obligation to reasonably accommodate tenants' disabilities under municipal law. He and other legal advocates have been able to use this research on behalf of several clients who were not able to make full use of their apartments because of a lack of accessibility that their landlords had failed to remedy.

2. THE DIRECTORS,

Norman Dorsen. Norman continues to divide his time between law school duties and serving as counselor to NYU President John Sexton.

At the law school, Norman spends much of his time acting as editorial director of the quarterly International Journal of Constitutional Law (I•CON), which he founded in 2001. The journal has completed its second year of publication with authors and editorial board members from more than 40 countries. Norman also continued as the director of the law school's clerkship program at the International Court of Justice in The Hague, but he will hand over this responsibility to another faculty member next year. Norman is part of a planning group organized by the American Association of Law Schools that is working to establish an International Association of Law Schools, and he continues as a board member of The Thomas Jefferson Center for the Protection of Free Expression (in Charlottesville, VA). The U.S. Supreme Court upheld federal regulation of campaign expenditures last fall in a way that was consistent with an amicus brief he and other former ACLU leaders submitted.

At the university, Norman completed a two year study of undergraduate education at

NYU (there are eight schools with their own undergraduate programs, probably the most in the U.S.). An external accrediting agency, Middle States Association Commission on Higher Education, approved the study and the direction of NYU's efforts in this area. Beginning in September Norman will supervise the University's implementation of the report's recommendations.

Sylvia A. Law also had a busy year. In the fall, she prepared materials and taught the first ever course in the United States on the Eleventh Amendment, the enigmatic protection of state sovereign immunity that has been used by the Rehnquist Court since 1995 to limit the rights of women, working people, people with disabilities and others. The course was largely historical, exploring National debates about state responsibility for payment of debts at the end of the Revolutionary War and the Civil War. The subject is complex and arcane. If you are interested, Sylvia is happy to send you materials. In addition, in the fall she co-taught Family Law with Patricia Hennessey (Hays Fellow, 1978-1979). In the spring she taught Health Law and worked closely with NYU Law School's Health Law Society to organize a series of lunches with health law practitioners and a symposium on access to health care that will be published in the NYU Journal of Legislation and Public Policy.

Sylvia also continued her efforts to assure that law school recruitment services are not open to employers who discriminate on the basis of a variety of invidious and irrational factors, including sexual orientation. Since 2000 the military has become more aggressive in asserting its claim that under the federal Solomon Amendment it is entitled to come to the law schools to recruit, despite the fact that it discriminates against gay people. Litigation became practical in 2004, when Josh Rosenkranz left his position a executive director of the Brennan Center, became a partner at Heller, Erhman, and persuaded the firm to take on this case pro bono. The Society of American Law Teachers, founded by Norman, quickly agreed to be a plaintiff. But the best plaintiff was a law school, not a law teacher, and initially no law school was willing to risk retribution. Sylvia worked with Kent Greenfield, of Boston College, and others to help create an organization of law schools, the Forum for Academic and Institutional Rights (FAIR), to challenge the law, without revealing the names of its law school members. In November 2003, the federal district court for the Northern District of New Jersey held that FAIR has standing to challenge the military's forced discrimination policy, but denied plaintiffs' motion for a preliminary injunction. Sylvia worked on the pending appeal to the Third Circuit, including organizing several amicus briefs. More information on this case can be found at www.solomonresponse.org.

Sylvia worked on reproductive freedom issues, serving on the Board of the Center for Reproductive Rights and, more specifically, working with board, staff, and professional experts to develop and promote sensible approaches to teen sexuality. She worked on related issues of choicc at the end of life, as a board member of the Compassion in Dying Federation, and as legal advisor to that group. In March 2004, the Ninth Circuit affirmed the Oregon federal district court decision rejecting Attorney General John Ashcroft's effort to use the federal Controlled Substances Act to thwart Oregon's Death with Dignity law and in August that court denied Ashcroft's motion for a rehearing en banc.

Finally, Sylvia gave talks on civil rights issues in Honolulu, Minneapolis, Philadelphia, Yellow Springs, Ohio, Denver and New York City. She published an article, *Where Do We Go From Here? The Fourteenth Amendment, Original Intent, and Present Realities*, 13 TEMPLE POL. & CIV. RTS. L. REV. 347 (2004) and a book chapter, *Choice in Dying: A Political and Constitutional Context*, in PHYSICIAN ASSISTED DYING: THE CASE FOR PALLIATIVE CARE AND PATIENT CHOICE, TIMOTHY E. QUILL AND MARGARET BATTIN, eds. (2004).

Helen Hershkoff was on sabbatical this year, working on a number of projects. In the fall, she lived with her family in Florence, Italy, where she was a visiting research scholar at the European University Institute. In the spring, back in the U.S., Helen organized a reception to celebrate the work of the Linfield Fellows. She continued to study private bills in Congress and has begun drafting a series of articles on the topic. She completed (with Benedict Kingsbury) *Crisis, Community, and Courts in Network Governance: A Response to Liebman and Sabel's Approach to Reform of Public Education*, 28 N.Y.U. REV. OF LAW & SOC. CHANGE 319 (2003). She took the lead in revising the teacher's manual to Cound, Friedenthal, Miller & Sexton, *CIVIL PROCEDURE: CASES AND MATERIALS Eighth Edition* (2004). She co-authored (with Oscar G. Chase) a piece, *Civil Procedure in the Transnational Curriculum*, and then co-chaired a workshop on that subject at a conference hosted by the American Association of Law Schools in Hawaii. She presented a paper, *Lawmaking and Judicial Review: What Degree of Deference Should State Courts Give to Legislative Findings?*, at the 2004 Forum for State Appellate Judges, hosted by the Roscoe Pound Institute in Boston. She was elected to be a member of the International Association of Procedural Law. Finally, she continued to serve on the Board of Directors of the Urban Justice Center and of the Brennan Center for Democracy.

Michael Wishnie. In 2003-04, Mike co-taught the Immigrant Rights Clinic (IRC) and Advanced Immigrant Rights Clinic (AIRC) with Sejal Zota (Hays 1999-2000), in addition to serving as a co-director of the Hays program. It was another busy year in the clinic, as students and a clinical fellow under his supervision handled five wage-and-hour cases in federal court, two deportation cases, two NLRB matters, one workers' compensation case, and a major lawsuit challenging the Justice Department's post-September 11 efforts to co-opt local police into the routine enforcement of immigration laws. (This last case, National Council of La Raza v. Ashcroft, had been developed in significant part by Gabrielle Prisco, Benita Jain, Melissa Goodman, and Kathryn Sabbeth, all Hays Fellows in 2002-2003, together with a group of then-1Ls led by Peter Pihos, Hays Fellow (2004-2005), and also including Brina Milikowsky (Hays Fellow, 2004-2005). IRC also represented numerous grassroots immigrant organizations this year in various legislative and regulatory matters in New York City and Albany. At NYU, Mike chaired the clerkship committee, participated in the Root-Tilden scholarship program and International Court of Justice trainee selection committees, continued as a fellow and faculty liaison to the Migration Policy Institute at NYU, and served as faculty advisor to the Asian Pacific-American Law Student Association Annual Colloquium, "From Korematsu to Guantanamo."

Outside NYU, Mike gave a number of talks on civil and labor rights for immigrants, including speeches in New York, San Diego, San Francisco, Virginia, and Beijing. He filed a

brief *amicus curiae* on behalf of legal historians in *Rasul v. Bush/Al-Odah v. United States*, the Guantanamo detainee cases, on which the majority opinion by Justice Stevens drew significantly, and another brief on behalf of *habeas* law professors in *Rumsfeld v. Padilla*, from which Justice Scalia's opinion in the *Hamdi* case borrowed substantially. Mike also continued his service as a Trustee of the Yale-China Association and joined the Board of the Worker Rights Law Center. He authored "The Story of *Hoffman Plastic Compounds, Inc. v. NLRB*: The Rules of the Workplace for Undocumented Immigrants" (with Catherine Fisk), in Laura Cooper & Catherine Fisk, eds., *LABOR LAW STORIES* (Foundation Press: forthcoming 2005), to be reprinted in Peter Schuck & David Martin, eds., *IMMIGRATION LAW STORIES* (Foundation Press: forthcoming 2005); "Introduction -- *The Border Crossed Us: Current Issues in Immigrant Labor*," 28 *REV. L. & SOC. CHG.* 389 (2004); *Emerging Issues for Undocumented Workers*, 6 *U. PA. J. LABOR & EMP. L.* (forthcoming 2004), to be reprinted in Samuel Estreicher, ed., *CROSS-BORDER HUMAN RESOURCES -- LABOR AND EMPLOYMENT ISSUES*, Proceedings of New York University 54th Annual Conference on Labor (2004); and *State and Local Police Enforcement of Immigration Laws*, 4 *U. PA. J. CONST. L.* 1081 (2004).

3. JAMES MADISON LECTURE

The James Madison lecture is considered the leading annual lecture at NYU Law School. It was founded, in 1959, "to enhance the appreciation of civil liberty and strengthen the sense of national purpose." The lecturers are limited to U.S. Supreme Court justices and judges of the U.S. Court's of Appeals. All told, 14 Supreme Court justices and 19 Court of Appeals judges have delivered Madison lectures. Norman has directed the Madison lectures since 1977, and he administers the lectures as part of the Hays Program. The fall 2003 lecture was delivered by Judge David Tatel of the U.S. Court of Appeals for the D.C. Circuit on "Judicial Methodology, Southern School Desegregation, and the Rule of Law." The 2004 lecturer will be Judge Diane Wood of the U.S. Court of Appeals for the Seventh Circuit, who is also a senior lecturer at Chicago Law School.

4. SPECIAL EVENTS.

Over the years the Hays Program has held special events of public interest. On March 9, 2004, the Program co-sponsored a book party for Alex Sanger, grandson of Margaret Sanger, a long time leader of Planned Parenthood of New York City, and author of *BEYOND CHOICE: REPRODUCTIVE FREEDOM IN THE 21ST CENTURY*. And on March 25 we sponsored a reception to celebrate the Deborah Rachel Linfield fellowship. Linfield's family and former colleagues from the New York Times remembered her life and the following Linfield Fellows talked about their work: Leslie A. Bailey (2003-2004), Priyamvada Sinha (2002-2003), Rachael Meerpol (2001-2002), Michelle Solomon (2000-2001), Ilzabeth Gonchar Hempstead (1999-2000) and Eric M. Fink (1996-1997).

5. THE FELLOWS' NEXT STEPS.

Z Arkles will work as an Equal Justice Works Fellow at the Sylvia Rivera Law Project, an organization that provides free legal services to low-income people facing gender identity discrimination. His project will focus on improving access to healthcare and housing for low-income transgender, transsexual, intersex, and other gender variant people. Two major issues he will strive to address are trans-access to homeless shelters and Medicaid coverage of trans-related healthcare.

Nicholas Arons will be the Institute for International Law and Justice Fellow at NYU, working to an LLM in international law. He is well along on two papers, on indigenous rights and on the right to water. After this fellowship, Nick hopes to clerk for a federal judge before beginning a career in public interest international law.

Leslie Bailey will start a two-year Brayton-Baron Public Interest Fellowship at Trial Lawyers for Public Justice, in their West Coast office in Oakland, California. TLPJ is a national public interest law firm dedicated to using trial lawyers' skills and resources to create a more just society. TLPJ employs individual and class action litigation designed to enhance civil rights and civil liberties, workers' rights, consumers' rights, access to the courts, and to improve America's civil justice system.

Four Fellows will be clerking for judges next year. Kevin Lapp will be clerking for Judge A. Howard Matz, a district court judge in Los Angeles in the Central District of California. He will be the first NYU law student to clerk for Judge Matz. Lynn Lu will clerk for Judge Kermit V. Lipez of the United States Circuit Court for the First Circuit Court of Appeals. Rose Spidell will clerk for Judge Sidney H. Stein of the United States District Court for the Southern District of New York. Karuna Patel will clerk for Judge John Gleeson of the District Court for the Eastern District of New York.

6. THANKS.

We deeply appreciate the strong support we have received from the law school administration, from Evelyn Palmquist, the Program's secretary and administrative assistant, and from the numerous individuals and foundations that have provided financial support. Above all, we are grateful to the scores of former Hays Fellows who have supported the Program and remain in close touch, relaying information about their own lives and work, and in various ways assisting us as we continue to build a strong civil liberties community at and beyond Washington Square.

Norman Dorsen
Sylvia A. Law
Helen Hershkoff
Michael Wishnie